

TWO CONCEPTS OF POLITICS:
THE PRIVATE GROUP / THE PUBLIC PERSON

by

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Abstract

As a result of mis-founded paternalism and policies of assimilation, the latter half of the twentieth century in Canada, and elsewhere, was marked by the emergence of a politics of fear between minority groups and governments, minority groups and majority groups and between individual members of these groups. This environment selected for the emergence of a model of politics that focused on group solidarity and fraternity within minority groups and called for the preservation of group differences. This concept of politics can be termed the private group. There are three main problems with the private group. Firstly its claims boil down to a defense of value relativism when all the evidence points to the fact that this is not the case. Secondly, and somewhat ironically, the private group accentuates distances between people and in so doing exacerbates the politics of fear. Finally defenders of the private group overstate the necessity of membership in a particular group. Born out of fear of a larger group, the private group model is apt to lead to internal cruelty and further inter- and intra-group fear. The alternative is a model of politics based on the public person. The public person is characterized by reciprocity, civility and openness. Perhaps most importantly, differences are not viewed as existing in fixed terms between groups, but rather in relational terms between individuals. These qualities are likely to be selected for in the twenty-first century as not only states, but also individuals become more multicultural. The public person suggests viewing politics in a new manner, not as a contest but rather as a collaboration. This will alter the political system and suggests that rather than voting for MPs based on party platforms, people will vote for candidates based on their personal qualities. Governance will be carried out by a series of shifting alliances on particular issues. In the end an emphasis on the politics of the public person is likely to be more just than a mode of politics which is inclined toward the private group. A step towards accepting the model of the public person is likely to enable reconciliation between Aboriginals and non-Aboriginals and ultimately strengthen civil society in Canada.

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Introduction

[T]heory can claim to tell us what is really going on in society, challenging and upsetting our normal self-descriptions, either through identifying an unperceived causal context of our action, or by showing that it has a significance that we fail to appreciate.

– Charles Taylor¹

Political theory and practice in Canada is developing a dominant paradigm. This paradigm is based around the fact that Canada is officially multicultural. As opposed to the melting pot in the USA, reference in Canada is often made to the cultural mosaic. This paradigm sees the centrality of belonging to a particular group as being essential to leading a meaningful life; and therefore seeks to protect groups. Recent political and legal decisions support this view. Many Canadians are proud that their respect for cultures does not lead to assimilation. This belief does not entirely do justice to the world around us, although by way of its propagation, it shapes the world around us.

In this thesis I shall set out and explain this first paradigm of association – the private group – and discuss its shortcomings. The private group is not meant to describe any particular group in real life, rather it is a position taken by political theorists that sees the primary unit of political life being the group, which is defended in ‘private’ terms. Of course certain groups may exhibit more ‘private’ characteristics than others. In its place I propose a second paradigm – the public person – one which is more conducive to a certain type of freedom, one which is more open and fluid, and one which I believe needs to be incorporated into the political discourse of this country. Again, the public person is an ideal type, it is a view of political life that believes the primary unit is the person, and it promotes that person in a ‘public’ fashion.

In fact, the public person suggests a re-working of the private so that it encompasses other-oriented behaviour, and making this behaviour public, regardless of where it takes place. This model does not suggest a total negation of privacy, rather a new understanding. Neither is the public person / private group an absolute dichotomy. There

¹ Charles Taylor, “Political Theory and Practice”, in Christopher Lloyd (ed.), *Social Theory and Political Practice* (Oxford: Clarendon, 1983), 68.

are likely to exist a range of positions in the real world, which will also include groups that act in predominantly public fashion and individuals who exist mainly in the traditional private sphere. In fact one of the ironies is that while very few groups are totally private, they are often defended as such by theorists making the private group argument. One of the central reasons for promoting the public person is a belief in the importance of a strong civil society in Canada. In order for reconciliation to occur and civil society to be strengthened, more of the traits which underlie the public person will need to be taken up by everyday Canadians.

The first chapter shows how events in the 20th century resulted in the growth of a politics of fear. It also introduces the problems associated with the academic discussion of culture and multiculturalism. Throughout the thesis I make reference to the situation of Aboriginal peoples in Canada. This is because the justification for certain Aboriginal rights are often framed in the language of the private group. While I am not against certain rights such as self-government, I am opposed to the ways in which it is sometimes justified. These defenses alter people's ways of thinking about the other/others and are liable to increase fears and distances between different groups. The same right can be defended from a number of different bases, and whichever base is chosen, whatever the language used, will affect social interaction on the ground. For example, an Aboriginal right of self-government can be defended in terms of Aboriginal prior occupancy and sovereignty, as the courts have leant towards, or it can be defended upon a basis of lack of consent and subsequent discrimination. The first defense will concentrate on belonging to a particular group, will tend to essentialize about the group in backwards looking terms, and will not pay sufficient attention to those who do not fit in totally with the group, but have still suffered on the basis of being Aboriginal. The second defense is more individual based, and doesn't require the perpetuation of fixed differences.

While my discussion concentrates on Aboriginals in Canada, a lot of the theory is applicable to other groups. Quebecers, African-Americans, Aborigines in Australia and religious organizations such as the Amish are all examples of groups that are often defended in 'private' terms. It is these groups that often pose the largest problems to states. Often they are described as Nations, resisting the 'culture' tag. Nevertheless, there is little doubt that Aboriginals do possess unique cultures and that Canada is a

multicultural country, be it made up of a variety of nations or cultures. If multiculturalism is to be a meaningful discourse it is the problems thrown up by these groups that it must address. Perhaps, we should properly be talking about multinationalism or multigroupism. Will Kymlicka has been a vociferous proponent of distinguishing between poly-ethnic groups (recent immigrants) and national minorities such as Quebecers and First Nations. Poly-ethnic groups have been in favour of negotiating fair terms of integration into the larger society, while national minorities have been interested in achieving a form of separation and self-government. While there is a distinction to be made, there is no doubt that it is the latter group that throws up particularly difficult issues. It may make more sense to group these issues under multinationalism, although they are usually grouped under the concept of multiculturalism, because I believe, that is the niche they have evolved into in the political science tradition. Moreover there is little doubt that these *are* cultural groups among other things.

The two paradigms I describe are like the left eye and the right eye. The dominant paradigm sees only with the left eye, believing it sees the whole picture. Yet if the right eye opens, a new picture springs into view. It is a similar picture, with some of the same objects as well as some new one's. The objects include:

- equality and freedom
- nature and nurture
- authority and autonomy
- genes and memes
- romance and reason

The objects are arranged differently though, and if one lives one's life according to both eyes, it will be very different from how one would live it from the left. This thesis is an attempt to make people open their other eye. The world is a complex place and this thesis is a plea for complexity. Martha Minow discusses an episode of Sesame Street which asks children to identify the odd one out between: a table, a chair, a book, and a bed.² The Sesame Street answer is a book. Orthodox political theory would reply the same way. The right answer of course, varies, depending upon the criteria for determining groups. It is the variation that is the complexity.

² Martha Minow, *Making all the Difference* (Cornell University Press, 1990), 1.

If one looks back at the politics of the 20th century, one can discern two stages:

1. The period of colonialism/imperialism and patriarchy
2. The stage of postcolonialism/revolution and fraternity

The private group is an idea that belongs to the second stage having been selected for by the environment of the post-colonial world of the 1960s onward. All over the world policies of assimilation were abandoned and previously oppressed groups struck back and reclaimed their voices. But how authentic are these voices that they reclaimed? They are new voices produced as a result of racism, often speaking in bitter and resentful tones and demanding the opposite of assimilation – total separation. This is not surprising given where they have come from. The next historical stage might be the discovery of a middle ground that neither assimilates nor separates. The theory behind the ongoing Treaty Process in British Columbia³ is undoubtedly a step in this direction, although whether it achieves its objectives, or slants towards separation remains to be seen. For one thing, in today's world total separation is nearly impossible. If the first paradigm is followed through to its logical conclusion, there is a danger that Canada will become a more divided country – a country of solitudes⁴ and bitterness. It is possible though that the second paradigm can make its mark upon political discourse and that a more united, just, and truly multicultural Canada will emerge.

³ In December of 1990, the BC Claims Task Force was formed with a view to settling outstanding Native land claims in the province. As a result of a Task Force recommendation, the BC Treaty Commission came into being in 1993, in order to facilitate the negotiation of treaties between First Nations and the BC and Federal governments. The BC Treaty Commission has put forth a six-stage process for treaty making:

1. Statement of intent
2. Readiness to negotiate
3. Negotiation of framework agreement
4. Negotiation of agreement-in-principle
5. Negotiation to finalize treaty
6. Implementation of treaty

As of April 2001, 51 First Nations are involved in the process. Because some First Nations are pursuing claims at a common table, there are 42 sets of negotiations being carried out. Only 1 First Nation, the Sechelt, has reached Stage 5 – Negotiation to finalize treaty.

⁴ See Charles Taylor, *Reconciling the Solitudes: Essays on Canadian Nationalism and Federalism* (McGill-Queens University Press, 1993).

The next stage is being driven by capitalism (for better or worse) and the effective shrinking of the world. Yet it is some of the effects of capitalism and Americanization that are objected to by theorists of the dominant paradigm. The coziness of community is shattered. Homogenization returns, but in a more insidious fashion. Rather than being imposed by political powers from afar, it is chosen by its disciples from within. What happens to civil society in this case? Does it not erode? Do we not witness the growth of atomization and alienation? Not necessarily, although it will take a conscious effort to try and prevent this. Many critiques of liberalism/individualism are too unreal. They neglect the possibility of altruism, relying too much on rational choice theory and a nasty view of human nature. Undoubtedly human nature is of both types, but it is conceivable that we can achieve a situation, where some people act altruistically naturally, while others act altruistically in a rational fashion. This next stage, that of the public person, will mark a return to the ideas of the Emersonians; ideas not too far removed from those of traditional Aboriginal cultures. Perhaps we are already witnessing a turn in this direction – away from materialism, if we are to believe the arguments of Ronald Inglehart.⁵

Part of this thesis was funded by a graduate stipend from the Equality, Security and Community Project at UBC.⁶ According to the project brief:

policy changes themselves are the result of both the exogenous forces and a changing sense of community, participation, and "social capital". The latter factor reflects values and attitudes of the public toward caring, sharing, and collective action through public policy; those values and attitudes are in turn affected by economic experiences, including growing inequality and insecurity and by changes in public policy... Outcomes of interest include both equality and security for individuals and families and also societal aspects of community and political participation.⁷

My argument here is that the 'changing sense of community, participation and social capital' that the project recognizes is partly caused by an emphasis in terms of public policies that favour the creation of private groups. In order to improve equality and security for individuals, families and larger groups, as well as to improve social capital

⁵ Ronald Inglehart, *Modernization and Postmodernization: Cultural, Economic and Political Change in 43 Societies* (Princeton University Press, 1997).

⁶ <http://www.arts.ubc.ca/cresp>

⁷ <http://www.arts.ubc.ca/cresp/obj.htm>

and political participation, the discourse of the public person and the values underlying it have to take hold in Canada.

Part of the problem in discussing social capital and beneficial outcomes is to identify the pertinent level of community. When examining the politics of pluralism in Canada, what is *the* society? Is it an individual nation such as the Squamish, all the Salish people (to whom the Squamish belong), all First Nations, all rural British Columbians, all British Columbians or all Canadians? All of these units are societies at some level. All have their public spheres in which politics is carried out. The majority of members in each of these units may have definite interests which contradict with those of the majority of members in some of the other units. For instance, a gain in autonomy for the Squamish, may lead to a decline in social capital with other British Columbians and Canadians. This may be important for those 'other' Canadians whose self-identity is 'Canadian', and for whom being Canadian means, among other things, upholding the unity of the country and the political equality of its people. And what about those Squamish, or those Quebecers who do not consider themselves Canadian? They have no interest in maintaining Canadian unity. In fact recognition of their self-identity may depend upon overthrowing the very idea that is central to the belief systems of other Canadians. When considering equality, security and community in Canada one must constantly bear these issues in mind. For a white, middle-class Canadian from Winnipeg, 'equality' might mean absolute procedural equality, and security would refer to the political/geographical integrity of Canada as a whole. For a Nisga'a person from New Aiyansh, 'equality' may involve preferential hiring, and security may involve the transfer of powers from Ottawa to a government in the Nass Valley. These two 'Canadians' would have diametrically opposed views of what equality and security meant based upon identification with different levels of community in Canada. The debate about a referendum on the Nisga'a treaty focused attention on the appropriate level of community. While Nisga'a members voted on the deal, other British Columbians were denied a similar possibility, much to the chagrin of the BC Liberal Party.

Charles Taylor argues that a successful theory is validated by increased clairvoyancy in practice. This does not mean that existing practices become more successful, it may be that "what the theory will have revealed is that the enterprise is in vain; it is vitiated at the

very base.”⁸ But again whether or not the enterprise is in vain likely depends upon the level of community examined. It may be that many First Nations feel that the British Columbia treaty process is vitiated at its base, and may pursue their claims in court.

Accepting that difference theorists do have a point and that identity is to some degree fixed and given, but also accepting that individuals are autonomous and have the capacity to make meaningful choices, what should be the way forward for Canada and Aboriginal Peoples? It seems to be a matter of striking a balance between positions which seek to restore Aboriginal traditions and teach Aboriginal children ‘appropriate’ subjects for being Aboriginal and positions which argue for absolute procedural equality. The first position is found wanting because it overlooks the individual’s potential for choice and relies too much on essentialist notions of group identity. The latter position ignores the realities of the world today. It is not enough to ensure formal equality when groups start out from positions of severe disadvantage. Substantive measures must be taken to lift up members of these groups; measures which will enable them to participate in a more meaningful democratic system.

The essentialist school of argument holds that liberal democratic systems are alien to Aboriginal cultures, and broadly incommensurable with them. The best that we can therefore hope for is a toleration of group differences. I do not find this a particularly attractive or compelling argument. I believe that political and social inclusion in a multicultural country is a normative good. At least I hope that is the case, for it would be a sad world indeed if differences were so great that minority groups felt the need to create separate, almost isolated, societies. This would be a world which accepted that differences were fixed and given and therefore difficulties could not be overcome. It is a somewhat Hobbesian view, an extremely realist view in the language of international relations. It is a view of an anarchic world. It may be that some members of certain groups such as Aboriginals in Canada, do in fact take a Hobbesian view, and this is understandable given their tortured history since time of first contact with Europeans. However this situation has arisen in part due to lack of recognition of Aboriginals. If Canada had not treated First Nations so badly in the twentieth century then the calls for self-determination would likely not be as great as they are today.

⁸ Charles Taylor, “Political Theory and Practice”, 78.

The paradigm of the public person is a step in the direction of finding a happy medium between assimilation and separation. According to this view, equality is limited in scope to the equality of life potential of the individual (Paradigm 1 favours the equality of groups). Security will depend upon the relevant level of community. Unlike the society of private groups, community is much more flexible in the association of public people, and security is not necessarily a virtue. Whereas paradigm 1 attempts to secure fixed communities/cultures in time past, paradigm 2 looks forward and maintains that security only comes from renewal and change of social moralities. Paradigm 2 is that of the public/open individual. It is not the individual in public, for it implies that individuals act in public fashion in (newly) relevant aspects of their lives – those which involve potential harm to others. Paradigm one is marked by an adversarial style of politics between groups and individuals. The mode of public people strives for collaboration. All too often critics of individualism paint a picture of atomism, isolation and nastiness. Perhaps our current environment selects for this – a form of economic/material individualism. Yet it need not be so. George Kateb, drawing upon Emerson, sees the opportunity of something richer growing from democratic individuality, always mindful of the threat of economic individualism and materialism.⁹ It is this tradition I draw upon in formulating the concept of the public person.

Finally, I should acknowledge my own background, as this has undoubtedly informed this thesis. I am not a Canadian citizen, although I feel a strong connection to Canada. I have lived in seven different countries, and have always been something of an outsider. My parents now reside in Kamloops, British Columbia. My wife's family is a mix of French-speaking Acadians and English-speaking (formerly Welsh-speaking) Canadians who immigrated from Britain. My brother in law is an adopted half-Cree, half-German. Her family is concentrated in The Pas, Manitoba and also throughout New Brunswick, Quebec, Alberta and Ontario. I have benefited from visiting all of these people and places while writing this thesis. I have no doubt that my concern with complexity and fluidity is a direct result of my own experiences.

⁹ See George Kateb, *The Inner Ocean: Individualism and Democratic Culture* (Cornell University Press, 1992), as well as his chapter on "Democratic Individuality and the Meaning of Rights", in Nancy Rosenblum (ed.) *Liberalism and the Moral Life* (Harvard University Press, 1989).

