

The Neoliberal State and Multiculturalism:
The Need for Democratic Accountability

by

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ABSTRACT

This project outlines the existence of neoliberal multiculturalism and identifies the implications and limitations of its practice. Neoliberal multiculturalism involves the institutionalization of group autonomy by the state to download responsibility to jurisdictions that have historically lacked sufficient fiscal capacity and have been hampered by colonialism in the development of the political capacity necessary to fully meet the requirements entailed by the devolution. At the same time, this practice releases the formerly responsible jurisdiction from the political burden of the policy area(s) despite its continued influence and effect. As demonstrated by my analysis of the Indigenous child welfare devolution that has occurred recently in Manitoba, neoliberal multiculturalism therefore involves a certain kind of “privatization”—that is, it involves the appearance of state distance from said policy area. This practice problematizes the traceability of power and decision making while at the same time it co-opts and in many ways neutralizes demands from critics of the state by giving the appearance of state concession to these demands.

In response to the dangers of neoliberal multiculturalism, I situate multiculturalism in a robustly political model of democratic multi-nationalism (characterized by both agonism and deliberation) in order to combat multiculturalism’s tendency simply to rationalize “privatization” and to enhance democratic accountability. My approach goes beyond dominant constructions of group autonomy through group rights by emphasizing that autonomy is a relational political practice rather than a resource distributed by a benevolent state. Building on my analysis of Indigenous

autonomy and the unique challenges that it presents for traditional democratic practices, I outline a contextually sensitive, case-specific employment of what I term “democratic multi-nationalism”. This approach conceives of Indigenous issues as inherently political in nature, as opposed to culturally defined and constituted, and therefore better meets the challenges of the colonial legacy and context of deep difference in which Indigenous-state relations take place today.

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PREFACE

This project develops a new way of thinking about the meaning and practices of two trends which dominate contemporary politics as well as political theory in Canada—these are multiculturalism and neoliberalism. In offering a new way of thinking about the meaning and practices of these two trends, my dissertation challenges dominant understandings of how these trends stand in relation to one another. Conventional wisdom assumes that the concurrent trends of “neoliberalism” and “multiculturalism” have emerged from different starting points and result in distinct, generally contrary ends. The association of neoliberalism with a classical liberal view of the individual, makes it appear hostile to any kind of recognition of “group right” as it is practiced in Canadian multicultural policy. While this viewpoint is intuitively sensible, my project demonstrates that there are strong theoretical and practical reasons to question the view of neoliberalism as opposed to any and all forms of cultural recognition and accommodation. Neoliberalism in fact works to foster certain forms of groups rights, particularly those centered on the discourse of “group autonomy”. This is the central argument of my work.

This project is significantly personal for me as it bears the imprint of my brief yet transformative career in social work. I did not enter graduate school immediately following my Bachelor of Arts, despite my desire to do so. Instead, due to a variety of factors, I left my hometown of Brandon, Manitoba and went off to Calgary to obtain a Bachelor of Social Work. I did so despite the fact that my own intuition said that social work was a poor career choice for me. After obtaining my BSW I began work as a

counselor in a women's shelter and later, once again against my own intuition, I took a position with the government of Alberta as a case manager for "off-reserve" Aboriginal children. After becoming deeply familiar with the challenges of child welfare, particularly as they relate to Indigenous children and families, I returned to school in 2000 to pursue a Masters degree in political science at Simon Fraser University, later moving on to the University of British Columbia to complete my doctorate. I went to graduate school intending to get as far away as possible from all things "social work." Ironically, my previous experiences in social work became a central motivator in my research as a graduate student and, in fact, have been the driving force of this particular project.

This project is also deeply personal on another level. I examine recent changes in child welfare policies of my home province of Manitoba to assess the impact and shortcomings of contemporary theories of accommodation and recognition. Choosing these changes in Manitoba as a central focus makes sense objectively (these changes are unprecedented nationally and have been considered as a template for future changes). At the same time, however, the motivation to study this case came equally from growing up in rural Manitoba—an area with a significant Indigenous population—and from the fact that social work and social policy are in many ways the "family business." My mother was the CEO of child and family services of Western Manitoba and my father was the superintendent of the Brandon jail, later teaching courses on "Natives and the Law" at the local university. I was raised with an acute sense of some of the injustices and hard challenges the realities of colonialism and capitalism present for some members of our society, as well as an acute awareness of my own position of privilege. Growing up as the

only child of two lefties constantly going against the grain in our rural town also provided me with a sense of duty as a citizen and as a human being to recognize these realities and to do what I could to call attention to them and, ideally, work to rectify and/or eliminate them.

When the devolution of Aboriginal child welfare in Manitoba was announced in 2000 I took an interest in the case academically. *Prima facie* the changes appeared progressive, however, given my own experiences in child welfare I suspected the reality was, in fact, much more complex. While the changes seemed positive in that they were articulated as enhancing Aboriginal autonomy, I also worried they would do little to improve the socio-economic problems that are inherently linked to the overrepresentation of Aboriginal children in the child welfare system. I decided to critically examine the merits of the shift in my research. This led me to re-examine the dominant works in the multiculturalism literature, particularly the cornerstone arguments articulated by Will Kymlicka and Charles Taylor. Reviewing this literature with the case in mind I realized a gap in these works. The most prominent voices in multiculturalism failed to say anything about the welfare state context and its potential impact on multiculturalism and/or models of group autonomy. Based on my knowledge of child welfare I felt that this was a serious omission within the literature, one that obscured potential problems in the models of autonomy that were articulated by its advocates. I therefore decided to take up the welfare state-multiculturalism dynamic in this project in order to address this gap and to offer a model of autonomy that is better suited to our current neoliberal context.

As I discuss in the dissertation, there is some controversy attached to my pursuit of this particular project. The controversy lies in my choosing to analyze issues of

Indigenous politics as a non-Indigenous person. My situatedness—familial, professional and geographical—is what drew me to my research question. These aspects of my own identity have led me to the contention that it is in fact my place, my obligation, to hold my governments accountable for the policies they design and implement which discipline how we, Indigenous and non-Indigenous peoples, will live together and relate to one another both as groups and as individuals. A central tenet of my project is the unavoidable reality of this togetherness and the relational aspects of all of our identities. Thus, while the problems I take on in this project are complex to say the least, I hope that the theoretical contribution I offer in this work can assist in the larger project of which many of us are a part—a question that motivates all political theory as I understand it—that is, the question of how we can best live together.

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For
James and Margaret MacDonald

1 INTRODUCTION

Questions of citizenship and multiculturalism have come to dominate much of contemporary political theory. This trend reflects events in the wider global context. Globally we are experiencing the growing political and social movements of culturally distinct Indigenous peoples and immigrant groups in Western democracies, as well as secessionist impulses in culturally distinct nations within nations such as Scotland and Quebec (Kymlicka and Norman 2000, 3). These developments are problematizing many of the assumptions which have regulated political life in modern liberal democracies for decades. Citizens, leaders, and academics alike are left to grapple with these developing demands and political theorists are searching for responses to the various challenges presented by these recent trends (Kymlicka 1995, Taylor 1994, Carens 2000, Cairns 2000, Shachar 2001). There is much at stake in this pursuit; as Will Kymlicka suggests, “Finding morally and politically viable answers to these issues is the greatest challenge facing democracies today” (1995, 1).

Responding to these shifts in contemporary Western society, much recent political theory has focused on “multiculturalism.” The politics of multiculturalism often manifests in demands for what has now come to be known as group-differentiated or “minority rights.” In fact, in recent decades, this approach has found increased legitimacy and is often viewed as an essential step toward a stable and just state. Much of this discussion takes place within an ethics of justice paradigm that focuses on ethical outcomes achieved through the exercise of rights by autonomous individuals. For example, in *Multicultural Citizenship* (1995), Kymlicka argues for a conception of “minority rights” that is congruent with the liberal principle of individual autonomy. Similarly, in “The Politics of

Recognition” (1994), Charles Taylor argues that one’s identity is shaped by the recognition of one’s “authentic” identity. From this perspective, “due recognition is not just a courtesy we owe people. It is a vital human need” and should be protected through the mechanism of rights (Taylor 1994, 26).

The dissertation examines the impact of welfare regimes on group-differentiated citizenship, specifically for Indigenous peoples in Canada.¹ Conventional wisdom assumes that the concurrent trends of “neoliberalism,” characterized by processes of privatization, and “multiculturalism,” characterized by processes of cultural accommodation and/or recognition through group rights, have emerged from different starting points and result in distinct ends.² To the extent that neoliberalism defends a classical liberal view of the individual, it is seen as antithetical to recognition of “group rights” as practiced in Canadian multicultural policy. However, neoliberalism may in fact work to foster certain forms of group rights, particularly those centered on the concept of “group autonomy.” At a time of policy changes premised on cultural autonomy for “minority groups” and/or nations within Canada, an understanding of the dangers and limitations of this approach is urgently required, particularly the concern that these changes alter the *traceability* of government policy and *state accountability*. Overall, if current changes are not as empowering, transformative, or legitimate as touted by advocates of multiculturalism, vulnerable populations may face further domination and exclusion, but in newer and less obvious forms.

Much of the scholarship on multiculturalism and the welfare state assumes that the trends of neoliberalism and multiculturalism run counter to one another. However, I show how a neoliberal context can work in tandem with multicultural accommodation. To

demonstrate this claim, I illustrate that shared notions of autonomy are central to the discourses of these distinct political trends, and through this shared investment in notions of autonomy, neoliberalism and multiculturalism overlap, bringing neoliberal impulses to bear on the crafting of multicultural policy. The dissertation thereby reveals significant weaknesses in dominant models of multiculturalism and demonstrates the need for critical attention to how the discursive overlap between neoliberalism and multiculturalism complicates the task of conceptualizing group autonomy in a manner consistent with achieving political and social justice for collectivities such as the Indigenous peoples in Canada. While the concept of autonomy is central within neoliberal ideology, it is also central in the multiculturalism literature and many of the political demands articulated by “minority” groups. A discursive overlap does not automatically indicate an overlap in values and/or objectives. This overlap can, however, obfuscate these types of significant differences and can give the appearance of shared or common ground when in fact, the situation is much more complex and potentially oppositional in terms of overall goals. Some of the motivations behind state accommodation must therefore be interrogated as they may run counter to the objectives of “accommodated groups” and/or the presupposed benefits of multiculturalism as articulated by its advocates.

The politics of multiculturalism

Proponents of “the politics of multiculturalism” often directly or indirectly conceptualize dominant liberal understandings of autonomy as a central normative dimension of modern experience. From this perspective full citizenship rests not simply on individual autonomy but, for members of certain cultural or national groups, on group

autonomy, in order to ensure individuals have access to, and recognition of, their cultural identity. In this vein, Will Kymlicka's work *Multicultural Citizenship* (1995) and Charles Taylor's "The Politics of Recognition" (1994) are compelling and foundational clarifications of the normative dimensions and practical implications of group autonomy through rights.

In the decade following the theoretical contributions of Kymlicka and Taylor, multicultural and/or multinational states such as Canada have demonstrated a substantial commitment to the notion of group differentiated citizenship. Examples of this trend range from the Canadian government's recent declaration that Quebec is a "nation" (Bonoguoire 2006), to the Canadian Supreme Court decision to allow the students of orthodox Sikh faith to carry a kirpan to school (Blackwell and Weber 2006), to the right of Indigenous peoples throughout Canada to autonomous jurisdiction over various policy areas (Manitoba 2001, ch.14). These developments build upon Kymlicka and Taylor's claim that citizenship entails recognition and/or protections of particular cultural identities as well as the general civil and political rights shared by all citizens. This has been especially true for groups such as Canada's Indigenous peoples that have been designated "national minorities." The case of Indigenous autonomy is the focus of this dissertation.³

As I discuss further shortly, most Indigenous peoples do not see their relationship with the Canadian state as one of "multiculturalism." Instead, Indigenous peoples commonly conceive of the relationship as one best characterized as "nation-to-nation." This fact, however, has not dissuaded many of the leading political theorists of multiculturalism, most notably Will Kymlicka and Charles Taylor, from taking on Indigenous-state relations as a central case in their theoretical works. This project takes

on dominant models of multiculturalism by drawing on this case in order to demonstrate the significant shortcomings of these approaches, including their failure to fully engage with the nation-to-nation understanding of Indigenous-state relations in Canada.

While their arguments may be based on different understandings of Indigenous-state relations, Indigenous scholars and activists and various theorists of “multiculturalism” do share some common ground. Both of these groups have made a number of arguments advocating group rights for Indigenous peoples in Canada.⁴ Family law, especially child welfare, is an area in which Canadian governments have appeared most willing to make concessions of this nature to Indigenous peoples. The meaning of Indigenous peoples’ constitutionally entrenched right to “self-government” remains undefined and contested in Canada. However, significant steps have already been taken in many provinces to grant Indigenous peoples some autonomy over the provision of child welfare services for Indigenous families as provincial governments have delegated to Indigenous community agencies authority over child welfare matters. This move is consistent with broader trends in the accommodation of group rights. As Ayelet Shachar notes, in our current age of diversity the state is increasingly amenable to the requests of “minority” cultures for greater autonomy over their own family affairs, which results in what she has termed “multicultural jurisdictions” (2001, 46-7). While my discussion of shifts in child welfare authority focuses mainly on the case of Manitoba, changes in child welfare policy for Indigenous peoples are occurring in different provinces in varying degrees. Manitoba is the central focus of my analysis as the changes it has initiated are unique to date. More specifically, Manitoba is an important case to watch as the provincial government has made legislative reform acknowledging Aboriginal “rights” to

autonomous services that include the development of Indigenous agencies that will have jurisdiction for Indigenous clients *regardless of where they live*, not just for those Indigenous people living on a reserve. These changes are unprecedented nation-wide and are being observed by other provinces as a potential template for reform.

My analysis begins by critiquing current forms of cultural “group autonomy” as currently defined by the dominant multiculturalism literature and as deployed by governments in Canada with respect to Indigenous peoples within the child welfare policy arena. At the centre of my critical examination is the concept of “neoliberal multiculturalism” that I have developed to highlight the unexpected overlap that can and does exist between the discourses of multiculturalism and neoliberalism. What I will show is that in the recent context in which neoliberalism has been contracting the welfare state, the welfare regime of a state shapes the state’s multiculturalism policies in a manner largely overlooked in the current multiculturalism literature. The specific concern of this dissertation is the impact that the neoliberal welfare regime in Canada has on Indigenous child welfare policy. For the first time, the elements of a neoliberal welfare state agenda will be examined in the light of the concomitant shift to policies that promotes group autonomy for Indigenous peoples in Canada. Hence this project reveals the primary role neoliberalism plays in current state-sponsored multiculturalism. By invoking particular strategies of accommodation the state can create policies that meet the privatizing objectives of neoliberalism while at the same time appearing to respond to cultural groups demands for increased autonomy.

The discipline of “autonomy”

The use of the concept of “autonomy” is of central concern in my project. While liberals have traditionally thought of autonomy in relation to individuals, dominant theories of multiculturalism apply this same concept to national “minority” groups to define how they should relate to the majority culture. I analyze the dominant arguments for cultural “minority rights” and cultural “authenticity” and uncover group autonomy as a shared guiding principle in these approaches to multiculturalism. This dissertation suggests that while the normative impulse behind the advocacy of multicultural group rights is often one of progressive change, the actual forms of autonomy offered by the state to groups may regressively oppose the forms of societal change advocated by various Indigenous scholars and activists. That is, “group autonomy” can work to preserve current conceptions of liberalism and “the community” while co-opting, neutralizing, and disciplining internal forces that threaten the integrity of the state. In this project I argue that *the “autonomy” offered by state sponsored cultural group rights may work less as a safeguard for the group and more as a vehicle through which the state can pursue a neoliberal agenda.*

Analytical approach

The notion that ideas and actions are always fundamentally contextual is a central premise in this dissertation. This approach draws partly on the works of Quentin Skinner Michel Foucault, James Tully and others who developed and articulated the significance of context for political ideas.⁵ Political ideas are always embedded in historical context, which is defined by Skinner and Tully primarily in terms of ideology and *language*. This

fact necessitates that the dominant political ideas of the day be critically historicized in order to reveal their complex and often shifting impacts. In this dissertation the ideological parameters of the context of contemporary Canada are examined. What I focus on is not just multicultural policies full stop, as so many scholars have done, but how these policies can only really be understood, in their effects and implications, if we examine the prevailing welfare state context as well. From the mid-1980s onward the welfare state context in Canada has been one of neoliberal contraction and this project explores how *the notion of autonomy is central for both neoliberal ideology and multiculturalist ideology*—a convergence that enables certain kinds of political actions and inhibits others.

My methodological orientation to the investigation of present attitudes on governance and transformation can also be described as “applied theory” or, “political philosophy as critical activity” as articulated by James Tully. While Canadian scholars have long studied the intersection of political theory and Canadian politics, the theme of multiculturalism is situated at a particularly rich point of intersection between strands of Canadian politics and strands of contemporary political thought. My project deepens this analytical stream by querying some of the most prominent theories in Canadian politics—theories of multiculturalism—by way of a case discussion of Indigenous child welfare jurisdiction. While this may appear to some as an approach that conflates the empirical realities of policy with the normative ideals of theory, my analysis rejects the division between empirical and normative social theory—a perspective defended by critics such as Iris Marion Young (1990), Joseph Carens (2000) and James Tully (2002) amongst others. As Young explains: While there is a distinction between empirical and normative

statements and the kinds of reasons required for each, no normative theory meant to evaluate existing societies can avoid empirical inquiry, and no empirical investigation of social structures can avoid normative judgments (1990, 29). Similarly, Carens argues, a contextual approach offers three interrelated advantages. First, it can clarify the meaning of abstract formulations. Secondly, it can provide access to normative insights that may be obscured by theoretical accounts that remain at the level of general principle. Thirdly, it can make us more conscious of the blinkers that constrain our theoretical visions when they are informed only by what is familiar (2000, 2). Analyzing in historical context multiculturalism through a welfare regime lens offers just this type of critical insight. As the surrounding context of shifting social rights and responsibilities is unpacked through critical analyses of the ideologies and discourses that give shape and meaning to them, new state motives and objectives are also revealed regarding state policies of multiculturalism.

The neoliberal welfare state

The defining characteristic of the neo-liberal welfare state is privatization. While in its original use privatization referred to the sale of government assets to the private sector, it has now come to refer to a “tectonic shift” in public policy and a movement or “restructuring” within liberal democracies towards a particular political orientation that involves a complex and multi-faceted reworking of the postwar welfare state public and political realms (Cossman and Fudge 2002, Kline 1997, Brodie 1995). Restructuring involves a variety of practices that have come to dominate liberal democratic politics since the fiscal crises of the 1980s and that redraw the public-private boundaries,

shrinking some aspects of the public by granting autonomy to the market and the family. In Canada, this shift has altered political identities of citizens and public spaces of postwar politics and has inaugurated new and reshaped forms of domination rooted in gender, race and class (Brodie 1995, 14). Drawing in part from this critical account of neoliberalism and privatization, this dissertation addresses the analytical gap in the existing multiculturalism literature regarding the absence of the welfare state context by analyzing particular and concrete policy changes in Canada that combine both cultural protections and the contraction of the welfare state. This contraction should be measured not simply in monetary terms but in relation to the depth, scope, and identity of “the public” as well. For instance, how political spaces are shaped is of particular concern in this dissertation as privatization can also lead to the contraction or elimination of legitimate spaces for political deliberation and contest once a set of issues or policy area is “devolved.”

I employ a welfare regime lens that sees the discourses and conventions of the welfare state as a guiding context that shapes multicultural policies that unfold therein. I am concerned that in Canada today, the welfare regime is informed by neoliberalism and this is the particular welfare context in which multicultural policies emerge and function. *With this approach I assess the degree to which the recognition of group rights, generally viewed as “concessions” made by the state, serves a broader governmental process of neo-liberal privatization.* I analyze how this process reduces state accountability for certain undesirable or problematic issues posed by Canada’s growing Indigenous populations, particularly their vast overrepresentation in the child welfare system as well as the highly disproportionate rate at which they experience numerous other social

programs due to the legacy of colonialism. At the same time this approach allows the state a considerable amount of power to constrain groups despite the reduced traceability of this power that results from group autonomy. The implications are that legal rights which are founded on the dominant conception of group autonomy and which are conceived by some to be a powerful method of augmenting political spaces for more democratic debate and shifting values more toward democratic self-governance, can actually have a privatizing effect whereby existing political space is preserved—if not narrowed—and values that challenge the status quo are depoliticized through the creation of autonomous policy jurisdictions that are hived off from broader Canadian public spheres.

While the creation of new policy jurisdictions for Indigenous peoples appears to be empowering, my analysis shows how this kind of policy devolution actually maintains state control while obscuring state accountability. With this revealed, it becomes clear that the legal strategies and practices of some forms of “minority” rights, often empowering for groups on one level, may simultaneously bring about negative consequences on another level and must be evaluated as part of a broader governmental strategy of neoliberalism. This strategy does not straightforwardly meet particular demands of groups but meets the requirements of the contemporary governmental shift towards privatization within liberal democratic states. In other words, some manifestations of group rights are vulnerable to criticisms launched against practices of privatization. I wish to emphasize, however, that my overall objective is not to encourage the jettisoning of all rights-based initiatives. Rather, it is to recognize, and subsequently

begin to address, some of the shortcomings of an approach to autonomy for Indigenous peoples in Canada that is centred on rights-based approaches as a positive legal strategy.

Relational autonomy and democratic multi-nationalism

At the centre of my critique of dominant conceptions of group autonomy is the proposition that prevailing conceptions of group autonomy do not adequately account for continued relations between Indigenous collectivities and Canadian governments. As such these conceptions fail to fully account for the complexities of the continued exercise of state power and state authority over “autonomous groups,” particularly in the context of neoliberalism. This omission works to further inhibit Indigenous peoples in their capacity to hold Canadian governments accountable for state objectives and/or practices that conflict with the practice of meaningful autonomy. In response, this project considers the need for contextually specific political approaches to justice for national groups and explores in terms of theory and practice possibilities for a relational, process-oriented approach to “autonomy.” Working from an ethics of care perspective, it develops a relational approach to the value of autonomy that begins from the existing context of group-state relations, a context fraught with mistrust, inequality (both in terms of power and material resources), and competing interests. A relational approach to group autonomy emphasizes that autonomy is not defined by a group’s complete separation or even complete independence from the state. Rather, a relational conception of group autonomy is focused on a practice of autonomy which includes not only the ability to be accountable for oneself but also the ability to hold the state accountable for the impact of its actions on the group as well.

A key part of this relational approach to autonomy rests on the concept of “the political.” While the politics of neoliberalism and its close relative “the third way” works to end the conflicts associated with collective politics, a relational approach accepts the inevitability of conflict and collective politics. Drawing on an agonistic conception of the political, I explore the case of Indigenous autonomy over child welfare policy in Manitoba to argue against dominant neoliberal and multicultural theories as well as current state practices in Canada. The approach articulated here is distinct from current mainstreams of multicultural and democratic theory as it puts the policies, practices, and unique powers of the state at the centre of the analysis rather than focusing on civil society or “groups” per se, a habit common in the existing multiculturalism and democratic literature. This dissertation then builds an argument for what I term “democratic multi-nationalism”—that is, a participatory democratic response to the specific dilemma of freedom raised by the complex realities that confront Indigenous peoples in Canada today. Overall, I will suggest that only a political, agonistic approach can provide the basis for the accountability and participation necessary for a more robust practice of Indigenous autonomy.

The scope of the dissertation

The scope of the dissertation is limited in an important way. Any effort to address issues of multicultural citizenship in Canada must be attuned to the divergent individual and collective experiences of citizenship of group members and, as I argue throughout the project, to the specific political context in which said citizenship is exercised. In order to limit the scope of the dissertation, I primarily target for analysis the notion of group

autonomy, particularly as it applies to Indigenous peoples living in the territory now known as Canada with a specific in-depth focus on the province of Manitoba. Still, despite this specific focus, the analysis may be germane to other liberal multicultural/multinational states, such as the United States, Australia, and Great Britain, which are also encountering concurrent trends of multiculturalism and neoliberalism.

As will become clear, I am unconvinced that an emphasis on *cultural* autonomy, as conceived of by dominant theorists of multiculturalism, can facilitate the changes necessary to meet the requirements of social and political justice for Indigenous peoples. In response, this dissertation advocates a conception of political autonomy that is constituted by both relational and agonistic principles. My rejection of current theories of multiculturalism notwithstanding, my decision to focus on the experiences of Indigenous peoples as a non-Indigenous scholar and in a work focused on multiculturalism invites controversy. Most Indigenous scholars and activists do not identify as part of the multiculturalism rubric nor do they identify as a minority group. Yet, prominent scholars of multicultural citizenship have made the experiences of Indigenous peoples a central part of their scholarship. The prescriptive force of the work put forth by these scholars should not be underestimated. Recent court decisions on Aboriginal rights have increasingly moved away from justifying these rights on the principle of first occupancy that characterized the *Calder* decision of 1973 and has remained the central justification of many Indigenous peoples. Instead, Canadian courts have moved towards a much more restrictive notion of Aboriginal rights based on “culture,” a fact demonstrated by the 1996 *Van der Peet* decision.⁶ Thus, while the majority of Indigenous scholars and activists do not see themselves as part of “multiculturalism,” this fact has not led to the rejection of

this framework by many dominant and politically powerful voices. There is, therefore, significant reason to analyze Indigenous politics alongside the prevailing, influential multiculturalist perspective. I work from the fact that Indigenous peoples identify as, and should be recognized as, peoples or nations. The discourse of multiculturalism and “group rights” is invoked to reflect and, most importantly to contest, the dominant conceptions of Indigenous issues as reflected both in theories of multiculturalism and in political practice.

Outline of the dissertation

Drawing on the case study of the right of Indigenous peoples to “autonomous” child welfare service provision, the claims in this project are threefold. First, I argue that considerations of multicultural politics *must* actively engage with the shifting welfare state/neoliberal context if the differentiated rights they advocate are to have the desired practical meaning and effect. This project points to significant omissions within the existing literature on cultural group-rights based notions of differentiated citizenship. More specifically, in chapter two, I insist that the concerns raised by “welfare liberals” T.H. Marshall and John Rawls about the *social and economic* aspects of autonomous citizenship must be included in approaches to multicultural citizenship, particularly given notions of culturally differentiated group rights. The significance of the current neoliberal political context for group autonomy is illustrated through chapter three’s case discussion on autonomous Indigenous child welfare in Manitoba. This chapter demonstrates that the shift to group autonomy must include a strong materialist focus if it is to contribute to positive, transformative change. As such, I use the case to highlight the need for

advocates of autonomy to think more carefully about effective devolved policy change for Indigenous peoples in Canada.

In chapter four, I turn to the ethics of care literature to frame an alternative approach centered on a notion of group autonomy as *relational*. While critics traditionally employ the ethics of care when examining various gender-based differences, this chapter considers care in relation to citizenship practice more broadly. By challenging the liberal principle of self-determination as abstract separation from others that dominates contemporary notions of both individual and group autonomy and by emphasizing a context specific reality of interdependence between autonomous agents, I argue that “care” as citizenship practice may serve as a valuable supplement to concerns of “justice” when we address the limitations and implications of a rights-based group autonomy approach. Finally, in chapter five, I review dominant strands of contemporary democratic theory and Indigenous political thought to explore how we might employ this notion of relational group autonomy in democratic political practice. In response to the negative realities of *neoliberal multiculturalism*, this chapter argues for a model of *democratic multi-nationalism*. This approach is characterized by the tenet that an agonistic “political” frame rather than a “cultural” frame is key for just relations between Indigenous peoples and Canadian governments. While “care” and “agonal” conceptions of citizenship may appear to run counter to one another on matters of principle, this chapter demonstrates that agonism is a necessary complement to the enduring and involuntary interdependencies that an ethics of care perspective reveals about the practical nature of Indigenous-state relations and is therefore a vital part of implementing relational autonomy in political practice. The project concludes by positing Indigenous

counterpublics as an essential component not simply to combat the dangers of neoliberal multiculturalism but for the pursuit of truly meaningful, progressive change in the relations between Indigenous peoples and the many facets of the Canadian state.

2 (RE)CONCEIVING CITIZENSHIP: THE WELFARE-MULTICULTURALISM DYNAMIC

Citizenship in contemporary liberal democracies is a multi-faceted concept. It invokes notions of belonging, rights, duties, participation, and of accountability of the state. Each of these components is subject to competing interpretations. Yet, within particular contexts, consensual trends emerge both in theory and in practice. Since the 1980s two key trends have emerged simultaneously in Canada. The first, often characterized as part of the “politics of recognition” and/or the politics of “multiculturalism,”¹ involves a shift towards some form of differentiated citizenship for certain “minority” cultures or “nations within nations.” The second, often characterized as part of “the politics of neoliberalism,” involves processes of privatization which act to shift the delineation of the public and private spheres and (re)conceive state and citizen duties accordingly. The central claim of this chapter is that while these two trends have emerged from significantly different starting points, and are predominantly viewed as resulting in distinct, even conflicting, ends, there remains a striking discursive overlap between the two which has facilitated the emergence of neoliberal multiculturalism. As such, I argue that the dominant perceptions of both neoliberalism and multiculturalism, and in particular, the perceived oppositional relationship between the two, needs to be rethought.

To understand what multiculturalism policies achieve and can achieve we need to situate them in the prevailing discourses of the welfare regime of which they are a part. The welfare regime that dominates Canadian politics today is neoliberalism. And, interestingly the discourse of neoliberalism has conceptual overlaps with key terms from

the multiculturalism discourse, which enables neoliberal agendas to guide multiculturalism in terms that suit it. This chapter hereby posits a notion of “neoliberal multiculturalism”—that is, specific multicultural state policies touted by the state as enhancing group autonomy, seemingly responding to group demands, but which create policy effects left unexplored in the current multiculturalism literature. Specifically, this chapter argues that the effects of these policies often serve a neoliberal welfare state agenda. These effects often run in opposition to meeting the requirements of meaningful group autonomy for group members. While Kymlicka (2002) observes that the politics of multiculturalism is about “inclusion” and “accommodation” rather than exclusion or difference, the discursive analysis of this chapter reveals that certain manifestations of the politics of multiculturalism in Canada are creating new forms of material exclusion that are currently unexplored in the multiculturalism literature.