The Politics of Fear

Where every activity is an activity of government, the opportunities of conflict between communities organized for this kind of 'security' are enormously increased in number and the occasions in severity... No community, can, in fact, enjoy comprehensive security without so great a command over the affairs of so many other communities that, where submission is not immediately forthcoming, conflict is unavoidable.

– Michael Oakeshott¹

It is fear of un-necessary conflict in society that drives this thesis. The politics of fear is a politics primarily concerned with avoiding evil.² It is a negative politics. Cruelty, violence and humiliation are seen as the greatest ills for they prevent an individual from freely pursuing his/her own ends.

Fear is an oscillating presence between different groups in politics. Fear exists on four distinct levels: firstly there is a form of administrative fear on the part of government. This may be fear of ethnic / inter-group cruelty as in Canada or Belgium, or it may be fear of the power of particular groups, such as the Falun Gong in China. Then there is fear of the government. This is characteristic of places such as Afghanistan and China, where governments like the Communist Party and the Taliban rule by fear. There is also the fear of one another that exists between groups, often fuelled by past injustices, and aided by distances; aided by the creation of the unknown. This is the type of fear that is rife in Indonesia and the former Yugoslavia. Finally there is fear between individuals, which is particularly characteristic of authoritarian regimes such as China under Mao, or the USSR under Stalin.

It is clear that civil society cannot exist in a culture of debilitating fear. Pluralism in theory, or multiculturalism in practice, is one answer to the question of how to such

¹ Michael Oakeshott, *The Politics of Faith and The Politics of Scepticism* (Yale University Press, 1996), 101.

² Two pieces have recently centred around the idea of a politics of fear. The liberal concern with fear is central to Judith Shklar's, "The Liberalism of Fear", in Nancy Rosenblum (ed.) *Liberalism and the Moral Life* (Harvard University Press, 1989). More recently Jacob Levy has written *The Multiculturalism of Fear* (Oxford University Press 2000).

lessen fears. The irony, all too often, is that a form of *fixed* pluralism exacerbates the distances between groups and in so doing produces an environment conducive to the furthering of fear. Preserving the status quo can also cause fear and be cruel in itself. The politics of fear therefore requires careful navigation.

The politics of fear was the starting point in many ways for both Isaiah Berlin and Michael Oakeshott. Both men lived through the effects of totalitarianism in Europe, and both saw reasons for it. Berlin saw the growth of romantic nationalism from Herder to Hitler. He saw the abuses of positive liberty.³ Oakeshott saw the effects of rationalism, and the growth of the anti-individual.⁴ The utilitarian purpose of government according to Oakeshott is to “keep its subjects at peace with one another in the activities in which they have chosen to seek their happiness”.⁵ Why does Oakeshott value keeping the peace? Here one is inclined to consider the role which Hobbes played in Oakeshott’s thought; for the role of government in Oakeshott is similar to the role of the sovereign in Hobbes. It is minimal, and it is not concerned with men’s souls. But all men require it to prevent their lives from being nasty, brutish and short – “[i]ndeed, it may be said that no durable association of human beings is possible in the absence of this activity”.⁶ Government, at the most basic level, serves to protect our lives. It does not suggest a direction, but it allows for as many directions as desired, provided that we do not impinge upon other people’s lives.

As Jacob Levy says “‘The multiculturalism of fear’ places perhaps an unusual degree of emphasis on recurrent social and political dangers which must be avoided but which cannot be escaped.”⁷ Perhaps they cannot be totally escaped, but as this thesis attempts to show, steps can be taken to lessen their impact. These steps involve a movement away from the ‘negative’ politics of fear, away from purely justice as non-interference (which could be achieved by separation).

³ Isaiah Berlin, “Two Concepts of Liberty”, in *Four Essays on Liberty*, (Oxford University Press, 1969).

⁴ See Michael Oakeshott, “Rationalism in politics” and “The masses in representative democracy”, in *Rationalism in Politics* (Indianapolis: Liberty Press, 1991).

⁵ Michael Oakeshott, “On being conservative”, in *Rationalism in Politics*, 430.

⁶ Michael Oakeshott, *Morality and Politics in Modern Europe* (Yale University Press, 1993), 8.

⁷ Jacob Levy, *The Multiculturalism of Fear* (Oxford University Press, 2000) 11.

Anthony Appiah is also aware of the dangers of separation and distance between fixed groups, he too is driven by a politics of fear which is why he calls movements such as afrocentricity "dangerous". As he makes clear:

If other people organize their solidarity around cultures different from ours, this makes them, to that extent, different from us in ways that matter to us deeply. The result of course... is that we end up preferring our own kind: and if we prefer our own kind, it easy to slip into preferring to vote for our own kind, to employ our own kind, and so on.⁸

There are cultural conflicts in Canada today. These conflicts are not bloody and are therefore often ignored by people who can afford to do so. The most prominent groups clashing are Quebecers versus other Canadians (Anglophones) and Aboriginals versus European Canadians. It is important to note that not all members of these groups are opposed to one another. The fact that Aboriginals generally tend to conflate Quebecers with other Canadians, goes to show that how a culture is defined and understood is based on perspective. The fine grains of language and religion that have often separated Quebecers from other Canadians are not the important distinctions for many Aboriginals. Fear, jealousy and resentment is often prominent in the relationships between members of these groups. Because they are minority groups in the context of the whole of Canada, and because they feel aggrieved at past treatment, many Aboriginals and Quebecers demand powers of self-government and occasionally total separation to ensure that they are not humiliated or discriminated against by larger Canadian society in the future as they have been in the past. Many 'general' Canadians fear the separation of Quebec, for this would undermine part of what it means to them to be Canadian. Likewise many Canadians are resentful of particular Aboriginal privileges, such as tax exemptions and the granting of new treaty rights. This grates against their sense of fair play.

At times members of these groups appear to have irreconcilable positions, all driven by fear of one another. The difficulty of finding a better solution to some of these positions is made more difficult by the fact that many believe themselves to be members of private groups, creating further distances and reducing the likelihood of meaningful

⁸ K. Anthony Appiah, "The Limits of Pluralism", in Arthur M. Melzer, Jerry Weinberger and M. Richard Zinman (eds.), *Multiculturalism and American Democracy* (University Press of Kansas, 1998), 51.

discussions between all Canadians. While members of one group fear change to Canada's status, members of other groups fear the status quo. The matter is further complicated when one realizes that minority members of the group that fear change actually favour change, and minority members of the group that favour change may actually fear it. Although it may be tempting, it is not acceptable then to say simply that 'Aboriginals' or 'Quebecers' favour separation.

Culture and Multi-culture

The existence of different ethnic groups within the same state is central to the politics of fear. Often these groups are referred to as 'nations' or 'cultures', but they are generally dealt with under the rubric of multiculturalism in places such as Canada, Australia, South Africa and the UK. 'Multiculturalism' in the USA is often limited to discussion of education policy. Culture and multiculturalism are confusing terms. Names count, and often the sense of belonging to one thing and feeling distant from another is reinforced by the names given to both. The understanding of words is essential – a dominant paradigm of fixed cultures, will emphasize the differences between groups and necessarily seek to preserve these differences. An alternative understanding of multiculturalism might not select for these features; might be more fluid. How then is 'culture' commonly used? According to Christian Joppke and Steven Lukes:

Stemming from the Latin word 'colere' which means to cultivate or till the soil, the notion of culture has always had a double meaning: a specific activity resulting in explicit artifacts, and the way in which society rises above nature, where culture becomes an implicit dimension of social life as such and defines a collectivity as a 'personality writ large'.⁹

This definition has culture as both a practice and a group. According to Anthony Appiah it is a practice:

A spectrum that begins with the most basic sense of the term – the anthropologists sense – in which culture means all the ideas and practices that are shared by a social group, and ends with what we

⁹ Christian Joppke and Steven Lukes, "Introduction", in Christian Joppke and Steven Lukes (eds.), *Multicultural Questions* (Oxford University Press, 1999), 3.

call 'high' culture – the critical notion of culture – which picks from among the those ideas and practices a subset that requires in both producers and consumers the greatest training or the most individual skill".¹⁰

Joseph Raz states that "such conglomerations of interlocking practices which constitute the range of life options open to one who is socialized in them is what cultures are".¹¹

Part of the problem in discussing multiculturalism is there is no clear distinction made between group and practice. One of the major problems in political theory today is that political discourse often degenerates into an "artless muddle" where words "may be invested with multiple meanings and turned into all-purpose expressions."¹² One of the best examples of this is the UN declaration that "all peoples have the right to self-determination". This has been made to do much work, yet with no clear understanding of what a "people" or "self-determination" is. The declaration has been picked up by groups the world over, such as First Nations in Canada. For example, Ovide Mercredi uses it to argue that while Aborigines are a people, Quebecers may be, and Canadians certainly are not.¹³

To designate Canada as an officially multicultural country is to use a similarly vague term. What does multiculturalism mean? The existence of many ways of going about everyday life (a practice), or the existence of many groups that have different ideas about how to go about everyday life? Although many people, such as Raz, accept the definition of culture as a practice they proceed to use multiculturalism as multi-groupism which is problematic. The first understanding of culture as ways of going about everyday life, ways shaped by one's interaction with the groups of which one is a member leads to a far more fluid, and ultimately more accurate, concept of multiculturalism. It does not distance 'others' to such a degree and lessens fear. The second understanding, that of culture = group is far more rigid, and while being driven by fear, itself exacerbates those fears.

¹⁰ K. Anthony Appiah, "The Limits of Pluralism", 46.

¹¹ Joseph Raz, "Multiculturalism: A Liberal Perspective", in *Ethics in the Public Domain: Essays in the Morality of Law and Politics* (Oxford University Press, 1994), 162.

¹² Michael Oakeshott, "Talking Politics", in *Rationalism in Politics*, 439.

¹³ Ovide Mercredi and Mary Ellen Turpel, *In The Rapids: Navigating the Future of First Nations* (Toronto: Viking, 1993), 179.

Levy is slightly off base in suggesting that “another kind of political theory is appropriate to discussions of culture and ethnicity, one that begins with special attention to certain kinds of wrongs and dangers in the world rather than with the analysis of individuals”.¹⁴ It is all very well to start with wrongs and dangers as the politics of fear does, but one cannot usefully separate these fears from an analysis of individuals. If we are to understand culture and ethnicity we must understand individuals. If we are to understand politics we must understand individuals – what drives them and how they are able to act. My brother-in-law has never been able to fit into one group – to non-native Canadians he is an Indian, and to Aboriginals he is an Apple. He has suffered more discrimination and cruelty than most because people have neglected to view him as an individual. Thus, to think of wrongs and dangers without thinking about individuals is problematic, and that is why the public person starts by focusing on the individual. Levy is focused on “mitigating the recurrent dangers”¹⁵ without delving into identity questions. In doing this, he fails to appreciate that a better understanding of identity may in fact be the key to allaying the dangers he fears.

Distanciation and Approximation¹⁶

These two terms are important in understanding the politics of fear. Distanciation describes the pushing away of others, while approximation describes the drawing closer. These processes have always been at work in different fields. In terms of literary genres autobiography tends to approximate while encyclopaedias distanciate. Nevertheless there is a greater level of subtlety that depends upon the reader’s position to the text – while a cartoon of Hitler may have been approximating for British people during the Second World War, it would have had a different effect on Germans.

In political terms it is precisely things such as cartoons, jokes, television subjects and newspaper articles that create distances. Certain mechanisms such as jokes about a particular ethnic group, serve to distanciate others from that group. At a small level, it makes it easier to discriminate against that group, to treat individual members as lesser

¹⁴ Jacob Levy, *The Multiculturalism of Fear*, 12.

¹⁵ Ibid.

¹⁶ Although, he uses the terms in a somewhat different sense, I am obliged to Mark Phillips for introducing me to the concepts of distanciation and approximation. See his *Society and Sentiment* (Princeton University Press, 2000).

human beings in some way. As former Kamloops mayor, Clifford Branchflower notes “[i]t is a great deal easier to reject the ideas and aspirations of people with whom we have never shaken hands, with whom we have never laughed together over a joke, or with whom we have never sat down to a shared meal.”¹⁷

Unfortunately very few native and non-Native people in Kamloops have ever done any of these things together. For example, Kamloops hosts the largest pow-wow in Western Canada every summer; it is a time of celebration. But, on the last day of the pow-wow in 2000, there were probably less than ten non-Aboriginals in attendance in a crowd of several thousand. While the geographical distances that separate indigenous and non-indigenous in towns like Kamloops and The Pas are small, the empathetic distances are huge. The local newspaper in Kamloops often includes letters from non-Aboriginals complaining about Aboriginals, which in turn draws furious responses. In fact there are a variety of names for First Nation people such as: Aboriginal / Native / indigenous / Indian. To such a person the use of the term ‘Indian’ by a non-Aboriginal is often distancing although many First Nation people use the term to refer to themselves. I have tried to be careful throughout this thesis by referring to such people as Aboriginals / indigenous as these are usually considered less contentious names.

Distancing mechanisms such as jokes and derogatory letters exacerbate the politics of fear, because they increase the unknown and split people into ‘us’ and ‘not-us’; often in an overtly political manner. Nevertheless, approximation can also be dangerous, perhaps not initially by creating fear, but by making people immune to certain problems, by distorting the importance of the larger picture.

From Paternalism to Fraternalism: Bombay to Mumbai

In the twentieth century there were many answers to the administrative question of how we should live. As I suggested in the introduction, the century rolled in with Imperial powers expressing confidence in their belief systems and their ability and duty to civilize the world. Paternalism was prominent. Misplaced paternalism often turned into discrimination and created the conditions that encouraged the rise of a fearful politics.

¹⁷ Quoted in Royal Commission on Aboriginal Peoples (hereafter RCAP), Vol. 1, Chapter 16, S.2.

Firstly, this was fear of the administration by members of minority groups, which led to an assertion of difference, and then an increased fear of these (newly aggressive) minority groups by outsiders. The century rolled out with smaller units fighting on many different levels for greater recognition of their distinctiveness. Fraternalism with all its warmth had been driven in by fear of paternalism with all its coldness, but the price for an increase in intra-group warmth was often a cooling of inter-group relations. To put it another way, fraternalism uses approximating devices to draw 'us' together, while at the same time distancing 'not us'. By the end of the twentieth century the idea of preserving group differences and at the same time trying to avoid ethnic conflict had risen to new prominence.

Paternalism existed on two levels. On the international stage, countries such as Great Britain began the 20th century commanding a huge empire. Between 1946 and 1970 most of this Empire disappeared. The same was true for France, and although their empires were smaller, the same fate befell Belgium, Italy, Germany, Portugal and the Netherlands. The 'right to self-determination' spawned many independent states during this period. The bloody partition of India which created Pakistan as a Muslim state was an early indication of the powerful force of ethnic politics; of the fear of others and the desire to be ruled by a member of one's own.

At an internal level, states like Canada and Australia attempted to assimilate their indigenous populations. This was brought about in Canada by residential schools where many Aborigines suffered from generations of physical and sexual abuse. Children were punished for speaking their native languages and ceremonies such as the potlatch were banned. Between 1927 and 1951 it was illegal for indigenous people to retain a lawyer, thus preventing land claims from making the political agenda during this time. In short, Aboriginal peoples suffered intensely. This is particularly so in British Columbia, where (apart from the Douglas treaties on Vancouver Island) treaties were never signed. No treaties were signed in Australia. In the USA and South Africa a form of apartheid was practiced where different racial groups were forced to live and develop apart. Australia practiced a version of this with its 'White Australia' immigration policy.

Within states, members of many recently 'liberated' groups attempted to strengthen their new found identities. The changing of Bombay's name to Mumbai, for example,

represents a symbolic rejection of the vestiges of colonialism. More insidiously as Jacob Levy points out, it was a move that symbolically raised the position of India's Hindu population while diminishing the status of Sikhs and Muslims.¹⁸ As previously mentioned, names matter, and the meaning given to certain names will influence how people associate with one another. In this case 'Mumbai' distanciates non-Hindu's. It is symbolically cruel, in the same way that the Confederate flag distanciates African Americans in the Southern USA.

Starting in about 1960 there was mass internal upheaval. The USA made strides towards civil rights and Australia abolished discriminatory immigration. In Canada, 1969 proved to be the turning point in Aboriginal affairs. This marked the rejection of Trudeau's white paper that was meant to put an end to the Aboriginal question once and for all. Instead of doing this, the paper served to galvanize opposition to the paternalistic attitude of the government. The Indian Act which had previously been despised as a whole by Aboriginals, now became increasingly accepted as it symbolized Aboriginal difference based on group membership.

In October 1970 Canada was plunged into the FLQ crisis. In 1971 Canada began to adopt a 'multicultural' policy. By this time however, self-determination, already used at the high level of international politics, had become used at the level of domestic politics. In Canada, many renamed 'First Nations' pushed for this, as did many Quebecers. Nourished by a fearful polity, the idea of the private group had truly been born.

¹⁸ Jacob Levy, *The Multiculturalism of Fear*, 28-29.

The Private Group

The very act of brandishing slogans and flags, when done in the name of heroics or victimization, necessitates the identification of villains. Usually, in this careful society, those who require a villain also deny their need. And yet the concept is there, often in a code – a word or phrase which believers understand to identify the enemy, unnameable because they are a race or a language group or believers in another religion.

– John Ralston Saul¹

In *Sincerity and Authenticity*, Lionel Trilling, drawing upon Hegel's *Phenomenology*, describes the historical decline of the "honest soul" – the person who understood and was true to him/herself. This concept was replaced by the idea of the "disintegrated consciousness", which reached its peak with the psycho-analytic work of Freud. At the time Trilling wrote he believed the age of the honest soul had long passed. However the political successes of many minority groups in the latter part of the twentieth century depended on reviving a variation of the concept of the honest soul which had "its own positive ends in view and [was] characterized by the sincerity of strenuous effort."²

This honest soul / private group argument views the world as composed of associations of anti-individuals to borrow Oakeshott's term.³ The dominant concerns are with equality and solidarity. This paradigm tends to view groups as fixed and purposive, and suggests rules and arrangements that will guarantee their existence in their current forms in perpetuity. By necessity, the private group produces villains and develops code words (such as assimilation / individualism) to identify them as well as codes to rally around such as (self-determination / tradition). There is a primary obligation on the part of members to uphold the perceived 'common good' of the group in question. The ideal of the private group is a myth, but it is a powerful myth at that – "[m]ythology often turns into a denial of complexity. That can become its purpose."⁴ The justifications for the

¹ John Ralston Saul, *Reflections of a Siamese Twin*, (Penguin, 1997), 4.

² Lionel Trilling, *Sincerity and Authenticity*, (Harvard University Press 1972), 57.

³ See his discussion in "The masses in representative democracy".

⁴ John Ralston Saul, *Reflections of a Siamese Twin*, (Penguin, 1997), 3.

private group are often provided by scholars who draw attention to the “politics of difference”.⁵

The Private group view of politics makes three main mistakes – conflating the individual and the group; essentializing about what it means to be a member of the group; and overstating the value of the group to the individual (in terms of ‘meaningful life’). These assertions lead to a call for guaranteed survival, which is supported by group rights (often a form of value relativism).

To realize some of the shortcomings in this argument it is necessary to have a subtle appreciation of different types of people so that one can understand the potential for cruelty allowed by the private group. Canadian law also points to the value of the larger community and inter-dependence which is frequently overlooked by theorists who defend the notion of the private group.

The Three Mistakes

i. Conflating Individual and Group

Defenders of both the private group and public person may often start by agreeing about certain problems in the world. For example, many of the difficulties facing Aboriginals today can be traced to a lack of recognition on the part of the larger Canadian society where racism is still prevalent. Both positions recognize the damage that racism and lack of recognition does. In many ways Aboriginal affairs suffer from a vicious cycle – racism leads to despondency, crime, bitterness, stereotyping and further racism. As Rick Ponting and Jerilynn Kiely note the lack of a positive self-identity among many Aboriginals causes them to “engage in behaviour which embarrasses, abuses or endangers their children, thereby depriving the children of positive parental role models and diminishing their children’s own sense of self-worth”.⁶

⁵ Perhaps the best known example is Iris Marion Young, *Justice and the Politics of Difference* (Princeton University Press, 1990). See also Mary Ellen Turpel “Aboriginal Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences”, *Canadian Human Rights Yearbook* 6 (1989-90). Anne Phillips has a nuanced appreciation of difference in “Dealing with Difference: A Politics of Ideas or a Politics of Presence”, *Constellations*, 1 (1994), 74-91. ‘Multiculturalism’ in general is concerned with difference and how to deal with it. Much of the work by Charles Taylor and Will Kymlicka that I take issue with in this thesis is based upon the politics of difference. Of course a political concern with differences is not new, it has just become more prominent than ever toward the close of the twentieth century.

⁶ J. Rick Ponting and Jerilynn Kiely “Disempowerment: “Justice”, Racism, and Public Opinion” in *First Nations in Canada* (Toronto: McGraw Hill-Ryerson, 1997), 171.

It is this type of example that has led Charles Taylor to argue that the modern age is characterized by “the conditions in which the attempt to be recognized can fail”.⁷ Nevertheless there is a danger in moving from desire for recognition on the part of the individual, to desire for recognition on the part of the group, as Taylor does. Taylor’s view as expressed in “Multiculturalism and the ‘Politics of Recognition’ ” is too rigid, but it is characteristic of the private group model. It encourages individuals to accept their ‘true’ identity as being rooted in the past rather than in the present or the future. According to Patrick Macklem “[t]his possibility [of threatening traditional structures of governance by mimicking European sovereignty] should not stand as a reason for denying Aboriginal peoples enhanced law making authority over their *individual and collective identities*” (emphasis added).⁸ This is a common platitude – to believe that one can meaningfully discuss individual and collective identities in the same breath. Enhanced law making authority, while benefiting an ‘essential’ collective identity may very well undermine the ability of some Aboriginals to determine their individual identities. It is illogical therefore to speak as though there is some coherent meaning in “authority over individual and collective identities”. What Macklem really means is that it unreasonable to deny *certain* Aboriginals decision-making powers. Macklem speaks to directly to an Aboriginal elite and ignores the potential for injustices that could be perpetrated towards non-conforming members by that elite.

ii. Essentialization

One of the main dangers with the private group model lies in essentializing what it means to belong to the group; for example, what it means to be *authentically* Aboriginal. Building upon this notion of authenticity, group protection and self-government is defended in terms of the incommensurability between the ‘authentic’ group and other groups. That this essentialization has developed is not surprising for a number of reasons. First, many Canadians have held a negative generalization (stereotype) of what it meant to be Aboriginal and racial stereotypes do not acknowledge

⁷ Charles Taylor, “Multiculturalism and the ‘Politics of Recognition’ ” in Amy Gutmann (ed.), *Multiculturalism and the ‘Politics of Recognition’* (Princeton: Princeton University Press, 1993), 35.

⁸ Patrick Macklem, *Indigenous Difference and the Constitution of Canada*, (University of Toronto Press, 2001), 112.

individuals who deviate from them. Secondly, it is much easier to make a political claim based on group recognition. Groups are more powerful than individuals, and given that the group has been discriminated against as a whole, it appears to make sense to pursue claims based on that discrimination. As Appiah so aptly puts it,

If one is to be black in a society that is racist then one has to deal constantly with assaults on one's dignity. In this context, insisting on the right to live a dignified life will not be enough. It will not even be enough to require being treated with equal dignity despite being Black, for that will require a concession that being Black counts naturally or to some degree against one's dignity. And so one will end up asking to be respected *as a Black*. ... There will be proper ways of being black and gay, there will be expectations to be met, demands will be made. It is at this point that someone who takes autonomy seriously will ask whether we have not replaced one kind of tyranny with another.⁹ (emphasis in original)

Internal divisions already exist over what it means to be an authentic Indian, thus giving the lie to the cohesiveness maintained by the private group model. Strater Crowfoot is sceptical of the traditional view that a leader should be an authentic Indian "in terms of education, employment, skin colour, and ability to speak the mother tongue language"¹⁰ and that if the leader is highly educated he/she may be labeled by many as "an elitist".

There is some irony in the private group desire to protect differences *between* groups, while at the same time supporting laws that could easily lead to the elimination of differences *within* a group. By drawing too sharp a circle around a set of 'Aboriginal' values one risks shutting out others who should be included. As James Tully notes "cultures are not internally homogenous. They are continuously contested, imagined and reimagined, transformed and negotiated, both by their members and through their interaction with others."¹¹ This complexity and fluidity begs the question: if cultures are open and changing, how can one *constitutionally* protect a culture, which is Tully's concern in *Strange Multiplicity*? Tully approaches this task by arguing that a constitution

⁹ K. Anthony Appiah, "Identity, Authenticity, Survival: Multicultural Societies and Social Reproduction" in Charles Taylor and Amy Gutmann (eds.) *Multiculturalism: Examining the Politics of Recognition* (Princeton: Princeton University Press, 1994), 163.

¹⁰ Strater Crowfoot, "Leadership in First Nations Communities: A Chief's Perspective on the Colonial Millstone" in J. Rick Ponting (ed.) *First Nations in Canada* (Toronto: McGraw Hill-Ryerson, 1997), 311.

¹¹ James Tully, *Strange Multiplicity*, 11.

should be seen as “an endless series of contracts and agreements, reached by periodical intercultural dialogues rather than as an original contract in the distant past”.¹² Nevertheless he cannot adequately negotiate the fact that one must recognize a culture as *something*, and that recognizing it as one thing will likely limit other possibilities.

It must also be noted that the most recent investigations of the human genome reveal that ‘race’ is artificial and that there are more genetic differences between members of the same race than between members of different races.¹³ This is a hugely important point. It goes away from group determinists and straight towards individuality and the obligation to respect the potential of each individual. It supports Benedict Anderson’s suggestion that nations are imagined.¹⁴ This does not undermine the real felt importance of belonging to a particular group. There is no doubt that belonging to particular groups counts for something in our world – the mistake lies in maintaining that there is something essential about this group for all times, and that this understanding of belonging is the only way it could be. If one admits the possibility of change, then incommensurability becomes a far weaker argument for justifying the private group model.

iii. Value of the group to the individual

Defenders of the private group model have a tendency to overstate the importance of belonging to a particular group. They assume that what is good for some members in a particular place and time is good for all members, always. Joseph Raz has noted that it is “in the interest of every person to be fully integrated in a cultural group”.¹⁵ The Supreme Court of Canada touched on this issue in *Regina v. Keegstra*.¹⁶ Underlying this case was the issue of Canada’s fundamental characteristics. The majority held that Canada was a multicultural state and that the willful promotion of hatred directed toward a group undermined that fundamental characteristic. In his lead judgement Chief Justice Brian Dickson argued that autonomy comes from the “ability to articulate and nurture an identity derived from membership in a cultural or religious group”.

¹² Ibid., 26.

¹³ See “Life’s Blueprint in Less Than an Inch”, *Washington Post*, A01, Sunday, February 11, 2001.

¹⁴ Benedict Anderson, *Imagined Communities*, (New York: Verso 1991).

¹⁵ Joseph Raz, “Multiculturalism: A Liberal Perspective”, 162.

Illustrating a similar concern, Charles Taylor has argued that cultures that have “provided the horizon of meaning for large numbers of human beings, of diverse characters and temperaments, over a long period of time” are due respect.¹⁷ Because of the inherent value of these full cultures, they must be protected, even if that requires ‘actively creating’ citizens. Taylor’s particular concern is that the politics of universal citizenship, as practiced in Canada, cannot accommodate Quebec. While it may not accommodate *some* Quebecers (and it has accommodated enough, perhaps imperfectly, to keep Quebec a part of Canada), the politics of difference may not be able to accommodate much of the rest of Canada, as much as Taylor wishes it could. Moreover, as Homi Bhabha points out, it is disingenuous for Taylor to justify group rights in terms of whole, solid, groups that have existed for a significant length of time; what about the rights of hybrid groups to protection?¹⁸ Like Taylor, Will Kymlicka argues in a similar fashion for full integration in a societal culture.¹⁹ But as those who have criticized Kymlicka have noted, the most that his theory can support is membership in *a* stable cultural group, rather than *a particular* cultural group.²⁰

In fact the arguments of people like Kymlicka and Taylor are problematic in more ways than one. Who defines the culture? Is it internal or external? Who counts as ‘internal’? When the cultural lines are blurred it is very difficult for anyone to make a determination without violating another. Moreover, why is full integration in one group so important? As Carens notes “[t]he words ‘meaningful’ and ‘full’ remind us of the impossibility of avoiding judgments about the human good in these debates.”²¹ It is apparent that many people can live what they consider to be meaningful lives without being fully integrated in one cultural group, rather, they are partially integrated into many groups. Yael Tamir, in *Liberal Nationalism* is also slightly guilty of assuming that national membership is exclusive.²² While she recognizes an individuals’ ability to

¹⁶ *R. v. Keegstra*, [1995] 2 S.C.R. 381

¹⁷ Charles Taylor, “Multiculturalism and ‘The Politics of Recognition’”, 72-73.

¹⁸ Homi Bhabha, “Culture’s In Between” in David Bennett (ed.) *Multicultural States: Rethinking Difference and Identity* (London and New York: Routledge, 1998), 32-33.

¹⁹ Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995) See especially Chapter 5 “Freedom and Culture”, 75-106.

²⁰ Jacob Levy, *The Multiculturalism of Fear*, 119. See also Joseph Carens, *Culture, Citizenship and Community* (Oxford University Press, 2000), 53-61.

²¹ Joseph Carens, *Culture, Citizenship and Community* (Oxford University Press, 2000), 62.

²² Yael Tamir, *Liberal Nationalism* (Princeton University Press, 1993)

choose his/her nation, she ignores the possibility of people having multiple allegiances; of people belonging to more than one nation.

A further example of how the value of a particular culture is often overstated is provided by Raz when he states:

A policy which forcibly detaches children from the culture of their parents not only undermines the stability of society by undermining people's ability to sustain long term intimate relations, it also threatens one of the deepest desires of most parents, the desire to understand their children, share their world and remain close to them.²³

This is a thoroughly unsatisfactory understanding of culture. It is an understanding underpinned by a desire for closeness, for fraternity, and a desire to prevent difference in one's children. It is an autonomy-limiting desire. But even given this, is what Raz says correct? Is not far more reasonable to argue that, as in the case of Canada, a policy which forcibly detaches children *from their parents* is what damages most? True, there may be cultural implications, but these are secondary. Of primary importance is the relationship between parent and child, and this is not dependent upon belonging to a fixed culture. Take the example of second generation Canadians from India, and the generation of Aboriginal children sent to residential schools. One group was separated from the culture (fixed model) of their parents and the others were separated from their parents. There is no doubt which group suffered more. Raz's argument implies that second generation Canadians cannot sustain long term relations. If he does not believe this then he must accept a fluid and cross-cutting view of culture, which undermines his whole argument for full integration in a particular culture.

The only way that Raz's claims make sense is if culture is defined so broadly that every individual possesses a unique culture. That is to acknowledge that all the things that impact me, including my biological potential, constitute my culture and thereby determine my freedom. But being, say, British, does not do all of these things. On the other hand, one *can* stake a claim for the importance of particular cultures (in the sense of being 'British') but one cannot reasonably argue that this claim is based on *that particular* culture being a precondition for individual freedom. It is reasonable to assume

that a culture will give some shape and content to how that freedom is used – to which choices are made – for example, I may like to drink tea. But to argue for the narrow definition of culture as a precondition for freedom is too far-fetched. An individual in the state of nature will be free without a culture. The individual may have less choices than an individual in an industrialized society, but he/she is free nevertheless. Opportunities and freedom are commonly muddled up. It is the options open to one that constitute one's culture. Group membership helps determine these options, but so too does health and intelligence. Options, and the ability to lead a 'meaningful' life will exist regardless of the existence of particular groups. These options may be limited according to which groups exist, but that is a separate issue.

Many theorists have it back to front in believing that *one* particular group membership (your culture or your nation) is *all* that determines one's life opportunities. This is the mistake made by Alasdair MacIntyre in "Is Patriotism a Virtue?"²⁴ MacIntyre is critical of the liberal position that requires individuals to abstract themselves from their particular lives in order to make moral judgements. This liberal morality requires an impossible stance – "that of a rational being as such, responding to the requirements of morality not *qua* parent or farmer or quarterback, but *qua* rational agent who has abstracted him or herself from all social particularity, who has become ... doomed to rootlessness"²⁵. The patriot by contrast cannot be criticized for being committed to "[l]inking a past which has conferred a distinctive moral and political identity upon him or her with a future for the project which is his or her nation which it is his or her responsibility to bring into being."²⁶ According to MacIntyre, it is one's nation that has provided one with one's morality, which places it above scrutiny.

What he fails to consider is the existence of multicultural / multinational individuals. These individuals do not require liberal rootlessness to criticize the unconditional allegiance to a particular nation, for they have a variety of rooted perspectives from which to analyze this. Their morality has developed as a result of interactions with, or belonging to, many different nations. The multicultural individual thus occupies a variety

²³ Joseph Raz, "Multiculturalism: A Liberal Perspective", 163.