The contiguous nature of multiculturalism and neoliberalism can be examined through both its theoretical and practical aspects. For example, conceptually, autonomy is central to the discourses that accompany both of these two trends. At a more concrete level, recent changes in family law are not only centrally implicated in current neoliberal shifts (Cossman 2002, Brodie 1995), they are also often at the centre of demands for cultural accommodation (Okin 1999, Shachar 2001, and Benhabib 2002). These points of overlap give us a critical starting point to highlight the heretofore under-investigated symbiosis that exists between these two trends and the resulting implications for the practice of group-differentiated citizenship.

According to Esping-Anderson (1990), “power, democracy, and welfare are all relational and structured phenomena” (19). As such, these are phenomena that cannot be

accurately captured by a linear scoring approach focused on measuring *more or less* power, democracy, or even spending.² This chapter demonstrates that “group autonomy” is also fundamentally relational. That is, *context* plays a central role in any critical approach to group-differentiated citizenship. Within contemporary liberal democracies one, if not the most significant, contexts is the shifting attitudes, policies, and relationships associated with “the welfare state.” To date, however, little work has been done on the complex dynamic that exists between group autonomy-based policies of accommodation and the objectives of a neoliberal welfare state. As Banting and Kymlicka (2003) have noted, up until now, when the welfare state and multiculturalism are considered in the same analysis it is most often in the context of group-differentiated rights being rejected on the grounds that these rights will narrow the welfare state and/or that the recognition of difference will supplant a redistributive view of justice with one of cultural recognition and thereby undermine the solidarity required to legitimize a broad set of social benefits.³ For these critics of group-differentiated citizenship, the state’s pursuit of multicultural policies eventually leads to a fractured and contracted welfare state. In short, multiculturalism may “bring the welfare state into question.” Others have worked to dispel this claim. For example, Banting and Kymlicka (2003) suggest that there is in fact no consistent relationship between the adoption of multicultural policies and the erosion of the welfare state. Their analysis is, however, unidirectional, only focused on how certain policies of multiculturalism may impact the welfare state. Scholars on both sides of the debate fail to consider the possibility that the shrinking welfare state context under the impact of neoliberalism may shape the kinds of multiculturalism and forms of “accommodation” that have emerged in recent years.

How do we account for this omission? First, the failure to fully consider the potential relationship between the simultaneous trends in the state's approaches to multiculturalism and the state's conception of the welfare state is likely due to the fact that groups, particularly "national minorities," have demanded differentiated rights that grant group autonomy over various policy areas. Thus, *prima facie* the policy changes appear to be singularly direct and progressive responses to such group demands as opposed to state crafted responses based on the social and economic objectives of the state. While cultural groups certainly have made, and continue to make, demands on the state, I suggest that competing state goals are at play in the contemporary politics of multiculturalism—goals which are obscured by the shared discursive emphasis on autonomy. A second reason this dynamic is unexplored is the fact that the complexities and inconsistencies of neo-liberalism are often overlooked. The dominant perception of neo-liberalism is consistent with Giddens's observation that: "Xenophobic overtones are normally clear in the pronouncements of neoliberal authors and politicians—they reserve some of their severest strictures for multiculturalism"(1998, 12). Still, despite the prevalence of these ideological statements, this simple characterization overlooks two important realities. First, as Giddens himself observes, neoliberalism features different streams. While the main one, the origin of the term "new right," is socially conservative and is committed to "traditional" notions of the state and the family, there is an important type of thinking associated with an emphasis on a free market that, in contrast to the conservative stream, is libertarian on moral as well as economic issues. Unlike the Thatcherite conservatives, for example, libertarians favour sexual freedom and the decriminalization of drugs (1998, 6). Thus, while some streams of neoliberal thought

appear outright hostile to any and all forms of multiculturalism as policies of accommodation are seen to threaten traditional notions of the state and family, others streams of neoliberalism offer room for certain visions of multicultural citizenship. In fact, I suggest, visions of multicultural citizenship based on notions of autonomy may fit well with the values of the libertarian stream. And, even within the conservative stream, limited room may exist for certain forms of multicultural accommodation, especially where it may be based on some version of the traditional values of community and cohesion that underpin socially conservative thought, and where an appeal can be made to conservative economic sensibilities. This relates to the second reality Giddens overlooks regarding the diversities of neoliberalism. Neoliberal governments benefit from shrinking the scope of state activities by co-opting and conceding certain forms of cultural accommodation.⁴ By distinguishing the actual practices of neoliberal states (i.e. neoliberal governance) from abstract neoliberal values (i.e. neoliberal ideology) we are better prepared to see the discursive overlap between the demands of multiculturalism and the language of the neoliberal state, as well as the differences in terms of motivations and/or expected outcomes.

The welfare state's role in promoting and/or inhibiting the economic and social equality of individual citizens impacts the sphere of cultural group-differentiated rights by shaping the notions of group autonomy that accompany these rights. The discourse of group autonomy did not emerge with neoliberalism, however, the welfare state and minority rights are components of the overall governing approach or citizenship regime⁵ (Jenson and Papillion, 2000) and, as such, changes in one may significantly influence the other. The emergence of neoliberalism shapes the ways in which the state responds to

demands for group autonomy and, I will argue, necessitates a reconsideration of current approaches to multiculturalism as well as how we think about what practices fit within a neoliberal paradigm. While policies of multiculturalism are often seen as antithetical to neoliberal political principles, this chapter demonstrates that the co-optation of certain conceptions of group autonomy provides an opportunity for the state to meet neoliberal objectives. Thus, my analysis begins from a conception of the welfare state as a key variable in the political opportunity structure of the state and a key factor in the political outcomes for “multicultural” social movements. As will be discussed, critical engagement with the shifting welfare state context remains largely uninterrogated by dominant multicultural theorists including both Will Kymlicka and Charles Taylor. Nancy Fraser (1996) analyzes this gap through her work on the politics of redistribution/recognition. Yet, as shall be discussed later in this chapter, her framework fails to adequately break down the distinctions between redistribution and recognition she sets out to deconstruct and does not directly engage with the particular complexities raised by neoliberalism.

Using Indigenous-state relations in Canada as a case study, the first central thesis in this chapter is that any meaningful consideration of multicultural politics *must* actively address the shifting welfare state context if these differentiated rights are to have practical meaning and effect. Second, the concerns raised by “welfare liberals” T.H. Marshall and John Rawls regarding the *social and economic* aspects of autonomous citizenship must be included when developing new approaches to multicultural citizenship; particularly considering notions of culturally-differentiated group rights.

This chapter begins by defining “the welfare state” and “welfare liberalism” using the seminal works of T.H. Marshall and John Rawls. In the sections that follow I analyze

multiculturalism and neoliberalism as distinct yet interrelated challenges to this post-World War II consensus of liberal welfare citizenship as these new schools of thought endorse “group autonomy.” Given the limitations of neoliberal group autonomy outlined through this analysis, the chapter will conclude by sketching out some points of departure for an alternative approach centered on a conception of *relational* group autonomy. This approach equates meaningful autonomy with *practical democratic agency*, twin ideas that are developed in the succeeding chapters.

What is the welfare state?

In general, the welfare state refers to a collection of social rights designed to ensure a minimum level of economic security and well-being for every individual citizen of the state thus giving substance to the liberal democratic promises of equality and social progress (Marshall 1981, Brodie 2002). “Phrased negatively, the crux of the matter is that agents of a welfare state must have no discretionary power over those resources that the states allocates for the relief of people in distress” (Goodin 1988, 3). This lack of discretionary power is, as Robert E. Goodin notes, “what distinguishes a welfare state from a poor-law state” (3). While there is no consensus on the full scope and depth of the concept it is possible to distinguish between “broad” and “narrow” accounts of the welfare state. As Esping-Anderson (1990) notes:

Those who take the narrow view see it in terms of the traditional terrain of social amelioration: income transfers and social services, with perhaps some mention of the housing question. The broader view often frames its questions in terms of political economy, its interests focused on the state’s larger role in managing and organizing the economy [...] In a sense, this approach identifies its subject matter as the “Keynesian welfare state” or, if you like “welfare capitalism”. (1-2)

In this chapter, the term welfare state is used in its broadest sense or, as Esping-Anderson suggests, in the “welfare regime” sense. As he observes, “[t]o talk of ‘a regime’ is to denote the fact that in the relation between state and economy a complex of legal and organizational features are systematically interwoven” (2).

Thus, the welfare state context involves an ever-shifting constellation of social rights that are shaped by and, in turn, contribute to a policy paradigm which impacts not only the typical “welfare” policy areas themselves but the overarching citizenship regime in which all matters of equality, autonomy and accountability are interpreted, upheld or dismantled. A broad conception therefore goes beyond simple analyses of the allocation of resources as “[t]he coexistence of a social program and the amount of money spent on it *may be less important* than what it *does*” (Emphasis added. Esping-Anderson 1990, 2). Thus, focusing exclusively on expenditures is misleading: “Expenditures are epiphenomenal to the theoretical substance of welfare states” and such a limited approach “contradicts the sociological notion that power, democracy, or welfare are relational and structured phenomena.” From this perspective the most important issue is not “how much money is spent,” but rather “whether social policies are *emancipatory* or not”⁶ (Emphasis added. 18). As will become clear, in the case of Indigenous-state relations in Canada, “emancipation” comes to mean that social policies result in practical autonomous agency for Indigenous peoples.

A broad account of the welfare state is imperative in order to fully understand the welfare regime as a key context for social citizenship in general and multiculturalism in particular:

Equality has always been what welfare states were supposed to produce, yet the image of equality has always remained rather vague. In some analyses it is simply

taken for granted that social benefits diminish inequalities. In others, the focus is on the eradication of poverty or the overall distribution of income. The really neglected issue is the welfare state *as a stratification system in its own right*. (Emphasis added. Esping-Anderson 1990, 3-4)

This chapter draws on this broad critical notion of the welfare state and explores the key texts in political and social theory that underpin its growth in the second half of the twentieth century. In particular, Marshall and Rawls's theoretical justifications of the welfare state provide the discourse through which the intersecting effects state approaches to welfare and multiculturalism have for "cultural" groups, both in terms of social and economic stratification and citizen capabilities, can be examined.

Welfare liberalism

Liberal theory has emphasized the concept of "welfare" to varying degrees. Marshall and Rawls stand out as central proponents of a strong welfare dimension to citizenship, leading some observers to characterize their perspective as "welfare liberalism" (Kymlicka 2002). As Paul Kershaw (2002) aptly notes, first Marshall's then Rawls's work affirms the general finding that "social and economic conditions with which the social element of citizenship is concerned are prerequisites for the effective exercise of political and civil rights" (61). As such, this brand of liberal democratic citizenship expands classic liberalism by embracing certain *positive rights* of citizenship as central components of the basic practice of liberal autonomy.

In this section I review and endorse as relevant to the problem of group autonomy the concerns raised by Marshall and Rawls about the social and economic aspects of citizenship. Group-differentiated rights to "autonomy" must not be conceived as simply civil and/or political in nature. They are inevitably shaped by the overall citizenship

regime of the state and reflect state social and economic priorities. These rights, therefore, must also be conceived as *social* in nature as they are first shaped by the welfare context and in turn contribute to this welfare state context by effecting the social and economic position of the group members both collectively and individually.

Marshall's "The Right to Welfare"

T.H. Marshall's work on welfare and citizenship has greatly influenced contemporary debates. At the centre of Marshall's work is his conception of social rights which he defines in contrast to political rights, and civil rights. Each of these categories contributes to the overall mode of citizenship in a society in a distinct yet interrelated way and each category fosters different citizenship capabilities. For Marshall (1981), the definition of political rights is quite limited:

Political rights in a representative democracy can function at full strength only at one point, and through one institution, the national sovereign parliament. It is true that they function also, in a subordinate way, at the level of the local community, and more significantly at the level of the state in a federal system. But the ultimate power resides at the centre. (141)

From this perspective, because the body politic has essentially a "single head" with a "single neck," political rights can be "put out of commission" at an early stage of conflict (141). In other words, the power that comes through political rights is vulnerable to both "mutilation" and disabling.

In contrast, social rights—that is the rights to welfare broadly speaking—are "not designed for the exercise of power at all."

They [social rights] reflect [...] the strong individualist element in mass society, but it refers to individuals as consumers, not as actors. There is little that consumers can do except to imitate Oliver Twist and "ask for more", and the

influence politicians can exert over the public by promising to give it is generally greater than the influence the citizens—or those who care about these things—can exercise over politicians by demanding it. (141)

Social rights include the right to an adequate standard of living—more specifically, rights to adequate food, shelter, healthcare as well as any other social service or condition deemed a necessity for citizens.⁷ In post-World War II Canada, these social rights gained legitimacy and institutional support. The aftermath of the war included a shift in the perception of welfare provision. No longer regarded as charity, welfare was seen as instrumental in the achievement of economic stability while meeting the demands of the citizenry. This period saw the expansion of the public sphere, and much of the new programming, such as unemployment insurance and family allowance, was universal, making it far less stigmatizing than pre-war state intervention (Stroick and Jenson 1999, 66, Kershaw 2002, 8). Yet, while Article 22 of the 1948 *Universal Declaration of Human Rights* recognizes the right to “social security,” William A. Schabas chronicles Canada’s “hostility to the *Declaration*” (2000, 194). More specifically, Canada—standing largely alone among Western democracies—was openly opposed to including the economic, social, and cultural clauses in the *Declaration*.⁸ Further, “[a]ttempts to introduce economic and social rights into the Canadian Charter when it was being drafted were unsuccessful.” For Schabas, “[t]here can be no doubt that they were quite intentionally excluded” (205). Schabas’s observations support Marshall’s thesis that social rights do not bestow power. Without some kind of juridical and/or political process through which citizens can hold states accountable for socio-economic conditions, Canada continues to treat individuals as consumers as opposed to actors when it comes to the social aspects of citizenship.⁹

Marshall states that civil rights are as individualistic as social rights but the individual is viewed not as a consumer but as an actor. These rights include the right to freedom of thought, speech, religion, assembly, and association, the right to hold property, and “above all the right to justice, or the rule of law.” He explains:

They give external expression to principles which are internalized in the early stages of socialization. They thus become a part of the individual’s personality, a pervasive element in his [or her] daily life, an intrinsic part of his [or her] culture, the foundation of his [or her] capacity to act socially and the creator of the environmental conditions which make social action possible in a democratic civilisation [...] they are dispersed through many institutions, and do not, like political rights, function through a single institutional complex [...] civil rights, though vested in individuals, are used to create groups, associations, corporations and movements of every kind. They are the basis of political and social pluralism. (141-142)

This notion that civil rights ensure “power,” more than any other citizenship entitlement, is deeply rooted in the liberal democratic psyche. In Canada, *The Canadian Charter of Rights and Freedoms* (1982), largely rooted in civil rights with virtually no reference to social rights, supports this claim. Marshall’s work, however, also tells us that this power only translates into meaningful agency when certain contextual requirements—that is, certain social and economic thresholds—are met and maintained for individual citizens. It is focus on the contextual requirements for political and civil *agency* that undergirds Marshall’s seminal argument for including the social and economic elements of citizens’ lives as part of the business of the state. Equality before the law does not in itself guarantee all persons the *practical ability* to invoke and benefit from their legal entitlements (Kershaw 2002, 1). There is a wide range of capacity within the citizenry in relation to their ability to access their legal entitlements and to participate in civil and political processes. To move disadvantaged groups from exclusion to inclusion requires

some economic intervention on the part of the state. Recognition of the social dimension of citizenship therefore implies that the extension of full membership status “is a socio-economic process in addition to a legal one” (Kershaw 2002, 1-2).

Marshall is a “welfare liberal” because he goes beyond classical liberal arguments for a minimal state and negative freedoms and places the positive liberties now associated with “welfare” as a necessary part of achieving liberal equality and freedom. This perspective was, of course, not always reflected in the *real politik* of modern liberal democratic states. The post-war acceptance of welfare as part of the liberal democratic citizenship regime demonstrated not just a change in policy but an ideological shift as well. Thus, the citizenship rights which characterized the liberalism of the eighteenth and nineteenth centuries (Locke’s right to property being the prototypical example) were recognized as being social in origin:

The modern rights to education and health are, on the contrary, not merely recognized by all as being social in origin, but are part of the mechanism by which the individual is absorbed into society (not isolated from it) and simultaneously draws upon and contributes to its collective welfare. (Marshall 1981, 91)

This sentiment is echoed in the later work of prominent liberal theorist John Rawls most notably in his conception of the difference principle.

Rawls’s “Justice as Fairness”

In *Justice as Fairness* (2001), Rawls works to identify the conditions for the most fair and equal approach to living together given the realities of involuntary political membership. For Rawls, fair agreement must not only occur within the basic structure once it has been established but it must also shape the formation of the basic structure which is achieved through Rawls’s process of “overlapping consensus” (2001, 15). The

basic structure must meet the demands of the two guiding principles of justice: first, basic liberties must be equally and fairly applied; and second, if and when social or economic inequalities are unavoidable they should follow *the difference principle*. More specifically, “they are to be to the greatest benefit of the least-advantaged members of society” (2001, 43). The notion of basic liberties is essential to Rawls’s conception of justice as fairness as it is “the fair value of the political liberties [that] ensures that citizens similarly gifted and motivated have roughly the same equal chance of influencing the government’s policy and of attaining positions of authority irrespective of their economic and social class” (2001, 43). Here the similarity with Marshall is first evident as Rawls’s basic liberties run parallel to Marshall’s political and civil rights. The conditions that are fostered by the difference principle also bear a strong resemblance to the conditions fostered by Marshall’s conception of social rights.

For Rawls, the best way to deal with conflicts that arise from plurality is a basic structure that fosters cooperation through a process of *reconciliation* based on the principle of *reciprocity* ensured by the difference principle (2001, 64). As a result, a basic structure that satisfies the difference principle rewards people “not for their place in that distribution, but for training and educating their endowments, and for putting them to work so as to contribute to others’ good as well as their own” (2001, 75). Kymlicka explains:

His [Rawls’s] “general conception of justice” consists of one central idea: “all social primary goods—liberty and opportunity, income and wealth, and the bases of self respect—are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favored.” In this “general conception”, Rawls ties the idea of justice to an unequal share of social goods, but he adds an important twist. *We treat people as equals not by removing all inequalities, but only those which disadvantage someone.* (Emphasis added. 2002, 55)

By defining what inequalities in income and wealth are incompatible with justice, Rawls supports Marshall's finding that "the social and economic conditions with which the social element of citizenship is concerned are prerequisites for the effective exercise of political and civil rights" (Kershaw 2002, 61). Like Marshall, Rawls consistently recognizes that, "until the basic wants of individuals can be fulfilled, the relative urgency of their interest in liberty cannot be firmly decided in advance" (1971, 543). There are social and economic requirements — that is, "favourable conditions"— that must be maintained if citizens are to truly exercise the autonomy promised by liberal democratic citizenship. Inequalities that contribute to these conditions and therefore promote the interests of the citizenry collectively are acceptable and in turn work to ensure the necessary level of social solidarity and cooperation required for liberal democratic citizens to "live together."

The welfare liberalism of Rawls and Marshall extends the meaning of liberal autonomy beyond simply requiring the equal distribution of political and civil rights that ensure non-interference to include positive rights that ensure the potential for *practical agency and participation* and serve to *integrate* citizens into the collective social fabric. The historically simultaneous emergence of neoliberal governance and the demands for group-differentiated citizenship complicates this post-war welfare state consensus, rooted in Marshall and Rawls defense of social citizenship, in a number of ways, as they both challenge the scope of state responsibility and redistribution of resources and our conceptions of the social fabric and "integration."

Autonomy is a central value for citizenship within the discourses of neoliberalism *and* group-differentiated citizenship. Both trends also present significant challenges to the

notion of universal standards and citizen integration that are central to the welfare liberalism approach. While these trends have emerged somewhat distinctly, their entangled development has fostered a particular reshaping of the public that produces particularly complex policy outcomes that affect the citizenship capabilities of cultural group members in ways that may run counter to a practical increase in autonomous *agency*.

The neo-liberal challenge

As outlined above, welfare liberalism hinges on the belief that without the necessary social rights, liberal autonomy will not translate into political or civil *agency*. In short, *context matters*. Yet this conception of citizenship has also been subject to significant critique and erosion in recent decades. One of the strongest streams of critique comes from the politics of neoliberalism.

In his influential contribution, *The Third Way: the Renewal of Social Democracy* (1998), Anthony Giddens observes that there has been “a dissolution of the ‘welfare consensus’” in contemporary liberal democracies such as Britain, the U.S. and Canada (vii). Since the mid-1970s the social democratic elements of liberal citizenship that served to foster and maintain the objectives of welfare liberalism have become “increasingly challenged by free market philosophies, in particular by the rise of Thatcherism and Reaganism—more generally described as neo-liberalism” (Giddens 1998, 5). Many factors have been identified as having contributed to this shift including the disintegration of a cluster of social traits, such as the traditional family and national economy, that the Keynesian welfare consensus took for granted (Giddens 1998, 16). Both citizenship rights

and welfare programs were implemented during “war time” eras when governments sought means of ensuring public support. As Giddens points out, this fact has been largely ignored by many social democratic authors, including Marshall, who view the development of liberal democracy and the welfare state as more self-contained processes than they essentially were. Taken together, these factors worked to change the political terrain so that the notion of liberalizing markets which seemed to belong to a “past era that had been superseded,” now came to be taken as a legitimate possibility to be considered and implemented by governments. Thus, in the 1980s the ideas of Friedrich A. von Hayek, a leading advocate of free markets, and other free market critics of socialism suddenly went from being viewed as eccentric to becoming “a force to be reckoned with” (Giddens 1998, 5). As economic turmoil hit western liberal democracies, von Hayek’s caution about the economic costs of social policy and his concerns regarding the infringements of freedom inherent in social planning inspired many in the Reagan and Thatcher governments. The effects of these economic trends on social citizenship were also felt in Canada under the guidance of then Finance Minister Paul Martin’s “come hell or high water” plan for economic reform to meet deficit targets in the mid-1990s. Martin succeeded by bringing federal program spending for the 1996-97 fiscal year to 12.5% of the GDP—a lower percentage than in any previous budget year since 1949-50 (Canada 1995, Scarth 2004).

The discursive shift that characterized this time period was unmistakable and is the focus of this chapter. It must be noted, however, that this trend did not result in a simple rolling back of welfare state structures or spending. Indeed, as Paul Pierson (1994) has observed: “Retrenchment is a distinctive and difficult political enterprise” due to the

fact that its advocates must maneuver ground that the welfare state itself has “fundamentally transformed” (102). The numerous social policies that constitute the welfare state have created welfare state constituencies, the strength of which is enhanced by the fact that “social programs provide concentrated and direct benefits while imposing diffuse and other indirect costs” (Pierson 1994, 2). In general, voters will react more strongly to losses than to equivalent gains. As a result, Pierson notes, “if citizens dislike paying taxes, they remain fiercely attached to public social provision” (2).

We must not, therefore, underestimate the resilience of social policy in a conservative era. In fact, Pierson suggests, social policy has so greatly altered the political terrain both in terms of changed goals and a changed context that it has resulted in a “new kind of politics” characterized by “blame avoidance” and attempts to hide what is happening by employing approaches that lower the visibility of changes or obscure responsibility for those changes. “Far more than in the era of welfare state expansion, struggles over social policy become struggles over information and the causes and consequences of policy change” (8). Pierson’s observations regarding the shifting terrain become even more salient when the rising demands of multiculturalism are added to the contextual analysis. As the remainder of this chapter argues, the discourse of group autonomy put forward by collectivities like Canada’s Indigenous peoples provided an opportunity for governments to frame their restructuring within a discursive framework favoured by some of its most challenging welfare constituents.

The practice of neo-liberalism: privatization

Broadly speaking, a number of characteristics are associated with the ideology of neo-liberalism including: minimal government, an autonomous civil society, market fundamentalism, and the acceptance of inequality (Giddens 1998, 8), but, as Giddens notes, “antagonism to the welfare state” is “one of the most distinctive neoliberal traits” (13).¹⁰ The welfare state in Canada was always residual in nature, even in its most robust form. The emergence of neoliberalism therefore marks a change in *degree* rather than a change in *kind*. Still, the impact of this shift should not be underestimated. The combination of these ideological characteristics and the unique challenges presented by the politics of retrenchment has resulted in processes which work to redefine state-citizen relationships through policy and institutional reforms. Largely characterized as “restructuring,” the politics that accompany this shift have been categorized by a number of scholars as the “politics of privatization” (Brodie 1995, Kline 1997, Cossman and Fudge 2002).

While in its original use the concept of privatization referred to the sale of government assets to the private sector, it has now come to refer to a “tectonic shift” in public policy and a movement within liberal democracies towards a particular political orientation (Cossman and Fudge 2002, 1). Janine Brodie explains:

The politics of restructuring revolve around a multi-faceted contraction and re-regulation of the public and the political realms as they were constituted by the postwar welfare state, and the simultaneous expansion of the private whether defined as markets or the domestic sphere. (1995, 11)

Thus, “[a] whole new set of assumptions about the role of government and the rights of citizens is emerging” (Cossman and Fudge, 2002, 16) which challenges the parameters of the public put forward by welfare liberals and includes a shift away from citizen *rights*,

most particularly the social rights defended by Marshall, towards citizen *obligations*.¹¹ Restructuring involves a variety of practices that have come to dominate liberal democratic politics since the fiscal crises of the 1980s and which redraw the public-private boundaries in order to shrink some aspects of the public by granting autonomy to the market and the family. Indeed, the imposition of values through the welfare state is a compelling and central point for neoliberal critics who reject the negative outcomes of some forms of redistribution (i.e. “welfare traps”) and the use of government authority to influence or control behavior, particularly within the family. According to the Bergers (1983), what is at stake is “The extent to which parents are to be trusted to make decisions on the affairs of their children” (212) irrespective of their particular economic or educational status. According to this perspective, parents are to be trusted over experts and “the burden of proof against individual parents should be very strong indeed” (213).

As Brodie and others have argued, this shift alters the political identities and public spaces of postwar Canadian politics and puts forward a vision of social policy that turns to, “other mediating structures (neighborhood, church, voluntary association, ethnic or racial subculture)” if or when individual families require assistance (Berger and Berger 1987, 214). This shift rings of emancipatory potential, particularly, as Kershaw notes, when considered alongside the overlapping critique put forward by those who condemn the Canadian state’s interference in multicultural contexts such as its rejection of the mothering practices of Indigenous women (2002, 140) Yet, as Brodie suggests, this shift also results in new forms of domination as well as the reshaping of more familiar ones rooted in gender, race and class (Brodie 1995, 14, Brodie 2002). The emergence of the politics of privatization signals the emergence of a new welfare regime which acts as part

of the dynamic citizenship context in which all other questions of citizenship are debated and approached.

The range of practices implicated in this overall shift include “the sale of government assets, the transfer of government functions to the private sector (contracting out), and the restructuring of government activities to more clearly emulate market norms” (Cossman and Fudge 2002, 4). These changes are largely implemented through changes in the legal policy and the administration of law. Thus privatization refers to processes of economic and legal change. But privatization also involves a change in attitude; changes in law act as a “justificatory framework” for they define and redefine values such as equality, liberty, and the rule of law, for the invocation of state power” (Cossman and Fudge 2002, 5).

Beyond the simple shifts in the distribution of resources or “who pays for what” these legal shifts work to legitimate or make illegitimate certain social and cultural forms. It is this broader attitude shift that I wish to analyze in this section and to cast as a central, yet under-investigated element in current manifestations of cultural group autonomy. For while the majority of critical work put forward on privatization has highlighted “the market” and “the family” as key areas that are currently being (re)defined by the neoliberal context, I argue that “cultures” (particularly, though by no means exclusively, “national cultures” with strong claims to self-determination/group autonomy) are also (re)defined in relation to neoliberal attitudes and practices. As will be discussed, there are current models of group autonomy that exhibit each of the key components of privatization bringing new group-state obligations and resulting in state-group accountability gaps.

The tools of neoliberal social policy: Re-regulation, re-privatization, co-optation, depoliticization, and individualization

The shift towards neoliberal social policy, as various feminist scholars (Brodie 1995, Kline 1997, Bashevkin 2002, Phillips 1991, Cossman and Fudge 2002) have argued, involves five key trends that work together to produce an overall change in liberal democratic citizenship that has undermined the Marshall/Rawls paradigm of social citizenship. First, the practice of *re-regulation* occurs when restructuring described as *de-regulation* by the state, actually involves the continuation of state authority but in a different form (Brodie 1995, Kline 1997, Cossman and Fudge 2002). In other words, despite claims of change, very little reform occurs at the level of ultimate authority. Rather, changes occur in the administration of this authority as the state steps back from direct forms of management by distributing certain roles and functions to new “private” bodies. This gives the impression of devolution of state power and yet the state maintains its ultimate position of authority. Thus, the state is not giving up control (i.e. de-regulating) but is instead exercising its control in new and often less overt forms (i.e. re-regulating). The illusion of giving up control benefits the state as it is able to distance itself from responsibility while incurring no substantial costs regarding its power as final decision-maker.¹²

Re-regulation is often combined with a discourse of *re-privatization*. Re-privatization refers to the transference of particular issues and responsibilities from the public sphere into a more private sphere. As Anne Phillips (1991) explains:

Liberal democracy designates certain areas as outside of governmental control, sometimes by formally establishing individual rights and freedoms in a written constitution but more commonly through historically shifting conventions over what can be considered a public concern. (15)

While the public-private divide is largely recognized as a construction, the effects of invoking the discourse of re-privatization are very real. For, as Brodie notes, when issues are called ‘private’ they are not simply identified but “configured, administered and produced” (1995, 30). By suggesting that certain issues should be “returned” to the private sphere the state draws on a sense of naturalness and inevitability. This “return” is often accompanied by a discourse of autonomy and self-sufficiency. As Cossman and Fudge observe, “In the new political order, governments are no longer responsible for the social welfare of their citizens but only for helping those citizens to help themselves” (2002, 16). This shift is evident in various policy areas, especially health care, elder care, and childcare (Cossman 2002, 173).¹³

The perceptual shift incumbent in re-privatization is often made possible through the *co-optation* of progressive discourses. Brodie explains the motivation behind the process of co-opting progressive discourses: “The success of a new order often depends on its ability to incorporate criticisms of the old order, even if the outcomes are qualitatively different” (1995, 56). Examples abound of the state’s ability to incorporate oppositional criticisms into new state strategies that often run counter, if not directly oppositional, to the movements that launched the original critique. One example is the policy of new mothers being sent home within hours of delivering their babies in Canadian hospitals. This shift appears to respond to demands from women’s health organizations that childbirth be de-medicalized and that women be given more autonomy over the birthing process. “At the same time, however, these women are being sent home often without sufficient instruction for the care of their newborns and without a support system within the home” (Brodie 1995, 55-6).