²⁴ Alasdair MacIntyre, "Is Patriotism a Virtue?" in John Arthur and William H. Shaw, (eds.), *Social and Political Philosophy*, (Englewood Cliffs, NJ: Prentice Hall, 1992), 45-55.

²⁵ *Ibid.*, 51.

of cross-cutting social positions. As Tully notes “the ability to change perspectives – to see and understand aspectively – is acquired through participation in the intercultural dialogue itself.”²⁷ Unconditional allegiances can then never be *required* of individuals, because while membership of one group may be *sufficient* (and even this is questionable) it is never *necessary* for the development of one’s morality.

The second sense of (born into) culture is often used interchangeably with nation / social group as in “what is your culture?” When that question is asked people do not expect an answer about how one lives one’s life, they expect a one-word answer. As though ‘English’ or ‘Canadian’ could tell them all they needed to know about a culture. Granted belonging to, or identifying with one (or more) social group(s) may tell them something about one’s culture. “Ah, so if you are English you must like cricket and drink tea”. And there is a reasonable chance that they may be correct; but then again they may not.

Martha Minow is slightly too critical of this notion when she states rhetorically “as if any stereotypes were true”.²⁸ Of course some stereotypes may be true of groups – those defined as a behaviour characteristic/belief of the majority of people in that group. For example, more Canadians have voted Liberal at the Federal level than for any other party. More Swedes have voted Social Democrat. Canada and Sweden have historically been left-leaning countries. Most Canadians and Swedes believe in the welfare state. These are true stereotypes. What is also true is that a stereotype will never tell you about an individual member of that group unless 100% of the individuals share the characteristic being described. As Bryan Schwarz comments “the imprecision that comes from applying group generalizations to individuals, is at the heart of the criticism of the worst forms of discrimination”.²⁹

To make large claims on behalf of this type of cultural belonging is misguided therefore. It is far better to make claims for specific aspects of culture, i.e. claims to speak a particular language, perform a particular dance, hold a particular spiritual belief. These claims have to come down to the level of the individual. For while these practices are

²⁶ Ibid., 52.

²⁷ James Tully, *Strange Multiplicity*, 25.

²⁸ Martha Minow, *Making all the Difference*, 119.

carried out in groups, they may be cross-cutting. Herein lies the challenge. In the past cross-cutting was less common. One could more or less take for granted that if you lived in Quebec you were a French-speaking Catholic. That is why it made sense for Germans to have their distinct *Kultur*.³⁰ Today, that is no longer the case. Clashes arise when individuals of the new mindset confront individuals of the old. The old, *Kultur*-minded individuals are disciples of Herder – romantics believing in the warmth and joy of belonging to a fixed community. To guarantee the survival of their communities in existing forms they rely upon convincing/coercing non-like minded individuals to join them and obey their orders.

Rights and Survival

The question of group rights versus individual rights lies at the heart of most normative disagreements about Aboriginal politics. Collective rights are often seen as the only mechanism for ensuring the survival of particular groups. Ovide Mercredi argues that “the idea that individual rights are superior to collective rights – an idea we learned from White society – is creating imbalance and confusion in our communities”.³¹ One may reply that the idea that collective rights are superior to individual rights – an idea learnt from Aboriginal society – is creating imbalance and confusion in Canadian communities, provinces and even the country itself. Both claims are exaggerations, but both no doubt contain grains of truth. One way of solving this dilemma is to argue that the interests of the country are paramount as they provide security to smaller communities. Another way is to argue that the country has no legitimate authority over Aboriginal communities and should leave them to develop as they see fit. This often amounts to a call for self-government as the means to embody survival.

Such a case is made strongly by Mercredi in *In the Rapids*. Mercredi argues that individual rights are attractive only if one already possesses advantages. Charles Taylor is sympathetic to this line of reasoning arguing that “[t]here is a form of the politics of equal

²⁹ Bryan Schwarz, *First Principles, Second Thoughts: Aboriginal Peoples, Constitutional Reform and Canadian Statecraft* (Montreal: Institute for Research on Public Policy, 1986), 43.

³⁰ See Isaiah Berlin's discussion in “The Decline of Utopian Ideas in the West”, in *The Crooked Timber of Humanity* (Princeton University Press, 1990) for a historical analysis of the development of national self-images. He pays particular attention to the role of Herder in this process.

respect, as enshrined in the liberalism of rights, that is inhospitable to difference... it can't accommodate what the members of distinct societies really aspire to, which is survival".³² Unfortunately, this is wrong. Firstly, *rights* have nothing to do with *respect* and consequently the politics of equal respect cannot be enshrined in the liberalism of rights. In addition, the liberalism of rights *can in theory* accommodate survival; all members of the society could choose whatever way of life 'survival' entailed, the majority could recognize these choices, and all successive generations could choose to exercise their individual rights in the same way and so on in perpetuity. The liberal thrust may be assimilationist, but the outcomes are far from inevitable.³³

If to be truly individual one relies on dialogue as Taylor suggests, then one has to admit that in the future one's identity may change. Tamir provides a thoughtful rebuttal of those who use the term 'survival' in the debate over group rights. Taking the example of Reform Jews in Israel, Tamir shows how Orthodox Jews claim to stand for the survival of Judaism while Reformers are (by implication) for its downfall. Tamir argues that, in fact, it may be Reformers who can save Judaism, and that the term survival is mis-used as it "refers not to the actual survival of the community or its members but to the survival of the traditional way of life".³⁴

Nevertheless, Mercredi maintains "[t]he fact of the matter is that individual rights alone have not lifted our people out of the experience of prejudice and discrimination, and they cannot".³⁵ In one sense he has hit the nail on the head. What Aboriginal people have suffered most from is discrimination and prejudice. However, he fails to appreciate that collective rights are not likely to undo prejudice and discrimination. Rights themselves will not do this alone. Here is where respect does come in – a law will never guarantee respect – it will only be achieved by meaningful interaction. What is crucial is changing the attitudes of non-Aboriginals, and many of these people find the substance of collective rights inflammatory. If anything certain collective rights are liable to create

³¹ Ovide Mercredi And Mary Ellen Turpel, *In the Rapids: Navigating the Future of First Nations*, (Toronto: Viking, 1993), 113-114.

³² Charles Taylor, "Multiculturalism and the 'Politics of Recognition' ", 60-61.

³³ Samuel LaSelva, "Aboriginal Self-Government and the Foundations of Canadian Nationhood", *BC Studies*, Number 120, Winter 1998-99, 45.

³⁴ Yael Tamir, "Siding with the Underdogs" in Joshua Cohen, Matthew Howard and Martha C. Nussbaum (eds.) *Is Multiculturalism Bad for Women?* (Princeton University Press, 1999), 49.

³⁵ Ovide Mercredi And Mary Ellen Turpel, *In the Rapids: Navigating the Future of First Nations*, 219-220.

greater distances between the two groups and while 'official' discrimination may be lessened in public, private discrimination may increase and inform the public sphere in a more insidious fashion than before. It is also this private discrimination that because of its very nature will be hardest to get at and overcome.

In an oft-quoted article Mary Ellen Turpel argues that:

It is difficult for a culturally distinct people to define the trajectory of its own development if individuals from within or outside the culture can challenge collective decisions on the basis that they infringe their individual rights under the Charter in the Canadian legal system which does not understand, or give priority to collective goals.³⁶

The limitation of autonomy is clear. Turpel could not accept a challenge, even from an individual *within* the group. Her position resembles that of the rationalist in Oakeshott. Turpel's argument takes a position of value relativism. Charter rights are alien to Aboriginals, therefore any individual Aboriginal should not appeal to the Charter because as an Aboriginal he/she should appreciate tradition and accept that the Charter only applies to non-Aboriginals. She hints that to be a 'true' Aboriginal is to be someone who rejects the Charter and that Canada should accept this difference, and allow these "incommensurable communities" to pursue their own paths.

Patrick Macklem also advances the idea of incommensurability when he suggests that an argument can be mounted that "conceptualising the relationship between Aboriginal peoples and the Canadian State in constitutional terms is foreign to Aboriginal ways of understanding."³⁷ Iris Marion Young mounts a case for incommensurability when she argues that only the "preservation of difference and the recognition of asymmetry – the non-reciprocity – of social positions can preserve publicity and the need for continued communication"³⁸ but even then she remains skeptical about the possibility of fully understanding others. Turpel feels that any type of internal challenge to the

³⁶ Mary Ellen Turpel, "Aboriginal Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences", *Canadian Human Rights Yearbook* 6 (1989-90), 40.

³⁷ Patrick Macklem, *Indigenous Difference and the Constitution of Canada*, (University of Toronto Press, 2001), 7.

³⁸ Quoted in James Tully, *Strange Multiplicity*, 134.

authority of an Aboriginal elite based on the Charter is a “worrisome prospect.”³⁹ Likewise, Macklem worries that “the Charter does pose a risk to the continued vitality of indigenous difference”.⁴⁰

The language used by Young, Turpel and Macklem seems to suggest that Canadians and Aboriginals live in separate moral worlds, cannot understand one another, and thus should lead separate lives. Similar arguments were made to justify Apartheid and Lebensraum. A more thoughtful approach is taken by the Royal Commission on Aboriginal Peoples (hereafter RCAP). While the nature of the “common ground” is far from ideal, “Aboriginal and non-Aboriginal people have walked together on many paths during their long intertwining histories, often in peace and friendship, with good intentions and mutual respect... [the] intercultural institutions and practices [that have developed as a result], as inadequate and distorted as they sometimes are, provide the starting point for a renewed dialogue.”⁴¹

The example of Charter protection of the individual goes to the root of two touchpoint issues on reserves – women and education. The incommensurability argument of Turpel and Macklem is probably not popular among the majority of Aboriginal women. Cora Voyageur, for example, argues that “[t]he entrenchment of the Charter of Rights was a major step toward ensuring the rights of Native women and would assist in fighting discrimination based on gender”.⁴² Discussing submissions to the RCAP she notes that “[t]he Native Women’s Association of Canada was accused of placing individual rights over the rights of the collective. They were accused of going against tradition. It is ironic that these same males live under the untraditional Indian Act.”⁴³

Tradition is often made to play a justifying role that it should not. It is partly the prevalence of this mindset that forces Voyageur to frame her argument in terms of tradition when she would be better off framing it in terms of justice. A simple acceptance that all Aboriginal traditions are good, unduly undermines complexity and freedom and limits choices. ‘Tradition’ in Aboriginal discourse is rarely examined – it is automatically

³⁹ Mary Ellen Turpel, “Aboriginal Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences”, 41.

⁴⁰ Patrick Macklem, *Indigenous Difference and the Canadian Constitution*, 195.

⁴¹ RCAP, Vol. 1, Chapter 16, S.2

⁴² Cora Voyageur, “Contemporary Indian Women” in David A. Long and Olive P. Dickason (eds.) *Visions of the Heart: Canadian Aboriginal Issues* (Toronto: Harcourt Brace, 1996), 104.

assumed to be good – while change is assumed to be bad. As a character in Richard Wagamese's *Keeper 'n me* says:

But us Indiyuns, well, history kinda taught us to be afraid a change. So we are. Afraid of losin' ourselves. Indiyuns got a lotta pride and always wanna be walkin' around bein' Indiyun. Don't wanna think they're walkin' around bein' anything else. So lotta times they only do what they think are Indiyun things. Hang around with only other Indiyuns, only go where other Indiyuns go, only do things other Indiyuns do. Watch sometime you see it good. It's okay on accounta you kinda get strong that way, but's weakening us too lotta the time. Get all closed in on yourself. *It's like a private club like the white people got out there.* The only difference is, you always gotta be payin' to join. Ev'ry day you gotta pay to join. Gotta pay up in all kinds a lost opportunity and lost chances. Tryin' to stay one way means you're robbing yourself of things that might even make you stronger. Me I seen lotsa Indiyuns thinkin' that way and all the time robbing themselves and their kids of big things that will help 'em live forever as Indiyuns. (emphasis added)⁴⁴

Normative differences perhaps turn on a differing interpretation of the future. Taylor argues that, "more and more societies today are turning out to be multicultural, in the sense of including more than one cultural community that wants to survive", thus "[t]he rigidities of procedural liberalism may rapidly become impractical in tomorrow's world."⁴⁵ He is right that more and more societies *are* becoming multicultural (although not necessarily wanting to survive in his sense of the word). As this happens it becomes harder and harder to draw boundaries around cultures and determine who belongs to which culture(s). This explains why signing treaties solely with those Aboriginals who have a land base will not create justice.⁴⁶ The majority of Aboriginals who live off reserve, in cities, may well be the start of a new hybrid culture. It is perhaps Aboriginals like Strater Crowfoot, John Borrows and George Calliou, who argue for a new form of Aboriginality based on individual excellence, and allowing for urban living, who are starting this new hybrid culture. Hybridity is likely to increase as a result of mixed-marriages. Thus, it is not necessarily the rigidities of procedural liberalism that will grow

⁴³ Ibid., 110.

⁴⁴ Quoted in RCAP, Vol.1, Chapter 16, S.1.2

⁴⁵ Charles Taylor, "Multiculturalism and the 'Politics of Recognition' ", 61.

⁴⁶ The BC Treaty Process deals with exclusively with First Nations as distinct groups. It is up to each nation to determine who belongs, and very often the voices of urban Indians, and those who live off reserve are excluded. This is particularly problematic given that these Aboriginals account for over 50% of the total population.

impractical, but the rigidities of a form of the politics of difference that ascribes different rights to particular groups, and in so doing holds back individuals who desire to be different. How can this type of politics remain practical when the groups themselves are changing, and the view of culture that hardline proponents recommend is firmly fixed in the past? Just as Taylor has argued for many ways of being Canadian, so too there may be different ways of being Aboriginal.

A guarantee of survival is a telling example of Oakeshott's warning about the politics of faith. As Oakeshott noted, provided there is interaction with other groups, the politics of faith requires intimate control over not just members of one's own group, but over all other groups as well. In today's world most groups must interact; they cannot remain isolated. The government of faith will view every situation as an emergency and demand great and intrusive powers to deal with these occurrences and taken to its logical extension, the politics of faith leads to conflict.⁴⁷ Oakeshott argues that faith may be important for simple societies with few links to other groups, but that in the Europe of his time, this was entirely impractical. In the same way, while a politics of faith might have been appropriate to Aboriginal politics of 100 years ago, it is certainly not appropriate now. Divisions already exist within Aboriginal communities between those who are inclined to the politics of faith and those who favour a more sceptical approach. As Strater Crowfoot argues

In First Nation communities, the fact that traditionalism is highly valued in and of itself while development needs are extremely acute, leaves the leader in a dilemma which is more acute than among non-Native politicians. That is, the value placed upon traditionalism in First Nation communities is a drag on the need for 'modernization' (adaption).⁴⁸

The question arises: could a demand for survival/revival of tradition lead to the tyranny of the majority, and if so what can be done? Many liberal thinkers are content with the revival/survival of tradition provided that safeguards are offered for individuals.

⁴⁷ Michael Oakeshott, *The Politics of Faith and the Politics of Scepticism*, 101.

⁴⁸ Strater Crowfoot, "Leadership in First Nations Communities: A Chief's Perspective on the Colonial Millstone", 316.

This debate usually focuses on the right to exit.⁴⁹ If people do not like the collective imposition, then they should be free to leave. This, as Jeff Spinner-Halev points out, is not always possible though. If (as in the case of the Amish that he cites) all land is held in common, how are people who want to leave going to gather a sufficient amount of money to start a new life outside the community?⁵⁰

The debate about right to exit is too narrow. One should also insist upon the right of disadvantaged individuals to try and reform the community from within. Why must someone who is disadvantaged leave the community? Why for example, must women who suffer at the hands of a male dominated government accept it or leave the community? This is one of the reasons why it is of critical importance that the Charter continues to apply to Aboriginals even under newly formed Aboriginal governments. The arguments of people like Macklem and Turpel are unacceptable and dangerous. For the supposed of good of maintaining tradition and difference they sanction removing protection of Aboriginal people as human beings. Their arguments are based on a view of incommensurability that even most Aboriginal people do not accept. It is notable then that the Charter does apply to the Nisga'a government and will also apply to future treaties. It is Turpel and Maclem who defend Aboriginals in the terms of a private group, when in practice many Aboriginals have rejected the notion of incommensurability.

Ultimately one should only be able to coerce people with words and persuade by reason. If one cannot convince enough diverse others to follow one's chosen direction then one should not force them by some legal means. As Habermas argues:

Cultural heritages and the forms of life articulated in them normally reproduce themselves by convincing those whose personality structures they shape, that is, by motivating them to appropriate productively and continue the traditions. The constitutional state can make this hermeneutic achievement of the cultural reproduction of life-worlds possible, but it cannot guarantee it. For to guarantee survival would necessarily rob the members of the very freedom to say yes or no that is necessary if they are to appropriate and preserve their cultural heritage.⁵¹

⁴⁹ For a good overview of the literature on the right to exit see Jacob Levy, *The Multiculturalism of Fear*, 112-118.