Sylvia Bashevkin notes how these processes remain alive and well in the “post-conservative” era of the “Third Way” in Canada. While their discourse of “empowerment” and “opportunities” appeared to work against some of the harshest approaches of the Conservative era, Bashevkin maintains that Third Way leaders in fact, “tipped an already precarious and uneasy weighting in these countries of special rights and individual obligations toward a seemingly inexorable stress on duties owed” (2002, 45). From this perspective, the overall impact of Third Way leaders is a “lasting legacy” of co-optation obscured by a discourse of flexibility and openness:

Liberals would place a high priority on fighting the deficit, but would employ more compassionate rhetoric and a thicker veneer of consultation than had the Conservatives. In the words of one interviewee, the Liberals “use our language of single mothers and poverty, but they offer no solutions. The advocacy groups are ignored by a Liberal government that is sleek and cunning.” Campaigners tended to view their influence as weak and waning, in part because they were being “consulted to death” by a federal government that had no intention of following their advice. (Emphasis added. 116)

For Bashevkin, the “third way” is simply a variant of neoliberalism that is characterized by “a fundamental tension” between an emphasis on personal self-sufficiency, on the one hand, and a neo-communitarian focus on healthy societies, on the other.” While leaders work to demonstrate that they care about the “fabric of the collectivity,” their emphasis on personal responsibility and independence mean that citizens hear very little about notions of interdependence (100). As will be discussed in the forthcoming chapters, this de-emphasis or obscuring of interdependence is a central concern for Indigenous autonomy in Canada.

The combination of re-privatization and co-optation leads to another, interrelated trend within restructuring—that is, *de-politicization*. “A crucial question to be addressed

in the current era of privatization is the relocation of political debate and protest (Cossman and Fudge 2002, 23). De-politicization refers to a process by which contentious issues are removed from spaces traditionally associated with the public and/or political. The result is that the issue is moved out of a space in which it can be politically contested and into a de-politicized space. This coincides with a shift from the public to the private.¹⁴ As Cossman and Fudge explain, “Encoding a particular good as ‘naturally’ located within the market or the family removes it from the realm of politics” (2002, 22).

Finally, a process of *individualization* is also at work in contemporary manifestations of restructuring. Individualization, “refers to the process whereby a broad range of social issues is being reconstituted, both with respect to causes and solutions, in highly individualized terms” (Cossman and Fudge 2002, 21). As privatization scholars observe, this shift can result in “individual pathology” explanations for social problems.¹⁵ This process of individualization is reflected in the choice of language neo-liberal’s have used in their “crackdown” on child poverty by targeting “deadbeat dads” and “welfare mothers.” This focus allows the state to construct child poverty as a problem largely reducible to incapable, malfunctioning individuals instead of an incapable, malfunctioning state or economic and social system. Thus, the state sidesteps direct responsibility for negative social conditions and posits itself as proactively working towards ending these systemic problems through individualized means. In other words, the state’s role becomes largely punitive, focused on coercing individuals to “fall into line” in order to “look after their own” (Brodie 1995, 53). Not only could one question the efficacy of this strategy for eradicating systemic causes to problems such as child poverty, this kind of portrayal of the issue serves to further perpetuate negative stereotypes for

disadvantaged children and families. For example, crackdowns on “deadbeat dads” and “welfare mothers” reinforce the notion that poverty results from individual weakness and not broader economic and social forces at work within the state (Cossman and Fudge 2002, 21).

The work of privatization scholars highlights how processes of privatization impact both federal-provincial relations¹⁶ (Bashevkin 2002) and the relationship between certain citizens (such as “mothers”) (Cossman and Fudge 2002, Brodie 1995) and the state. The same emphasis on autonomy, flexibility and decentralization that has enabled the state to co-opt the discourse of marginalized groups such as “the poor” and “single mothers” is present in the demands of national groups demanding various forms of group autonomy or group-differentiated-citizenship. This discourse is a powerful resource for privatizing governments. As Pierson notes:

Policy feedback from previous periods frames current decision making, influencing the prospects for executing strategies that can make retrenchment successful. In most cases, this feedback creates strong coalitions of program supporters that effectively protect existing arrangements. In a few cases, feedback creates significant opportunities for reform. (1994, 8)

As will be discussed shortly, the discursive overlap between neoliberals and “national minority” critics of the universal welfare state like Canada’s Indigenous peoples, leaves the politics of multiculturalism vulnerable to the politics of privatization, and the various trends within it as described above; which can result in negative outcomes that, while on the surface appear to meet the demands of groups for progressive change, actually foster a group-state dynamic that is, in many ways, a regressive one. Before we can fully assess the merits of group autonomy in the light of this neoliberal discursive

shift it is first necessary to review the initial challenges brought forward by the “politics of multiculturalism.”

The multicultural challenge

Remarking on current trends in both political theory and practice, postmodernist Stuart Hall observes that within the current liberal democratic context, identity “can be won or lost.” In short, it has become “*politicized*” (emphasis added. 1992, 280). Charles Taylor makes a similar observation. While the dependence on self-definition through some form of identity was always present in societies, in earlier periods of history, recognition was built into systems of social hierarchies and was thus largely fixed. The uniqueness of the contemporary period is not then the need for recognition, “but the conditions in which recognition can fail” (Taylor 1994, 35). When the collapse of social hierarchies is combined with the politics of equality ushered in by democracy, the force behind contemporary demands is fully revealed: “everyone should be entitled to recognition for his or her own unique identity and assimilation is the cardinal sin against this kind of authenticity” (Taylor 1994, 38).

Demands for recognition have resulted in a “politics of multiculturalism” through which “neutral” liberalism has been challenged and forced to respond. As Kymlicka and Norman observe, with the end of the Cold War, issues of “minorities” have (re)surfaced in significant ways due to a variety of factors including: the wave of ethnic nationalism that emerged following the collapse of communism in 1989, the backlash against immigrants and refugees in numerous Western countries and the growing political mobilization of Indigenous peoples (Kymlicka and Norman 2000, 3). As a result of these

renewed challenges of identity, the notion of “benign neglect” associated with liberal principles of equality and freedom is increasingly rejected. While critics of minority rights have long argued that justice required the state to be “color blind,” advocates of multiculturalism and/or recognition claim that the difference-blind institutions of the “universal” state and its individualistic citizenship rights are inadequate. This perspective has gained significant legitimacy in recent decades and is reflected in a growing acknowledgement that the institutions and processes claiming impartiality are biased in favour of the majority group. From this perspective, “minority rights do not constitute unfair privileges or invidious forms of discrimination, but rather compensate for unfair disadvantages, and so are consistent with, and may be required by, justice” (Kymlicka and Norman 2000, 4). Demands for minority rights place issues of culture squarely on the agenda of liberal democratic states. As Seyla Benhabib observes:

Of course, culture has always been the mark of social distinction. What is novel is that groups now forming around such identity markers demand legal recognition and resource allocation from the state and its agencies to preserve and protect their cultural specificities. *Identity politics draws the state into cultural wars.* (2002, 1)

In challenging the neutral liberal state the politics of multiculturalism also challenge the model of citizenship advocated by welfare liberals. The welfare liberal view of citizenship—the view that is implicit in much post-war political theory—is defined almost entirely in terms of the possession of universal citizenship, that is, the possession of rights which ensure that everyone is treated as a full and equal member of society regardless of race, culture, gender or religion.

Notions of commonality, solidarity, and social co-operation all play a key role in this perspective. But, as Kymlicka argues, the welfare-liberal perspective, as defined by Marshall, did not engage with the hard issues of contemporary multicultural citizenship.

Instead, Marshall was focused on “cultural integration” as a positive development for the working class who, at the time, were primarily English and who, he argued, were therefore entitled to be “co-owners” of the national culture (Kymlicka 2002, 328). Alongside Giddens, Kymlicka also notes that the welfare-liberal distribution of rights is not entirely altruistic. As a project of nation-building it is also meant to manage and mitigate conflict between the different socio-economic groups. Commonality through nation-building works to prevent differences from destabilizing society and hence contributes to the collective well-being of the nation as a whole. This same concern for a kind of production of belonging through the distribution of universal rights is present in Rawls, who states:

The first requirement [...] is to fix, once and for all, the basic rights and liberties, and to assign them a special priority. Doing this takes these guarantees off the political agenda of political parties; it puts them beyond the calculus of social interests, thus securing clearly and fairly the terms of social cooperation on a footing of mutual respect [...] By contrast, to regard the calculus of social interests as always relevant in specifying basic rights and liberties, as the principle of utility does, leaves the status and content of those freedoms still unsettled. It subjects them to the shifting circumstances of time and place, and by greatly raising the stakes of political controversy, it dangerously increases the insecurity and hostility of public life. (2001, 115).

Rawls’s political liberalism establishes an overlapping consensus that provides a common foundation that works to bring citizens together and avoid conflict that can emerge from the existence of discordant “comprehensive doctrines.”

Multiculturalism and welfare liberalism

While neither Marshall nor Rawls focus significantly on citizens’ obligations to the state,¹⁷ there is an implicit obligation present in their visions of citizenship—that is,

an obligation to belong, to cooperate, and to integrate into a common mode of citizenship.¹⁸ The politics of multiculturalism challenges the idea that these obligations are exactly the same. Some “minority” groups “demand group-specific forms of citizenship either because they reject the very idea that there should be a single common national culture or because they think that the best way to include people in such a common culture is through differentiated citizenship rights” (Kymlicka 2002, 329-330). Other groups such as the Québécois and Indigenous peoples of Canada “largely reject the very idea of integrating into the ‘common national culture.’” Observing these trends, Kymlicka argues that there are two main hierarchies confronting contemporary liberal democracies today. The first is economic in nature, which leads to a “politics of redistribution.” The second is a “status hierarchy” to which welfare liberals pay less attention. It is this status hierarchy, Kymlicka suggests, that is at the centre of the politics of recognition. Groups rejecting the obligation of belonging, either partially or entirely, pose the hardest challenge for welfare liberals. It is these groups that demand some form of group autonomy and differentiated citizenship.

Multicultural theory, until very recently, failed to address the challenge posed by welfare liberalism and redistribution. Thus, within the “Canadian school” approach of Kymlicka and Taylor, cultural group autonomy is largely conceived as the “benefit” of “minority” or group rights. Minority rights dictate that the group members are individually in control of their own goods (this includes cultural “goods,” linguistic “goods,” lifestyle “goods,” etc.) and, as such, individual group members are free to pursue and maintain individual goods—they are *autonomous*. Collective or group

autonomy fosters the necessary conditions for the development of individual autonomy for minority group members.

To date, however, dominant theorists of multiculturalism have limited their conception of group rights to those rights that are civil or political in nature. In so doing, they not only fail to consider the potential social rights that may be required for meaningful differentiated citizenship, but also miss that fact that in challenging the welfare liberalism of the past this claim for group autonomy also overlaps, both temporally and discursively, with the politics of privatization that characterize the current neoliberal context. Indeed, while the particular motivations behind neoliberal and national minority criticisms of the postwar order may differ, both lines of criticism agree that the paternal nature of the welfare state is severely problematic. In his 1960 work *The Constitution of Liberty* von Hayek wrote the following:

If [...] government uses its coercive powers to insure that men are given what some expert thinks they need [...] people thus can no longer exercise any choice in some of the most important matters of their lives, such as health, employment and provision for old age, but must accept decisions made for them by appointed authority on the basis of its evaluation of their need. (261)

These general concerns expressed by Hayek bear a strong resemblance to the specific issues raised by Indigenous advocates in relation to a “colonial” state that continues to exercise authority over them through the welfare regime. These unexpected but important points of intersection between Indigenous claims to group autonomy and neoliberal critiques of state authority affect the meaning of multiculturalism as advocated by leading scholars. Acknowledging the importance of the welfare state within a neoliberal and multicultural context suggests the need to engage critically with the dynamic that exists between the politics of redistribution and the politics of recognition.

Perhaps the most significant theoretical contribution made in this regard is Nancy Fraser's *Justice Interruptus* (1997) in which she points to the failure of multiculturalists to engage adequately with issues of redistribution and the socio-economic realities that promoted the universal welfare liberalism of the past. Thus, let us examine Fraser's argument as one possible solution to the problem of addressing multiculturalism and social citizenship against the backdrop of a broadly neoliberal ideological world.

Fraser's recognition versus redistribution

Fraser's work *Justice Interruptus* (1996) is among the few contributions that directly broach the dynamic of multiculturalism and the welfare state context. For Fraser, the significance of this dynamic begins in the early 1990s at which time a shift in the "grammar of political claims making" occurred. This shift is characterized by the dominance of claims for recognition based on group difference. The result, she argues, is "a decoupling of cultural politics from social politics, and the relative eclipse of the latter by the former" (2). This shift occurred alongside the resurgence in economic liberalism and together contributed to what Fraser characterizes as the "postsocialist condition."¹⁹ For Fraser, the dominance of recognition claims comes at the expense of Marshall's and Rawls's defense of social citizenship, redistribution and social equality. In response, Fraser demands a "critical theory of recognition"; one that can distinguish between claims for recognition of difference that *advance* the cause of social equality from those that work *against* it (5).

Developing a critical theory of recognition is a difficult task due to the phenomenon Fraser refers to as the "redistribution-recognition dilemma." This dilemma

arises from the fact that cultural injustice and economic injustice are, in practice, intertwined.²⁰ There is almost always a cultural dimension to material economic institutions while cultural norms and biases are generally dependent on material supports.

Fraser explains:

[F]ar from occupying two airtight separate spheres, economic injustice and cultural injustice are usually interimbricated so as to reinforce each other dialectically. Cultural norms that are unfairly biased against some are institutionalized in the state and economy; meanwhile, economic disadvantage impedes equal participation in the making of culture, in public spheres in everyday life. The result is often a vicious circle of cultural and economic subordination.
(15)

While these two forms of subordination are, in reality, significantly intertwined, the remedies associated with each form are conceived of as distinct if not oppositional. The remedy for cultural injustice is conceived as some kind of cultural or symbolic change. Economic injustice, however, requires some kind of economic restructuring. *Prima facie* there may seem no reason for these two distinct approaches to conflict with one another. But, Fraser claims, there are good reasons to expect mutual interferences. While recognition claims generally require affirming the specificity of a group, redistribution claims require the opposite—that is, the abolition of economic arrangements that underpin group specificity. In other words, recognition claims demand the formal recognition of group differences while economic claims require group “dedifferentiation” (16).²¹ The dilemma is fully revealed by the fact that citizens who suffer both cultural injustice and economic injustice, what she refers to as “bivalent” collectivities, require *both* recognition and redistribution. Therefore they need to “both claim and deny their specificity” (16).

Having outlined the dilemma as such, Fraser identifies an approach that works to transcend this tension. In so doing, she defines her notion of “affirmative” versus “transformative” approaches to subordination. She states:

By affirmative remedies for injustice I mean remedies aimed at correcting inequitable outcomes of social arrangements without disturbing the underlying framework that generates them. By transformative remedies, in contrast, I mean remedies aimed at correcting inequitable outcomes precisely by restructuring the underlying generative framework. (23)

Both cultural and economic injustice can be addressed in an affirmative or transformative fashion, and therefore a number of potential dynamics are possible. In order to avoid tension and/or counter-action, however, only two combinations really seem promising. The first is affirmative recognition and affirmative redistribution. This perspective takes mainstream multiculturalism as the “cultural analogue” of the liberal welfare state. But the affirmative scenario is problematic. Fraser demonstrates this by working through the example of approaching racial injustice through policies of affirmative action and group nationalism. The problem with this approach, she argues, is that it, “leaves intact the deep structures that generate racial disadvantage.” Further, making surface reallocations over and over, serves to not only underline differentiations based on race but also to, “mark people of color as deficient and insatiable, as always needing more and more.” In this case the combination of group nationalism and affirmative action may work less towards decentering Eurocentric norms and more towards fueling the resentment of affirmative action. In other words, “it can elicit intense misrecognition” (30).

The second promising combination is transformative recognition and transformative redistribution. This perspective combines the politics of deconstructive antiracism and the politics of economic socialism. Fraser advocates such an approach

while noting that its “principal drawback” is that this kind of politics is, “far removed from the immediate interests and identities of most people of color, as these are currently culturally constructed” (31). Thus, for this approach to be feasible it requires that “all people be weaned from their attachment to current cultural constructions of their interests and identities” (31).

I agree with many of Fraser’s observations. There is merit to her claim that recognition can, and, at times, does become separated in troubling ways from materialist politics focused on economic security and opportunity. The dangers she highlights are a useful starting point in our examination of why the welfare state may be important to ways in which group-differentiated rights are theorized and implemented. For example, “minority” group rights currently granted by Western liberal democracies such as Canada are conspicuously dominated by notions of group autonomy which speak little if at all to ensuring levels of *material* security for group members. While “minority rights” often involve policy areas with obvious economic elements,²² the economic needs and demands of group members seem to become lost in the cultural rights discourse of “recognition.” Without explicit reference to any economic implications and responsibilities within the policies themselves, group members have little recourse to address these issues through the mechanism of their newly granted rights. Fraser is correct then in her assertion that cultural politics must be situated in relation to social politics (174). Her rallying cry, “no recognition without redistribution” (187), is a potentially useful starting point despite its dichotomous tone.

There are, however, a number of problems in Fraser’s analysis. First, Fraser’s demand that cultural politics be resituated is problematic. As Iris Marion Young has

consistently pointed out, there are groups who conceive of their recognition claims in a materially situated fashion. As Young states, “she [Fraser] suggests that feminist and anti-racist movements in particular are caught in self-defeating dilemmas which I find to be a construction of her abstract framework rather than concrete problems of political strategies” (1997, 148). Young is correct in maintaining that the groups themselves are not necessarily strong proponents of the cultural-economic divorce. She explains:

Fraser finds these movements internally contradictory [...] because she assumes that their politics of recognition is an end in itself. It may be true that some activities and writings of culturally affirming movements of people of color treat cultural empowerment and recognition as itself the substance of liberation. More often, however, those affirming cultural pride and identity for people of color understand such recognition as a means of economic justice and social equality (1997, 158).

Young gives the example of African Americans who support African American schools and universities not simply for the sake of cultural recognition but due to the belief that, “the schools will best enable African-American young people to develop the skills and self-confidence to confront white society, and collectively transform it to be more hospitable to African-American success.” Young’s example of the claims made by Indigenous peoples is equally compelling. She points out:

Movements of indigenous peoples [...] certainly consider recognition of their cultural distinctness an end in itself. They also see it as a crucial means to economic development. They assert claims to land for the sake of building an economic base for collective development and for achieving the effective distribution of the fruits of white colonial exploitation. Many also believe that the recovery of traditional indigenous cultural values provides vision for the forms of economic interaction and the protection of nature whose wider institutionalization would confront capitalism with transformative possibilities. (1997, 158)

Young’s observations are supported by the work of Indigenous Canadian scholars and activists such as Taiaiake Alfred (1999), Patricia Monture-Angus (1998) and Dale Turner

(2006) who themselves caution against legalistic approaches to emancipation that fail to impact material realities.²³ Yet, their words of caution are just as strong when it comes to participating in the social policies of the traditional welfare state.

Hence, Fraser's critique appears somewhat misplaced and her alternative conceptions for dealing with injustice, that is, her transformative approach, seems far less than ideally suited for the realities of multi-national politics in Canada, particularly with respect to Indigenous peoples. Claims for group autonomy do not appear as something all Canadians citizens can paternalistically be "weaned off of" nor, as Young has demonstrated, should they be. As will be discussed in the forthcoming chapters, there are good reasons for some groups to remain committed to their group identities and even further, to the notion of group autonomy.²⁴ Thus, while Fraser provides valuable insight regarding the state of contemporary multicultural politics, she misses the mark in regard to the *source* of the contradictions she is working so hard to eliminate. These shortcomings of her work can be traced to one critical element that is largely absent from her recognition-redistribution analysis—that is, the role of *the state*. While this omission may be partially explained by her "less statist" American context, it is the state that should be the real target of Fraser's criticism and it is the role of the state in the recognition-redistribution dilemma that deserves much further critical inquiry.

Fraser does implicate the state in her argument for a return to redistributive politics, but does not engage enough with the state's role in shaping the politics of recognition itself. She fails to distinguish between the way the politics of recognition-redistribution are understood by the groups making the claims themselves and the various institutions and agents of the state that then make visible and legitimate certain types of

claims while rendering others as invisible and/or illegitimate—an error, I suggest, that stems largely from her limited and static notion of the welfare regime. The welfare state context is a critical component for understanding which claims are heard and why. In their article, “Social Construction of Target Populations: Implications for Politics and Policy” (1993), Anne Schneider and Helen Ingram argue for the importance of including the impact that social constructions of “target populations” have on the development of public policy including the processes of agenda setting, selection of policy tools, and the use of particular rationales to legitimate policy choices.²⁵ They also demonstrate how the state itself shapes and perpetuates certain constructions of “vulnerable” populations. As they state:

Social constructions become embedded in policy as messages that are absorbed by citizens and affect their orientations and participation patterns. Policy sends messages about what government is supposed to do, which citizens are deserving (and which not), and what kinds of attitudes and participatory patterns are appropriate in a democratic society. Different target populations, however, receive different messages. (334)

More specifically, they observe that policies with ineffective or injurious impacts for certain types of target populations may not facilitate citizen participation directed towards policy change because the messages received by these target populations promote “withdrawal” or “passivity.” Other target populations, on the other hand, “receive messages that encourage them to combat policies detrimental to them through various avenues of political participation” (334). The state therefore plays a powerful role in multicultural politics not only in its response to demands but in the shaping and prioritizing of the demands themselves. How the state responds is directly related to the shifting welfare state context. As Sylvia Bashevkin observes, “the climate of ideas in

which policy debates unfold matters a great deal” (2002, 3). While it may appear that cultural social movements are privileging “recognition” over “redistribution,” it may be because, in the era of neoliberal fiscal restraint, recognition is an easier sell than redistribution. Thus, when the power of the state is considered alongside the materialist contributions put forth by group members themselves, Fraser’s perspective is problematically narrow in relation to the state’s role in politics and the choices made by marginalized groups.

Conclusion

In our current “climate” the dominant message circulating publicly may be demands for “recognition” in its most limited sense; however, this message is largely mediated through the mechanisms of the state. A state exercises significant discursive and material power in relation to particular groups by virtue of how responsive it is to different kinds of demands. While groups such as Canada’s Indigenous peoples demand a robust form of group autonomy complete with political, civil, and social elements, the way in which this autonomy is conceived and implemented by the Canadian state often reflects a much more limited vision. In such cases, what the state is truly offering is, at best, an “incomplete” vision of autonomous citizenship. Bakan explains:

[O]ne does not lead a civilized life because the state will treat one’s poverty with potentially stigmatized assistance of one’s illness with medical services if the state simultaneously “supports and enforces social relations largely responsible for causing that suffering, for making people poor and making them sick.” Instead the right to live a civilized life suggests a state duty to ensure that the institutional order does not relegate the “political and economic causes of poverty and illness to the so-called private and depoliticized world of biology, individual choice and ability, family and market” where they become “invisible and irrelevant.”(Bakan quoted in Kershaw 2002, 64-65)

In other words, meaningful change requires a holistic, contextual, and political approach. This requires treating the individuals involved as agents and not as simple consumers of services akin to *Oliver Twist*.

This chapter has analyzed how neoliberalism and multiculturalism are part of the overall citizenship regime and identified the five key practices of neoliberal welfare state policy—that is, re-regulation, re-privatization, co-optation, de-politicization, and individualization. It has underlined the significance of the dialectical relationship between the welfare state context and group-differentiated citizenship and suggested that granting group autonomy without addressing the social aspects of citizenship leaves groups in a passive position which still requires asking the state for more but with the added barrier of having achieved autonomy. In this situation groups appear to “self-determine” while the state maintains power over the group, albeit in less visible, more covert forms. This leaves members in a worse position in terms of holding the state accountable for the social element of their citizenship—differentiated or not. Thus, while Marshall highlights the possibility of “welfare without citizenship,” I argue it is possible to have *autonomy without agency*.²⁶ Chapter three explicitly outlines this possibility by testing the impact of these trends against a real-world example through a case analysis of Indigenous autonomy in child welfare service provision in Manitoba. Subsequently chapters four and five provide an alternative approach to autonomy— an *agency-oriented* form of group autonomy—and a model for democratic multi-nationalism that work towards meaningful autonomous citizenship practice for Indigenous peoples in their relations with the Canadian state.

3 INDIGENOUS CHILD WELFARE IN MANITOBA: A CASE STUDY

The most morally pressing issues regarding “group autonomy” in Canada today relate to “Indigenous” self-determination. As such, many of the leading scholars of multiculturalism have taken up this issue as a central case in their work. The issues involved are complex and before discussing the specifics of the case it is necessary to register a few caveats. First, I examine this case with a significant amount of caution and care as a non-Indigenous observer. I do not claim to speak for Indigenous peoples although I do draw on the observations put forward by various Indigenous scholars and reflect on how their arguments relate to my own concerns. In examining this case I see myself taking up the challenge issued by Indigenous scholar/activist Patricia Monture-Angus: “The commitment to examine Canadian responsibility is the task of Canadians and their governments” (Monture-Angus 1998, 23).

Secondly, there is no clear way to refer to the over 600 distinct groups and nations that have been characterized within a colonial history as “Indian,” “Aboriginal,” “First Nations” and “Native.” Joe Sawchuck observes:

Struggles for self-definition by aboriginal minorities against an encompassing nation-state are fraught with irony. The very process of declaring oneself to be “Métis” (or “Indian” or “Inuit”) means taking on aspects of identity and otherness that have been defined by the dominant society [...] Furthermore, not all expressions of ethnicity are self-defined. In its relationships with Native peoples, the nation-state often creates or defines aboriginal identities for its own use. These necessarily distort, and may have little to do with peoples' understanding or perceptions of themselves.¹ (2001, 3)

In this work I use the term “Indigenous” peoples to refer to First Nations, Métis, and Inuit peoples in Canada in an effort to be inclusive and to recognize the contested nature of these terms.

Third, while some “multiculturalism” theorists have advocated for self-determination and group rights due to the unique “social facts” peculiar to Indigenous national minorities (Kymlicka, 1995) the majority of Indigenous scholars and activists do not think in the terms of the “multiculturalism” rubric nor do they identify as a “cultural” or “minority group.” While it is clear that Indigenous peoples identify as, and should be recognized as, nations, my theoretical project is to analyze and problematize discourse of multiculturalism, and contest the dominant conceptions of Indigenous issues as reflected both in the theory and in practice of multicultural politics as practiced by the liberal state of Manitoba and Canada.

Fourth, there are many different contested words used by both indigenous and non-indigenous scholars and political actors to describe the ultimate goal of a decolonized indigenous nation: self-government, self-determination and independence are a few examples. In the analysis that follows I will use the term “autonomy” because the etymology of the word is “self-rule” and thus it speaks to the central argument of many Indigenous scholars and political actors that seek, through decolonization, to rule themselves rather than be the subject of colonial rule. At the same time it is a word that is used in the multicultural literature with, I suggest, many problematic consequences as I hope to demonstrate in the case study that follows. Thus, while the idea of autonomy or self-rule is an important goal articulated by Indigenous peoples, my analysis will

demonstrate it is necessary to problematize and ultimately move beyond the liberal and/or multicultural understanding of this term.

Finally, there is no one “Indigenous” perspective. On the question of who should be considered the legitimate representatives of Indigenous peoples there is significant conflict and debate both within and outside Indigenous communities. As will be discussed, Indigenous organizations, including the Manitoba Métis Federation, the Assembly of Manitoba Chiefs, and Manitoba Keewatinowi Okimakanak supported the Manitoba Aboriginal Justice Inquiry-Child Welfare Initiative (AJI-CWI); yet, some Indigenous scholars and activists have criticized this kind of reform as failing to contribute meaningfully to a nation-to-nation relationship between Indigenous peoples and Canadian governments. ²

The welfare state: Child welfare policy and group autonomy

In the last chapter I discussed welfare regime transition as a key context for multicultural policy, particularly multicultural policies centered on notions of group autonomy. Child welfare policy, has been an area in which Canadian governments have appeared most willing to make concessions of autonomy to Indigenous peoples. In recent decades various provinces across Canada have taken steps towards granting Indigenous peoples some autonomy over the provision of child welfare services for Indigenous families. This trend is consistent with broader trends in cultural group rights accommodation. As Ayelet Shachar notes, “In the growing age of diversity, the state is relatively receptive to minority culture’s requests for greater degrees of legal control over their [minority groups] own family affairs” (2001, 46-7), resulting in what she refers to as “multicultural jurisdictions.”

Given that various leaders from Indigenous peoples have lobbied for this and other forms of jurisdictional autonomy in response to a history of colonialism and oppression, the accommodation of Indigenous control over child welfare appears, at first glance, to be a positive and transformative change in the policies of the Canadian state. What I shall explore in this chapter is the degree to which certain manifestations of group rights, such as the “right” to autonomous child welfare services for Indigenous peoples in Manitoba,³ may not, *in practice*, be the concessions they are often conceived to be *in theory*. This discrepancy is most obvious when the case is seen through the more revealing theoretical lens articulated in the previous chapter on neoliberal states. When these changes are assessed contextually through a welfare regime lens the motivations, implications and limitations of “autonomy” become much more complex. More specifically, this analytical approach reveals that these kinds of jurisdictional changes *must* be considered as part of a broader shift in Canadian politics towards neoliberal political practice as discussed in the previous chapter.⁴ They are instances of *neoliberal multiculturalism* and, as such, these changes raise new questions about how we think about group autonomy as meaningful practice.

This chapter demonstrates how many of the negative and potentially dangerous trends associated with neoliberal processes of “privatization”—including re-regulation, re-privatization, co-optation, de-politicization and individualization—are visible in the practical trend of the state towards cultural group autonomy as it is currently practiced.⁵ Overall, these processes lead us away from a holistic, transformative, capacity building approach to political and social justice for “autonomous” groups and in fact may make it more difficult for “groups” to obtain true transformative change as these developments

reconstruct the discursive terrain and narrow the political opportunity structure available to Indigenous peoples.⁶ The implications include not only the failure to achieve political and social justice for Indigenous peoples in Canada but may result in an increase of mistrust as promises made by the state to these groups once again fall short in terms of practical outcomes.

What do Indigenous peoples want?