⁵⁰ Jeff Spinner-Halev, "Cultural Pluralism and Partial Citizenship" in Christian Joppke and Steven Lukes (eds.), *Multicultural Questions* (Oxford University Press, 1999), 73-74.

⁵¹ Jürgen Habermas, "The Struggle for Recognition in the Democratic Constitutional State", in *Multiculturalism: Examining the Politics of Recognition*, 130.

Different Types of People

When discussing the development of the anti-individual, Oakeshott poignantly notes “[w]hat some recognised as happiness, appeared to others as discomfort. The same condition of human circumstance was identified as progress and as decay”⁵². This simple fact seems to be overlooked by many group-theorists. In particular, individuals belonging to the same group may be vastly different. In a society of multicultural individuals I may have more in common with a Chilean carpenter than with someone who happens to have been born in the same town as myself – for example if we are discussing politics. Yet in another situation (say watching a soccer game) I may have more in common with the latter person. This is a view of a world marked by shifting allegiances. Yet in today’s world if it came down to a question which of my two acquaintances should be given my last dollar (and I could not divide it) orthodox political theory would say that I should give it to my countryman. Yet this is not necessarily where loyalty and obligation should, or do, lie (see my earlier discussion of Alasdair MacIntyre). I may very well dislike my fellow countryman and give it to the Chilean.⁵³

This is a practical reason why it will be so hard for Quebec to successfully separate from Canada. If all Quebecers were as united as Charles Taylor makes them sound, it would not be a problem. What Taylor misses is that there are different types of Quebecers and there are different types of Canadians and that their interests never overlap and diverge exclusively along Quebec/Canada lines. As Joppke and Lukes pertinently point out “in any cultural group whatsoever in the modern world, there will be at least the following: identifiers, quasi-identifiers, semi-identifiers, non-identifiers, ex-identifiers, cross-identifiers and anti-identifiers. A multicultural politics of identity is angled exclusively towards the concerns and interests of the first group.”⁵⁴

Daniel Weinstock offers an insightful distinction between three different types of people according to how they relate to the group they are a member of:

⁵² Oakeshott, “The masses in representative democracy”, 371.

⁵³ Ultimately, this represents a cosmopolitan view. While I am concerned about Canada in this thesis, my concern is more from a utilitarian viewpoint. Canada should be valued because it works well, and to see it break up would cause un-necessary conflict. The value in being Canadian should lie in the features of Canada that make it so appealing, notably its tolerance. Not all Canadians share these features, so I may decide to give my last dollar to a non-Canadian who is tolerant rather than a Canadian who is not. As should be clear by now, my concern is with individual people.

⁵⁴ Christian Joppke and Steven Lukes, “Introduction”, 10.

- a.) membership is important because it allows one to see that one's goals are worth pursuing;
- b.) membership is important because it helps to shape one's goals;
- c.) membership is important because one's goals are inherently dependent upon survival of the group.

Building upon this, Weinstock is critical of Rawls for limiting his theory of justice⁵⁵ to type a.) people. People whose goals are inseparable from the survival of the community, require that they be respected not just as individuals, but as members of their community and Weinstock believes that their bases for self-respect cannot "be assured by a theory of justice like Rawls'".⁵⁶ Yet this does not diminish the force of Rawls' argument. By assuring the bases for some people, one discriminates against others whose view is tied to different goals. In the end it is a somewhat arbitrary decision – it seems to be a zero sum game – whatever happens one type of person will be denied the bases for self respect. This is the tragic element in politics. Consider, as Per Bauhn has effectively argued, the example of a woman who has chosen to break ties with her native culture, "[g]iving her recognition means respecting the choices she has made, and one of the more significant choices she has made is to deny and defy the values that constitute and define her native culture. Hence, recognition of her is incompatible with recognition of her as a bearer of (all) the values of her native culture".⁵⁷

Weinstock tries to save the liberal project by granting collective rights to 'reasonable', vulnerable, groups which are crucial in contributing to the well-being of type c.) people. His example seems to be directed towards the Aboriginal situation in Canada today. However, his argument implicitly assumes that all people who belong to a vulnerable group are of type c.) variety. But this is obviously not true – among the Aboriginal scholars discussed in this paper, and among all Aboriginals in Canada there are a range of types from a.) to c.). In fact every racial/ethnic/cultural group will likely have a full range of these people within them, so to argue as Weinstock does is to make a

⁵⁵ John Rawls, *A Theory of Justice*, (Harvard University Press, 1971).

⁵⁶ Daniel Weinstock, "How Can Collective Rights and Liberalism be Reconciled?" in Rainer Bauböck and John Rundell (eds.), *Blurred Boundaries: Migration, Ethnicity, Citizenship* (Aldershot: Ashgate, 1998), 229.

⁵⁷ Per Bauhn, *Multiculturalism and Nationhood in Canada: The Cases of First Nations and Quebec* (Lund University Press, 1995), 91.

gross error of essentialization. Moreover, Weinstock's argument stands upon a dubious base of the necessity of the group for an individual's self-respect. If these vulnerable cultures were endangered, according to Weinstock "individuals would literally lose their epistemic and moral bearings".⁵⁸ This assertion needs to be challenged. Aboriginal cultures are undergoing a period of change. Whether or not this is a tragedy or an opportunity depends on one's perspective. What is certain is that whole cultures do not just disappear overnight. They change, bit by bit, slowly, by attrition. During this period, why must individuals lose their moral bearing? Why must they lose self-respect? Cultures can change as a result of choice without losing self-respect. – old recognition can be replaced by new recognition. To argue that the endangering of cultures is necessarily a terrible injustice from a utilitarian point of view (i.e. their value to the individual) is to overstate the importance of fixation and exclusive cultural membership.

Canadian Law

Apart from adherence to the Charter (which I discussed above), where do Aboriginal rights stand legally? The Supreme Court has been careful not to set out an explicit Aboriginal right to self-government, although they have ruled on several other Aboriginal rights, including Aboriginal title. In *Gladstone*,⁵⁹ the court noted that the purpose of S.35(1) is to achieve some form of reconciliation between Aboriginal prior occupancy and Canadian sovereignty. Legal reasoning depends heavily on fact and precedent, yet any decision on reconciliation has to also consider what is morally right, and this has posed a tricky problem for the Supreme Court.

The facts have been determined to include that Aboriginals did possess a number of rights based on prior occupancy and use of lands that were not extinguished by Canadian sovereignty. However, these rights often conflict with competing interests on the land, such as those of the government to conserve fish, or non-native fishermen to generate a livelihood from the same resource. In *Sparrow*,⁶⁰ the Supreme Court noted that S.35(1) Aboriginal rights are not absolute and can be limited by the state if it meets a compelling and substantial legislative objective (such as conservation) and if the resulting

⁵⁸ Weinstock, "How Can Collective Rights and Liberalism be Reconciled?", 295.

⁵⁹ *R. v. Gladstone*, [1996] 2 S.C.R. 723.

limitation was consistent with the state's fiduciary duty toward Aboriginal people. The decision of what limitations should be allowed is not purely a matter of fact and precedent; normative judgements are unavoidable. The position taken on this issue will depend upon one's view of Canada (and implicitly on whether one can even speak of sharing a moral view).

Patrick Macklem is particularly critical of Chief Justice Antonio Lamer for placing wider community interests above Aboriginal rights. But in criticizing Lamer's decisions in *Gladstone* and *Delgamuukw*,⁶¹ Macklem implicitly accepts the creation of racial solitudes:

In both *Gladstone* and *Delgamuukw*, the court failed to grasp the simple proposition that Aboriginal rights ought to protect interests associated with indigenous difference against laws that further wider community interests. By exploiting the flexibility inherent in the proposition that 'the requirements of the fiduciary duty are a function of the "legal and factual context" of each appeal,' the court permits a wide range of initiatives that interfere with the exercise of Aboriginal rights in the name of community interests that do not independently merit constitutional protection.⁶²

Factually, Macklem has a point – there was no legal precedent for Lamer to draw upon. However Lamer was obviously aware of the Constitution in making his decision. In examining his decision therefore we should be conscious of his effort to set a new precedent. Lamer purposely drew attention to Aboriginal communities being part of a larger Canadian community because he believed this connection to be a fundamental characteristic of Canada, and because he likely recognized that Aboriginals are still going to be dependent upon Canada in the future.

Macklem argues that "Aboriginal prior occupancy and Aboriginal cultural difference interact normatively to justify their constitutional protection"⁶³. But do they? What if assault and battery was a cultural dimension of Aboriginal identity practiced on a particular territory – would that justify its constitutional protection? This example comes

⁶⁰ *R. v. Sparrow*, [1990] 1 S.C.R. 1075.

⁶¹ *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010.

⁶² Patrick Macklem, *Indigenous Difference and the Constitution of Canada*, 192-193.

⁶³ *Ibid.*, 172.

from the *Thomas* case.⁶⁴ In 1988, David Thomas, a member of the Coast Salish nation, was taken by other members of the Salish to a longhouse to undergo an initiation ceremony. He was kept for four days, denied food, and carried by a group of men who bit him and dug their fingers in his stomach. Thomas sued for assault, battery and false imprisonment. The defendants' lawyers argued that the spirit dance initiation ceremony was an integral part of Salish cultural practices and that it was protected by Section 35(1). In this case the judge shunned moral relativism and held that the Aboriginal right had not be proven and that even if proven it did not survive the introduction of English law.

Thus if one is talking normatively about what the law *should* be (as Macklem attempts to do) one must base constitutional protection on more than just prior occupancy and difference. There must be a serious attempt to evaluate the merits of these differences and whether or not certain practices are properly understood as rights. By throwing blanket protection over Aboriginal rights one risks entrenching in law even those which at best are contentious and at worst morally unacceptable. What about differential fishing rights? Even if there is a good case why this should be constitutionally protected according to Macklem's definition, we need to re-examine the moral validity of that protection in today's world. And today the injustice done toward non-Aboriginals as well as the potential for conflict must be weighed in. That is why the Court has been careful to set out means of limiting Aboriginal rights.

In contrast, Macklem would like to lock away a set of constitutionally protected rights never to be examined. According to Macklem, indigenous difference must be protected not only by limiting the Charter (preventing challenges from within) but also by disallowing any infringement of Aboriginal rights based on a concern for the good of the larger community. If one views Canada as being made up of incommensurable solitudes and one accepts the legitimacy of denying fundamental human rights to Aboriginals on the basis of their values being different, then it is possible to support Macklem's position. If however, one takes the view of Lamer that Canada shares a moral community, that Canadians can in fact talk to one another and share the same moral world, then there is some justification for limiting Aboriginal rights if such interests are unjust and cause harm to others. Surely these rights must be negotiated between all involved parties?

⁶⁴ *Norris v. Thomas*, [1992] 2 C.N.L.R. 139 (B.C.S.C.)

Lamer is (morally if not legally) justified then in holding that wider community interests may sometimes override protection of indigenous differences.

Separate Development

Recently, I went to a talk by Francis Boyle, an expert in international law and something of a popular hero as a result of having defended people from the women of Srebrenica to the Palestinians to the Blackfoot nation. He began his lecture by stating that he had always been interested in helping the underdog, because, he thought, of his Irish and French-Canadian roots. His suggestion was that there was something inherently worthwhile in helping the underdog *qua* underdog. Unfortunately his lecture was too simplistic, and when confronted by members of the audience e.g. Serbs who pointed out that his speech had not included all the relevant facts, he turned to a position of "I helped my clients win, I am not interested in the merits of the claims of my opponents".

This position is typical of the private group. In a similar sense to the Aboriginal use of 'tradition', many scholars favour the underdogs simply because they are underdogs without sufficient regard for the complexities of the situation or the merit of the underdog's position. In some cases the underdog's desired course of action merits defending, but in others it does not. Apartheid in South Africa was widely condemned and the international community was right to support the underdog. The entrenchment of Aboriginal self-government in the Constitution is also widely supported, again favouring the underdog. But the justification of some types of Aboriginal self-government – those provided by Turpel and Macklem – is the same as that behind Apartheid; literally 'separate development' in Afrikaans.

If scholars who support self-government want to avoid the use of the term 'Apartheid' they might consider framing their defense in terms of justice, previous discrimination and the effects on all individuals, rather than in terms of group sovereignty, prior occupancy and incommensurability. Both approaches are taken in the RCAP report, although the former argument is supported by the Report's insistence that Aboriginal peoples are "not groups of individuals united by racial characteristics"⁶⁵ and that "as a long overdue act of justice, Aboriginal people should regain access to a fair

⁶⁵ RCAP, Vol.2, Chapter 3, S. 2.2.

proportion of the ancestral lands that were taken from them”.⁶⁶ If self-government is viewed in the former sense it may well lead to First Nations becoming more public groups and in fact support the development of public people.

Was Apartheid wrong only in the South African case, or was the objection founded on some sense of universal human rights, on a common understanding of what all citizens in a state should share? To most people, Apartheid offended because of an error of type (the notion of separate racial development) *not* an error of magnitude (what form separate racial development should take). The same holds true for the anti-Semitic policies of Nazi Germany. If the last fifty years have suggested anything it is that we do share the same moral world to a significant enough extent for it to count for something. If one accepts that separate development was wrong in South Africa and Germany why should it be sanctioned in Canada? While Aboriginal governments are unlikely to be as brutal as those in South Africa, they could still be race-based and discriminate against people on blood alone. That is why it is dangerous to entrench an Aboriginal right of self-government in the Constitution, and why proposed areas of Aboriginal paramountcy (such as citizenship) need to be examined carefully.

Much of the criticism of the Nisga'a Treaty has been that it discriminates against non-Nisga'a living on Nisga'a land. The treaty explicitly sets out that one must be an Aboriginal to be enrolled. According to chapter 20 of the treaty:

1. An individual is eligible to be enrolled under this Agreement if that individual is:
 - a. of Nisga'a ancestry and their mother was born into one of the Nisga'a tribes;
 - b. a descendant of an individual described in subparagraphs 1(a) or 1(c);
 - c. an adopted child of an individual described in subparagraphs 1(a) or 1(b); or
 - d. an aboriginal individual who is married to someone described in subparagraphs 1(a), (b), or (c) and has been adopted by one of the four Nisga'a tribes in accordance with *Ayuukhl Nisga'a*, that is, the individual has been accepted by a Nisga'a tribe, as a member of that tribe, in the presence of witnesses from the other Nisga'a tribes at a settlement or stone moving feast.⁶⁷

⁶⁶ RCAP, Vol. 1, Chapter 16, S. 1.3

⁶⁷ Nisga'a Final Agreement, Chapter 20. http://www.aaf.gov.bc.ca/treaty/nisgaa/docs/nisga_agreement.stm.

It is clear that membership relies upon having Nisga'a ancestry at some stage. However, as the Nisga'a point out, while they cannot deny citizenship to people who meet the eligibility requirements, they may still grant citizenship to people who do not meet the requirements set out in the treaty.⁶⁸ This has already been done by the process of adopting some non-Aboriginals into the Nisga'a nation.⁶⁹

In fact the RCAP has insisted that self-government should not be based on race/ancestry, but on political membership; "citizenship rules must not discriminate against individuals on the basis of sex, nor can they make ancestry (or blood quantum) a general prerequisite in assessing applications."⁷⁰ However, the Report distinguishes between three types of Aboriginal government – the nation model, the public government model and the community of interest government model. The public government model, by definition, is open to non-Aboriginals and is similar to that pursued by the Inuit in Nunavut. The community of interest model is meant to apply to First Nation individuals lacking a land base. The nation model, which is that most commonly pursued in the BC Treaty Process, bases political rights upon being a member of the nation in question. This model leaves the issue of constitution making, which includes citizenship criteria and individual and collective rights protections, up to the First Nation in question. The leaders get to decide who belongs and what form the government will take, and while there is pressure for this type of government to be open and accountable and to lay down fair citizenship requirements there is nothing to compel them to do so. Without this requirement they may well turn out to be race/ancestry based. One of the main problems with the existing negotiations then is that there is no settled agreement on how a non-member may become a citizen. Saying that citizenship may be granted at the discretion of leadership is not good enough to allay fears. An explicit formulation of citizenship requirements in the newly created treaties would do away with the criticism of race-based government. While the Nisga'a have said that they will be open on citizenship, there is as yet, no written document that obliges them to be.

Rather than protecting Aboriginals *qua* Aboriginals a better argument might be that the moral legitimacy of the Canadian state depends upon rectifying some of the injustices

⁶⁸ Nisga'a Treaty FAQs. <http://www.ntc.bc.ca/faqs.html>.