Perhaps the more common vision of Indigenous autonomy held by Indigenous peoples is described by Geoffrey York in his work, *The Dispossessed Life and Death in Native Canada* (1989). York recommends more involvement by Indigenous peoples in decision-making processes that affect them:

Cultural revival among aboriginal people is just one step toward regaining what has been lost. Self-government is the other key to the future of native people. When they are permitted to gain influence over the central institutions in their communities - the schools, the justice system, the child welfare system - Indian and Métis people have already demonstrated that they can repair the damage caused by centuries of racism and neglect. (269)

As York indicates, demands for autonomous child welfare services have been of central importance in the move towards independence for many Indigenous communities, scholars, leaders and activists (York 1989, Union of BC Indian Chiefs 2002). This sentiment is reflected in *The Aboriginal Justice Inquiry Report* (AJI) of 1991:

If Aboriginal people are correct, and we believe they are, part of the reason for the high numbers of Aboriginal people in correctional facilities is the fact that Aboriginal people still do not fully control their own lives and destinies, or the lives of their own children. Aboriginal people must have more control over the ways in which their children are raised, taught and protected (1).

In the decade following the report, demands for autonomy have only increased amongst First Nations and Métis populations, especially for “Aboriginal governance” in urban settings, not simply for reserve communities.⁷ This strong consensus on the need for autonomy over family services is largely due to the historically volatile, injurious, and colonial relationship between child welfare, education systems, and Indigenous peoples in Canada and the continued overrepresentation of Indigenous children in mainstream child welfare (Durst 2002).

This overrepresentation is well documented across Canada. For example, the Manitoba government vision document, *Promise of Hope, Commitment to Change* (2001), acknowledges that despite significant reforms that have been introduced in recent years, high numbers of Indigenous children and families continue to be involved in the provincial child and family services system. According to the statistics in this document, “Currently, Aboriginal children make up about 21% of Manitoba’s population under the age of 15, but they account for 78% of children currently in care of the overall child and family services system” (Aboriginal Justice Inquiry-Child Welfare Initiative 2001).⁸

Evidence also suggests that Indigenous clients may present some of the most complex child welfare cases in regions where social problems including poverty, suicide, substance abuse, domestic abuse, and sexual abuse are strikingly more prevalent than in other areas as a result of past and present oppression (Timpson 1995, RCAP 1996, Blackstock et. al. 2004). As discussed in the *RCAP Report*, abuse has “spilled back into communities” following colonial intervention and abuse in residential schools and other destructive policies. According to a 1989 study conducted by the Native Women’s Association of the Northwest Territories, eight out of ten girls under the age of eight had

already been victims of sexual abuse, and the same was true for fifty per cent of boys of the same age. Social scientists have repeatedly attributed the cause of these incidences of abuse to the destruction of traditional Indigenous culture (RCAP 1996).

Further, Indigenous children are not only more likely to be apprehended, but once taken into care, they are less likely than other children to be either returned to their parents or placed for adoption (Monture 1989, 3). These trends help to explain two simultaneous realities regarding Indigenous peoples and Canadian child welfare. First, Indigenous children clearly present some of the statistically “hardest cases” for current child welfare practices. Second, when combined with the volatile historical record of state intervention experienced by Indigenous peoples, these numbers shed light on why so many Indigenous communities have demanded autonomous control over child welfare services as part of the move towards self-determination.

Autonomy in child welfare provision is often articulated as not only central to the move towards political independence but also central to establishing better services that can meet the culturally specific needs of Indigenous families that are so vastly overrepresented within the existing system (Monture 1989, Durst 2002).⁹ In a report written for the British Columbia Government by Lavina White (Haida Nation) and Eva Jacobs (Kwakiutl Nation) it is explained:

[T]he solutions [for the present problems we face] can only be found by our Nations and communities accepting these problems as theirs, and your government recognizing that the methods of resolving these problems must be ours. Your government must relinquish responsibility for resolving our problems, and support our Nations and communities as they identify and implement their solutions. (1992, v)

The demand for autonomous child welfare services for Indigenous peoples cannot be understood outside of the particular historical context of colonialism and oppression that Indigenous peoples have experienced at the hands of the Canadian state, often via legal regulation. This history has included the rejection and at times, criminalization, of traditional ways of child-rearing and family life by the Canadian state and has manifested in a number of legalistic interventions since the time of European settlement. A large part of this process was the era of residential schooling in which Indigenous children were forcibly removed from their families and communities and an ongoing period of overrepresentation within provincial child and family services agencies.

The colonial legacy

A number of factors have been shown to contribute to the vast overrepresentation of Indigenous children and families in Canadian child welfare systems. Societal factors including poverty, inadequate housing, and lack of a sufficient economic base¹⁰ work in tandem with political factors such as gaps in jurisdictional accountability and, at times, a lack of due process in family court (Johnston 1983, McKenzie and Hudson 1985, Monture 1989, Avina 1993, Timpson 1995, RCAP 1996, British Columbia Human Rights Commission, 2001). These conditions cannot be understood outside the history Indigenous peoples have endured due to various “welfare” initiatives sanctioned by Canadian governments. This is a history of systemic racism characterized by periods of intense intervention, attempt at assimilation, and indifference.

There is now a broad literature (McKenzie and Hudson 1985, Monture 1989, AJI 1991, Kline 1992, Avina 1993, RCAP 1996, British Columbia Human Rights

Commission 2001, Aboriginal Healing Foundation 2002) that has emerged from governmental reports, Indigenous scholarship and activism, and social welfare practice that acknowledges that the current situation of Indigenous peoples is a direct result of the rupturing of Indigenous communities and families, whether this intervention was based on a vision of the “best interests of the Canadian nation” or the “best interests of the child.”¹¹ While this intervention has taken many forms, perhaps none has been more detrimental than the placing of Indigenous children in numerous residential schools across the country.¹² As outlined in the 1991 report of the Manitoba Aboriginal Justice Inquiry, the main goal of residential schools and their assimilation policy was not to educational development but, rather, “to remove Aboriginal children from the influences of their parents and communities, and to rid them of their languages and cultures” (AJI 1991). In fact, the term “assimilationist” is in many ways too generous as it downplays the genocidal aspect of these initiatives¹³ (Monture 1989). Alongside the violence entailed in removing children from their homes and communities, it is now well known that the residential school environment was an atmosphere of “woeful mistreatment,” “neglect,” and profound “abuse” of children (RCAP 1996).¹⁴

The very language in which the vision was couched revealed what would have to be the essentially violent nature of the school system in its assault on child and culture. The basic premise of resocialization, of the great transformation from “savage” to “civilized” was violent. “To kill the Indian in the child”, the department aimed at severing the artery of culture that ran between generations and was the profound connection between parent and child sustaining family and community. In the end, at the point of final assimilation, “all there is in the race should be dead.” (RCAP 1996)

The impact of these violent realities is undeniable today.¹⁵ The Aboriginal Healing Foundation (2002) estimates the number of residential school attendees still living at

about 90, 000 Aboriginal people. According to Statistics Canada's *Aboriginal People's Survey* (2001) one-third of "Aboriginal" people aged fifteen and over living off reserve had family members who attended residential schools (Statistics Canada 2001). The experiences these children endured impact their adult lives and the lives of their family and community members. As Chief Ed Metatawabin of the Fort Albany First Nations community explains:

Social maladjustment, abuse of self and others and family breakdown are some of the symptoms prevalent among First Nations babyboomers. The "Graduates" of the [... residential school] era are now trying and often failing to come to grips with life as adults after being raised as children in an atmosphere of fear, loneliness, and loathing. (RCAP 1996)

In conjunction with the residential school program of eradicating "the Indian problem" other strategies of "civilization" through dislocation were being carried out. Widely referred to as the "60s scoop," a large number of Indigenous children were adopted out of Indigenous communities into non-Indigenous homes during this period, often crossing international borders and ensuring a disconnect with tradition, cultural identity, and practice (Monture 1989, AJI 1991, RCAP 1996). Thus, while the overrepresentation of Indigenous children in child welfare continues today, the 1960s are often referred to as the beginning and most culturally offensive period of this type of intervention.

Overall, the experience of intense intervention, forced assimilation, and community fragmentation has left many scars on Indigenous peoples and communities in Canada including a deep mistrust and resentment towards governmental child welfare services and the Canadian state in general. As Joyce Green observes:

In Canada in the twenty-first century, the majority of people identify as citizens of the state, the human rights of which the government is expected to protect [...]. Aboriginal peoples are likely to understand the state as an oppressor that has been

economically and politically strong at the direct expense of Aboriginal nations.
(2001, 715-716)

This history also features a deep commitment by Indigenous peoples to cultural distinction and preservation. Indigenous familial and cultural breakdown endorsed by the Canadian state are repeatedly cited as both the originating causes of and the self-perpetuating ongoing outcomes of Canada's colonial history. Invoking tradition is often conceived of as a "powerful means of resisting colonialism"¹⁶ (Green 2001, 726, Alfred 1999, Monture-Angus 1998, Avina 1993). It is therefore not surprising that "group" autonomy in general and autonomous child welfare service in particular have become such a central concern in current debates. As White and Jacobs argue, "In the long run, recognition of our inherent right to self-government and the paramountcy of our family law provide the only framework for dealing with the protection and strengthening of our families and children" (1992, 35). From this perspective, child welfare services must be community-centered because only the community has the cultural knowledge and capabilities required to work with Indigenous children from an Indigenous worldview approach.¹⁷

Within this particular historical context it is clear that self-determination, or what I have called group "autonomy," will remain a central aspect of Indigenous politics in Canada. The current overrepresentation of Indigenous children in the child welfare system is directly related to past state intervention. It is important to note, however, that while this history has led to significant barriers to the practice of meaningful Indigenous autonomy, it also demonstrates the profound resilience and ingenuity Indigenous peoples have shown in the face of this oppression. According to Michael Chandler and Christopher Lalonde's research on suicide in Indigenous communities, "anyone whose

identity is undermined by radical personal and cultural change is put at special risk of suicide for the reason that they lose those future commitments that are necessary to guarantee appropriate care and concern for their own well-being” (1998, 1). This thesis is well-supported by national data including the extensive research put forward by the 1996 Royal Commission on Aboriginal Peoples (Chenier 1995). While the rate of suicide in some Indigenous communities, including those in Manitoba can be as much as 800 times the national average. Chandler and Lalonde’s research also shows that “Communities that have taken active steps to preserve and rehabilitate their own cultures are shown to be those in which youth suicide rates are dramatically lower” (1998, 1). This kind of community reliance is something that should be enhanced by new policies of Canadian governments.

In the past decade, the notion of greater autonomy for Indigenous peoples appears to have gained increasing legitimacy *outside* Indigenous communities as reflected in the shifts in discourses and policy of various Canadian governments. While the meaning of the constitutionally entrenched right to “self-government” remains undefined and contested, significant steps have already been taken in many provinces to delegate authority over child welfare matters to agencies established by Indigenous communities.

The changes to child welfare laws in Manitoba

Over the last two decades a number of incremental changes have been made regarding Indigenous peoples and child welfare authority and the province of Manitoba serves as a forerunner in this regard. As was noted by the Manitoba Aboriginal Justice Inquiry¹⁸ conducted in 1988,

“[T]remendous advances” had been made in the delivery of child and family services for Aboriginal families living in on-reserve communities. These advances were initiated by First Nations in the early 1980s through the establishment of their own child and family service agencies. These agencies, however, only had jurisdiction on-reserve. Aboriginal children and families living off-reserve continued to be served by mainstream child and family service agencies. (AJI-CWI 2001)

Thus, in its 1991 report, the Aboriginal Justice Inquiry concluded that a number of changes were still required to serve Indigenous families well. These recommendations included:

- Amend Principle 11 of the *Child and Family Services Act* to read: “Aboriginal people are entitled to the provision of child and family services in a manner which respects their unique status, and their cultural and linguistic heritage;
- Expand the authority of existing Indian agencies to enable them to offer services to band members living off reserve; and
- Establish an Aboriginal child and family services agency in the city of Winnipeg to handle all Aboriginal cases (AJI-CWI 2001)

In 1999, the Province of Manitoba’s NDP government responded to these recommendations. Unlike provinces such as Alberta and British Columbia, which have also been restructuring recently, the majority of Manitoba’s child welfare services have not typically been government services. Services in Winnipeg and Southern Manitoba developed as Children’s Aid societies. The restructuring currently underway in Manitoba does not involve an all-encompassing shift from government service to private service but rather focuses particularly on restructuring centered on the growing Indigenous population in the region. The changes involved are unique to date in that they include the development of Indigenous agencies that will have jurisdiction for Indigenous clients regardless of where they live instead of only for those Indigenous people living on a reserve. As Hudson and McKenzie note, these changes are unprecedented nation-wide.

While Indigenous peoples have long asserted the right to provide child and family services to their members whether they live on or off-reserve, jurisdictional responsibility for off-reserve services has never been fully resolved (2003, 50). As a result, these changes are also being observed by other provinces as a potential template for reform (AJI –CWI 2002).

By August of 2000, the Province, the Manitoba Métis Federation¹⁹, the Assembly of Manitoba Chiefs, and Manitoba Keewatinowi Okimakanak²⁰ had signed agreements establishing a “joint initiative” to develop a plan to:

- Recognize a province-wide First Nations right and authority by extending and expanding off-reserve jurisdiction to First Nations;
- Recognize a province-wide Métis right and authority; and
- Restructure the existing child and family services system through legislation and other changes (AJI-CWI 2001)

The Aboriginal Justice Inquiry-Child Welfare Initiative was launched in 2000 by the NDP government with the establishment of several committees to oversee the development of these changes. The vision and mission statements of the initiative reaffirm the espoused commitment to Indigenous peoples by focusing on recognizing the “distinct rights” and “unique authority” of First Nations and Métis populations, as well as including repeated references to “child and family services that are “community based” (AJI-CWI 2001).

Further, these developments received enthusiastic public support from high profile Indigenous organizations. Upon signing a memorandum of understanding supporting the creation of this new child and family services system, Manitoba Métis President David Chartrand stated:

Our people have waited generations to restore our responsibility and hope for our children [...] We have lost thousands of our children from our families and because of this we risk losing our culture [...] The Métis Nation is family oriented [...] We can once more keep our children within our families and our

culture. *I must commend this government for taking action.* (emphasis added. AJI-CWI, 2000b)

Similarly, the Assembly of Manitoba Chiefs has described the changes as “another step toward full jurisdiction over child welfare for First Nations people. It represents one step closer to self-government” (Assembly of Manitoba Chiefs, 2001). As we will see in the Indigenous literature discussed shortly, there is, at the same time, a diversity of Indigenous perspectives often invisible to the non-Indigenous public due to both the role of the state in disseminating information to the public and to the reluctance of Indigenous leaders to show anything but a “united front” to the public at large (Alfred 1999, 2005).

Now implemented, the process of child welfare service delegation in Manitoba centered on the creation of four new authorities:

- A First Nations of Northern Manitoba Child and Family Services Authority;
- A First Nations of Southern Manitoba Child and Family Services Authority;
- A Métis Child and Family Services Authority; and
- A General Child and Family Services Authority (AJI-CWI 2001)

Caseloads, resources, and assets were accordingly transferred to the most “culturally appropriate authority” and their respective agencies. The magnitude of these transfers is revealed by the fact that of the 15,000 Manitoba families receiving child welfare services in Manitoba in 2003, it was estimated that 5,000 would *choose* to transfer to one of the new Aboriginal agencies²¹ (AJI-CWI 2003).

While demands for autonomy have come from Indigenous communities as well as other stakeholders,²² to understand fully the child welfare policy initiative it is also necessary to consider the broader context of the neoliberal welfare state in addition to these demands. A welfare regime analysis reveals that the state-constructed autonomy

granted in this case is an example of neoliberal multiculturalism. As such, the “autonomy” offered by the province’s cultural group rights work less as a safeguard for the Indigenous peoples and more as a vehicle through which the province can pursue a neoliberal agenda. The particular forms of autonomy offered to groups work to distance the provincial government from the responsibilities of resolving the overrepresentation of Indigenous children in the child welfare system, and, ideally, to curb some of the costs associated with this growing issue. These changes appear to grant increased control to Indigenous peoples yet their jurisdiction over child welfare is far from comprehensive and the province remains the final arbiter on major decisions, particularly those related to funding.

The shift to “autonomous” child welfare, as constructed by the neo-liberal state, includes all the hallmarks of a state-centered project of “privatization” including the processes of re-regulation, re-privatization, co-optation, de-politicization and individualization. As such this shift may be a case of what Alain Noël aptly refers to as “autonomy with a footnote”—that is, “the *negative autonomy* of the non-participant” (Noël 2000, 17). Noël invokes this phrase as well as Keohane’s notion of “hegemonic cooperation” to describe the position of Quebec in the post-1990 era of Canadian “cooperative federalism.” His general concerns, however, are mirrored in the Indigenous child welfare case example. Noël observes that while Canadian federalism may be increasingly “collaborative,” this does not ensure that it is non-hierarchical. In fact, he suggests, despite the emphasis on processes of consultation and agreement, “Canadian federalism has never been more centralized.” He explains:

Collaboration occurs, but it is the collaboration of rowing agents who follow the indications of a steering principle whose behavior is difficult to understand, let

alone predict. Negotiations do take place but they do not involve more or less equal partners seeking to reduce uncertainty. They are defined, instead by the most powerful player, able to induce others to abide by rules that it can change at will. (2000, ??)

Alfred observes similar trends regarding partnerships between Aboriginal groups and Canadian governments: It must be understood that the aboriginalist assault takes place in a politico-economic context of historic and ongoing dispossession and of contemporary deprivation and poverty; this is a context in which Indigenous peoples are forced by the compelling needs of physical survival to cooperate individually and collectively with the state authorities to ensure their physical survival (2005, 599).²³

Thus, this case demonstrates the need for a conception of autonomy that can provide an ongoing ability to hold the state accountable for the continued impact of colonialism on “autonomous” Indigenous peoples and agencies. As we will see, while monetary concerns are always central when orchestrating any kind of jurisdictional reform, the issues at stake extend far beyond fiscal transfers between Canadian governments and Indigenous peoples.²⁴ This case suggests that issues of government accountability to Indigenous peoples remain a central, yet undeveloped, aspect of this shift.

Indigenous child welfare in Manitoba and the neo-liberal state

Re-regulation

As discussed in the earlier chapter on neoliberal states, privatization scholars critically deploy the concept of *re-regulation* (Brodie 1995, Kline 1997, Cossman and Fudge 2002) to highlight the fact that while the state casts many forms of restructuring as “de-regulation,” very little reform actually occurs at the level of ultimate authority.

Rather, the *administration* of this authority shifts as the state distributes certain roles and functions to new “private” bodies. This gives the impression of devolution of state power and yet the state maintains its ultimate position of authority. Thus, the state is not giving up control (i.e. de-regulating) but is instead exercising its control in new and often less overt forms (i.e. re-regulating). The illusion of giving up control benefits the state as it is able to distance itself from responsibility while incurring no substantial costs regarding its power as final decision-maker. Distance is beneficial as Indigenous child welfare is a complex issue that the province has been unable to resolve, or even curb, despite rising costs.

In general, a notion of inevitability, particularly related to “globalization” and/or “global markets” is often invoked to explain the state’s move towards “privatization.” In this case the language invoked is one of inevitable “return” of “authority” to Indigenous peoples. While these forces may play a role they should not cause us to overlook the continued agency and complex motivations of the state within this changing power dynamic.²⁵

From this perspective, the first question that must be asked when assessing the shift in child welfare service provision is how this new form of “autonomy” actually manifests in practice. As demonstrated in the above overview of Manitoba’s child welfare reform, the shift to autonomy includes the creation of new authoritative bodies and multiple increased “rights” and “responsibilities”; high profile Indigenous organizations have endorsed these changes as ensuring Aboriginal children are cared for in a manner consistent with Aboriginal culture and philosophy (AJI-CWI 2004). Upon close examination, however, the neo-liberal state continues to exert its power through re-

regulation. This is most obvious when the hierarchical structure of the new system is examined. As White and Jacobs aptly note, in many cases, the state remains the true center of power:

Even in situations where a full delegation of decision-making has been made to the Aboriginal agency [...] ministerial policies, based on Anglo-Canadian cultural values and assumptions, continue to play a major role in the provision of services to our children and families. (1992, 35)

This type of continued ministerial power is operating in Manitoba. Despite the government's claim about fundamental change, the province remains as the ultimate authority for the safety and protection of Indigenous children.²⁶ As explained in a conference on "inter-provincial lessons" held in British Columbia, "the province of Manitoba will oversee the system and maintain executive authority" (AJI-CWI 2002). Thus, for Manitoba, the restructuring currently underway does not exclude government more than its predecessor. Instead, developing the new authorities creates a new "middle-man" between agencies and government.

Unaltered ministerial power limits the kinds of change that can take place such that the "self-defined autonomy" advocated by Green (2001) and the holistic fundamental change advocated by Alfred and Monture-Angus are far from achieved. Both Alfred (1999, 2005) and Monture-Angus (1998) argue that a meaningful change entails not so much a shift in the administration of services but rather a change that overhauls the value systems that underlie existing practices to yield a *de-colonized* autonomy. For Alfred, independence includes the complete rejection of "western" assumptions, including Euro-American notions of the state, executive authority, sovereignty, and citizenship. Instead, he argues: "In a very real sense, to remain Native—to reflect the essence of indigenous North Americans—our politics must shift to give primacy to concepts

grounded in our own cultures” (1999, xiv). Alfred argues that a failure to address the fundamental aspects of service provision risks re-inscribing old values and old problems into the “new” system:

In this “new” relationship [of “self-government”], indigenous people are still bound to another’s power order. The rusty cage may be broken, but a new chain has been strung around the indigenous neck; it offers more room to move, but it still ties our people to white men pulling on the strong end. (1999, xiii)

Alfred’s words carry more significance when the question of funding is added to the analysis.

In the new child welfare regime in Manitoba, funding continues to be approved by the province. As explained in the province’s vision document *Promise of Hope, Commitment to Change*, “The existing funds and resources will be transferred to the new Authorities. In turn, the Authorities will give funding and resources to the agencies” (AJI-CWI 2001, 27). This leaves Indigenous peoples dependent on the amount of funds the province sees fit to provide but with the increased responsibility of deciding how these fixed funds will be spent. What we see then is not so much fundamental de-regulation—that is, the withdrawing of the state from positions of power—but rather, a re-regulation as the state’s power is wielded in *less transparent and more indirect ways*. Such change gives the impression of increased autonomy or empowerment for Indigenous peoples while maintaining the existing power order to a significant degree. The province not only appears to make fundamental concessions to Indigenous demands but, in the eyes of the Canadian citizenry, also distances itself from some of the “hardest” child welfare cases, thereby allowing the state to “take credit” and “avoid blame.”²⁷

What then of the increased rights? Each Indigenous authority in Manitoba now has the right to define the criteria on which its workforce is hired. According to the

province's strategic design principles, "[e]ach CFS Authority requires a skilled and appropriate workforce; and each has the right to define "skilled," "appropriate," and the criteria through which the workforce is hired" (AJI-CWI 2004). This change may appear to grant more autonomy, but when considered in light of the fact that the province determines overall funding, the practical space in which to use this new found autonomy is revealed to be significantly restricted. Again, as White and Jacobs observe, this kind of shift may actually result in further inequalities between Indigenous and non-Indigenous peoples in child welfare (1992, 45). Mainstream child welfare across Canada is notoriously under-funded and understaffed and these standing difficulties will be transported into the new system alongside the "existing funds."

In the Manitoba case, Indigenous agencies will have to make the most of the funds granted by the province while simultaneously dealing with some of the most difficult and extensive caseloads. The Indigenous population in Manitoba, as in other parts of the country, is "young, growing and increasingly urbanized." The 2001 Census showed that nearly half of the non-reserve Aboriginal population was under the age of twenty-five compared to thirty-two percent of the non-Aboriginal population (Statistics Canada, 2004). When the financial and cultural pressures are combined with increasing Indigenous caseloads due to changing demographics, the results are likely to be less staff, heavier caseloads.

Old problems of inadequate service provision and insufficient human resources will therefore continue to plague the new system. Further, the transfer of existing funds does nothing to address the already substantial levels of material inequality between Indigenous and non-Indigenous communities in Canada. In fact, this shift allows the state

to off-load the responsibility of staffing agencies with inadequate funding to Indigenous communities thus opening the possibility of perpetuating disadvantage. This sets the stage for a later blame the victim response if Indigenous peoples are unable to successfully manage the issues within their administrative sphere.

Re-privatization and individualization

The re-regulation of child welfare culminates in both a form of ‘privatization’ and ‘individualization’ of Indigenous child welfare issues as Indigenous demands are subject to state manipulation. While this case reveals that authority is not shifted directly from the public to the market or family (although these trends are also detectable), it does move child welfare away from the public domain in which the Manitoba and Canadian governments are held accountable and in this sense can be seen as a form of ‘privatization’ on the part of the neo-liberal state. The problem with this apparent “privatization” is that the state is still very much an agent in these affairs, yet there is no longer a channel for Indigenous peoples to hold governments sufficiently accountable for this involvement. In other words, these are, in fact, truly public issues and continue to be so. While Indigenous peoples certainly have their own publics these child welfare issues continue to be under the influence of the state yet they appear enclaved or ‘privatized’ in this sense and are therefore practically separated from and largely silenced within the Canadian public domain. Group rights are thus often couched by the state in the language of autonomy over the private sphere, particularly in the area of child welfare. Successive ministers of Aboriginal and Northern Affairs repeatedly reference the “right” of First Nations and Métis people to control their own separate child and family services

when discussing merits of the policy changes in the province (Manitoba 2000 and 2003).

The language of private control and separation is, however, misleading. As Shachar argues:

This binary opposition [between public and private] leads us astray, however, not only because it ignores the web of relations between inside and outside, as well as the fragility of these categorizations, but also because it obscures the fact that what constitutes a “private affair” is in itself defined by the state’s regime of law (2001, 41).

Co-optation of Indigenous discourses by the neoliberal state thus facilitates removing Indigenous concerns regarding the safety and protection of their children out of the realm of the Canadian “public” sphere under the pretenses of *returning* the issue of Indigenous child welfare to its rightful, natural place in Indigenous communities.

In this case, the state successfully fragments the statistically “hardest” child welfare case from mainstream child welfare and other related social policy for which the state remains responsible. In so doing, the government distances itself from the situation of Indigenous children. As child welfare has now been “returned” to its “natural” place in Indigenous communities, the state forces Indigenous peoples to accept responsibility for a set of issues that extend far beyond the actual jurisdiction and decision-making power they have been granted. As White and Jacobs note:

[A] central consideration of dysfunctional problems in families has been the family’s ability to resolve problems on its own. Often the resolution of these problems is related to the family’s financial ability to change aspects of family life. Poverty, therefore, plays a major role in defining families in need. Poverty also lies at the heart of the inability of families to resolve problems within the context of their extended families. It is often financial barriers that prevent other members of the extended family from stepping in and providing care [...] when the nuclear family is unable to do so. The colonial usurping of our resources and the systematic exclusion of our people from contemporary economic life have ensured that Aboriginal people do not have financial resources to address these

problems. If issues of income security, housing, health care, and employment are not addressed, our families will continue to require substantial support in order to maintain the integrity of the family. (1992, 46)

Poverty is, of course, undeniably related to child welfare but, as shall be discussed in detail in the next chapter, autonomy in child welfare service provision does not grant Indigenous peoples the social, economic, and political power necessary to address this issue in a meaningful fashion.

The piecemeal strategy of the state and its incumbent practices of individualization also risk perpetuating the negative images that have historically been attached to Indigenous communities. Throughout the history of colonialism and paternalism in Canada, Indigenous communities are often portrayed as malfunctioning societies incapable of making “good” decisions on their own. While there are some positive changes and good intentions accompanying the “promise of hope” initiated by Manitoba, there are important ways in which some of these same historical trends continue.

At this historical moment negative images may be perpetuated by the processes credited with transcending such antiquated, colonial perspectives, and with the high-profile support of certain Indigenous organizations. As Marlee Kline noted in regard to the shift to privatization in Alberta, “community” endorsements can obfuscate state motivations. As she states:

[T]his recognition of the importance of Aboriginal child welfare matters appears to be driven more by legitimacy that such association accords to the Alberta Government’s own child welfare agenda, then by a genuine change in approach and attitude towards First Nations (1997, 339).

. If changes appear as direct responses to Indigenous peoples the state appears generous and progressive and its own, potentially conflicting motives and objectives, can remain uninvestigated by the public at large. While the state remains at the centre of power, it appears to have conceded authority even as it reinscribes its power behind a veil of what I have called ‘privatization’ in the form of a government responsive to the demands for indigenous autonomy.²⁸

The systemic concerns about the safety and development of Indigenous children and families within the broader socio-economic context are largely disregarded by the state in these current reforms. In fact, they tend to fragment child welfare from other social policy areas which actually will likely make it more difficult to address these issues within the larger public/political sphere. Once child welfare administration is transferred, the state distances itself from responsibility publicly and narrows opportunities for political contestation. Conflict about resources, funding, and service provision are shifted out of the state’s jurisdiction and into the hands of Indigenous communities— they are “individualized”—that is, they are constructed as the problems of individual Indigenous communities and populations rather than part of a wide-ranging system of policies and social realities in which the government remains very much involved.

The federal and provincial governments continue to hold ultimate authority over funding and scope, making it difficult for Indigenous agencies and groups to address inherently linked issues of poverty, unemployment, health and housing. The opportunity for systemically addressing Indigenous issues is further reduced as the state deals with each issue in an artificially fragmented fashion, which makes it extremely difficult for Indigenous peoples to achieve any holistic response.

Thus, while the devolution of child welfare services to Indigenous peoples is intended to produce a number of targeted benefits, including “new, more culturally appropriate resources for Children [...], better quality services, including more prevention and resource development initiatives [...] and healing programs based on a circle of caring philosophy and medicine wheel teachings”(Hudson and McKenzie 2003, 50), this particular approach to autonomy also reduces fundamental holistic change by facilitating small, controlled, fragmented reforms that include enough of the old system to maintain current power balances while giving the illusion of flexibility and progress.²⁹

Co-optation

The processes of “privatization,” including de-politicization and individualization, are also facilitated by the co-optation of progressive discourses in this case study. As Brodie explains in her discussion of privatizing governments: “The success of a new order often depends on its ability to incorporate criticisms of the old order, even if the outcomes are qualitatively different” (1995, 56). In this case, the provincial government has framed its restructuring of child welfare in terms of a natural “return” of child welfare policy to Aboriginal communities based on the “unique rights and authority” of Manitoba’s Aboriginal peoples. “The proposed restructuring plan recognizes and respects Manitoba’s cultural diversity and returns to Métis and First Nations peoples the right to develop and control the delivery of their own child and family services” can be found throughout the province’s Aboriginal Justice Inquiry-Child Welfare Initiative literature (AJI-CWI 2004). This move seems to respond directly to Indigenous peoples’ demands.

The need for “community-based” child and family services is a recurring theme in both its vision and mission statements that justify the jurisdictional shifts (AJI-CWI

2001). By framing the changes as such, the provincial government has successfully co-opted many dominant Indigenous discourses, including that of autonomy and self-determination, enabling the government to make limited, potentially harmful policy changes under the auspices of meeting Indigenous peoples own objectives: returning children to the care of Indigenous communities thereby facilitating an inevitable turn towards self-government.

Conclusion

The analysis of this case suggests the potential implications of changes that are, at present, still being defined and implemented. I hope to have demonstrated through the application of a welfare regime lens to the case of autonomous Indigenous child welfare that there are numerous potential dangers and negative implications that accompany certain manifestations of group “autonomy,” most notably the challenges it poses for the traceability of decision making and accountability. The discussion of this case underlines the significance that welfare regimes hold for the politics of group “accommodation” and “recognition” that have heretofore been unexplored by scholars in the field of “multiculturalism.” As the privatization literature suggests, welfare regime restructuring reconstitutes political spaces and identities, *including “cultural” ones*, thereby reconfiguring the opportunities for future directions. This case also demonstrates that discourse plays a primary role in facilitating current change through processes of co-optation and in constraining future change through processes of de-politicization and individualization.

Once an issue is codified and ‘privatized’ as described above it becomes increasingly difficult to get these same issues back into play in the larger Canadian public, domain: the demands appear to be met (i.e. autonomy granted) and, therefore, groups no longer appear to have a legitimate differentiated position from which to contest the position of the state. Groups are left negotiating within the entrenched status quo rather than contesting and rejecting it for something more suitable. In other words, to return to Schneider and Ingram’s analysis of “target populations” discussed in the previous chapter, this form of group autonomy does not encourage groups to combat ineffective policies through various avenues of political participation and in fact may make it more difficult to do so thus undermining rather than contributing to the objectives of Indigenous peoples to have a wholly different relationship with the Canadian/Manitoba state.

Overall, then, a welfare regime perspective reveals difficulties for the pursuit of social and political justice for Indigenous peoples in western liberal democracies like Canada. First, this analysis suggests that Indigenous peoples and their leaders must constantly re-position themselves in response to the state’s “concessions” in order to bring their unresolved concerns out of the “privatized” domain of the “group” as constructed by the state, and into a political space of public state accountability. While a kind of collective space is an important part of group autonomy and de-colonization (Alfred 2005, Monture-Angus 1998), it must, as Iris Marion Young (1990) suggests, come in the form of voluntary withdrawal as opposed to non-participation as articulated in Noël’s conception of “negative autonomy.” Further, this analysis reveals that what is ultimately necessary is a mode of autonomy that includes the ability of groups to hold

others—most notably the state—accountable. Due to the complexities that come with Indigenous issues of justice this period is likely to be quite lengthy and will require participatory, political avenues as discussed in the following chapters.

Second, this analysis reveals the practical inadequacies of current theories of cultural group “autonomy” endorsed by theorists of the “Canadian school” (chapter two). While culture and identity are central to the pursuit of a just form of autonomy for “groups” the most important factor in this case study is the colonial power relations between Indigenous peoples and the state and the socio-economic conditions which reinforce them. It follows from this that the relationship between states and indigenous peoples must be conceived of as economic and *political* as much as *cultural*. They are, in many ways, inseparable.

While this analysis has focused on Indigenous child welfare in Manitoba, the implications of this analysis extend far beyond this case. As shall be discussed in more depth in chapter four, conceptualizing group autonomy as *relational* takes us part of the way to better grasping the importance of socio-economic realities and democratic process as we work towards an approach to justice that can address the ever-shifting power dynamics between groups and state and the context that surround and shape them. In general, the concept of relational group autonomy highlights the necessity of holding governments accountable for their ongoing relationships with and impact on “autonomous” groups within the state. In specific reference to Indigenous peoples in Canada, a relational conception of group autonomy works to reveal rather than obscure the fact that Canadian sovereignty was and is tied to the oppression and/or de-valuation of Indigenous peoples. Thus, this perspective problematizes not just the notion of absolute

“group” autonomy but Canadian autonomy (i.e. sovereignty) as well. It reveals that justice is not simply a matter of accommodating groups but is rather a matter of reconsidering and transforming the Canadian state in order to pursue *nation to nation* relationships. Still, to work practically against the negative aspects of neoliberal multiculturalism, the principles of relational autonomy must be democratically conceived in a manner that ensures adequate avenues of participation and accountability. Conceptualizing this process is the subject of the following chapters.

4 RECONSIDERING “GROUP” AUTONOMY: A RELATIONAL PERSPECTIVE

The analysis of changes to Manitoba’s child welfare laws in the previous chapter demonstrated that neoliberalism and multiculturalism can overlap in important and potentially dangerous ways around the neoliberal state’s accommodation of Indigenous peoples’ demands for group autonomy. The theoretical conundrum posed at the end of the last chapter was how to respond to the legitimate demands for empowerment by Indigenous peoples while still holding the state publicly accountable. Over the next two chapters, I will examine this problem and suggest two inter-related avenues that might be pursued. In this chapter, we shall begin by examining in greater depth the idea of “autonomy” as it is used in multiculturalism literature and by Indigenous scholars. I then turn to a discussion of the first key component of my alternative account of group autonomy—the relational component. This is further developed in conjunction with the second key component—the accountability component—discussed in the model of democratic multi-nationalism outlined in chapter five.

While autonomy has been the focus of much contemporary political theory, current shifts in both world events and academic foci have opened up new theoretical space in which to explore the political significance of autonomy. While the protection and facilitation of *individual* autonomy has always been a central component of modern liberalism, *group* autonomy-based approaches to multiculturalism, as discussed in chapter two, have recently gained legitimacy within both academic and policy circles. The facilitation of autonomy, at the individual and at the group level, is central to the liberal democratic state’s reconciling group-differentiated or asymmetrical approaches to

citizenship with the principles of liberalism which, until recent decades, appeared more compatible with a “difference-blind” approach to multiculturalism. The increased legitimacy granted to cultural group autonomy distinguishes current trends in liberal theory and practice from the liberalism of the past. Its increased acceptance has manifested in the practice of granting group, or “minority” rights.¹

In this chapter I begin by examining the meaning of individual and group autonomy as well as the ways in which feminist analysis has begun to reframe individual autonomy in important ways that can and should be applied to group autonomy. I then turn to examine the centrality of group autonomy in the multiculturalism debate, particularly in the “Canadian school” approach of Will Kymlicka and Charles Taylor.² I show how their conceptualizations of autonomy (which inform both the Canadian and Manitoba government’s policies with respect to national minorities) are partial responses with significant limitations and implications. Building on this theoretical analysis and the case discussion of Indigenous autonomy in Canada from the last chapter, I conclude that a relational conception of *group* autonomy is required in order to address the shortcomings of the Canadian school approach while maintaining autonomy as a necessary guiding principle of Canadian political life.

Group versus individual autonomy

In general, group autonomy is associated with some form of group “self-determination” or provisions for group management over “their own affairs” (Kymlicka 1995, Taylor 1994). As such, the concept of *autonomy* as it applies to a group appears to be largely indistinguishable from the concept applied to the individual. The only clear

distinction between the two as they are generally conceived appears in regard to the actual *agent* of autonomy.³ As Marilyn Friedman observes, “Shared or collective autonomy is possible for persons engaged as joint agents who choose to act together as single units” (2003, 15). In other words, for a collective to practice group autonomy they must act as one, as an *individual* entity. Within the discourse of multiculturalism proponents of group autonomy often claim it preserves and promotes the development of individual autonomy for group members. This claim further enmeshes group and individual autonomy. Given the degree of overlap between the two concepts, those of us interested in unpacking the concept of group autonomy must attend to the characterizations and debates centered on conceptualizations of individual autonomy as well.

What is individual autonomy?

While most definitions of individual autonomy characterize it as referring to some form of “self-determination” (sometimes referred to as “self-government”), there are, in fact, many interpretations. These range from autonomy conceived as informed consent to autonomy as rational choice to the notion of autonomy as the right to choice and non-interference (Mackenzie and Stoljar 2000, 4-5). Still, despite these divergences of interpretation, certain characteristics are repeatedly associated with autonomy in discussions and debates. In general, autonomy is a capacity, an activity or exercise. More specifically, it is the capacity to make decisions for oneself based on one’s own values and goals arrived at through processes of self reflection. This capacity is then demonstrated through behavior that is based on these values and is exercised under certain necessary conditions. These conditions include opportunities for meaningful

choice and the ability to act without incapacitating coercion or manipulation. While autonomy can be defined both procedurally and substantively it is increasingly defined in a content neutral manner which emphasizes only that the opportunity for autonomy be ensured, while the individual chooses if, when, and how to act autonomously (Friedman 2003). As a valued political capacity within liberal democratic states, individual autonomy is generally viewed as something that should be ensured, if not encouraged, by the state, often through the vehicle of individual rights.

Critics of liberal democratic approaches frequently target individual autonomy as a central political principle. The critiques have emerged particularly from various strands of feminism and communitarianism⁴ and suggest that liberal theory's reliance on individual autonomy is significantly limited and problematic. While this line of critique is generally launched against a particularly narrow or "minimalist" conception of autonomy, it is a valuable line of critique for at least two reasons. Firstly, these critiques highlight important considerations regarding the conceptual implications of individual autonomy that, while not entirely overlooked by dominant or mainstream accounts, may nevertheless not be given adequate consideration. In so doing, they offer an alternative conception of autonomy, often referred to as "relational autonomy," that must be acknowledged and addressed within any attempt to unpack the concept of autonomy. Secondly, the critical attention given to this minimalist conception demonstrates the contested nature of the concept of autonomy. This is evident within theoretical debates but also extends beyond them to the worlds of social movements, government, and policy making. While critics may reject a particular understanding of individual autonomy, few scholars of democratic politics advocate rejecting autonomy as a political principle all

together. Instead they reconceptualize autonomy to better suit their needs and concerns. Thus the principle of autonomy can be invoked simultaneously by opposite sides of a given conflict or argument. In political practice, autonomy is both something sought after and something of which one should be critically suspicious.

What's wrong with "liberal" autonomy?

While critiques of individual autonomy have emerged from somewhat different starting points they generally share a deep suspicion of the dominant association of autonomy with a particular brand of individualism that is often linked with the liberal paradigm. As Bhikhu Parekh observes, liberalism traditionally defines the individual in "minimalist" terms. "It abstracts the person from all his or her 'contingent' and 'external' relations with other people and nature, and defines the person as an essentially self-contained and solitary being encapsulated in, and unambiguously marked off from, the 'outside' world by his or her body" (1992, 161). On this basis the liberal individual's central concern is two-fold, "to maintain his or her personal independence and autonomy and to live peacefully with others by respecting theirs" (163). Citizens of a liberal society therefore utilize rights to ensure the appropriate degree of separation and respect. It is this vision of the liberal individual that lends to a specific conception, or as Martha Albertson Fineman calls it, a specific "myth," of individual autonomy. Fineman observes:

Autonomy [...] connotes on an ideological level that an individual who conforms to the dominant notions of independence and self-sufficiency is both freed *from* the prospect of regulatory government action and freed *through* governmental structures from interference by other private actors. The freedom through the government is the nonintervention point stated in positive terms—the right to be let alone is also the guarantee of privacy. In establishing and adhering to a norm of

nonintervention and regulation for those individuals deemed self-sufficient, the state grants them autonomy. (2004, 9)

Lorraine Code offers a similar sketch of a particular, and arguably dominant, understanding of individual autonomy according to which:

Autonomous man is—and should be—self-sufficient, independent, and self-reliant, a self-realizing individual who directs his efforts towards maximizing personal gains. His independence is under constant threat from other (equally self-serving) individuals; hence he devises rules to protect himself from intrusion. Talk of rights, rational self-interest, expedience, and efficacy permeates his moral, social, and political discourse. In short there has been a gradual alignment of *autonomy* with *individualism*. (1991, 78)

This populist perspective confuses autonomy with overall independence and self-sufficiency and, as such, is best received as a caricature of liberal autonomy. Yet, as I have already suggested, it is an interpretation that dominates much contemporary political activity, especially when notions of autonomy are applied to group or multicultural political relations. For this reason, it is a notion of autonomy that merits critical reflection.

Many liberal thinkers are concerned about the dangers of confusing autonomy with any and all expressions of an individual will. Kant, most notably, commits to a universal morality that binds each and every rational, “autonomous” being in the same way. Hence, individual interests are not free from constraint. Constraint is a constitutive element of autonomy and/or freedom. Important strands of criticism have also developed outside traditional liberal theories of autonomy. This chapter is particularly concerned with the insights of a strand of feminist criticism referred to as the “ethics of care” approach. This perspective characterizes the “liberal” or “minimalist”⁵ understanding of autonomy as part of a broader paradigm referred to as “the ethics of justice.” At the same

time, these critics suggest the existence of another ethical paradigm. In general, the two paradigms have been characterized in the following manner:

- The ethic of justice takes an abstract approach, while the ethic of care takes a contextual approach;
- The ethic of justice begins with an assumption of human separateness, while the ethic of care begins with an assumption of human connectedness; and
- The ethic of justice has some form of equality as a priority, while the ethic of care has the maintenance of relationships as a priority (Clement 1996, 11)

In short, the ethics of justice has been characterized by the primacy of personal autonomy through individual rights whereas the ethics of care is characterized by the individual's ability to recognize herself as part of a greater whole embedded within a set of particular relations. *Prima facie* then it may seem that the ethics of care is discordant with any privileging of autonomy. Indeed, Carol Gilligan states, "Illuminating life as a web rather than a succession of relationships, women portray autonomy rather than attachment as the illusory and dangerous quest" (1982, 48). Nevertheless, few ethics of care theorists reject the principle of individual autonomy altogether as the notion of autonomy remains vital to feminist attempts to understand oppression and subjection, and work towards agency and emancipation (Nedelsky 1989, MacKenzie and Stoljar 2000, Friedman 2003). While care theorists work to demonstrate the value a care ethic brings to notions of the self, and more recently to notions of citizenship, much of the latest work suggests the need to find ways to synthesize the two paradigms.⁶ A relational conception of autonomy works towards this synthesis.

Relational autonomy

The care critique of autonomy reveals that individuals should not be conceptualized in an overly abstract, self-maximizing, atomistic terms. Autonomy must be understood as social in nature, and contingent, or *processual*, in practice. Autonomy is about agency and that agency is always exercised by an embedded self. “Others” will always be part of the exercise of one’s agency in some form or another. Care theorists tell us that contrary to certain conceptualizations of freedom and liberty, we cannot simply guard against the influence of others as these circumstances will never be entirely possible.

Pretending that one can eliminate these influences not only puts some at a disadvantage—some individuals are more influenced by “others” than their counterparts—it also overlooks the possibility that these influences may be valuable to the “autonomous” individuals. As Nedelsky argues:

There is a real and enduring tension between the individual and the collective, and any good political system will recognize it. The problem with our tradition is that it not only recognizes, but highlights the tension, and has a limited view of the non-oppositional aspects of the relation and of the social dimension of human beings [...]. The collective is not simply a threat to individuals but is something constitutive of them and thus is a source of autonomy as well as a danger to it [...]. The task, then is to think of autonomy in terms of the forms of human interactions in which it will develop and flourish. (1989, 21)

From this perspective, we need to consider how relationships, voluntary and involuntary, intimate and distant, public and private, can work both to hinder and enhance the capacity for autonomy. A relational conception provides a starting point for just such a theoretical model.

There is no one specific definition of relational autonomy. Rather the term is associated with a broad philosophical approach. As MacKenzie and Stoljar observe:

The term “relational autonomy” [...] is rather an umbrella term, designating a range of related perspectives. These perspectives are premised on a shared conviction, the conviction that persons are socially embedded and that agents’ identities are formed within the context of social relationships and shaped by a complex of intersecting social determinants, such as race, class, gender, and ethnicity. Thus the focus of relational approaches is to analyze the implications of the intersubjective and social dimensions of selfhood and identity for conceptions of individual autonomy and moral and political agency. (2000, 4)

Evelyn Fox Keller provides a helpful example of what such an approach may look like with her conceptualization of “dynamic autonomy.” According to Keller, “dynamic autonomy develops from the capacity to both relate to and differentiate from others.” One develops agency and a sense of self but always in the context of “interacting and interpersonal agents.” She contrasts her notion of “dynamic autonomy” with what she refers to as “static autonomy” which is centred on the capacity to deny connectedness and enhance separation. The static conceptualization positions “others” and forms of “dependency” as threats to individual autonomy (1985, 99-100). From the dynamic perspective, practicing autonomy is an ongoing process that is constantly changing and adapting in relation to the ever changing surrounding context.

Nedelsky also proposes some guidelines for relational conceptions of autonomy. For Nedelsky autonomy must be reconceived as a participatory capacity that does not deny dependence but may work to transform it. She argues, “The characteristic problem of autonomy in the modern state is not, as our tradition has taught us, to shield individuals from the collective, to set up legal barriers around the individual which the state cannot cross, but to ensure the autonomy of individuals when they are *within* the legitimate

sphere of collective power” (1989, 13). Autonomy is not about creating barriers to keep others out so much as ensuring that individuals are effectively empowered when interacting with one another. “Social context cannot simply mean that individuals will, of course, encounter one another. It means, rather, that there are no human beings in the absence of relations with others. We take our being in part from those relations” (1989, 8-9).

While theorists of relational autonomy focus on relationships, context, contingency and constraint, they do not necessarily seek to narrow individual autonomy.⁷ Rather their attention to the inherent social nature of autonomy works to expand it. By focusing on the social and historical contexts in which agents are embedded and analyzing the way in which these contexts impede or enhance the capacity for autonomy, advocates of relational notions of autonomy highlight the need for a more “fine-grained and richer account of the autonomous *agent*” (Mackenzie and Stoljar 2000, 21). In this approach to autonomy, advocates of the relational perspective dissociate the concept of autonomy from the minimalist caricature of individual autonomy associated with dominant conceptions of liberalism, while holding on to autonomy for its emancipatory power.⁸

Thus, a number of characteristics associated with a relational account of autonomy can be identified. First, a relational perspective demands a contextual, dynamic, conception of the agent exercising autonomy. Such a conception requires acknowledging that both the agent and the agent’s relationship with the external context will undergo constant change that will affect the agent’s capacity for autonomy on an ongoing basis. Second, a relational perspective demands an account of autonomy that goes beyond

conceiving collective forces external to the autonomous agent simply as threats to be contained or to be barricaded against. Rather than assuming and reinforcing the oppositional nature of such interactions, a relational account insists that dependence and obligation are a part of autonomy that must be recognized and affirmed. In order to enhance autonomy, dependence must be transformed to allow for relationships that are interdependent yet which are balanced in regard to power and agency during interaction. In short, a relational conception of autonomy is a politically *active* account of autonomy.

Autonomy in multiculturalism

Liberal multiculturalists often contest traditional liberal understandings of autonomy by expanding the concept to include collective agents. In this vein, Kymlicka's *Multicultural Citizenship* (1995) is a compelling and foundational contribution to contemporary liberal thought. He outlines a conception of minority group rights that is congruent with the liberal principle of individual autonomy. Kymlicka's argument takes us from a particular conception of individual autonomy, to group autonomy via various forms of group rights, and finally to a particular conception of liberal-democratic citizenship. Similarly, in "The Politics of Recognition" (1994), fellow-Canadian Charles Taylor defends a particular form of multicultural citizenship. Like Kymlicka, Taylor advocates the development and maintenance of cultural group autonomy. As will be discussed, while Taylor's defense centres on the fulfillment of individual "authenticity," his conception of authenticity is largely indistinguishable from dominant liberal notions of individual autonomy found in multiculturalism theory.⁹ Thus, like Kymlicka, Taylor

takes us from a particular conception of individual autonomy to group autonomy via group rights, and finally to a particular conception of liberal-democratic citizenship.

While both Kymlicka and Taylor work to expand the notion of individual autonomy beyond its minimalist conception, their conceptions of group autonomy remain problematically narrow.¹⁰ Although the conception of group autonomy they propose works to reconcile multicultural citizenship with certain principles associated with liberalism, it does not adequately reconcile multicultural citizenship with the practices and principles of democratic citizenship. In fact, despite good intentions, particular manifestations of cultural group autonomy may actually hinder certain democratic capabilities and thereby undermine the kind of transformative change that “accommodated” groups, like Canada’s Indigenous peoples, are seeking from the state. A more relational account of group autonomy is an important step towards reconciling multiculturalism with the necessary components of democratic citizenship.

Kymlicka’s multicultural citizenship

As Kymlicka observes, a liberal democracy’s commitment to the individual freedom of its citizens has long been conceived as incompatible with group-differentiated citizenship:

To many people, the idea of group-differentiated rights seems to rest on a philosophy or world-view opposite to that of liberalism. It seems more concerned with the status of groups than with that of individuals. Moreover, it seems to treat individuals as the mere carriers of group identities and objectives, rather than as autonomous personalities capable of defining their own identity and goals in life. Group-differentiated rights, in short, seem to reflect a collectivist or communitarian outlook, rather than a liberal belief in individual freedom and equality. (1995, 34)

Kymlicka suggests that these concerns are based on misperceptions. He goes on to build a case for liberal group rights arguing that, “minority rights are not only consistent with individual freedom, but can actually promote it” (1995, 75). His argument for *liberal* multiculturalism through group rights is founded on his conception of a societal culture:

--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. (1995, 76)

According to Kymlicka, these “societal cultures”¹¹ provide a “context of choice” necessary for individuals to achieve liberty and equality and hence to lead a truly autonomous life. This notion is based on his recognition that culture is the bedrock of socialization. It is through one’s culture that one learns the norms and values one is expected to emulate and exhibit throughout the various stages of one’s life. He states, “liberals should care about the viability of societal cultures, because they contribute to people’s autonomy, and because people are deeply connected to their culture” (1995, 94). It is via the choices provided by an individual’s culture that they determine the specific avenues by which they will achieve their personal autonomy. Once we recognize that individual autonomy is facilitated through cultural contexts of choice and that some of these contexts are disadvantaged by the neutral, or, “benign neglect” approach of universal liberalism, cultural *group* autonomy becomes a necessary part of ensuring the viability of *individual* autonomy. Thus, the protections offered by group rights can work to rectify disadvantage and “ensure that members of the minority have the same opportunity to live and work in their own culture as members of the majority” (1995,

109). This line of logic provides the foundation for Kymlicka's argument that, "'the cause of liberty' often 'finds its basis in the autonomy of a national group'" (1995, 75).

Within Kymlicka's approach to multiculturalism the individual remains the central unit of concern. From his perspective, "[c]ultures are valuable *not in and of themselves*, but because it is only through having access to a societal culture that people have access to a range of meaningful options" (1995, 83). Cultures provide the context for choice, choice fosters freedom, hence, the protection and preservation of minority cultures becomes instrumental in the liberal pursuit of free and equal citizenship. Overall, Kymlicka's multicultural citizenship maintains the liberal privileging of autonomy. He goes beyond strictly minimalist approaches to individual autonomy by highlighting the importance of socialization and context. In order to ensure that minority group members have opportunity to achieve individual autonomy equal to the opportunities of dominant group members he extends the principle of autonomy so that it also applies to "national" minority groups. In so doing Kymlicka places cultural group autonomy as a central principle for multicultural societies including Canada. In practice this principle results in the distribution of group rights, most notably, the right to "external protections"¹² which create borders of non-interference around the group as long as they do not engage in "internal restrictions" of a kind that violates fundamental liberal rights.¹³

Taylor's politics of recognition

In "The Politics of Recognition," Taylor provides a theoretical analysis that explains both the rise and significance of identity based politics. He attributes the rise of recognition to two distinct yet related trends. First is the shift to the politics of "equal

dignity” ushered in by democratic culture. This shift then leads to the second trend of “the politics of difference.” According to Taylor, while the dependence on self-definition through some form of identity was always present in societies, in earlier periods of history recognition was built into systems of social hierarchies and was thus largely fixed. The uniqueness of the contemporary period is not the need for recognition, “but the conditions in which recognition can fail” (1994, 35). For Taylor, the potential negative outcome this instability poses is the possibility of “misrecognition” (1994, 25). When the collapse of social hierarchies is combined with the politics of equality ushered in by democracy, the force behind contemporary demands is fully revealed: “everyone should be entitled to recognition for his or her own unique identity and assimilation is the cardinal sin against this kind of authenticity” (1994, 38).

How does the significance of recognition as such relate to issues of cultural group rights? One cannot understand Taylor’s particular conception of multiculturalism without appreciating his conception of “authenticity.” He explains:

Herder put forward the idea that each of us has an original way of being human [...] This idea has burrowed very deep into modern consciousness. [...] There is a certain way of being human that is my way. I am called upon to live my life in this way and not in imitation of anyone else’s life. But this notion gives a new importance to being true to myself. If I am not, I miss the point of my life; I miss what being human is for *me*. (1994, 30)

While earlier proponents of authenticity argued that authenticity comes through connection with the internal self alone, Taylor argues that there is in fact no such thing as inward generation “monologically understood.” He explains that in order to grasp the connection between identity and recognition, we must accept that human life is fundamentally dialogical in character:

We become full human agents, capable of understanding ourselves and hence of defining our identity, through acquisition of rich human languages of expression [...] People do not acquire the languages they need for self-definition on their own. Rather, we are introduced to them through interaction with others who matter to us—what George Herbert Mead called, “significant others.” (1994, 32)

It is this emphasis on the collective dimension of an “authentic self” that drives Taylor’s particular defense of “multiculturalism.” According to this perspective certain collective protections, or group-differentiated rights, may be required for minority group members to live truly “authentic” lives. Providing the conditions for cultural groups’ “survival” (1994, 61) enables group members to acquire and practice the modes of expression and relationships necessary to define their identity and thus to develop to their full human potential. Overall, Taylor characterizes his concerns regarding identity on two levels. The first, he refers to as the “intimate sphere,” that is, the level on which our identity is “formed or malformed through the course of our contact with significant others.” The second is the “social” or “public” sphere, which is the level on which the politics of identity or, “equal recognition” takes place (1994, 36-7). For Taylor, the public sphere must protect and recognize minority group cultures through differentiated or “asymmetrical” citizenship in order to ensure the ongoing viability of their private spheres. This provides the opportunity for group members to become fully realized, “authentic” individual citizens.

Authenticity then is at the heart of Taylor’s case for multicultural citizenship. How is Taylor’s notion of “authenticity” different from dominant liberal notions of “autonomy”? In “Authenticity and Autonomy: Taylor, Habermas, and the Politics of Recognition” (1997), Maeve Cook argues that it is not markedly distinguishable. Cook

identifies an unacknowledged tension in Taylor's work between the conceptions of authenticity and autonomy:

Taylor's initial (weaker) formulation of the politics of difference is that it affirms the equal *potential* of every individual (and culture) to form and define her or his own identity. The politics of equal dignity—as interpreted by procedural liberalism—affirms “the ability of each person to determine for himself or herself a view of the good life”. The latter ability is referred to by Taylor as individual autonomy. It seems, however, to be scarcely distinguishable from the potential affirmed by the politics of difference. The latter, admittedly, does not confine itself to the individual subject and its emphasis is somewhat different; nonetheless, in its initial formulation the politics of difference, no less than the politics of equal dignity, selects autonomy as that which is worthy of recognition: it too, focuses on the individual's *power to determine for herself* a particular understanding of the good life, rather than on the value of any such particular understanding. (261)

For Cook *both* the politics of equal dignity and the politics of difference emphasize autonomy over authenticity.¹⁴ As such, Taylor's authenticity is not meaningfully distinguishable from the dominant liberal notion of autonomy that underlies Kymlicka's work. Still, Taylor's emphasis on the *dialogical* nature of identity appears to set him apart from other liberal theorists of multiculturalism. To a limited degree this is an accurate interpretation. Taylor is somewhat distinct from Kymlicka in his *explicit* recognition of the dialogical nature of identity. Upon close inspection, however, these differences are largely superficial. When one considers Taylor's discussion of “significant others” as the key players in his dialogical approach, it is clear that Taylor's main dialogical focus in his theory on multiculturalism is *intra*-group rather than *inter*-group. This focus is not unlike Kymlicka's acknowledgement of the role culture plays in socialization in his conceptualization of societal cultures.

Drawing on George Herbert Mead, Taylor introduces the notion of significant others as “those who matter to us” (1994, 32). The dialogical elements of identity

formation are fulfilled through interaction with these significant others. As he explains, “If some things I value most are accessible to me only in relation to the person I love, then she becomes a part of my identity” (1994, 34). Significant others refer to people with whom the individual has a kind of intimate relationship. It is not surprising then that Taylor characterizes the formation of identity and self as taking place within the “intimate sphere” versus the public and/or political sphere. Thus, while many observers have emphasized the dialogical element of Taylor’s approach to multiculturalism,¹⁵ his discussion of the dialogical aspect of authentic identity is limited. Regardless of his acknowledgment of the danger of “misrecognition,” which, presumably, is often committed by those outside one’s “intimate sphere,” Taylor himself says little to nothing about the role of dialogue with those who may be characterized as “in” or “non” significant others within his theory of multiculturalism. While he proposes that misrecognition violates a basic human need and he broadly alludes to a “fusion of horizons” approach when discussing multiculturalism in education, there is little to suggest that Taylor’s concerns for dialogue go beyond a central need for “distinct” groups to be allowed to survive and practice their own modes of expression. Group members will define their identities through dialogue internal to the group, while the role of “in” or “non” significant others is to make space for this dialogue by ensuring a certain measure of cultural preservation for minority groups. The right to this preservation is a collective one and is essentially the granting of group autonomy to minority cultural groups.

The Canadian school approach

Prima facie, Taylor's emphasis on "authenticity" over "autonomy" seems to differentiate his work from fellow Canadian scholar Will Kymlicka. The contrast seems even more significant when one acknowledges Taylor's emphasis on the "dialogical" nature of identity.¹⁶ As the above examination reveals, however, Kymlicka and Taylor have more in common than first appears. This overlap is most apparent when one looks critically at Taylor's particular conception of "authenticity" and its marked resemblance to the dominant liberal notions of autonomy invoked by Kymlicka. It is further revealed by the limited way in which Taylor discusses the "dialogical" nature of identity and how this aspect of identity becomes linked to what he refers to as the "intimate" sphere of "significant others." Overall, the limited conception of significant others and the surprisingly undeveloped discussion of the dialogical nature of cultural group identity leaves Taylor's intimate sphere of the politics of difference bearing a striking resemblance to Kymlicka's contexts of choice. Taylor's emphasis on protecting discursive cultural practices is almost interchangeable with Kymlicka's emphasis on protecting "minority" processes of socialization by granting group autonomy to societal cultures. Thus, one of the defining features of the Canadian school approach to multiculturalism is conceiving cultures as boundable individual entities to be "preserved" and "regulated" (Benhabib 2002, 68) by the granting of largely negative freedoms—a rather traditional and static conception of autonomy to be extended to groups.