⁶⁹ "Nisga'a may give non-natives the vote in the Nass Valley", *Terrace Standard*, December 16, 1998.

perpetrated towards Aboriginal peoples *qua* human beings. It is up to Canada to make amends for the false sense of moral superiority that pervaded relations between many of the first Europeans and Aboriginals – a sense of superiority that led to the taking of children from their parents, to the destruction of native languages and the denial of equal political rights – a sense of superiority that has continued to haunt the relationship to this day. This argument does not afford special weight to the fact that Aboriginals were the original inhabitants of Canada, it is an argument based on human rights, and as such would be applicable in principle to other ethnic groups if they suffered in a similar fashion. This is a distinction that too few political theorists are willing to make, and in the end, this failure undermines their arguments because it leads them down the path of moral relativism. It may be tempting to say “our way is our way and you have no right to judge” but everyone’s actions impact upon one another when the same land is shared. Given this, everyone has a right to participate in how they should be governed, and also to judge the actions of others. Part of the foundation for Aboriginal self-government is precisely that Aboriginals **have** *judged* the actions of non-Aboriginals and found them to be unacceptable. Despite what some have argued, there is little doubt about the existence of a shared horizon of meaning and understanding between Aboriginals and other Canadians.

The Gus Wen Tah or two-row-wampum is often used to symbolize the relationship between Native and non-Native Canadians. While traditional interpretations of the Gus Wen Tah have emphasized the separateness of the two vessels, destined never to meet, John Borrows has recently argued for an interpretation that emphasizes sailing on the same body of water.⁷¹ It may be true that the original symbolic significance of the Gus Wen Tah was to highlight separation, but that does not mean that it should remain the same forever. Borrows makes a good argument that one should reinterpret this in light of the growing overlap between Aboriginal and non-Aboriginal communities. One recent example of this overlap is the offer by BC Rail to the Squamish Indian Band of a one

⁷⁰ RCAP, Vol. 2, Chapter 3, S. 3.1

⁷¹ John Borrows, “‘Landed’ Citizenship: Narratives of Aboriginal Political Participation”, in Alan Cairns *et al.* (eds.), *Citizenship, Diversity and Pluralism* (McGill-Queens University Press, 1997), 78-79.

third interest in a proposed new sea port. The Squamish would be able to decide what materials would be shipped out of the port and would also benefit from the jobs created.⁷²

In concluding this section, it seems to me that it is often philosophers who have led fairly 'fixed' lives that find the notion of fixed groups palatable. Charles Taylor, Joseph Raz and Will Kymlicka all fall into this category, as do many Aboriginal scholars such as Ovide Mercredi and Mary Ellen Turpel. On the other hand, it is authors who have migrated during the course of their lives who recognize the problems of essentialism and the blurring of cultural boundaries. See, for example, the work of Anthony Appiah, Homi Bhabha, Madan Sarup,⁷³ and even to an extent Yael Tamir. All of these authors have in a sense been 'uprooted', and as a consequence they share an understanding of the complexity of culture that is often lacking in much political theory. I am not suggesting for a moment that people who have not lived abroad extensively are unable to appreciate the complexity of cultural belonging, merely that in the case of the philosophers I engage here, I believe this to be a contributing factor to their positions.

⁷² *Vancouver Sun*, June 29, 2000.

⁷³ See Madan Sarup, *Identity, Culture and The Postmodern World* (University of Georgia Press, 1996). It is interesting to contrast Sarup's difficulty in defining his nationality as an Asian-Indian who had migrated to Britain and held a British passport, with David Miller's belief that nationality is an easy question for most people. I think the most that can be said is that it is an easy question for Miller.

The Public Person

The life that is not the good life is good in itself.

– George Kateb¹

The public person concept of politics starts with an analysis of the individual. I discuss the public person in an ideal sense realizing that there are unlikely to be very many people who fit exactly the specification, just as many groups are neither totally closed nor totally open. The public person is not the typical liberal individual who is supposed to exist in the private sphere. He/she is someone who is accountable for all he/she does and says. The public person cannot retreat to the private sphere to do and say as he/she pleases, for it is just this veil of secrecy that keeps racial tensions and hatreds alive. It is not enough therefore to act appropriately in public; one has a moral obligation to act appropriately in private as well. What has traditionally been considered 'appropriate' in these spheres differed. One could not usually get away with expressing terms of racial hatred in public. But, alone in one's own house this was considered acceptable, providing these expressions remained there, where they would not harm others. Unfortunately this is a false boundary. Some of the attitudes that are held in private do cause harm to others and it is those attitudes that become open, become public, in this second view of politics.

Openness

Francis Jacques has written at length about difference, dialogue, belonging and personal identity in his book *Difference and Subjectivity*. I quote Jacques at some length in this section, because it is necessary to do justice to his work. Two points are particularly significant. Firstly, Jacques distinguishes between the individual and the person. The individual can exist in a fixed form because of his/her belonging to a group. The person by contrast can exist only in terms of his/her *inter-relationship* with other people: "[w]hile the fact of belonging to a group provides the individual with an

¹ George Kateb, "Democratic Individuality and the Meaning of Rights", in Nancy Rosenblum (ed.) *Liberalism and the Moral Life* (Harvard University Press, 1989), 189.

identificational predicate (I am a Bororo...), it is other human beings, through the reciprocity relation, and not the group, with its relation of belonging, who are constitutive of my personal identity.”² This is what Charles Taylor only partly understands. He understands the reciprocal relation, but moves from that position to one of finding the group constitutive of personal identity and therefore worthy of protection.³ Jacques also notes that:

I must be capable of receiving an address or an interpellation from someone else who calls me *you*, otherwise I shall not be able to call myself *I*. If I am the person to whom reference is being made in the second person, this *you* must then be me. Who could deny it? At the same time, I must be able to recognize myself as the object of a discourse about me in the third person; this *he* is once again me. Thus there is an unbreakable link between the three agencies of discourse – I, you, and he. The result is a structural unit of enormous logical complexity: the person.⁴

It is this third dimension, of recognizing oneself as a he/she that comes into play with the public person. If I am involved in a discussion as ‘I’ or ‘you’, then I will be present. The discussion will be public and I will be a participant in defining my identity. However I may also be discussed as a ‘he’, without being present. This sort of activity usually occurs in the private sphere – I am not able to partake in the conversation that partly defines who I am. The public person however, has a moral obligation not to slander others when discussing them in terms of ‘he/she’, or at least be prepared to subsequently engage the object in the conversation.

It is the lack of such an attitude which is partly to blame for problems between Aboriginals and non-Aboriginals in Canada. In public many people may say the politically correct thing, including politicians, but in private they may say otherwise, and it is these private attitudes that are the hardest to overcome, mainly because they remain closed to the object of the discussion. As Alfred notes “[s]tate sovereignty can only exist in the fabrication of a truth that excludes the indigenous voice”.⁵ It is this exclusion of Aboriginal voices, this relegation of people to a status of ‘he/she’ rather than ‘you’ that

² Francis Jacques, *Difference and Subjectivity* (Yale University Press, 1991), 256.

³ See his discussion in “Multiculturalism and ‘the Politics of Recognition’”.

⁴ Francis Jacques, *Difference and Subjectivity*, 30.

has done much of the damage this century. In order to have a healthy identity others must treat you in a civil and just manner not only when you are in their presence, but also when you are absent. The public person then is mindful of trying to treat people fairly, by ensuring that a discussion which affects another's identity is bound by the same standards of conduct as a 'he/she' (in private) as it would be if that person were a 'you' (in public). If one has a problem with someone one should bring it up with them so that they may participate in the discussion. By not doing this, one partially violates the other's autonomy. As Charles Taylor argues, identity is somewhat dialogical, and if others fail to recognize one's chosen identity, then that misrecognition also becomes a part of one's identity.⁶

Jacques also draws a key distinction between systemic and relational difference. Systemic differences are similar to those fostered by the paradigm of the private group. These differences are fixed differences located within the system. The system is closed and permits people to act only in a certain fashion that it allows. The example of Nazi Germany springs to mind, where Jews were different, and according to the system could only be dealt with in particular, brutal, ways. In contrast, the relational approach construes difference in terms of inter-personal dialogue. Jacques advocates a relational understanding of difference as opposed to fixed differences within individuals because

It establishes its fundamental role within the system by defining it precisely as an 'open' one. For if each person is linked, by work or interest, love or family, to a number of others, the result is not a fixed set of definite values, but rather a shifting, widely dispersed set of reciprocal relations. ... It is when the system is closed that relations are compatible, but also then that they start to degenerate into relations of power, oppression or parasitism.

This openness and reciprocity is central to the development of the public person. The relationship with a variety of different others enables the public person to have a variety of viewpoints. Two people may be members of (clashing) groups a and b respectively, but they may also both be members of group c. Thus while they differ according to their first membership, they share a view according to their second. In order to analyze the

⁵ Taiaiake Alfred, "From Sovereignty to Freedom: Toward an Indigenous Political Discourse", (Paper presented at the International Political Science Association meeting, Quebec City, August 2000), 21.

⁶ See his discussion in "Multiculturalism and 'the Politics of Recognition'".

merits of the disagreement around a and b, they can turn to a shared perspective c or g or j or &^ to help them evaluate. This is what MacIntyre overlooks in his discussion of patriotism.⁷ If many groups inform one's identity then it is less plausible to argue that one group should command supreme loyalty. As the world becomes more multicultural an incentive is created for people to develop new attachments; new loyalties. Thus, while I may not agree with someone from another group on a certain issue, I recognize that in another situation we may in fact belong to the same group. Therefore I extend a positive level of civility to this person (and all others with whom I share a social morality). It is this cross-cutting; this enhanced ability to put oneself in another's shoes that underpins the public person and this is perhaps easier for multicultural individuals than others.

The closed, 'easy' relations that occupy Jacques' attention are similar to the communities of faith in Oakeshott's terms. These positions believe in unconditional allegiances and shun complexity, and in so doing leave themselves open to the danger of oppression. Jacques is quick to point out that

An essential aspect of our freedom is the ability to switch out of our place in an instituted communicational community, into the position of an ideal speaker-listener in a canonical communication regime... [given this] it is a commonplace experience to find that we can now communicate with someone on a different footing altogether; when we speak to each other, it must now be in the context of a new relationship.⁸

This ability to transfer differences from the realm of the fixed and instituted to the personal and relational is key to the public person. Jacques thus presents an alternative understanding of difference that is not as distancing. In this sense his understanding of difference is akin to that of Jacques Derrida. It also shares much in common with a traditional First Nation view that "Aboriginal languages, and therefore the reality they describe and represent, are not made up of separate things with fixed characteristics. The focus is on relations between things or persons, and the nature of the thing or person can be defined by the relationship between the speaker and the object."⁹

⁷ Alasdair MacIntyre, "Is Patriotism a Virtue?"

⁸ Francis Jacques, *Difference and Subjectivity*, 256-257.

⁹ RCAP, Vol.1, Chapter 15, S.3.

Returning to the example of the Gus Wen Tah, the picture is the same for both the private group and the public person – what differs is how it is interpreted. The private group emphasizes the fixed differences in the two vessels, whereas the public person views the differences as being a result of the relative positions of the two boats. The first position can never imagine the two ships coming together, while the second allows for this possibility. The ability to transfer difference in this way is like the ability to open one's other eye and see the world anew, which I alluded to in the introduction. Perhaps it is this ability to communicate that led Berlin to assert that we all spoke a universal language, and why we cannot call fully human (rather "a moral idiot") a person who thinks it acceptable to torture children.¹⁰ It may be that the only way we can understand the actions of the Nazis is through the systemic version of difference. Most people in Nazi Germany were not able or free to step outside of their roles in the 'instituted community'. They were humans nevertheless, and if they were to step outside into a relational understanding of difference they would have a greater appreciation of the atrocities committed. In addition many people in Nazi Germany did not follow the imperative of the public person – Jews were reduced to he/she – they were placed in the sphere traditionally considered private. They were not engaged in the discourse about their identity.

Any time people are moved to this closed sphere, it is a sign of danger. As Jacques says "[i]t is crucial for the third person to be a potential partner in an interlocutive relation, to be able to be reactivated. In the absence of this contrastive virtuality, the he/she changes status and slips out of the tripersonal system of overlapping agencies".¹¹ Whenever the subject of a conversation is a 'he/she' that person is placed at a distance – both physical and emotional. The further from oneself that something is, the easier it is to ignore, or even to treat inhumanely. More than anything else, these examples are representative of the extremes of the private group (systemic differences) and the public individual (relational differences). It is not that people in the association of private groups are any less human (as Berlin may have considered them to be), it is that their understanding of, and ability to act in, this world is somewhat limited by their

¹⁰ Isaiah Berlin, "European Unity and its Vicissitudes" in *The Crooked Timber of Humanity*, 204.

¹¹ Francis Jacques, *Difference and Subjectivity*, 36.

institutionalized system of differences. They see a world of individuals and not a world of people, or as Oakeshott would have it, they are anti-individuals who have not friends but comrades.¹²

The realm of privacy is an area where differences are institutionalized in a systemic fashion. Privacy has served to protect us from unwanted scrutiny; certainly no-one would like to see the development of an Orwellian world.¹³ But sometimes scrutiny is warranted and although this is a difficult line to draw, it is nevertheless one which must be attempted. As Kekes argues "the proper balance between social and personal morality requires setting limits beyond which the social should not intrude into the personal; or, to express it from the other direction, limits that personal morality should not lead people to transgress".¹⁴ Scrutiny must start first with the individual – a form of Foucauldian self-regulation almost.¹⁵ Total privacy and total freedom exist only in the head such that one may hold whatever thoughts one does. This was what Big Brother hoped to control in *Nineteen Eighty-Four*, and it was this that was most objectionable. But as soon as these thoughts are expressed they *should* become public and open to scrutiny and debate. These thoughts, when expressed, should make differences relational and serve to build new relationships. But all too often, despite being expressed, they remain closed because the political/social system can only deal with them in this way (to maintain its power), and traditional hatreds and grievances are then built upon. As Jacques says "[power] emanates from the communicational fabric woven by all the social actors. The Prince is only another name for restricted communication".¹⁶ The private sphere has too often been used an excuse not to think. It is part of the comfortable, easy world that inadvertently creates a politics of fear between groups. By stepping outside a system of fixed differences it may be possible to find a new basis for relationships.

¹² See Michael Oakeshott "The masses in representative democracy".

¹³ George Orwell, *Nineteen Eighty-Four* (Oxford: Clarendon Press, 1984).

¹⁴ John Kekes, *Moral Tradition and Individuality* (Princeton University Press, 1989), 95.

¹⁵ The development of self-regulation is discussed by Michel Foucault in, for example, *Discipline and Punish: The Birth of the Prison* (London: A. Lane, 1977) and *The History of Sexuality* (New York: Pantheon Books, 1978).

¹⁶ Francis Jacques, *Difference and Subjectivity*, 254.

The model of the public person is not a model of the individual who should be free not to participate as some like George Kateb support.¹⁷ It borrows from civic republicanism in that it is a warm association of people who have an obligation to civil society at large, not to exclusive groups. Yet is not identical to civic republicanism, for often civic republicanism places duty over freedom at the expense of the individual. For many civic republicans positive liberty comes first. The second paradigm however is a mode of association focused on the negative liberty of individuals while at the same time admitting a measure of positive liberty. The public person then builds upon the necessity of public action combined with negative freedom. This understanding is shared by Quentin Skinner who attempts to show the role civic virtue (derived from positive liberty) plays in maintaining (assuring) negative liberty.¹⁸

The model of association thus produced calls for a less conflictual style of politics – a politics of changing alliances on issues. In some ways obligation and duty to uphold the common good are also paramount, as they are in the model of the private group. However, the common good is very differently understood here – it is procedural and applies to a larger whole – as opposed to the substantive good of minority groups that the private model espouses; hence Kateb's quote to introduce this chapter – “[t]he life that is not the good life is good in itself.” The public person does have group attachments; does of course belong to instituted communities. What is important though, is that these communities are not wholly constitutive of his/her identity and that the public person can change these instituted communities by modifying his/her interpersonal relationships; by transferring difference from the realm of the fixed and systemic to the fluid and relational.

Reconciliation in Canada

The attractive thing about the model of the public person, especially in Canada, is that it meshes with some traditional Aboriginal understandings of politics. Taiaiake Alfred is critical of the adoption of the term ‘sovereignty’ by First Nations in Canada

¹⁷ See, for example, George Kateb, *The Inner Ocean: Individualism and Democratic Culture* (Cornell University Press, 1992).