By positing group rights as the method to ensure cultural group boundaries Kymlicka and Taylor are also working from a rights-based paradigm that is consistent with an "ethics of justice" approach to autonomy. From this perspective rights are *resources* allocated by the state to individual cultural groups in order to foster equality

with the dominant groups within society (Young 1990). In fact, their approach to multicultural citizenship fits perfectly with Fineman's description of the minimalist—or, as she depicts it, the “mythic”—individual autonomy presented earlier in this work which suggests that freedom from interference (i.e. “autonomy” is guaranteed through government regulations that ensure non-intervention from other actors (2004, 9). The group autonomy put forward by the preservationist approaches of Kymlicka and Taylor is founded on this notion of autonomy. Minority group rights free cultural groups from certain government regulations that may hinder cultural maintenance by creating certain administrative pockets of non-intervention.¹⁷ These pockets are created through rights, or “external protections” distributed by the non-intervening government itself. Once these rights have been instituted groups are assumed to be practicing autonomy within the “intimate” or private sphere of the cultural group or “societal culture.” Thus, a second defining feature of the Canadian school approach to multiculturalism is its distributive approach to justice which treats rights as assets to be allocated and possessed outside of the dominant public sphere.

The preservationist, distributive approach to multiculturalism of the Canadian school is thus contingent on a particularly narrow conception of group autonomy. While Kymlicka and Taylor have gone beyond the minimalist conceptions of autonomy on the individual level¹⁸ their conceptions of *group* autonomy remain troublingly consistent with the minimalist caricature. Instead of individual persons, however, they are abstracting the individual *group* from its context and are defining individual *groups* as “essentially self-contained and solitary” entities. In reality, however, the individual cultural groups that exist within a state do not exist in complete isolation any more so than do individual

selves. Regardless of various degrees of self-determination granted by the state these groups remain part of larger processes of socialization and dialogue, they remain in relationships with other citizens, other groups, and most significantly with the state. These relationships include dynamics of power and dependence and exist within particular social and historical contexts. Ayelet Shachar argues:

“Non-intervention” is a misleading term. It re-enforces the myth that, left to their own devices, identity groups could exist as autonomous entities bearing little relation to the state. Of course, if this were the case, then there would be no need to envision a multicultural model of citizenship [...] The choice is not between “intervention” and “non-intervention”, because [...] groups are always reacting to the effects of state power, even when they claim to be isolated from them. (2001, 37, 40)

Failing to acknowledge the continued influence and authority of other agents, particularly the state, obscures relations of power that remain at work and promotes a static conception of autonomy which is then entrenched in law through group rights. As Young states:

Rights are not fruitfully conceived as possessions. Rights are relationships, not things; they are institutionally defined rules specifying what people can do in relation to one another. Rights refer to doing more than having; to social relationships that enable or constrain actions. (1990, 25)

Rights alone cannot account for the dynamic, contextual nature of autonomy. In fact, rights may work to obscure the social political situatedness of autonomous groups. As Wendy Brown observes, “There is always something of a chasm between the discourses of rights and their concrete operations” (1995, 97). Brown contends that granting freedoms through rights can have a de-politicizing effect that not only fixes certain identities in law but also foists certain responsibilities onto the “freed” subject. Recipients of “minority” or “group” rights not only become subjects with autonomous collective agency, they also become subjected to the particular responsibilities and expectations

associated with those rights. Here Foucault's notion of "subjected sovereignties" is useful in further illustrating the point. He states:

Humanism invented a whole series of subjected sovereignties: the soul (ruling the body, but subjected to God), consciousness (sovereign in a context of judgment, but subjected to the necessities of truth), the individual (a titular control of personal rights subjected to the laws and nature of society), basic freedom (sovereign within, but accepting the demands of an outside world and "aligned with destiny"). In short humanism is everything in Western civilization that restricts the desire for power: it prohibits the desire for power and excludes the possibility of power being seized [...] The system of private property implies this conception: the proprietor is fully in control of his goods; he can use or abuse them, but he must nevertheless submit to the laws that support his claim to property" (1982, 222).

Group autonomy is the "benefit" of minority or *group* rights. These rights dictate that the group members are collectively in control of their own "goods" (this includes cultural "goods", linguistic "goods", lifestyle "goods" etc.) and, as such, individual group members are free to pursue and maintain collective goods.¹⁹ The fact that said group members are "free" is visible and entrenched in law. What is not so visible but yet what is also achieved by entrenching the notion that said groups are "free" is the placing of responsibility for "unfree" experiences on the same individual group. As the group identity is de-politicized and group members are expected to emancipate themselves, the "subjected sovereign" position of the group forces competition and alienation. The group, now separated by the law from the dominant society and further distanced from mainstream mechanisms of state accountability, is expected to achieve certain "measures" of freedom in order to live up to the norm of autonomy entrenched in law. This double-bind created by some forms of group rights can create a situation in which those groups who do not achieve autonomy—as defined by the minimalist standard of "self-sufficiency"—are blamed for their lack of "success." Unsuccessful groups and/or

individuals within the group may be cast as simply “not strong enough” to make use of the freedom so visibly entrenched in legal discourse.

Thus, relying *solely* on a *cultural* rights-based group autonomy paradigm enforces a de-politicized conception of multicultural citizenship. Group autonomy through rights “bounds” the threat of difference in neutralized spheres created through law and demarcates and individualizes these groups in a manner which marks them excluded from, if not in opposition to, the official public sphere. Inter-group relationships and dependencies, generally the basis of demands for change by the group, remain but become further obscured as multiculturalism is managed within the containment of the intimate or private sphere of the cultural group. As such, it is a politically passive approach that fails to deal with the public, political facets of autonomy.

Public autonomy

In his discussion of human rights and popular sovereignty in *The Inclusion of the Other* (1998), Jurgen Habermas makes a valuable observation regarding the relation between public and private autonomy:

On the one hand, citizens can make adequate use of their public autonomy only if, on the basis of their equally protected private autonomy, they are sufficiently independent; but [...] on the other hand, they can arrive at a consensual regulation of their private autonomy only if they make use of their political autonomy as enfranchised citizens. (260)

The interdependence between the two experiences problematizes the privileging of one form of autonomy over the other. From this perspective the Canadian school approach to multicultural citizenship will remain a self-defeating approach so long as it remains limited to securing private autonomy and disregards how the collective rights of groups,

often articulated in the language of privacy, are related to the public autonomy of the group. Public autonomy is dependent on the process of law making itself and requires certain processes of communication and participation. As Habermas states:

[W]hen citizens occupy the role of co-legislators they are no longer free to choose the medium in which alone they can realize their autonomy. They participate in legislation only as legal subjects; it is no longer in their power to decide which language they will make use of. The democratic idea of self-legislation must acquire its validity in the medium of the law itself. (260)

Habermas's observations suggest that meaningful autonomy cannot begin and end with the allocation of rights. Instead, he argues, public autonomy requires the availability of democratic processes through which the very medium of autonomy can be deliberated.

While one might logically expect Habermas' attention to the dialogical aspects of public autonomy to be reflected in the literature on multiculturalism, particularly in the work of communitarian-liberal Charles Taylor, Kymlicka and Taylor's approaches to multiculturalism do not adequately engage with the public component of autonomy.²⁰ By focusing only on the private autonomy of cultural groups the Canadian school approach obscures the continued relations of power that exist between groups and the state; and, in so doing, risks the creation of new forms of democratic deficit. More specifically, if we accept that autonomous groups remain in relationships of power with the governing state in which the state maintains certain governing authority and influence in relation to the group, we must also accept that the state must abide by the minimal standards required by the principles of liberal *democracy*.²¹ Democratic accountability requires not only that an agent is accountable for itself but also that it is able to hold others accountable. Advocates of democratic multi-nationalism must provide an approach that not only accounts for the ever changing relationships, institutional structures, and processes that make up the public

context in which the group autonomy is to be granted and exercised, but also ensures the legitimate political avenues required for autonomous groups to uncover, address, and interrogate these relationships.

Reconceptualizing group autonomy

The limitations of the existing group autonomy approaches to multiculturalism have led some critics to reject group autonomy altogether as a method for dealing with difference in a truly democratic fashion. Some of the most pertinent criticism against multiculturalism policies on group autonomy has come from feminist scholars like Susan Moller Okin (1999) and Ayelet Shachar (2001). These scholars have worked to show that the notion of group autonomy often connotes monolithic conceptions of cultures or groups. In so doing, group autonomy can obscure significant diversities and inequalities that exist within the group and, in some cases, can work to disproportionately compromise the individual autonomy of some group members. As Shachar explains:

This blind spot in the [...] analysis is partly related to an overly narrow focus on “identity” as singular—as if one’s cultural membership were unmediated by other social factors such as gender, sexual orientation, age, marital status and the like. (2001, 30)

The concerns raised by the existence of “minorities within minorities” present a specific strand of critique against the privileging of group autonomy in multicultural accommodation and demonstrates the importance of thinking through how individual autonomy is best protected and/or enhanced for group members.²²

Autonomy has also been rejected more generally by other critics like Iris Marion Young:

Autonomy is a closed concept, which emphasizes primarily exclusion, the right to keep others out and to prevent them from interfering in decisions and actions. Autonomy refers to *privacy*, in just the sense that corporations are private in our current legal system. It should be distinguished from *empowerment*, which I define as participation of an agent in decision-making through an effective voice and vote. Justice requires that each person should have the institutionalized means to participate effectively in the decisions that affect her or his action and the conditions of that action. Empowerment is an open concept, a concept of publicity rather than privacy. (1990, 251)

Young is correct in her observation that the models put forth by Kymlicka and Taylor fail to explicitly recondition the public in this participatory fashion. As such, they cannot properly foster the public component of group autonomy. Still, there remain good reasons not to reject autonomy altogether.

The central importance given to the concept of autonomy by Canadian theorists of multiculturalism is far from incidental. Both Kymlicka and Taylor are undoubtedly influenced by their Canadian context where the politics of national minorities, namely the Québécois and Indigenous peoples living within the territory now known as Canada, have been articulated by the groups themselves in the language of autonomy. The referenda on Quebec separation and the constitutional recognition of Aboriginal rights ensure a political context in which the discourse of “self-determination” and “self-government” will continue to play a powerful role in the politics of Canada in the decades to come. As the case discussion of the previous chapter works to demonstrate, these are scenarios in which it is difficult to imagine autonomy, in some form or another, not remaining as a central part of the politics of multiculturalism. Rather than rejecting the concept of autonomy altogether, I suggest that a relational conception of group autonomy can better meet the requirements of a politically active, public approach to multicultural citizenship.

While some feminist and ethic of care scholars have focused on the necessity of

conceiving individual autonomy from a relational perspective, it is a relational conception of group autonomy that is urgently needed. A relational conception of group autonomy suggests a dynamic conception of national “groups” that acknowledges that these groups will always exercise autonomy within particular contexts and relationships. While rights are an important step in the empowerment of “cultural minorities” and can work to lay the necessary foundation for democratic participation, relational conceptions of autonomy remind us that spheres of non-influence associated with rights are an ideal never fully realized in practice. The actions of other agents including other citizens, groups, and most notably, the “autonomy granting” state will continue to effect national groups like Canada’s Indigenous peoples. Ensuring the capacity for group autonomy thus requires certain conditions, certain processes, through which the interaction and interdependence between these agents can be acknowledged, challenged and potentially transformed. As such group autonomy becomes less a resource to be distributed and more a process of action and interaction that only makes sense when one recognizes the existence of other powerful agents. Autonomy requires not only that one is accountable for oneself, but also that one is able to *hold others accountable*.

In order to ensure that autonomous groups have the capacity to hold other agents accountable for their relations with the group, autonomy must remain a public, political process, not just a private right. The central political relationship for the group is with the agent that creates and regulates their sphere of autonomy—that is, its relationships with the many facets of the state. Due to the power of this particular relationship, a relational approach to group autonomy requires that specific attention be paid to the structures and processes of this relationship on an ongoing basis. It demands the development of

avenues that ensure opportunities for dialogue between autonomous groups and other agents. These procedures would allow autonomous groups to continually address the medium of their autonomy as well as any ongoing or new obligations and responsibilities that arise between the group and the state. In short, it takes us to a more robustly democratic model of cultural group autonomy.

Conclusion

This chapter has demonstrated the inadequacies of current conceptions of group autonomy. It has articulated the need for a relational conception of autonomy that is attuned to the opportunities and constraints of a neoliberal multicultural context. In order for group autonomy to translate into meaningful political practice for groups like Canada's Indigenous peoples, a relational model of group autonomy demands that the practice of autonomy be conceptualized as an ongoing political practice founded on relations of accountability with the dominant state. The model of democratic multi-nationalism outlined in the next chapter fleshes out this alternative conception of group autonomy by developing a notion of *accountable autonomy* as central for Indigenous-state relations in Canada.

CHAPTER 5: SITUATING ACCOUNTABILITY: DEMOCRATIC MULTI-NATIONALISM

The project thus far has outlined the existence of neoliberal multiculturalism and identified the implications and limitations of its practice. As my analysis of Indigenous child welfare devolution demonstrates, neoliberal multiculturalism involves the institutionalization of group autonomy by the state to download responsibility to jurisdictions that lack the sufficient fiscal or political capacity to fully meet the requirements entailed by the devolution. At the same time, this practice releases the formerly responsible jurisdiction from the political burden of the policy area(s) despite its continued influence and effect. Neoliberal multiculturalism therefore involves a certain kind of “privatization”—that is, the *appearance of* distance from said policy area which undermines the traceability of power and decision making. This practice also co-opts and in many ways neutralizes demands from critics of the state by giving the *appearance of* state concession to these demands.

In this chapter, I situate multiculturalism in a robustly political model of democratic multi-nationalism—characterized by both agonism and deliberation—in order to combat the possibility of using multicultural justifications to rationalize “privatization” and in order to enhance democratic accountability. My approach goes beyond dominant constructions of group autonomy through group rights by emphasizing that group autonomy is a political practice rather than a resource distributed by a benevolent state. Building on my analysis of Indigenous autonomy and the unique challenges that it presents for traditional democratic practices, I outline a contextually sensitive, case-specific employment of democratic multi-nationalism. This approach conceives of

Indigenous issues as inherently political in nature, as opposed to culturally defined and constituted, and therefore better meets the challenges of the colonial legacy and context of deep difference in which Indigenous-state relations take place today.

Neoliberal multiculturalism versus democratic multi-nationalism

What is meant by the idea of “democratic accountability”? There are many competing conceptions of “democracy.” Models range from the direct democratic practices associated with the city states of Ancient Greece, to democracy as elections-based model of Joseph Schumpeter, to constitutional models of human rights and, finally, to the increasingly popular conception of democracy as popular sovereignty and participation thematized by those such as Jurgen Habermas and Seyla Benhabib.

The value of autonomy is not just at the centre of multinational politics, it is at the centre of democracy itself. In its most basic form the notion of democratic legitimacy is founded on the principle that actions should be justified to those who are affected by them (Williams 2003). To be sure, justification is a key part of democratic accountability. Yet this approach to democratic legitimacy is not strong enough to rule out paternalistic orders. Democratic legitimacy should therefore be defined by the principle that all those who are affected by collective decisions have the opportunity to participate in making the decisions, proportionately to their stakes in the outcome. In other words, democracy is partly about judgment, and partly about the distribution of power to participate in making judgments. Political theory has recently taken up this idea of democratic autonomy in relation to the self-governing citizen. As Henry S. Richardson reminds us, it is autonomy that “generates the burden of legitimating government in the first place” (2002, 84).

Specifically, democratic government, that is government founded on the notion of “self-rule,” must meet strong requirements of legitimation because government can impinge on freedom by limiting or violating rights and by imposing new, potentially arbitrary, duties.

This emphasis on legitimation leads to a particular notion of democratic autonomy:

Reasoned self-rule is autonomy; reasoned political self-rule is democratic autonomy; and democratic autonomy that protects people from domination by dispersing power and providing opportunities for contesting it and employs fair decision procedures that protect fundamental rights and liberties is democracy as democratic autonomy. (Richardson 2002, 84)

Richardson’s notion of democratic autonomy is precisely what is lacking in dominant notions of group autonomy through minority rights. Rights, I have argued, while of fundamental importance, cannot alone provide a strong enough channel for ensuring practices of accountability between Indigenous peoples and Canadian governments. Rights-based approaches to group autonomy easily lead to practices of “privatization” that covertly meet the needs of the state over and above the demands of groups. In contrast, the model of democratic multi-nationalism I develop in this chapter is centered on non-domination and the dispersion of power through participatory practices rooted in multipolar, counterpublics.

The relational conception of group autonomy outlined in the previous chapter reveals the importance of democratic participation in approaches to multiculturalism. Relational group autonomy demonstrates how autonomous groups remain affected by the unique powers of the state. As a result, the principle of democratic autonomy and its emphasis on non-domination dictates that the state be accountable to these groups for the continued impact of state actions. An essential aspect of this model is therefore ensuring procedures through which autonomous Indigenous peoples can continually address the

medium of their autonomy as well as any ongoing or new obligations and responsibilities that may arise between the group(s) and the state. A relational approach to group autonomy also reveals the importance of a case-by case approach to democratic multi-nationalism—that is, an approach that begins from the existing historical, socio-economic and political context of state-group relations. In the case of Indigenous politics in Canada, this is a context that is fraught with mistrust, inequality (both in terms of power and material resources), competing interests, and “misrecognition,” in large part due to colonialism. The colonial context, both materially and psychologically, makes the issues of accountability and political participation particularly necessary yet challenging for a number of reasons.

Democratizing group autonomy: Indigenous participation and state accountability

The first challenge for democratic multi-nationalism presented by this case is that 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). 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). In Manitoba, where the Aboriginal population is at least 12% of the provincial population and growing, there

are currently three Aboriginal members of the governing party and Aboriginal representatives make up approximately 7% of the legislature.

The second challenge this case poses for democratic multi-nationalism is that Indigenous peoples are often strongly distrustful of mainstream Canadian politics and the state in particular (Cardinal 1999, Alfred 1999, 2005, Monture-Angus 1998, Green 2001, Ladner 2005, Turner 2006). Such distrust problematizes traditional approaches to ensuring democratic inclusion as is evidenced by the statistics listed above. Given this context of distrust and underrepresentation in current political institutions new approaches to democratic inclusion are urgently necessary yet further complicated by another challenge confronting this case.

The third challenge confronting any effort to enhance the democratic relations between Indigenous peoples and the state is that Indigenous participation in mainstream Canadian institutions is often viewed as fundamentally opposed to Indigenous self-determination (Alfred 1999, 2005, Coulthard 2007). In other words, a *nation-to-nation* relationship is perceived as legitimate only in the absence of full participation in the institutions of Canadian governments. The two political goals—“egalitarian inclusion through shared representative institutions” and “political autonomy through separate institutions of self-government” appear to be mutually exclusive (Williams 2004, 93-94). My model of democratic multi-nationalism challenges this position of mutual exclusivity and argues that autonomous groups must have the appropriate measures necessary to practice both the intra-group autonomy of decision making within Indigenous jurisdictions and the inter-group autonomy of holding Canadian governments accountable for the continued realities of governing together on one land mass. These realities are

reinforced by various demographics including the growing number of “urban Aboriginals” amongst the overall increasing Aboriginal population and the high rate of intermarriage between Indigenous and non-Indigenous Canadians.

While some Indigenous scholars like Taiaiake Alfred emphasize separation between Indigenous and non-Indigenous sectors, others, such as John Borrows (2000), have incorporated these realities into their vision for just state-Indigenous relations.

Borrows argues:

[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)

Similarly, the realities of shared territory and the unique powers of the Canadian state have led Indigenous scholar Dale Turner (2006) to conclude that Indigenous legal and political distinctiveness will always occur within a context of constraint:

For better or worse, it is predominantly non-Aboriginal judges and politicians who have the ultimate power to protect and enforce Aboriginal rights [...] 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)

Thus, while there remains a strong and perhaps more prominent call for Indigenous autonomy defined as separation, or “turning away” from the Canadian state (Alfred 2005, Coulthard 2007) the perspectives offered by Indigenous scholars such as Borrows and Turner not only demonstrate a diversity of viewpoints among Canada’s Indigenous

peoples, but also demonstrates the potential for significant political will and support for an approach to Indigenous-state relations that is founded on principles of democratic multi-nationalism.

The potential for this kind of participatory model is further enhanced by the work done by Melissa Williams on “citizenship as shared fate.” One of the main reasons why participation in the decisions of the Canadian state is seen as contradictory to the notion of Indigenous nationhood is because it appears to be based on a competing notion of identity. Williams, however, rejects the traditional notion of democratic citizenship as an inclusive project based on the notion of shared identity that arises out of universal values or shared culture. She cites the “historic costs” of projects aimed at constructing citizen identity, namely exclusion and forced assimilation (2003, 217). Given this historic context and the strong feelings of political illegitimacy regarding Canadian governments currently articulated by many Indigenous peoples 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.

Thus, while Indigenous “groups” are actually distinct nations or “peoples,” they remain embedded in unavoidable relationships of many kinds with Canadian governments. As such, the principle of democratic legitimacy requires a pragmatic conception of citizenship that acknowledges these connections and mutual dependencies without imposing the constraints inherent to notions of citizenship as identity.

Williams' conception of conflicted interdependence 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" (Williams 2003, 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 decisions made by federal and provincial governments within their "exclusive" jurisdictions will impinge on Aboriginal communities in a variety of areas including environmental regulation, energy policy, and wildlife management policy (Williams 2003, 110).

Key to Williams's vision is the two row wampum or *Kaswentha* approach that has been articulated 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 Robert 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 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 Melissa Williams 2004, 106-107)

While commentators like Alfred often focus on the separateness of the purple rows that symbolize the distinction and non-interference between Indigenous peoples and

Europeans in their relationship of peace, friendship and respect, Robert A. Williams Jr. highlights the three rows of white beads that symbolize the shared river:

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. (As quoted in Melissa Williams 2004, 107)

This image, Williams argues, offers the strongest metaphor for citizenship as shared fate as it depicts the simulations realities of the distinct lives and pursuits that exist for Indigenous and non-Indigenous peoples as well as the fact that they are unavoidably linked by virtue of sharing a single space. The question then arises: How do we respond to this complex set of circumstances that demands acceptance of Indigenous autonomy while living together? What are the principles of democratic multi-nationalism?

I have shown that the necessity of unique processes of democratic accountability for “autonomous” Indigenous peoples is not substantially addressed in either Kymlicka’s rights-based “multicultural citizenship” or even Taylor’s dialogical “politics of recognition.” This omission leaves their models vulnerable to the manipulations of neoliberal multiculturalism. The relational model of group autonomy, on the other hand, puts democratic process at the centre of group autonomy and is founded on the notion that *multinational democracies require methods of decision making that function between different national groups*. Yet, I have also shown that not all democratic processes are compatible with a group autonomy approach to multi-national states, particularly given the history of Indigenous-state relations in Canada. This next section will outline the central components of democratic multi-nationalism that work to enhance both intra-group and inter-group autonomy between Indigenous peoples and various aspects of the Canadian state.

The morality of group autonomy

Group autonomy is based on a particular conception of morality, that is, morality defined as political self-rule. Group autonomy is therefore a good in and of itself and is distinct from other approaches which may be intended to produce “good” through means that do not privilege the principle of political self rule or that view group autonomy exclusively as a means to another end. The moral underpinning of group autonomy delegitimizes paternalistic interference from the state whether directly evidenced through historical initiatives like residential schools or more indirectly evidenced as is the case in the Manitoba child welfare “devolution”—a shift much more accurately described as a form of depoliticization through bureaucratization. This understanding of group autonomy leads to three additional tenets of my democratic multi-nationalism approach which, taken together, combat the tendency for multiculturalism to simply rationalize “privatization.” Democratic multi-nationalism increases the opportunities for legitimate Indigenous-state conflict, enhances the degree of transparency and publicity in decision making to ensure proper levels of state accountability, and insists that meaningful autonomy includes an availability of political choices for any and all “autonomous” agents.

The permanency of group conflict

The second tenet of my democratic multi-nationalism model is the notion that *conflict between groups and the state is, by definition, an avoidable aspect of group autonomy*. Group autonomy is based on the morality of self-rule yet, as we have seen, the self-rule of “autonomous” groups is always practiced within a context of constraint due to

the unavoidable dependencies and power asymmetries in their relations with various aspects of the state. The unavoidable fact of these dependencies and asymmetries increase the possibility of state dominance over “autonomous groups” while the discourse of group autonomy obscures this relationship and suppresses the degree of conflict through the power of co-optation and “privatization.” It is these practices that characterize neoliberal multiculturalism. Democratic multi-nationalism, on the other hand, is based on the notion that conflict between groups and the state is not something to be avoided, minimized, or obscured through bureaucratic management but rather is an essential aspect of any healthy practice of group autonomy.

I have argued that morality as self-governance rules out, on principle, paternalistic interference by the state that lacks democratic participation and consent by those affected. *Deliberation between Indigenous peoples and the state* is therefore a central aspect of democratic multi-nationalism. Further, I argue that this deliberation must take place within a particular discursive framework. While a certain conception of morality underlies the autonomous political standing of Indigenous peoples in Canada (that is, morality defined as self-rule) it is the *political* aspect of this standing that is problematically de-emphasized in current constructions of group autonomy.

Deliberation and political reciprocity

The principles of democratic legitimacy and democratic autonomy would require that Canadian governments remain accountable to autonomous Indigenous peoples and yet, as we have seen, traditional channels of government accountability, such as voting, do not function sufficiently to meet this task. Other channels of democratic

accountability, such as deliberation, must therefore be considered. While deliberation is key it must be of a particular nature. A predominantly moral discursive framework for relations between autonomous Indigenous peoples and governments, for instance, cannot fully address the power differentials that are inherently symbolized and reinforced by participation in the dominant moral discourse for many Indigenous peoples. Only a political frame, one that acknowledges the realities of autonomy as relational and contextually constituted, can work to reconfigure power relations, both symbolically and materially, to publicly empower Indigenous peoples as autonomous agents with collective rights to hold governments accountable.

A political perspective acknowledges that the unique authority of the state remains operative, however, state dominance may be challenged and de-centered as the political legitimacy of the power of the state becomes an ongoing subject of political contest between Indigenous agents and Canadian governments. In this model ongoing political conflict is expected and can occur rightfully without Indigenous peoples conceding legitimacy to the dominant moral frames or Indigenous identities favored by the state. *In other words, political reciprocity, characterized by legitimate political deliberation is a necessary aspect of democratic multi-nationalism.*

The need for political reciprocity in 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 (RCAP 1996). Yet, these issues generally do not get the political responses they warrant leaving groups to

search for mechanisms of accountability. The general lack of political will on the part of the Canadian government was once again demonstrated recently by the Canadian government's refusal to sign the UN declaration on Indigenous rights due to "security" concerns. At the same time, the need for democratic channels of accountability between Indigenous peoples and the Canadian state was explicitly demonstrated by the Assembly of First Nations recent decision to go to the Human Rights Commission regarding the inadequacy of Canadian governments' Indigenous child welfare policy and service delivery. On February 23, 2007 a Canadian Human Rights complaint was filed by the Assembly of First Nations and the First Nations Child and Family Caring Society of Canada regarding the lack of sufficient funding for First Nations child welfare. Upon filing the complaint, National Chief Phil Fontaine stated:

There are more than 27,000 First Nations children in state care. This is a national disgrace that requires the immediate and serious attention of all governments to resolve. [...] Rational appeals to successive federal governments have been ignored. After years of research that confirm the growing numbers of our children in care, as well as the potential solutions to this crisis, we have no choice but to appeal to the Canadian Human Rights Commission [...] I have said all along that *I would rather negotiate than litigate* [...] But we have the right to determine what is best for the future of our children. Our children must have an equal opportunity to grow-up with their families, in their communities, and in their culture. No First Nation child should have to forgo this opportunity as a result of poverty or an inability to access basic services (Emphasis added. Assembly of First Nations 2007).

These sentiments were shared by other Indigenous leaders. According to the Federation of Saskatchewan Indian Nations Chief Lawrence Joseph, "First Nations leadership have been forced into the position of launching this formal complaint against the federal government [...] It has become clear to our leadership that governments do not respond to demonstrated, real and growing needs in First Nations child welfare" (Assembly of First

Nations 2007). According to the website of the Department of Indian Affairs, fundamental change in the funding approach of First Nations Child and Family Services Agencies to child welfare is required in order to reverse the growing rate of children coming into care, and in order for the agencies to meet their mandated responsibilities. Yet, as Cindy Blackstock, executive director of the First Nations Child and Family Caring Society of Canada, notes:

[While] we could not agree more [with these recommendations...] The federal government still has not acted on the recommendations [...] We can no longer stand still as the safety and well being of First Nations children depends on implementing this solution so we are proud to stand with the Assembly of First Nations in filing this human rights complaint. (Assembly of First Nations 2007)

How do we understand these kinds of failures on the part of Canadian governments? The principles of democratic multi-nationalism are based on the contention that this failure lies in large part with dominance of moral discourse without the necessary political reciprocity between groups and various aspects of the Canadian state. In other words, these issues are not sufficiently and legitimately politicized (and in fact are at increasing risk for further depoliticization as the Manitoba case shows)—groups may have been granted “autonomy” by the state but they do not have democratic autonomy—that is, the protection from domination that comes from the dispersion of power as well as meaningful opportunities to contest it.

Despite reports, royal commissions, and apologies for past wrongs, examples of state neglect, abuse, and irresponsibility abound in Canadian governments’ relations with Indigenous people in Canada. The earlier case discussion details some of these areas. The failure of Canadian governments has resulted in a myriad of highly complex social problems for which there are no simple solutions. Canadian governments, both federal

and provincial, are directly implicated in the development and maintenance of these circumstances. While the needs of Indigenous children and families have been discussed in some detail through the Manitoba child welfare case, other examples abound of complex crisis situations for Indigenous peoples and communities.

Ultimately, the failure to act on the part of the Canadian or provincial governments is not due to a lack of moral deliberation on their part but a lack of sufficient political power on the part of Indigenous peoples to hold Canadian 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 peoples well. It has not worked to hold Canadian governments sufficiently accountable for their continuing colonial power over Indigenous peoples. An emphasis on moral consensus, as is common in Indigenous-state relations has generally resulted in a hegemony that benefits the state. The circumstances of Indigenous peoples in Canada must be recognized not simply as a set of moral problems to be deliberated, or a set of social problems to be managed by bureaucratic experts, nor even a set of cultural issues to be devolved to Indigenous peoples but first and foremost as a political problem that requires the recognition of Indigenous peoples as distinct legitimate political entities and the creation of specific democratic processes, I suggest agonistic processes, through which the state is to be held to account for its relationship with Indigenous peoples. In the next section I take up the Greek concept of agonism as a necessary part of fulfilling democratic autonomy. Agonism allows for the necessary level of respect between autonomous agents while at the same time it encourages relationships

of rivalry and contest. Both of these aspects are, I suggest, essential features of the model of deliberation I argue in the democratic multi-nationalism approach.

Agonistic autonomy

The political legitimacy of such democratic processes depends upon de-centering rather than reinforcing Canadian sovereignty. From this perspective, Indigenous peoples 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 Alan Cairns (2000), nor “minorities” as argued by Will Kymlicka (1995). Moreover, the distinction between Indigenous peoples and non-Indigenous Canadians is not a division to be overcome but an enduring reality that must be “constructed in a way that energizes democratic confrontation” (Mouffe 2005, 4-5) amongst these groups.

I have identified the permanency of conflict, deliberation, and political reciprocity as key principles in the democratic multi-nationalism approach. Taken together, these principles suggest an agonistic model for Indigenous-state relations. Before discussing the merits of agonism in depth I want to first note that, while proponents of agonism such as Chantal Mouffe often outline this approach in opposition to liberalism, particularly deliberative democratic approaches for liberal democracies, I do not support this distinction. Liberalism can come in many forms, including, I suggest, radically democratic forms that accept the principles of agonism and the messiness, passion, and emotion of politics that agonistic approaches rightly highlight. Of course, simply because

liberal approaches have this potential does not mean that this potential has been met. It is this need to fulfill this unmet potential that I wish to emphasize in this chapter.

An agonistic approach not only accepts the permanency of conflict but suggests that conflict, at least in certain forms, can enhance democratic practice, particularly in pluralist societies facing hard case of difference. Chantal Mouffe (2005) contrasts the democracy enhancing form of conflict associated with agonism with the more threatening conflicts associated with relations of antagonism:

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)

An agonistic conception of democratic conflict situates the concept of group autonomy in a robustly political way. This conception goes far beyond the simple granting of “recognition” or abstract group rights. Agonism dictates that the conflicts between Indigenous peoples and Canadian governments 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 that challenge the current hegemony in Canada are legitimately included and respectfully listened to and acted upon within public spheres:

What is at stake is the agonistic struggle [...] is the very configuration of power relations around which a given society is structured: it is a struggle between opposing hegemonic projects which can never be reconciled rationally. The antagonistic dimension is always present, it is a real confrontation but one which

is played out under conditions regulated by a set of democratic procedures accepted by the adversaries. (Mouffe 2005, 21)

While this approach challenges a political practice centered on consensus the deliberative ideal of reciprocity is, I argue, still central to it. In fact, reciprocity is key to transforming antagonisms into agonisms. However, this political reciprocity must go beyond the moral “consultation” and “consensus” that has characterized Indigenous-state relations in the past, including the recent child welfare devolution documented in the earlier case discussion of this work. Finally, this political reciprocity must be backed with the possibility of real change and a “multipolar” public sphere.

Groups, therefore, must have access to meaningful political power. If not, antagonisms will continue to develop outside “legitimate” channels, and will result in potentially dangerous consequences. 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 activists¹ 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, as the case discussion illustrates, through the granting of certain forms of “group autonomy.” Rights, in this case group rights to autonomy, can and should give political voice to Indigenous peoples in their relations with the state. But, their voices can only be adequately heard if the proper avenues are available. Rights alone do not provide sufficient opportunities for deliberation which leads to the final two components of

democratic multi-nationalism—autonomy as public recognition and political choice.

These tenets of the model help to identify how relational autonomy can be situated in a multipolar agonistic political context. As will be discussed, the notion of counterpublics is central in ensuring that the principles of democratic multi-nationalism are met in the case of Indigenous-state relations in Canada.

Relational autonomy in an agonistic political context: The role of counterpublics

While some scholars of agonism hold out hope for traditional institutional, even parliamentary, solutions (Mouffe 2005) 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. As Nancy Fraser (1997) argues, 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)

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, 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” (76). 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 reveals the benefits of multiple publics over a single comprehensive notion of the public for two kinds of modern societies—stratified societies and egalitarian multicultural societies.

Members of subordinated social groups including women, workers, people of color, and gays and lesbians have repeatedly found it advantageous to constitute certain alternative publics defined as *subaltern counterpublics* that “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” (Fraser 1997, 81). The existence of these counterpublics works for democracy by expanding discursive space. Assumptions that remain exempt from a single comprehensive public now have a site in which to be publicly argued out. Thus, while

these counterpublics are “subaltern,” the principle of publicity remains key in order for 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” (82). 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)

This argument about the dual-character of counterpublics is echoed in the work of Indigenous scholar Dale Turner (2006) who, in his efforts to increase Indigenous participation, advocates a kind of dual-track approach to Indigenous politics. 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. On the one hand, Turner argues for a particular internal process within Indigenous peoples that fosters the maintenance and development of Indigenous ways of knowing, particularly Indigenous ways of understanding Indigenous meanings of and justifications for nationhood and self-determination. These understandings may directly challenge and contest the understandings that dominate the existing order.

This brings Turner to the second track of his prescription for change, a track that is focused on external relations—specifically, relations between Indigenous peoples and

Canadian governments. Whatever Indigenous theories of nationhood look like, they must evolve out of a dialogue *between* Canadian policy makers and Indigenous peoples due to the fact that it is predominantly non-Aboriginal judges and politicians who have the power to protect and enforce Aboriginal rights. The asymmetries in power and influence between Indigenous peoples and the Canadian state will likely never be fully eliminated and participatory parity also seems unlikely to occur. Yet, Fraser argues, that for stratified and/or multicultural societies participatory parity “is more closely approximated by arrangements that permit contestation among a plurality of competing publics rather than by a single, comprehensive sphere”² (1997, 77). Most importantly, “contestation among competing publics supposes interpublic discursive interaction” (1997, 82). Dialogue amongst publics is therefore central to their role in democratic enhancement. At the same time, the 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.

Overall, the essential role played by subaltern counterpublics in pluralist democratic societies is directly relevant to the issues raised by “group autonomy” for Indigenous peoples in Canada who are in both a “stratified” and “multicultural” context. While current models of group autonomy seem to draw on a conception of counterpublics, the relational critique presented earlier in this work demonstrates that the essential links between publics that are integral to the dual role counterpublics play are sorely lacking in current models. This prevents these counterpublics from fully challenging and publicly holding to account the dominant decision making bodies. In

other words, these counterpublics are prevented from meeting their full democratic potential. The result is a privatized autonomy, an outcome of the *neoliberal multiculturalism* discussed throughout this work. This assessment 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 counterpublics is reviewed in the next section. As will be discussed, these publics are crucial to pursuing democratic relations with the state and just outcomes for autonomous Indigenous individuals and communities.

Indigenous peoples: Counterpublics in Canada

Indigenous peoples have always had their own diverse publics in which alternative ways of knowing are articulated and to which Indigenous members are passionately and politically attached. Many Indigenous peoples are working to strengthen these publics both in urban and reserve settings and in areas like the North and the Prairies the demographic trends support this movement.³ Canadian governments have witnessed the existence of these publics through the *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 the existence of robust counterpublics, 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 *Delgamuuk v. The Crown* (1997). It is through court cases such as *Delgamuukw* that these counterpublics and their associated alternate ways of knowing have been revealed within dominant Canadian institutions, a fact that has led

James Tully to conclude that these events are evidence of the emergence of “a new hybrid field of recognition and deliberation” (2004, 84). While certainly not all “non-mainstream” publics fit the definition of a counterpublic, the demonstrated objectives and activities of those discussed here suggest that many Indigenous publics meet the criteria quite well.

As Angelia Means observes (2002), the *Delgamuukw* case in particular demonstrates not just already articulated counter visions to the existing order but the possibility of (an arguably limited) transformation in relations between Indigenous peoples and Canadian governments that can arise when these alternative visions are given legitimate political voice and expression. In this Supreme Court case Indigenous plaintiffs were granted “argumentative authority” in a manner previously unprecedented.⁴

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. (Means 2002, 222)

The *Delgamuukw* case demonstrates the realities of living together in multinational states—specifically, it points to the need for a dialogical process that recognizes antagonistic differences between Indigenous and Canadian publics. 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 be voiced and transformed through deliberation, as well as some of the current constraints to this kind of democratic process. In this case, the Indigenous plaintiffs chose to challenge the existing norms of the dominant judicial system in terms of their own culture through a counter discourse chosen to facilitate agonism over antagonism. Their participation in the court process and their conscious choice to emphasize “meaning giving” over privacy placed the plaintiffs in a respectful contest with the state that transformed aspects of the process itself. The impact of “expressive discourse,” in this case storytelling, together with the wearing of traditional regalia was critical to proving their claim. These aspects of the case are significant because they reveal the importance of framing. This case shows how demonstrating profound “difference” is central to proving certain Indigenous claims.

It is important to note, however, that while observers such as Means regards this type of “intercultural democracy” as an adequate replacement for Indigenous politics based on a notion of sovereignty, this view is often not shared by Indigenous commentators, many of whom also reject the authority of the courts given that their legitimacy arises out of the colonial state (Turpel 1991, Turner 2006, Monture-Angus 1998). These observers have also pointed out that the “victory” won in *Delgamuukw*, which involved decisions on the nature and scope of Aboriginal title was 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 practice of relational autonomy: a dialogical and, most importantly, a political act occurring between autonomous agents that are interconnected due to the realities of 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 and democratic potential of Indigenous counterpublics. The events of this case are significant because they illustrate the potential to move conflict into an institutionalized venue that transforms the nature of the conflict itself. Thus, while active antagonisms outside institutional domains are often key to gaining a hearing within institutionalized domains, it is the existence of public sites of deliberation that is key for democratic multi-nationalism as these sites are the necessary element for transforming antagonisms. Further, while this court case reveals the potential for deliberation, the notion of counterpublics depends on a much more robust multiplicity of public spaces for deliberation. Overall, this case points to the necessity of politically engaging with Indigenous 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. They are only available to “listen” to issues that can be articulated in the language of jurisprudence and within constitutional documents such as *the Canadian 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. There is some new evidence emerging that suggests these political negotiations work to indirectly improve some of the complex social problems Indigenous peoples face by facilitating a sense of respect and acknowledgement for members of the communities involved.⁵

Once again, however, the nature of this process also rules out some alternative voices (Alfred 2005, Coulthard 2007). While some groups may choose this route of articulation, the treaty process is simply not available to any and all Indigenous peoples, particularly those who live in urban as opposed to reserve-based settings. The third most obvious example of a potential channel through which Indigenous perspectives may be articulated in an interpublic capacity is the relations numerous Indigenous organizations have formed with various aspects of the Canadian state on both the national and sub-national level, such as the Assembly of First Nations, the Native Women's Association of Canada, the Métis Federation, and the Inuit Tapiriit Kanatami⁶ amongst others. While the extent of their status as counterpublics is likely to be contested within Indigenous circles, these associations are perhaps the best evidence that many Indigenous peoples recognize a need for inter-public dialogue. At the same time, 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 organizations have with the Canadian state (Turpel 1991, Alfred 1999, 2005, Monture-Angus 1998, Coulthard 2007). This fact only lends more weight to the proposal for multiple publics and a multipolar democratic context as it suggests that there is much more to be "heard" from a variety of potentially overlapping, and potentially conflicting, Indigenous counterpublics. What is therefore required are 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.

Indigenous publics feature their own debates, conflicts, and diversity but also work to articulate conceptions of justice alternative to those of 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 the powers that be and their guiding principles/assumptions. It is worth noting that 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.⁷ Democracy 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.

Limits and critiques of the democratic multi-nationalism model

There are two concerns with the approach. First, the focus on accountability in this work almost exclusively refers to the accountability of the state to the “autonomous” group. Yet, within political thought more generally, the concept of autonomy is understood to imply responsibilities which are held by those who are autonomous. For example, in the work of Kant, a person is autonomous if he is accountable to others by

way of moral reasoning. Thus, an obvious point of inquiry involves identifying the forms of responsibility and accountability that Indigenous peoples would take on as a consequence of being “autonomous,” particularly in the relational sense. I have consciously chosen not to make this question a central part of this work for two main reasons. First, the question of group accountability both to individual members and to the broader society represented by the state largely characterized the second wave of multiculturalism literature, particularly in the feminist critiques of scholar such as Susan Moller Okin (1999) and Ayelet Shachar (2001). My work responds to this prevailing emphasis and aims to shift the focus from this already elaborated aspect of group autonomy to the under-examined question of state accountability in the unique context of group autonomy. Second, the question of group accountability in the context of group autonomy is by definition, a question that must be addressed in dialogue with the members of said group. With respect to the theme of Indigenous autonomy in Canada, an increasing body of literature about Indigenous autonomy, and the political positioning of Indigenous organizations like the Native Women’s Association of Canada demand for Charter protection within a context of autonomy suggest that this topic is currently a focus of significant deliberation both within and between various Indigenous peoples. Generally, however, it must be noted that the concept of relational autonomy argues that if relational autonomy were achieved and Indigenous peoples held accountable for issues such as the well-being of their children, this responsibility will always remain shared with Canadian governments and societies to some extent given the realities of interdependence and connection we face. This fact necessitates clear traceability for decision making—a central objective in my model of democratic accountability—but most importantly it

necessitates opportunities for shared strategies, influence and evaluation amongst the parties involved. Finally, in order for the principle of democratic autonomy to be fully achieved, this principle must be extended not just to relations between the state and group(s) but within the groups—that is amongst individual groups members as well. The fundamental importance of context and case-by-case responses I have outlined suggest that exactly how these relations are best ensured may be different for specific groups or sub-groups and is therefore a subject best left to other projects.

A second point of criticism that may arise from the assumptions of my model of democratic multi-nationalism is that the history of federalism in Canada undermines some of its central claims. Specifically, my model suggests that some form of infeasible prior political standing is necessary for Indigenous peoples to pursue adequate social policies through negotiations with the various aspects of the state. Federal systems, at least of the classic variety, are also based on a notion of infeasible prior political standing and yet, the literature on fiscal federalism often reveals this relationship to result in the under-provision of public services.⁸ This is an important point to consider for any group contemplating negotiations with the state in areas of social policy. Federalism does often work as a conservative force. At the same time, however, the literature on federalism more broadly, particularly that on “provinces building”, also suggests the contestability of this point (Black and Cairns 1966). It is prior political standing that has allowed the provinces to develop into the strong political entities they have become, despite the strong centralist intentions of many of Canada’s founders, particularly those of Sir John A. MacDonald. While it is certainly true that there will likely always be some under-provision of social services, especially within a neoliberal political context, prior political

standing can, I suggest, still function to better the playing field between Indigenous peoples and non-Indigenous Canadians. While inadequate service provision is not unique to these groups, it is these groups who have endured and continue to endure some of the worst consequences of our current system—an outcome, I suggest, that may have been mitigated by legitimate political empowerment.⁹

Conclusion

It is for Indigenous peoples to decide who in their communities should participate and how. Given the diversity of Indigenous peoples in Canada there is likely to be a parallel diversity in their notions of how best to politically engage. It is the responsibility of the Canadian state, however, to open up to these counter perspectives and to be willingly held to account for its 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.

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 publics of Canadian governments in a manner that works to foster legitimate processes of political reciprocity and that respects non-dominant groups and/or nations *on their own terms* as much as is possible given the above mentioned realities. 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 outlined in this chapter and who therefore fail to fully appreciate the *political* dimensions

of these circumstances.¹⁰ 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, the principles of relational autonomy—specifically, that autonomous agents are contextually constituted and hence constantly undergoing processes of change—rule out the possibility of a universal or standard approach. My objective here is not to prescribe how Indigenous peoples 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 policy. What I have worked to demonstrate is that current conceptions and practices of “multicultural citizenship” for national minorities, particularly conceptions based on cultural group autonomy, are, to date, incomplete responses to current challenges of difference, particularly those challenges associated with Indigenous justice. I have argued for two key components of a notion of group autonomy that must be incorporated into any analysis.

First, group autonomy is always relational. Dependence and obligation are a part of autonomy but must be transformed to offer the most balanced relations of power and agency possible in a given context. Key to this transformation is the principle of democratic legitimacy. It is through avenues of democratic accountability that existing power dynamics can be contested and properly checked and autonomy can be exercised.

Second, given the current realities that make up the current context of Indigenous-state relations I have suggested that responses that incorporate the principles of

democratic multi-nationalism—that is, the morality of group autonomy, the permanency of group conflict, the need for deliberation and political reciprocity, and an agonal notion of the state-group relations—provide much more likelihood of achieving and maintaining meaningful group autonomy for Indigenous peoples in Canada. The benefits, I suggest, are in the interest of the Canadian state—both in terms of global ethics and domestic security—in the long term. The alternative should be heeded closely: without legitimate avenues for agonism, counterpublics are left only with a politics of antagonism which may lead to events of political violence and civil disobedience.

6 CONCLUSION

The question of how best to engage with the realities of multiculturalism has been central to the theory and practice of citizenship in recent decades. Current changes in Canadian public policy offer much opportunity to further develop our critical insight into and prescriptions for meeting the challenges raised by “multiculturalism.” In this dissertation I have drawn on the case of Indigenous peoples in Canada, specifically in regard to developments in child welfare policy, to demonstrate that current theories and Canadian policies of multiculturalism are deeply problematic. Current theories fail to engage with the implications and constraints the welfare state context has for policies of multiculturalism, particularly those centered on notions of “group autonomy.” These theories also fail to fully engage with the nation-to-nation understanding of Indigenous-state relations.

While the discourse of “group autonomy” increasingly dominates debates in multinational states like Canada, there is much work to be done to unpack the complexities and constraints that accompany this principle in political practice. This project has worked to identify and fill this need by demonstrating the significance of the welfare state context, particularly the neoliberal state, in order to show that policies of group autonomy can develop from various objectives, including those that meet the objectives of the state over and above the interests of “autonomous” groups.

The first part of the dissertation details the complex dynamic that exists between multiculturalism and neoliberalism. Up until now, when the welfare state and multiculturalism are considered together, it is generally as an argument against group-differentiated rights based on the assumption that these rights will lead to the narrowing

of the welfare state and/or that the recognition of difference will undermine the solidarity required to provide legitimacy to a broad set of social benefits by replacing a theory of justice rooted in redistributive economics with a theory of cultural recognition. For these critics, the state's pursuit of multicultural policies eventually leads to a fractured and contracted welfare state. While others have worked to dispel this claim, their analysis remains unidirectional—that is, focused only on how certain policies of multiculturalism may impact the welfare state (Banting and Kymlicka 2003, 2006). Scholars on either side of the debate fail to consider the possibility that the neoliberal welfare state may actually shape the kinds of multiculturalism and forms of “accommodation” that have emerged in recent years.

The failure to analyze this relationship between the simultaneous trends in the state's approaches to multiculturalism and the state's conception of the welfare state is due first to the fact that national groups like Canada's Indigenous peoples have publicly demanded differentiated rights that grant group autonomy over various policy areas. Thus, the changes in state policy to accommodate Indigenous autonomy appear to be a direct and progressive response to these demands as opposed to neoliberal responses rooted in a very different set of social and economic objectives of the neoliberal state. While groups certainly have made, and continue to make, demands on the state, this project has demonstrated how both elements are at play in the contemporary politics of multiculturalism.

A second reason this dynamic is unexplored is because the complexities and inconsistencies of neoliberalism, particularly the shifting boundaries between public and private, are often overlooked. The dominant perception of neoliberalism is that its

principles lead to a rejection of multiculturalism since the neoliberal state's focus must, by definition, be on the individual rather than the group. This dissertation has demonstrated how this simple characterization overlooks two important realities. First, there are different streams within neoliberalism. While some streams of neoliberal thought appear outright hostile to any and all forms of multiculturalism, others offer more visible room for certain visions of multicultural citizenship, particularly to the extent that it dovetails with the contraction of the public sphere. In fact, I have argued, visions of multicultural citizenship based on notions of autonomy can fit well with the values of a certain libertarian stream.

Further, even within a more conservative stream of neoliberal theory, room exists for certain forms of accommodation, especially visions based on some version of the values of autonomy, community, and cohesion which underpin this stream of neoliberal thought. Through the case analysis of the devolution of Indigenous child welfare I have shown that there are real benefits to governments operating in a neoliberal context and their constituents by conceding certain forms of cultural accommodation. In distinguishing the actual practices of neoliberal states (i.e. neoliberal governance) from abstract neoliberal values (i.e. neoliberal ideology) we are better prepared to see the potential overlap between multiculturalism and the welfare state context.

Overall, the welfare state's role in promoting and/or inhibiting the economic and social equality of individual citizens impacts the sphere of group-differentiated rights by shaping the notions of group autonomy which accompany these rights. More specifically, the concerns raised by "welfare liberals" T.H. Marshall and John Rawls regarding the social and economic aspects of autonomous citizenship must be included when

developing new approaches to multicultural citizenship; particularly considering notions of culturally-differentiated group rights. Recent scholarship on the politics of privatization reminds us that, “[a] whole new set of assumptions about the role of government and the rights of citizens is emerging” (Cossman and Fudge 2002, 16) which challenges the parameters of the public put forward by welfare liberals and includes a shift away from citizen rights, particularly social rights, towards citizen obligations. This kind of restructuring involves a variety of practices that have come to dominate liberal democratic politics since the fiscal crises of the 1980s and which redraw the public-private boundaries in order to shrink some aspects of the public by granting autonomy to the market, the family, and, I have argued, “minority” or “national cultures.” The emergence of the politics of privatization signals the emergence of a new welfare regime which then acts as part of the dynamic citizenship context in which all other questions of citizenship are debated and approached including questions of multiculturalism.

Beyond the simple shifts in the distribution of resources or “who pays for what” that are associated with privatization more generally, feminist political economists have demonstrated that the legal amendments of neoliberalism also work to legitimate or make illegitimate certain social and cultural forms. It is this broader attitude shift, heretofore un-investigated as an element in current manifestations of group autonomy, which has been the focus of this work. This project has shown that while the majority of critical work on privatization has highlighted “the market” and “the family” as key areas that are currently being (re)defined by the neoliberal context, “cultures” (particularly “national cultures” with strong claims to self-determination/group autonomy) are also (re)defined in relation to neoliberal attitudes and practices.

As demonstrated through the case discussion, current models of group autonomy exhibit each of the key components of privatization (i.e. re-privatization, re-regulation, co-optation, de-politicization, and individualization) bringing new obligations to the group and resulting in significant accountability gaps regarding the continued actions or inactions of the state. The conclusion drawn from my analysis of Indigenous child welfare reform in Manitoba is that the decentralization of social policy associated with group autonomy is not always the concession to groups seeking political autonomy it is claimed to be in the dominant multiculturalism literature or state rhetoric. While the existing literature assumes that neoliberalism and multiculturalism are distinct, often contrary trends, I have demonstrated that this is not, in fact, always the case. The shared emphasis on autonomy at the centre of these movements results in the possibility of *neoliberal multiculturalism*—that is, a set of practices through which the welfare regime of a state shapes the specific policies of multiculturalism. The state chooses to implement particular policies based on the neoliberal context which results in certain policy effects that benefit the state more than the “accommodated” group by publicly distancing the state from ongoing, though obscured, policy area responsibilities.

Upon outlining the complexities presented by multiculturalism in a neoliberal context, the second part of this project offers an alternative approach characterized by two key components. The first is a relational conception of group autonomy that can better act to safeguard against some of the most negative consequences of group autonomy as it is dominantly conceived and practiced while still maintaining autonomy as a necessary guiding principle in the development of just multicultural citizenship. My examination of the centrality of group autonomy in the “Canadian school” approaches of Will Kymlicka

and Charles Taylor has shown their responses to the dilemmas of liberal-democratic multi-nationalism to be, at best, partial responses with significant limitations and implications due to an overly bounded, and abstracted sense of group autonomy. In response, I draw upon the ethics of care approach to underline the notion that autonomy must be understood as social in nature, and contingent, or processual, in practice. At the centre of the practice of meaningful autonomy is practical agency and that agency is always exercised by embedded actors. “Others” will always be part of the exercise of one’s agency in some form or another. From this perspective, autonomy is not about creating barriers to keep others out so much as ensuring that individuals are effectively empowered when interacting with one another.

This leads to the second component of my alternative approach—that is, the need for democratic multi-nationalism. If we accept that autonomous groups remain in relationships of power with the governing state in which the state maintains certain governing authority and influence in relation to the group, as I have demonstrated is the case in the child welfare example of Manitoba, we must also accept that the state must abide by the minimal standards required by the principles of liberal democracy, particularly democratic accountability. This requires not only that an agent is accountable for itself but also that it is able to hold the state accountable. The significance of democratic accountability in the group autonomy debate is the subject of the last section of this work.

In contrast to current practices of neoliberal multiculturalism, I offer a model democratic multi-nationalism that not only accounts for the ever-changing relationships, institutional structures, and processes that make up the public context in which group

autonomy is to be granted and exercised, but also argues for legitimate political avenues required for autonomous groups to uncover, address, and interrogate these relationships. The central political relationship for an “autonomous” group is with the agent that creates and regulates the group’s sphere of autonomy—that is, its relationships with the many facets of the state. Due to the power of this particular relationship, an investment in group autonomy requires that specific attention be paid to the structures and processes of this relationship. It demands the development of concepts, avenues and procedures that ensure opportunities for dialogue between autonomous groups and other agents in which autonomous groups can continually address the medium of their autonomy as well as any ongoing or new obligations and responsibilities that arise between agents. In short, it takes us to a more robustly democratic model of cultural group autonomy—an *accountable autonomy*.

This democratic multi-nationalism approach requires that Indigenous-state relations are conceived of as inherently *political* in nature as opposed to culturally defined and constituted and that real political power be available to Indigenous peoples 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 a negative autonomy—that is, the autonomy of the non-participant. This section of the dissertation concludes that Indigenous counterpublics in Canada are a key resource in the pursuit of democratic Indigenous-state relations that can meet the political, participatory demands of relational group autonomy.

It is for Indigenous peoples to decide how best to ensure their own democratic institutions and the most suitable manner in which to organize their relations with the

various facets of the Canadian state. Given the diversity of Indigenous peoples in Canada there is likely to be a parallel diversity in their notions of how best to politically engage. It is the responsibility of the Canadian state, however, to open up and to be held to account for their continued relations with Indigenous peoples. Most importantly, the vision of autonomy through democratic accountability presented here calls into question the prescriptions made by dominant liberal multiculturalists that fail to fully address the participatory and democratic aspects unique to multinational societies and who therefore fail to fully appreciate the political dimensions of these circumstances.

What do these conclusions and suggest for the Manitoba case study? I have consciously chosen not to make a detailed prescription for how best to rectify the inadequacies of the current model of state-sponsored multiculturalism. Instead, what I recommend is a *process*, which therefore rules out any single, one-time fix to the challenges I have highlighted. Second, I argue that while the province of Manitoba has treated Indigenous child welfare as a bounded policy area, this treatment of child welfare is far too piecemeal to fully address the inherently related socio-economic issues that currently fall outside Aboriginal jurisdiction. Thus, I suggest, any successful process of Indigenous autonomy must also take a much broader and more holistic account of the policy areas meant to be addressed.

Group autonomy notwithstanding, the unique power and authority of the state in their relations with “groups” remains central as Canadian governments continue to exercise authority over autonomous Indigenous peoples both directly and indirectly through various policy initiatives. Further, some level of Canadian state involvement will always be the case given the unique powers of the Canadian state and the realities of

shared territory. Thus this project brings the state back in by showing the remaining, though often obscured, responsibility, it holds in its relations with autonomous groups.

Working from and within a specific context is key to the relational group autonomy approach. As a result, the prescriptions articulated in this work are oriented towards the particular realities confronting Indigenous-state relations in Canada today but may have broader implications. While I have focused on the policy area of child welfare, this analysis bears significant relevance to the numerous other policy areas that are currently being devolved from the jurisdiction of Canadian governments to Indigenous peoples, particularly policy areas such as health, education, and policing. At the same time, this analysis also bears relevance for other multinational states such as Australia, Great Britain, and the United States. How relational autonomy may be best employed in these specific contexts remains an open question that deserves further exploration beyond the current case, particularly in the current era of increasing globalization and the new forms and practices of interdependence globalization brings.

NOTES

Chapter 1

¹ In this work, the term “welfare regime” is used to denote the welfare state in its broadest sense. As Esping-Anderson observes, “[t]o talk of ‘a regime’ is to denote the fact that in the relation between state and economy a complex of legal and organizational features are systematically interwoven.” Thus, the welfare state context involves an ever-shifting constellation of social rights that are shaped by and, in turn, contribute to a policy paradigm which impacts not only the typical “welfare” policy areas themselves but the overarching citizenship regime in which all matters of equality, autonomy and accountability are interpreted, upheld or dismantled (1990, 2).

² These arguments are well reviewed by Will Kymlicka and Keith Banting (2003, 59-66). See also Anthony Giddens (1999).

³ As will be discussed throughout this dissertation, the designation of Indigenous peoples in Canada as “minorities” is contested by the majority of leading Indigenous scholars and activists.

⁴ These individuals and bodies include: Geoffrey York (1989); Royal Commission on Aboriginal Peoples (1996); Taiaiake Alfred (1999); Patricia Monture-Angus (1998); Patrick Macklem (2001); and Charles Taylor (1994).

⁵ Of particular interest are Skinner et al. *Meaning and Context: Quentin Skinner and His Critics*, Tully’s “Political Philosophy as Critical Activity,” and Foucault’s “What is an Author?”

⁶ For an overview of the articulation of Aboriginal rights by Canadian courts, see Michael Murphy's "Culture and the Courts: A New Direction in Canadian Jurisprudence on Aboriginal Rights?" (2001).