¹⁸ Quentin Skinner, “The Idea of Negative Liberty: Philosophical and Historical Perspectives” in Rorty, Schneewind and Skinner (eds.) *Philosophy in History* (Cambridge University Press, 1984).

because in order to gain this sovereignty Aboriginal peoples are co-opted into a western form of government, “[b]y agreeing to live as artifacts, such co-opted communities guarantee themselves a mythological role, and thereby hope to secure a limited but perpetual set of rights”.¹⁹ At first glance his thesis appears to be one of allowing for solitudes between incommensurable peoples, but that is not his stated hope. He hopes that non-Aboriginals can learn from traditional Native forms of government. This is in stark contrast to Turpel who believes in the recognition of “incommensurable communities”.²⁰ In particular, the Native forms of government that Alfred discusses are underpinned by the same values that support the public person, and the same values that Ralph Waldo Emerson espoused over 150 years ago. According to Alfred

[m]any traditionalists hope to preserve a set of values that challenge the destructive, homogenizing force of western liberalism and materialism: they wish to preserve a regime that honours the autonomy of individual conscience, non-coercive forms of authority, and a deep respect and interconnection between human beings and the other elements of creation.²¹

He continues, “[t]he contrast between indigenous conceptions and dominant western constructions in this regard could not be more severe”.²²

Perhaps that is true, that dominant western conceptions are far removed, but that is not to say that western conceptions are totally alien. In fact, Emerson and the American Transcendentalists provide an alternative basis for a western understanding, and one which can be reconciled with traditional Aboriginal philosophy. According to this traditional philosophy, earth was created by a higher spirit, while political institutions were created by humans. This means that unlike the human-earth relationship “the human-institution relationship entails an active responsibility for human beings to use their own power of creation to achieve balance and harmony”.²³ This is the positive side of the public person reflected; the need to be actively involved in reforming politics, even if that just means reforming one’s own attitudes.

¹⁹ Taiaiake Alfred, “From Sovereignty to Freedom: Toward an Indigenous Political Discourse”, 17.

²⁰ Mary Ellen Turpel, “Aboriginal Peoples and the Canadian Charter: Interpretive Monopolies, Cultural Differences”, *Canadian Human Rights Yearbook* 6 (1989-90), 45.

²¹ Taiaiake Alfred, “From Sovereignty to Freedom: Toward an Indigenous Political Discourse”, 17.

²² Ibid.

The concern with balance is a recurring theme among Aboriginal scholars, and one which can also be seen at times in the work of Emerson, such as when he says "the reason why the world lacks unity, and lies broken and in heaps, is because man is disunited with himself. He cannot become a naturalist until he satisfies the demands of the spirit".²⁴ Emerson is an interesting figure in this regard. At times he seems to share many views similar to Aboriginal beliefs about the centrality and power of the natural world "I become a transparent eyeball; I am nothing; I see all; the currents of the Universal Being circulate through me".²⁵ And again in his poem "Hamatreya":

Bulkeley, Hunt, Willard, Hosmer, Meriam, Flint,
 Possessed the land which rendered to their toil
 Hay, corn, roots, hemp, fax, apples, wool and wood.
 Each of these landlords walked amidst his farm,
 Saying, "'Tis mine, my children's and my name's.
 How sweet the west wind sounds in my own trees!
 How graceful climb those shadows on my hill!
 I fancy these pure waters and the flags
 Know me, as does my dog: we sympathize;
 And, I affirm, my actions smack of the soil.'

Where are these men? Asleep beneath their grounds:
 And strangers, fond as they, their furrows plough.
 Earth laughs in flowers, to see her boastful boys
 Earth-proud, proud of the earth which is not theirs:
 Who steer the plough, but cannot steer their feet
 Clear of the grave.²⁶

In search of reconciliation, Canadians might be able to build upon the ideas of people like Emerson, Alfred and Borrows. It is dangerous to accept the argument of people such as Mercredi that white man's individualism has caused 'imbalance' in communities, that only certain leaders know how to repair. This sounds ominously like Berlin's description

²³ Ibid., 19.

²⁴ Ralph Waldo Emerson, "Nature", in *Selected Essays, Lectures and Poems* (New York: Bantam, 1990), 54.

²⁵ Ibid., 18.

of the tyrant,²⁷ or Oakeshott's description of the rationalist,²⁸ both of whom teach their followers how to be free. Despite a common belief that Aboriginal societies are communitarian and therefore incommensurable with the perceived individualism of "white" Canada, both Alfred and Maracle hold that traditional beliefs emphasized individual liberty – the good of the society as a whole could not be separated from the individual. Maracle quotes J. Long (an English trader and interpreter) who wrote in 1791:

The Iroquois laugh when you talk to them of obedience to kings; for they cannot reconcile the idea of submission with the dignity of man. Each individual is a sovereign in his own mind; and as he conceives he derives his freedom from the great Spirit alone, he cannot be induced to acknowledge any other power.²⁹

This suggests that Aboriginal communalism has assumed a greater role today than it did in the past. In fact the similarities between some traditional Aboriginal societies and the concept of the public person is illustrated even further when Maracle says "[t]he glue that held this society of freedom-loving individuals together was the people's belief in the *Kayanaren'tsherakowa* [the Great Law] and their commitment to a government based on the principles of reason and open debate".³⁰

The Moral Obligations of Public People

(i) Civility

The likely outcome of an association of public people is the creation of a stronger civil society. As Appiah says "[c]ulture undergirds loyalties. To the extent that these loyalties matter they will be mobilized in politics, *except to the extent that a civic culture can be created that explicitly seeks to exclude them* (emphasis in original)." ³¹ In this way, paradigm 2 differs from the (critique of the) stereotype of liberal individualism in that it is not a view of a society composed of isolated individuals. It does not deny the importance or inevitability of group membership. To borrow from Alfred, the paradigm of the public person helps to "[b]uild frameworks of respectful co-existence by

²⁶ Ibid., "Hametraya", 367.

²⁷ See Isaiah Berlin "Two Concepts of Liberty".

²⁸ See Michael Oakeshott, "Rationalism in Politics".

²⁹ Brian Maracle, *Back on the Rez*, 169-170.

³⁰ Ibid., 153.

acknowledging the integrity and autonomy of the various constituent elements of the relationship... [to] explicitly allow for difference while mandating the construction of sound relationships among autonomously empowered elements.”³² Thus, differences are admitted but not in a way that prevents the building of common relationships.

This understanding is similar to Samuel LaSelva’s concern with the development of a common Canadian political nationality based on the Constitutional vision of Georges Étienne Cartier. According to LaSelva “Canada is a country with an identity because, in its refusal to choose either ‘the one’ or ‘the many’ it has developed a distinctive understanding of ‘the one’ and ‘the many’”. LaSelva goes on to criticize the dominant paradigms of Canadian political theory, “pluralism and expressivism illuminate ‘the many’ but they fail to understand ‘the one’ and they fail to come to terms with the Canadian crisis”.³³ In fact it could be added that as well as failing to understand the one, they also fail to understand the one’s *within* the many. The theoretical association of public people are bound together in a common state, with a common social morality. The public person therefore understands ‘the one’ as well as the many sub-groups to which he/she belongs. And because the emphasis is on every person and that individual’s different memberships, the one’s within the many are also taken account of.

Public people are bound together by an attitude of decency, which involves:

a mixture of spontaneous goodwill, casual friendliness, a spirit of mutual helpfulness. It is an attitude fellow participants have toward each other and friendly visitors. It assumes no intimacy; in fact it holds between passing acquaintances and strangers who have nothing more in common than the mutual recognition that they share the same social morality.³⁴

It is this social morality that Canada is struggling to solidify. It does not necessarily require trust, but it does require a lack of fear. To certain people, this morality is aided by a shared political history (as LaSelva suggests), while to other people (such as certain Aboriginals) that shared history may be a disadvantage. In a society which is deeply

³¹ K. Anthony Appiah, “The Limits of Pluralism”, 52.

³² Taiaiake Alfred, “From Sovereignty to Freedom: Toward an Indigenous Political Discourse”, 19.

³³ Samuel LaSelva, *The Moral Foundations of Canadian Federalism* (McGill-Queen’s University Press, 1996), 156.

³⁴ John Kekes, *Moral Tradition and Individuality* (Princeton University Press, 1989), 51.

fractured the base level of trust and respect necessary for a social morality is unlikely to develop – as always it is the problem of starting with a clean slate. If Canadians all saw one another as equal moral individuals this would be diminished. A slight against a member of my group would not be a slight against me. Yet even if I do not feel slighted, it requires outsiders also to see that the slight does not apply to me, or other members of my groups.

As Kekes explains, the development of a social morality depends upon the expectation that “not rights, but goodwill guides the conduct of fellow members”.³⁵ But Canada today faces a situation where rights often do guide the conduct of members. A political system based primarily on rights is less likely to lead to positive inter-personal contacts; less likely to lead to empathy. As Kekes also shows, Hume’s understanding of social morality built upon Aristotle’s by considering sympathy for others’ pleasure and pain. It is this sympathy that arises as a result of an open society built on interpersonal connections. It was striking that the psychologist in the film *Nuremburg* considered that all the accused war-criminals had one thing in common – a lack of empathy. If the analysis here follows, this can be understood by the fixed system that constrained people. Under the paradigm of the public person, open reason guides sympathy to make decency.

(ii) Reciprocity

Reciprocity is central to the public person. Reciprocity can be defined as a mutually beneficial relationship between two people. It is characterized by the felt quality of the relationship, the system that allows for such a relationship, and the content of that relationship.³⁶ As de Vries notes, in societies undergoing rapid change, it is a challenge to find a new basis for reciprocal relations. Writing in 1968, he blamed the “commercialization of human relations” with undermining the quality of reciprocal relationships.³⁷ It seems likely that the decline in Social Capital in the USA so often discussed by Robert Putnam can be linked to a decline in reciprocity. This decline is probably also linked to changes in technology that I deal with in the next section.

³⁵ Ibid., 69.

³⁶ Egbert de Vries, “Explorations into Reciprocity”, *Essays in Reciprocity* (Paris: Mouton, 1968), 10.

³⁷ Ibid., 10.

deVries poignantly discusses the tale of the lion and the mouse, where the mouse helps the lion out in a time of great need by gnawing through his bonds. This analogy suggests that we all have something to offer to one another. It is often a question of making the effort to discover what it is. In Canada today, the same holds true; “[i]dentifying the common goal and recognition of the need of participating with others – quite different others – is not always an easy task, but is indispensable”.³⁸ It is important to note that in order for an association of people to have lasting strength, reciprocity must complement other desires such as profit and power. Reciprocity “is or should be *the common element* in all organizations and actions” (emphasis in original).³⁹

In Canada relations between Aboriginal people, Quebecers, and other ‘general’ Canadians need to be driven by greater reciprocity. Points of conflict, such as Oka and Meech Lake have been reached because of a lack of reciprocity in the past. As the RCAP notes, reciprocity is an “important component of many Aboriginal world views”.⁴⁰ The potlatch – a ceremony that centers on reciprocity and gift giving – is an integral part of many First Nations’ cultures. What many Aboriginal peoples demand is a return to a position where they can once again engage in genuine reciprocal relationships. That is why some form of self-government that promotes self-sufficiency by generating revenue from Aboriginal lands will be a marked step forward on their existing dependence on Ottawa. Moreover, with the development of economic co-operation, “the participants in an economic exchange see themselves not only as calculators of immediate advantage but also as partners engaged in relations of mutual benefit and reciprocity over time.”⁴¹ Such a view can be a step towards the public person.

(iii) Specific Criticism

A third obligation of the public person is that dialogue and criticism should be specific. Of course, it is hard not to attribute characteristics of a group of similarly behaving individuals to the larger group. Yet it is necessary. One must neither tar all, nor shine all, with the same brush. But in a country such as Canada where cultural (group)

³⁸ Ibid., 17.

³⁹ Ibid., 18.

⁴⁰ RCAP, Vol. 1., Chapter 16, S. 1.3

⁴¹ Ibid.

membership is the dominant paradigm, it is very difficult not to. It might be argued that in the USA, the beacon of individualism, that this is also the case. However, the USA is not truly individualistic in this sense. White males could be individualists, in the traditional sense. The history of the USA is equally, if not more, fractured along racial lines than Canada, and so the attribute of applying broad labels to groups is at least as problematic in that country. In truth, the individualism there is the wrong type of individualism. It was (and is) an elitist individualism, applicable only to a select few. There was never a sufficiently widespread belief in the potential equal moral capacity of every human being that lived in America. Or, to put it in Jacques' terms, the USA exhibits individualism, whereas the quality better suited to civil society is personalism.

As Kekes so aptly puts it, "[c]ivic friendship holds between fellow members of a society, provided they have not disqualified themselves from it by hostility, rudeness or inappropriate conduct".⁴² The main problem is that in Canada many people have not traditionally seen Aboriginals/Whites/Francophones/Anglophones as fellow members of the same society. Such that now there is a unity problem and a large number of people have disqualified themselves by virtue of their past (and often continuing) hostility, rudeness or inappropriate conduct. When Jean Chrétien made a comment about Albertans being different (as he did in the November 2000 Federal Election campaign), he disqualified himself. The problem is that he talked about *all* Albertans (as a group) and so most Albertans took offence not just at Chrétien but at Ottawa, the Liberals and Eastern Canada in general (as groups). If Chrétien had said that he met a strange person (or even several strange people) who came from Alberta, it would not have been good but it would have been better.

It is not imperative that one should never make broad statements about groups. It may be factually correct to say "most engineers play sport"; no engineer should take offence at this, even those that do not play sport, because playing sport is not ridden with deep-seated value implications. People will not likely treat you any worse if you do or don't play sport or if you prefer coffee or tea. This should also be the case if you are Muslim or Christian, a believer or a non-believer – the same level of civility should be extended to all. But to say Albertans are different, or most Aboriginals are lazy is

⁴² John Kekes, *Moral Tradition and Individuality*, 54.

different. Even if factually correct, it does damage. It reinforces group stereotypes and hatreds. Being different, or being lazy, have negative connotations. Members of these groups will often not be extended the same civic opportunities, and as a result their life opportunities will be decreased. In times gone by not being a Christian was bad enough. The damage that this attitude has done resonates to the current day.

An even stricter understanding of specificity is proposed by Brian Maracle who believes one should refrain from criticizing people personally and instead concentrate on their actions: "[o]ur entire society and way of life was centred on maintaining harmony and preserving the Great Peace. And since calling one another down would create disharmony and disrupt the peace, bad-mouthing people could not have been part of our cultural tradition."⁴³ Continuous negative statements are liable to become self-fulfilling prophecies. Such statements alter the environment in a way that group traits are selected for. Civic friendship then is dependent on the prevalent social morality. Social morality is the environment which selects what type of behaviour will be advantageous; what will work. A change from a predominantly paradigm 1 environment to a predominantly paradigm 2 environment will be fairer, more just and will decrease the incidences of clashes. The politics of fear will not operate so strongly. But how can one break out of existing mindsets? To change the environment a better meme in the meme pool needs to come along, one which people are not disadvantaged by following. This new meme could be introduced to children at an early age, and might be nurtured in the school environment.

(iv) *Education*

One of the problems with political theory is that it too is often constrained by orthodoxy, bound by a private group mentality which says that political theory is not public policy and never the twain shall meet. Many political theorists consequently shy away from prescription, or when they do, fall back on the panacea of education to solve everything. *Education* will not solve everything, but a particular *type* of open education may be a step in the right direction.

⁴³ Brian Maracle, *Back on the Rez*, 202.

From this belief there follows a central place for open education in the association of public people. Appiah suggests instituting a rule that no discussion is complete until everyone has spoken, and that teachers ask children to explain what others have said, so that they will appreciate the value of listening as well as talking. A further concern of his is that children be taught about a range of cultures and religions that they may be exposed to. This broad-based curriculum goes hand in hand with his belief that “[e]ducating children for autonomy requires preparing them for relationship, not just preparing them to respect as liberalism requires, the autonomy of others”.⁴⁴ Appiah is critical of multiculturalists who propose to teach children the culture of their group. This idea is “paradoxical because it proposes to solve the problems created by the fact that children have different cultures by emphasizing and entrenching those differences, not by trying to reduce them”.⁴⁵

The key to civic education lies in introducing children to other beliefs, other ways of living. A major problem facing Canada is that few non-Aboriginals have been encouraged to learn about First Nations philosophy, history or practices. The same may arguably be true, although to a lesser extent for other groups. I can remember taking shelter in a café during a sudden rainstorm in Quebec City and sharing a table (space was limited) with a native Quebecer who told me that his great (or great-great) grandfather had been the first Mayor of Quebec City. The man insisted that he was not interested in separation – “people are people” – he just wanted other Canadians to understand Quebecers, to know something about their culture.