Chapter 2

¹ While the terms "politics of recognition" and "politics of multiculturalism" are often used interchangeably, the two are not entirely identical. As Parekh explains, the politics of recognition can be used to describe any and all intellectual and political movements that "represent practices, life-styles, views and ways of life that are different from, disapproved of, and in varying degrees discouraged by the dominant culture of the wider society (2000, 1). The politics of multiculturalism, on the other hand, "is not about difference and identity *per se* but about those that are embedded in and sustained by culture; that is a body of beliefs and practices in terms of which a group of people understand themselves and the world and organize their individual and collective lives (3). In this work my focus is on cultural movements and any invocation of the politics of recognition is made in this specific regard.

² Esping-Anderson explains: "By scoring welfare states on spending, we assume that all spending counts equally" but spending alone does not necessarily contribute to social citizenship and solidarity. For example, in Britain's Thatcher period, total social expenditures grew, yet this was almost exclusively a function of very high unemployment. At the same time, "Low expenditure on some programs may signify a welfare state more seriously committed to full employment" (1990, 19-20).

³ Keith Banting and Will Kymlicka give a concise overview of these arguments in their article, “Multiculturalism and Welfare” (2003). According to Banting and Kymlicka, the three main arguments that make up this criticism of multiculturalism are: “the crowding out effect,” “the corroding effect,” and “the misdiagnosis effect.”

⁴ For example, in regards to the Nisga’a treaty in British Columbia, the biggest proponents of settling the treaty negotiations were not only Indigenous peoples but also the downtown Vancouver business sector who benefited from the stability offered by a signed agreement

⁵ Jenson and Papillion define a citizenship regime as, “the institutional arrangements, rules, and understandings that guide and shape concurrent policy decisions and expenditures of states, problem definitions by states and citizens, and claims making by citizens. Through formal mechanisms like rights and systems for the exercise of those rights, a citizenship regime establishes the boundaries of inclusion and exclusion of a political community. “In doing so, it identifies those entitled to full citizenship status and those who only, in effect, hold second-class status.” A citizenship regime also prescribes the democratic rules of the game including the institutional mechanisms giving access to the state, the modes of participation in civic life and public debates and the legitimacy of specific forms of claims making. (2000, 246).

⁶ This perspective is generally consistent with T.H. Marshall’s seminal contributions in *The Right to Welfare* (1981). For Marshall, welfare “has wealth as a near neighbour and companion, and the relationship between the two of them is best described as intermittent entanglement” (53). Marshall explains:

For it is obvious that welfare, in the broadest sense, is achieved largely by the consumption of goods and services that money can buy and money is wealth. And it is also true that the welfare, or social services have been mainly concerned, during the greatest part of their history, with supplying goods and services to those too poor to buy for themselves; welfare in this sense was a substitute for money, or wealth. Yet even in this context of the things that money can buy, wealth and welfare are not identical [...] whereas the possession of goods or of money is wealth, *the satisfaction of wants is welfare* (Emphasis added. 53-4).

⁷ The justification for the welfare state has since been refined by Goodin who argues that needs in and of themselves, “do not deserve the kind of priority that Old Left arguments accord them. But they do correlate with things that do” (1988, 25). Specifically, Goodin argues, “When people’s needs are unmet, they are likely to be desperate, dependent, and hence exploitable. The welfare state is justified [...] as a device to guard against this possibility; and the way it does that is by meeting people’s needs, thereby rendering them independent and nonexploitable” (25-6). *Public* provision is key to ensuring nonexploitation. Goodin explains: “those who depend on particular others for the satisfaction of their basic needs are rendered, by that dependency, susceptible to exploitation by those upon whom they depend. It is the risk of exploitation that justifies public provision—and public provision of a distinctively welfare state form—for those basic needs” (121).

⁸ While Canada’s unwillingness to sign on was attributed to issues of federalism by the Canadian representatives, Schabas argues that concerns about impinging upon provincial jurisdiction “served only as a pretext” (2000, 199). Arneil suggests, however, this “underplay[s] what was, and continues to be, one of the most critical issues in the Canadian implementation of social/economic rights of the *Declaration*” (214). There is perhaps merit in both perspectives as provincial jurisdiction was likely a concern but was

likely a concern amongst others that were not articulated publicly by Canadian representatives.

⁹ Schabas correctly observes that at present, “[t]he courts can declare legislation incompatible with civil and political rights invalid, but the same is not the case for economic and social rights” (2000, 204). In response he argues for the “indivisibility” of rights and suggest that through a “dynamic,” “evolutive” interpretation of the Charter we can include economic and social rights under already existing sections such as section 7 which protects “life, liberty, and security of the person” (205). In a critical response, however, Arneil points out that there is good reason not to leave the matters solely up to the courts. For Arneil, “we must address *both* the legal and judicial *and political* channels that must be engaged with if real solutions are to emerge” (2000, 220). I will return to both of their observations around social rights and accountability in upcoming chapters.

¹⁰ Giddens remarks that for neo-liberals “the welfare state is seen as the source of all evils in much the way capitalism once was by the revolutionary left” (1998, 13).

¹¹ While the politics of privatization share much in common with the minimal government approach of classical liberalism, the “third way” discourse which accompanies these processes are quite distinct and mark a new era of political relationship between state and citizens.

¹² A discourse of inevitability, particularly related to “globalization” and/or “global markets” is often invoked to explain the state’s move towards privatization. While these forces may play a role they should not cause us to overlook the continued agency and complex motivations of the state within this changing power dynamic. As Foucault notes:

it is certain that in contemporary societies the state is not simply one of the forms or specific situations of the exercise of power—even if it is the most important—but that in a way all other forms of power relation must refer to it [...] power relations have come more and more under state control (although this state control has not taken the same form in pedagogical, juridical, economic systems). In referring here to the restricted sense of the word *government*, one could say that power relations have been progressively generalized, that is to say, elaborated, rationalized, and centralized in the form of or under the auspices of institutions (1982, 224).

¹³Stephen Harper’s childcare policy underpinned by his notions of “parental choice” and “autonomy” is the quintessential example of this approach. As it was explained in a Speech from the Throne, his government “helps citizens who help themselves” by redirecting resources away from state regulated care (Canada 2006).

¹⁴ Some values are, of course, private and, as the case discussion explores, this is true in relation to Indigenous autonomy. What I wish to emphasize here is this process of moving issues in which the state remains largely implicated out of the tradition domain and mechanisms of government accountability.

¹⁵ This concept obviously draws on Foucault’s observations on government. As he states:

[M]ost of the time, the state is envisaged as a kind of political power which ignores individuals, looking only at the interests of the totality, or should I say, of a class or a group among citizens. That’s quite true. But I’d like to underline the fact that the state’s power (and that’s one of the reasons for its strength) *is both an individualizing and totalizing form of power*. Never, I think, in the history of human societies—even in the old Chinese society—has there been such a tricky combination in the same political structures of individualizing techniques, and of totalizing procedures. (Emphasis added. As quoted in Rabinow 1984, 14)

¹⁶ Bashevkin discusses how the increasing jurisdictional decentralization emanating from the BQ and Reform parties combined with an emphasis on lowering taxes and balancing budgets (2002, 81). The 1995 Quebec referendum in particular demanded a government that demonstrated flexibility and openness toward decentralist arguments. She cites the

CHST—Canada Health and Social Transfer—as one example of many that allowed the federal government to claim credit and avoid blame (83) in the manner highlighted by privatization scholars.

¹⁷ They are “rights” theorists and have been criticized by communitarians critics as such. As Kymlicka observes, Marshall’s conception of citizenship, “is often described as ‘passive’ or ‘private’ citizenship, because of its emphasis on passive entitlements, and the absence of any obligation to participate in public life” (2002, 288).

¹⁸ For Rawls this obligation stems largely from his view of membership in political society as “involuntary.”

¹⁹ Fraser defines the postsocialist condition as “a skeptical mood or structure of feeling that marks the post-1989 state of the Left [...] this mood expresses authentic doubts bound to genuine opacities concerning the historical possibilities for progressive social change” (1997, 3).

²⁰ Fraser has been harshly criticized by some, particularly Iris Marion Young, for failing to appreciate this point. And, at times, it does appear as though Fraser asserts that these two kinds of subordination *can* be clearly distinguished at least in regards to *some* contemporary movements. See Young’s “Unruly Categories: A Critique of Nancy Fraser’s Dual System’s Theory” (1997). Still, Fraser’s separation of the two is mainly for analytical purposes. Overall, she does acknowledge that the two are very much interconnected *in practice*. For a more in depth discussion on the limitations of this binary conception of injustice, see Young as cited above.

²¹ Fraser makes this claim based on the assumption that while recognition claims focus on putting forward largely permanent, positive images of group distinction to work against

group misrecognition, “the task of the proletariat is not simply to cut itself a better deal but to abolish itself as a class. The last thing it needs is recognition of its difference” (1997, 18).

²² The area of family law being one prime example.

²³ As Monture-Angus states: “At most the Canadian history of adjudicating Aboriginal claims can be viewed as a string of legal victories, secured at great cost to both Aboriginal nations and individual citizens of those nations, each no more meaningful than a stroke of a pen. Because these legal victories are viewed against a backdrop of political non-will, the illusion is created that their magnitude is great” (1998, 65).

²⁴ As will become clear, these reasons are, in fact, not dissimilar to some of the arguments Fraser herself makes in her subsequent chapter on “counter-publics” in which she appears to not only support existing notions of identity but calls for the public assertion of these identities as well. In fact, if groups are allowed space to conceive of their identities as they wish we might be in a better position for truly transformative politics for which she is looking.

²⁵ According to Schneider and Ingram, “Target population is a concept from the policy design literature that directs attention to the fact that policy is purposeful and attempts to achieve goals by changing people’s behavior” (1993, 335).

²⁶ For Marshall this occurs when welfare is provided, however, citizens are not consulted—there is a lack of democratic process (1981, 170).

Chapter 3

¹Sawchuck cites as an example Section 35(2) of Canada's *Constitution Act* of 1982. The Act states: "In this Act, 'Aboriginal peoples of Canada' includes the Indian, Inuit, and Métis peoples of Canada. Here the construct 'Indian' is an obvious fabrication, conflating many disparate cultures and political and linguistic groups into one overall entity" (Sawchuck 2001, 3). Sawchuck's observations regarding Métis identity are particularly significant when discussing Manitoba as the Métis have an important presence and history in the province. Sawchuck observes, "The Métis organizations, after intensive lobbying to have the category of 'Métis' recognized in the constitution, now find themselves in the same position as that of Indians. That is, they now must live with the consequences of an overarching classification, one that is no more appropriate for them than it is for 'Indians.' The Métis have many local, regional, and cultural variations which militate against their being considered a unified whole. To date there has been little government recognition of this disparity" (2001, 73).

² And, as will be explored in the forthcoming discussion, Indigenous leaders face profound constraints in their relations with Canadian governments as they are currently constituted.

³ While changes in child welfare policy for Indigenous peoples are occurring in various provinces to varying degrees, this paper focuses mainly on the case of Manitoba due to its unique policy reform to be discussed shortly. These changes are also being considered by other provinces as a template for reform.

⁴ As Marlee Kline notes in her critical analysis of the 1994 decision by the Alberta government to privatize the delivery of child welfare services in Alberta, the movement to

“community-based” child welfare services may not be a simple case of progressive change (Kline 2000). This analysis works in the same critical vein as Kline’s work by examining the dynamic between these trends and the dominant “multiculturalism”/ “group autonomy” discourse.

⁵ While beyond the scope of this chapter, it is worth noting that while these trends have serious implications for all group members, they hold particular significance for Indigenous women as the process of neo-liberal restructuring is inherently gendered (Brodie 1995) and often results in these women and their children “falling through the cracks” (Cossman 2002, 170). See also Joyce Green’s “Canaries in the Mines of Citizenship” for an in depth exploration of the unique issues confronting Canada’s Indigenous women.

⁶ The following chapter responds to this critique in a prescriptive fashion.

⁷ For a comprehensive overview of these concerns, see *Aboriginal Governance in Urban Settings Working Together to Build Stronger Communities* Conference Report (2002) organized by The United Native Nations, The Aboriginal Council of Winnipeg, and The Institute on Governance on March 31, 2002.

⁸ While Manitoba may present one of the most glaring examples of overrepresentation of Indigenous children in child welfare, the problem of overrepresentation exists throughout Canada. For example, British Columbia also reports high numbers of Indigenous children in care in the publication, *Liberating Our Children, Liberating Our Nations* (1992). According to its statistics: Aboriginal people make up less than 4% of the population of British Columbia, but of the 3393 children-in-care as a result of court orders under the Family and Child Services Act, 1751 of those children (51.6%) are Aboriginal. The

number of children-in-care is not static. Children move through the system, being returned to their families, adopted by strangers, or reaching the age of majority. The rate of new admissions remains constant. In 1991-92, 952 Aboriginal children became wards of the Superintendent in BC. Over a single generation, an average of more than one out of every five Aboriginal children are becoming wards of the Superintendent (White and Jacobs 1992, 2)

⁹ The Aboriginal Healing Foundation (2002) estimates the number of residential school attendees still living at about 90, 000 Aboriginal People. According to Statistics Canada's *Aboriginal People's Survey* (2001), one-third of Aboriginal People aged fifteen and over living off reserve had family members who attended residential schools (Statistics Canada 2001).

¹⁰ As Fleras and Elliott note, Canada has been ranked at or near the top by the United Nations as the best place to live in the world, yet Aboriginal people on reserves are ranked 63rd on a human development index (1999, 49).

¹¹ As discussed in the 1996 RCAP, "Residential schools were more than a component in the apparatus of social construction and control. They were part of the process of nation building and the concomitant marginalization of Aboriginal communities." They were about preventing crime, and having "peaceful" stable conditions for the settler majority. While the "best interest of the child" test has since been modified, it was used historically to impose standards developed by judges that ignored the importance of culture and heritage for Indigenous children and contributed to a racist, assimilationist system overall (Monture 1989, Kline 1992).

¹² Residential schools reached their “high point” in 1931 with 80 schools and grew again in the 1950s as part of Canada’s post-war expansion into Inuit homelands. The residential school system was maintained until the 1980s with schools built in every province and territory except Prince Edward Island, New Brunswick, and Newfoundland. Children from every “Aboriginal” group were registered including Indian, Inuit, and Métis although the federal government did not officially assume any constitutional responsibility for Métis people at the time (RCAP 1996).

¹³ The impact of these schools is in many ways immeasurable. In regards to death rate of students, some ran as high as forty-seven per cent (RCAP 1996).

¹⁴ Even more troubling is the fact that these realities were known to both government and church authorities throughout the history of the school system (RCAP, 1996).

¹⁵ For a more detailed discussion on the experiences of children in these schools and the impact these experiences has had on individuals, families, and communities, see Bull (1991), Assembly of First Nations (1994), and Annett (2001).

¹⁶ As Monture observes, “First Nations people are also overrepresented within the criminal justice process. Criminologists have long recognized the relationship between family breakdown and delinquency” (1989). For more on this issue, see also the Aboriginal Justice Inquiry (1991) and the RCAP (1996).

¹⁷ Monture describes this as a need to recognize the “indigenous factor”—which refers to “the unique character of First Nations children as members of a specific class” (1989, 3). Monture traces most issues, “be it child welfare, criminal justice, family violence, alcohol and drug abuse, lack of education and employment” to a conflict in the basic values of Indigenous societies and dominant Canadian society. A conflict fundamentally

characterized as “force and coercion” versus “consensus and cooperation” (1989, 3). For more discussion on the Indigenous worldview, see George Manuel and Michael Posluns, *The Fourth World: An Indian Reality* (1974), as well as Grace Ouellette’s *The Fourth World: An Indigenous Perspective on Feminism and Aboriginal Women’s Activism* (2002), Alfred (2005), and Morrisette (2005).

¹⁸The Aboriginal Justice Inquiry was established in the spring of 1988 to investigate the condition of Aboriginal people in the justice system. It was conducted by Justice Murray Sinclair and involved fairly extensive consultation with Aboriginal communities and a number of public hearings. The scope of the AJI included all aspects of the system including policing, courts and correctional services. The findings and recommendations of the AJI were released in a wide ranging report in 1991.

¹⁹ The Manitoba Métis Federation (MMF) is the political representative organization for the Métis people of Manitoba. It was founded in 1967 and presently has over 200 staff at the Home Office and in seven Regional offices throughout the Province. The objectives of the Manitoba Métis Federation are set out in its Constitution:

- To promote the history and culture of the Métis people and otherwise to promote the cultural pride of its membership.
- To promote the education of its membership respecting their legal, political, social and other rights.
- To promote the participation of its members in community, municipal, provincial, federal, Aboriginal, and other organizations.
- Generally, to promote the political, social and economic interests of its members.

The definition of “Métis” has also been significantly contested and Canada’s Métis

people have historically faced a disregard for their distinct identity and rights from the Canadian state and at times from other Indigenous organizations. According to MMF:

“Métis” means a person who self-identifies as Métis, is of historic Métis Nation Ancestry,

is distinct from other Aboriginal Peoples and is accepted by the Métis Nation. In early 2001, *in R v. Powley*, a moose hunting case, the Ontario Court of Appeal found that Métis near Sault Sainte Marie had rights as a people. For more discussion on the Métis identity, see Sawchuck (2001) and MMF (2005).

²⁰ The Northern Manitoba organization of First Nations Chiefs.

²¹ Client “choice” was considered imperative to avoid the risk of Charter of Rights and Freedoms challenges that could arise without it. While beyond the scope of this chapter, this notion of “choice” also deserves attention as the “Authority determination process” is intended to “encourage” certain choices and unavoidably constrains others (AJI-CWI 2003).

²² As Hudson and McKenzie explain, “The intent of the policy change enjoys widespread support. This was reflected in the feedback provided during the public consultation phase, and stakeholder groups, including current service providers, are quick to qualify any criticism by noting their principled commitment to the changes” (2003, 55).

²³ Noël invokes this phrase as well as Keohane’s notion of “hegemonic cooperation” to describe the position of Quebec in the post-1990 era of Canadian “cooperative federalism.” His general concerns, however, are largely mirrored in the Indigenous child welfare case example. Noël observes that while Canadian federalism may be increasingly “collaborative,” this does not ensure that it is non-hierarchical. In fact, he suggests despite the emphasis on processes of consultation and agreement he argues, “Canadian federalism has never been more centralized.” He explains: “Collaboration occurs, but it is the collaboration of rowing agents who follow the indications of a steering principle whose behavior is difficult to understand, let alone predict. Negotiations do take place but they

do not involve more or less equal partners seeking to reduce uncertainty. They are defined, instead by the most powerful player, able to induce others to abide by rules that it can change at will.” (2000,) Alfred observes similar trends regarding partnerships between Aboriginal groups and Canadian governments: It must be understood that the aboriginalist assault takes place in a politico-economic context of historic and ongoing dispossession and of contemporary deprivation and poverty; this is a context in which Indigenous peoples are forced by the compelling needs of physical survival to cooperate individually and collectively with the state authorities to ensure their physical survival (2005, 599).

²⁴ To be sure, the history of Canadian state-Indigenous relations has repeatedly demonstrated that funding alone will not resolve the complex issues at stake.

²⁵ As Foucault notes: “it is certain that in contemporary societies the state is not simply one of the forms or specific situations of the exercise of power—even if it is the most important—but that in a way all other forms of power relation must refer to it [...] power relations have come more and more under state control (although this state control has not taken the same form in pedagogical, juridical, economic systems). In referring here to the restricted sense of the word *government*, one could say that power relations have been progressively generalized, that is to say, elaborated, rationalized, and centralized in the form of or under the auspices of institutions” (1982, 224).

²⁶ See also Hudson and McKenzie (2003) on the topic of continued ministerial authority.

²⁷ In many ways this simply repeats past issues of accountability gaps produced by the jurisdictional disputes between the provincial and federal governments that characterized child welfare service provision in the 1970s and 1980s. This same pattern can also be

seen in other interaction between the Canadian state and Indigenous peoples. For example, Green (2001) observes the federal government's reaction to the 1985 *Indian Act* revisions to allow bands to determine membership following years of government implemented racist and sexist membership codes. As she states, "The bands in question resist criticism by invoking rights claims and traditional practices; *the federal government washes its hands in deference to self-government*" (717).

²⁸ By invoking the concept of "privatization" in this way I do not wish to negate the fact that Indigenous peoples have their own publics. In fact, Indigenous publics are a central focus in the discussion of the following chapters.

²⁹ As will become clear, I do not wish to argue against all conceptions of group autonomy. An alternative perspective on relational autonomy is developed in the next chapter.

Chapter 4

¹ These rights refer to "a wide range of public policies, legal rights, and constitutional provisions sought by ethnic groups for the accommodation of their cultural differences" (Kymlicka and Norman 2000, 2).

² While there are a variety of approaches in political theory regarding potential ways to "deal" with "difference," the approach which has received the largest amount of attention is the liberal multiculturalism of Will Kymlicka and Charles Taylor—that is, an approach largely centered on the recognition of group-differentiated or "minority" rights within a liberal framework. The popularity of this approach within theory is mirrored in contemporary liberal democracies to varying degrees.

³ While not the direct focus of this chapter it is important to note that group autonomy is, of course, complicated by the fact of individual autonomy in a distinct way. No collective entity is entirely homogenous and the two forms of autonomy can and do conflict.

⁴ While feminist and communitarians share a critical view of liberal notions of individual autonomy, I will draw on the former over the latter in this chapter. I am focusing on the feminist critiques in particular due to the relevant parallels I see between feminist social movements and “multicultural” social movements. I believe the same concerns that cause many feminists to both reject and embrace autonomy are relevant to the multiculturalism debate. For a good overview of the communitarian critiques, see “Communitarianism” in Will Kymlicka’s *Contemporary Political Philosophy* (2002).

⁵ As indicated earlier, this “minimalist” conception of autonomy is often taken by critics as interchangeable with “liberal” conceptions of autonomy. As will become clear, however, I suggest there is room within liberalism for alternate conceptions of autonomy and will therefore generally stick to the term “minimalist” to indicate this particular interpretation of autonomy for the remainder of the discussion.

⁶ Even Kymlicka has acknowledged the insights care approaches bring to discussions of justice. See Kymlicka’s “Feminism” in *Contemporary Political Philosophy* (2002).

⁷ There is diversity amongst ethics of care theorists on the implications of “care” for both the development of social policy and the theoretical foundation of citizenship. What I wish to emphasize here is the common threads amongst these thinkers in order to extend the principles of a care approach to autonomy as generally understood to a group autonomy model.

⁸ While Nedelsky goes so far as to say we need to reject autonomy's "liberal incarnation," I would argue that as there are many possibilities for conceptions of autonomy so too are there many possibilities for conceptions of liberalism. Thus, I diverge from Nedelsky in her rejection of the liberal paradigm.

⁹ It must be acknowledged that these two terms have very different theoretical genealogies with autonomy arising out of an Anglo-American liberal analytical framework and authenticity arising out of the continental traditions of Hegel, Herder, Rousseau and Kant. Nevertheless, the manner in which these two different conceptions are invoked by these thinkers *in their discussion of multiculturalism* are strikingly similar.

¹⁰ Taylor's discussion on the inadequacies of minimalist conceptions of individual autonomy extends beyond his work on multiculturalism. For an in depth discussion of this topic, see Taylor's "Atomism" in *Philosophy and the Human Sciences* (1985).

¹¹ It is important to note that for Kymlicka societal cultures are generally "national cultures." Thus, for Kymlicka, the right to group autonomy associated with societal cultures only applies to national minorities within multinational states as opposed to other cultural groups which is generally refers to as "poly-ethnic" groups. While his distinctions between the two groups have been subject to significant criticism, Kymlicka distinguishes national minorities as those groups which were "involuntarily incorporated" through conquest or colonization. "Had a different balance of power existed, these groups might have retained or established their own sovereign governments" (1995, 10-11).

¹² According to Kymlicka, there are two kinds of claims that can be made by a cultural group. "The first involves the claim of a group against its own members; the second involves the claim of a group against the larger society" (1995, 35). While both of these

can be labeled as “group rights” Kymlicka advocates only for the latter which he refers to as “external protections.”

¹³ As such group autonomy is conditional for Kymlicka.

¹⁴ The only potentially significant difference between Taylor’s authenticity and liberal autonomy centres on the emphasis on uniqueness and/or distinction that authenticity may bring. As Cook notes, however, “in its initial formulation the politics of difference—like the politics of equal dignity—does not presuppose distinctiveness; it leaves open the question of whether the identity formed, and life lived, by each individual is unique; nor does it imply that uniqueness is normatively significant. To this extent, in its initial formulation, the politics of difference is not connected with the ideal of authenticity. For this ideal attributes moral value to individual distinctiveness” (1997, 261). She goes on to argue that even a stronger formulation of the politics of equal difference has “no *necessary* connection with the ideal of authenticity.” Instead she suggests, “the connection results from Taylor’s selective reading of the demand for recognition that underlies this politics” (1997, 261). This selected reading, I suggest, is largely explained by Taylor’s particular Canadian context. Taylor’s primary cases of the politics of recognition are the Quebecois and the First Nations groups living within Canada. In the Canadian legal-political context that surrounds these two cases “distinction” has become central in the discourse.

¹⁵ See, for example, Amy Gutmann’s discussion in her “Introduction” to Taylor’s “The Politics of Recognition” in *Multiculturalism* (1994).

¹⁶ For an explicit discussion of how Kymlicka and Taylor conceive their work as different from one another, see pages 221-24 in Kymlicka’s *Contemporary Political Philosophy*

(2002). In this work Kymlicka chronicles how Taylor rejects the liberal insistence that individuals have the ability to detach themselves from any particular social practice (223)—in other words, Taylor’s communitarianism leads him to reject the self as prior to its ends, which is a central tenant in the liberal approach, including Kymlicka’s own instrumental approach to multiculturalism.

¹⁷ For both authors these freedoms are conceived of as somewhat conditional. Both suggest restrictions on group rights in relation to liberal rights although criticisms have been raised (by feminist critics in particular) regarding the level of actual commitment advocates of group rights have to the prioritization of liberal principles. These criticisms (see, for example, Okin [1999] and Shachar [2001]) appear to have some merit at least in regards to Kymlicka who eventually conceded that illiberal practices may be an unavoidable consequence of group autonomy. He states: “In cases where the national minority is illiberal, this means the majority will be unable to prevent the violation of individual rights within the minority community. *Liberals in the majority will have to learn to live with this just as they must learn to live with illiberal laws in other countries*” (Emphasis added. 1995, 108).

¹⁸ Both Kymlicka and Taylor have made significant contributions in debunking the strict “minimalist” conception of individual autonomy. In addition to their works on multiculturalism, see Taylor’s “Atomism” in *Philosophy and the Human Sciences* (1985) and Kymlicka’s *Contemporary Political Philosophy* (2002).

¹⁹ Once again, the dynamic between individual and group autonomy is much more complex than Kymlicka allows for given that group and individual autonomy can and do conflict.

²⁰ As noted earlier, while Taylor’s work does emphasize the dialogical aspect of identity, he does not fully engage with the implications of dialogue for the practice of group autonomy sufficiently at the level of inter-group, or, as will be discussed, group-state relations.

²¹ While there have been concerns raised regarding the interplay between group rights and democracy, to date these concerns have primarily focused on how to maintain certain standards of democracy within the “accommodated” group—that is, how the state can and should hold the group accountable to democratic values, particularly in regard to “minorities within minorities.” There has been little to no discussion of how the group can and should hold the state accountable for its continued exercise of power over and obligations to autonomous groups within the state.

²² While I do not wish to fully take up this point in this work, I have argued elsewhere that a relational conception of individual autonomy aids in addressing these complexities by highlighting the contextual constraints group members face within the group. See Fiona MacDonald, “The Anatomy of Autonomy: Exploring the Implications of Minority Rights Approaches for Dilemmas of Contemporary Citizenship” (2002). This point has also been addressed by various scholars working to reconcile individual and group autonomy and with specific regard to Indigenous peoples in Canada. See, for instance, Joyce Green’s “Canaries in the Mines of Citizenship.”

Chapter 5

¹ For a comprehensive overview of an Indigenous politics of contention, see Taiaiake Alfred’s *Wasáse: Indigenous Pathways of Freedom and Action* (2005). 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).

² Although opportunities for participatory parity will increase as Indigenous populations in certain areas of Canada (Saskatchewan and Manitoba are the two foremost examples) also increase in proportion to the non-Indigenous populations in these regions.

³ According to Statistics Canada, the Aboriginal population in Canada overall has been steadily increasing for decades. From 1901 to 2001, the Aboriginal ancestry population increased tenfold, while the total population of Canada rose by a factor of only six. However, the rate of growth was very different in the first half of the 20th century compared with the second half. During the first 50 years, the Aboriginal population grew only 29%, whereas the total population far more than doubled (161%). This relatively slow rate of growth among the Aboriginal population occurred because high mortality rates more than offset high birth rates. On the other hand, between 1951 and 2001, the Aboriginal ancestry population grew sevenfold, while the Canadian population as a whole only doubled. The growth in Aboriginal population is most significant in the North and Prairie regions of Canada as these areas have the highest concentrations of Aboriginal population. According to the 2001 census, the 22,720 Aboriginal people in Nunavut represented 85% of the territory's total population, the highest concentration in the country. Aboriginal people represented more than one-half (51%) of the population of the Northwest Territories, and almost one-quarter (23%) of the population of the Yukon. The census enumerated 150,040 Aboriginal people in Manitoba and 130,190 in Saskatchewan, in each case about 14% of the province's population.

⁴ 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).

⁵ These finding also reinforce the argument put forward in this work that funding alone cannot address the complex situation Indigenous peoples living in Canada now face. See Michael Chandler (forthcoming).

⁶ The national Inuit organization in Canada.

⁷ This is not to say that all issues between Indigenous peoples and Canadian governments can or will be resolved fiscally but rather underlines the fact that Indigenous-state relations are inherently conflictual.

⁸ For a discussion of the relationship between fiscal federalism and social policy, see Banting et al., *The Future of Fiscal Federalism* (1994).

⁹ For more in-depth discussion on the nature of federalism in Canada, see Donald V. Smiley’s *The Federal Condition in Canada* (1987). Alongside Cairns, Smiley emphasizes the impact of federal structures on the organization of society. He emphasizes three features of federalism that are salutary from a democratic perspective: federal diffusion of power is a bulwark against tyranny; competition between federal and sub-national authorities sustains civil liberties and the rule of law; and, to the extent that policy preferences are unevenly distributed geographically, preferences will be more “fully realized” under federalism than in a unitary state, given certain conditions. While he recognizes that coordination can be a problem in a federal system, and that federalism is

often a conservative force, he also notes that the existence of multiple jurisdictions opens up opportunities for innovation and greater information collection which may make for more effective public policy.

¹⁰ 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” (2006, 6-7).

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