What is taught in schools will never be neutral among competing conceptions of the good life, but it makes no claims to be. This thesis suggests that an association of public people is a non-neutral yet desirable form of politics, and therefore a form of education that creates an environment that selects for public people is unlikely to be neutral either. As both Appiah and Gutmann are at pains to point out, educating children as potential future citizens means that parents do not have ultimate authority over what is taught to their children. Parents have every right to teach children particular ways of doing things; particular values; a particular culture. But part of the goal of public education is to make

⁴⁴ K. Anthony Appiah, “Thoughts on Liberal Education”, 46.

⁴⁵ *Ibid.*, 49.

sure that children are equipped to enter a different world from that of their parents if they so choose; to ensure that children have an understanding of others who are different from them but with whom they will nevertheless be able to form relationships. As Gutmann suggests "[a] state of democratic education is minimally objectionable insofar as it leaves maximum room for citizens to shape their society, not in their own image but in an image that they can legitimately identify with their informed, moral choices."⁴⁶

The type of education system that might arise as a result of Aboriginal self-government therefore needs to be examined carefully. There is some legal precedent for allowing distinct communities to limit the amount of state sponsored education that their children receive. In *Wisconsin v. Yoder*,⁴⁷ the Supreme Court ruled in favour of the Amish being allowed to remove their children from school at fourteen to prevent the undermining of their communities. However, it is important to note that the Amish are very different from First Nations in Canada. Whereas the Amish may be considered what Jeff Spinner-Halev has termed 'partial citizens', Aboriginals most certainly are not.

Unlike the Amish, First Nations in Canada do not desire almost total separation from the larger society. Much emphasis in the treaty process is placed on developing economic self-sufficiency, which will spring from integrating with the larger Canadian economy. Many First Nations such as the Nisga'a are keen to promote tourism. It is not so much therefore that First Nations want to isolate and preserve their land, rather that they want to partake in its riches. Bearing this in mind, the type of education received by First Nation children will be crucial. In order to make the material progress they desire, Aboriginals will have to progress through the Canadian higher education system. In 1969 there were 800 Aboriginals enrolled in postsecondary education in Canada. By 1994, the number had increased to 26,800.⁴⁸ Thus, while advances have been made in the last thirty years, there is still room for improvement.

However, there is a danger that First Nations like the Gitksan will try and teach their children a curriculum that they consider 'appropriate' to being a 'proper' Gitksan member. According to the Gitksan Millennium education plan:

⁴⁶ Amy Gutmann, "Undemocratic Education", in Nancy Rosenblum (ed.) *Liberalism and the Moral Life* (Harvard University Press, 1989), 77.

⁴⁷ *Wisconsin v. Yoder*, 406 US 205 (1972).

⁴⁸ Alan Cairns, *Citizens Plus* (University of British Columbia Press, 2000), 185.

The centrepiece of Gitxsan Millennium will be the wilp [matrilineal kinship system]. More precisely, all aspects of the twenty-year education plan will support, strengthen or directly involve the huwilp [plural of wilp] and the Gitxsan kinship structure. In this way, the educational plan will be "wilp-friendly"⁴⁹

It continues:

Historically, people's roles and their responsibilities to one another were defined by their kinship relationships. Recent history has undermined the wilp by taking away its responsibility for the health and wealth of its members. Formerly it was members' relationships within the wilp that ensured life and success. Another important relationships (sic) for education include the wilksaleks (father's side) that had responsibilities for the formal education a young person needed.⁵⁰

Is it so wrong that people's obligations are no longer entirely defined by their kinship relations? The tone of the education plan suggests a desire to return to a situation where people's relationships with the wilp determine their life outcomes. It is also worth noting that the goal of education is to provide "rich possibilities for the huwilp" rather than for a Gitxsan individual. Yet the plan admits that "with the corporate global economy and powerful state institutions (i.e., medical system, employment, justice system, monetary system, schools, social assistance, etc.), wilp members relationships have been limited and the practical and meaningful functions of the wilp reduced."⁵¹ This is likely true, and while it may have caused some tensions within the Gitxsan community, these will not be overcome by a return to the wilp system. The pressures of the modern world (like it or not) mean that these traditional relationships will be hard pushed to survive in their 'original' forms. Future education of First Nation individuals will be torn between a desire to save traditional patterns of interaction and obligation, with the opposing demands of working and living in a global society. Some of these pressures have been addressed by George Calliou. He is critical of a general problem in Native communities which he calls the 'crab-pot syndrome'. This refers to

⁴⁹ <http://www.gitxsanchiefs.com/millennium.htm>

⁵⁰ Ibid.

⁵¹ Ibid.

the tendency of crabs in a pot to pull down into the pot any crab that seeks to climb out. This crab-pot syndrome is a very conservative ethic that results in social control being exerted against those who aspire to upward mobility. For instance, such a person may be labelled 'an apple' by his reference group in his home community. This derogatory term, with its implication that the upwardly mobile person is a traitor to his/her people, can be very hurtful to its target. Anticipation of such loss of social support, or even of outright ostracism, causes some Aboriginal students not to achieve to their full potential in their studies.⁵²

(v) *Publicity and Secrecy*

Amy Gutmann and Dennis Thompson are somewhat along the line to an understanding of the public person in *Democracy and Disagreement*. Their primary concern is with the persistence of moral disagreement in politics and how deliberative democracy, which is founded on the core values of reciprocity, accountability and publicity, is better suited to meeting the challenge posed by these differences than traditional conceptions of democracy which have relied upon the principles of impartiality (altruism) or prudence (self-interest). Deliberative democracy is concerned with making sure that the decision-making process is legitimate. This relies upon all the relevant parties having meaningful participation as well as being prepared to change their position if presented with a better argument. It relies upon people being able to see the moral merit in another's position on an issue such as affirmative action, even if they disagree with that position. If people are open and accountable to one another then the process gains legitimacy. By implication, even the 'losing' side should accept the moral legitimacy of the outcome as they have accepted that the process that led to the outcome was the best available. The characteristics then that underlie the deliberative democrat are very similar to those that are suggested by the model of the public person. But whereas Gutmann and Thompson focus more on the role of officials, the public person is concerned with understanding every person and his/her responsibilities to others.

In some instances, Gutmann and Thompson err on the side of pragmatism. When discussing publicity, their main concern is that the principle of publicity applies to public officials and in particular their *policies*, because "making reasons public contributes to the broadening of the moral and political perspectives that deliberation is supposed to

⁵² George Calliou, "Urban Indians: Reflection on Participation of First Nation Individuals in the Institutions of the Larger Society" in J. Rick Ponting (ed.) *First Nations In Canada*, 317.

encourage”.⁵³ There are reasons for keeping some policies secret, such as the summaries of the Open Market Committee of the Federal Reserve Board. As they say “if the primary aim of the policy is beneficial and would be defeated by publicity, and if the costs of the required secrecy do not exceed the benefits of the policy, why should anyone object to the secrecy?”⁵⁴ It is deceptive secrecy that does harm that must be guarded against.

The British governments led by Margaret Thatcher and then John Major practiced an example of deliberate secrecy and deception for many years over Mad Cow Disease. From the time of the first outbreak of the disease in 1985, independent scientists warned that it might pose a threat to human health and that the government was wrong to tell people that eating British beef was perfectly safe. The rationale behind the cover up, was that if it turned out not to be a threat then why cause a panic? The government stopped all independent research into BSE and for over 10 years lied and said that there was no threat to human health. This example clearly violates Gutmann’s and Thompson’s rules for secrecy, for while there may have been some beneficial reasons for publicly stating that British beef was safe, and while there is little doubt the policy would be defeated by publicity, the costs of the secrecy far, far exceeded the benefits of the policy. For the benefit of keeping people calm, and supporting cattle farmers, millions of citizens of Britain and other countries had their personal autonomy violated. They were not presented with true facts from which they could have made an informed decision whether or not to buy British beef. The upshot of this is that anywhere from several hundred to several million people around the world have been infected with a deadly, incurable, brain wasting disease. As Gutmann and Thompson say this type of deception is “so insidious precisely because it is more apt to be effective than the blatantly self-interested kind.”⁵⁵

But to simply concentrate on the distinction between officials and their policies and ordinary citizens as Gutmann and Thompson do, is somewhat misguided. They state explicitly that “[t]he boundaries between public and private activities are not as sharp for

⁵³ Amy Gutmann and Dennis Thompson, *Democracy and Disagreement*, (Harvard University Press, 1996), 100.

⁵⁴ *Ibid.*, 102.

⁵⁵ *Ibid.*, 119.

officials as they should be for ordinary citizens".⁵⁶ But it is just this acceptance of a distinct layer of secrecy in private for everyday people that does much harm to the development of a positive social morality in many societies today. Gutmann and Thompson support the fact that Griffin Bell, the former Attorney General of the USA, was *forced* to quit his private club that discriminated against blacks and women. What they fail to address is the question of why it is unacceptable for him to belong. Is it just because he is a public figure? Or is it because we believe that there is something objectionable about the club? By confining the criticism to his role as a public official, rather than to all members of the club, Gutmann and Thompson seem to be legitimating a utilitarian argument rather than a moral one. If we are to have a true civil society then public officials should not be forced to leave such clubs solely because it reflects badly on their position. The attitudes that underlie membership in such clubs must be addressed. Why does membership in such a club reflect badly on their position? All members of such a club should consider why its policies make many people deeply uncomfortable and the kind of society that they wish to live in. As public people they should be motivated to reform the club or to resign from it.

In this context the recent, albeit narrow, decision to remove the Confederate flag from the South Carolina legislature is a step in the right direction. There is little doubt that the flag was a source of pride for many and that these people did not want to violate the memories of ancestors who fought for a cause. But, in this day and age it should be possible to admit that the cause was not a good one, and that admitting this does not have to undermine one's individual love or respect for those who have gone before. This is a realm (pride in ancestors) that might often be better off staying distinctly private, for to make it public may be to invite hurt and trouble and strife. Referring to the recent referendum on the adoption of a new flag in Mississippi, former Governor William Winter has said "I too love and honor my grandfather who fought in the Civil War... [b]ut he would want what's best for the future of the state, and that's a flag for all of us."⁵⁷

⁵⁶ Ibid., 111.

⁵⁷ "Vote on Flag Likely to Win One for Dixie", *Los Angeles Times*, April 17, 2001.

In certain instances it is useful to try to separate one's feelings toward the people from the cause they fought for, and it seems to me that this is the route being taken in South Carolina, although not in Mississippi where the new flag design was defeated. In fact it is interesting to note that George Sheldon (the director of the Mississippi Legacy Fund which pushed for a new flag) said "we've tried to make this an issue about people's wallets".⁵⁸ This amounts to an acceptance that it is not worthwhile engaging the general public in the moral debate. The similarity with Gutmann and Thompson's discussion of Griffin Bell is striking. Moral issues are in the spotlight but there is no effort to engage the critical capacity of the everyday person. Any changes made as a result of this attention are therefore likely to be superficial and of limited benefit.

This analysis suggests that *all* people need to be accountable in the way described. It is not enough for officials to be open if citizens are closed, for it is the attitudes of everyday people as citizens that determines the social morality. A public person should be transparent so long as this poses no threat to his/her own personal integrity. Here, the limitation of using other individuals as speech objects, rather than people becomes clearer. To treat people as objects, violates the moral obligations of the public person. To be transparent in this area does not violate the subject's integrity, whereas to be transparent in terms of certain two-way relationships (such as being lovers) may very well violate one's integrity. Thus, extensive prying into personal matters is not warranted.

Towards a New Model of Politics

Now that an understanding of the public person has been established it is necessary to consider what will happen when public people come together to deliberate. How should they settle differences? What is the appropriate form of decision-making? A lot of deliberative democrats such as Jürgen Habermas concentrate on the ideal of consensus decision-making. This idea is also common to traditional indigenous beliefs. Mercredi and Turpel and Brian Maracle are supportive of the idea of reviving traditional forms of government that emphasize consensus decision-making, over the imposed form of government of the band councils. There is undoubtedly some room for reviving traditional procedures not just in terms of First Nations but in Canada as a whole. Yet

⁵⁸ Ibid.

reviving does not necessarily have to involve replication. There are a variety of problems with strict consensus decision-making. As Maracle himself notes:

In the meetings I attended, I had an admittedly brief and blurry glimpse of the Confederacy in action, but I was troubled by what I saw. For one thing, the chiefs didn't ever seem to get anything accomplished... it seemed that they would discuss a subject for a while and move onto something else without ever coming to a decision.⁵⁹

Consensus decision-making is always liable to run into this type of problem. However, one of the aspects of consensus that recommends it is the prevention of conflict. But the opposite of conflict is not consensus. It is peace, or perhaps collaboration, and one can achieve peace without consensus. This has not been mentioned, as far as I am aware, by consensus-oriented theorists such as Habermas. Public people would be better guided by the principle of collaboration rather than consensus. An association of public people should be bound by "non-instrumental rules [that] specify and prescribe, not choices to be made or actions to be performed, but conditions to be subscribed to in choosing and acting."⁶⁰

Collaboration is less demanding than consensus and would likely still employ the majority vote as a decision making process. The difference between collaboration and the conception of bargaining that informs most contemporary politics is that bargaining involves fixed interests, whereas collaboration, or deliberation, requires a different mindset – an acceptance of the ability to change one's position and an appreciation of the broader community to which one belongs. This has two main implications: as Gutmann and Thompson point out, representatives should be accountable not only to their own constituency but also to non-residents who are likely to be affected by a particular policy. In addition accountability should not only be in the short term, but must consider those who are yet to come.⁶¹

If the public person accepts the legitimacy of the process then what is traditionally considered a 'loss', is not so devastating. The public person also realizes that it may be possible to convince others to join with him/her and 'win' in the future. This does not

⁵⁹ Brain Maracle, *Back on the Rez*, 207-208.

⁶⁰ Michael Oakeshott, "Talking Politics", 454.

suggest that 'losses' will not sometimes be as bitter or that there will be sweeping changes in human nature – but again, this attitude is a useful small step if on some occasions it reduces the severity of the felt impact, and thereby also lessens the sense of fear.

This new structure, these new rules of the game, will necessarily lead to a re-formulation of the way in which politics is carried out. As Alfred suggests "traditional values of indigenous peoples constitute knowledge that directly threatens the monopoly on power currently enjoyed by the state. Struggle lies ahead".⁶² One of these struggles is likely to be over the nature of the party system. As it stands few politicians want to change the structure of politics, nor could they if they so desired. The antagonistic, adversarial approach of politics is the easy way out. It is easier to comprehend and easier to make a choice when faced with two or more clear alternatives. But why is making an easy choice good? In Canada, there is great irony in the politics of the Alliance party, who pay lip service to less government and more citizen input, perhaps not realizing that their means of citizen input is not likely to aid real thought or careful consideration. A call for referendums or recall is like the popular opportunity of voting on the latest issue at a website. It does not require thought, merely that one affirm something one way or the other.

An example of this is played out in the film *Twelve Angry Men* which starts with an 11-1 vote to convict a man of murder, yet step by step, those who have chosen to convict are challenged by one thoughtful man, and eventually change their minds, so that in a matter of hours all twelve agree to acquit. Here a man's life hangs in the balance, yet for many people the desire to get on with their everyday life – the desire not to miss the ball game – plays the most important role. A real example of this lack of concern for deliberation seems to have played out in the OJ Simpson case. Regardless of the verdict, it seems suspicious that 12 people could have made up their minds in such a short space of time and given proper consideration to all the issues at hand. Such a quick verdict suggests a lack of deliberation. One might also consider the recent Supreme Court

⁶¹ Amy Gutmann and Dennis Thompson, *Democracy and Disagreement*, 145.

⁶² Taiaiake Alfred, "From Sovereignty to Freedom: Toward an Indigenous Political Discourse", 20.

decision in the USA which decided the 2000 Presidential election, which appeared to be a snap fix based on partisanship. How much real deliberation went on there?

In particular, a society centered around open people does not have a place for the closed system of party politics that exists today. A political party is usually one of the most guilty culprits of being closed, of determining identity by belonging rather than by interpersonal interaction. This is aided by the structure of the party system – in particular by the idea of party discipline, and the office of the party whip. Already there are increasing calls for more ‘free-votes’ where members can vote their conscience. As Gordon Gibson writes

Nothing could be more important to our democracy at this juncture than parliamentary reform... My MP is Liberal Stephen Owen. He is a fine human being, as are most of those who offer themselves for public service. But this has nothing to do with Ottawa, and he has learned the rules very quickly. Mr. Owen spoke in favour of an independent ethics counselor, or conflict commissioner, as we have in BC. Then he turned around and voted against the Red Book promise of just that... When it comes to the crunch, you don't vote for your principles or your constituents. You vote for your leader, and if you don't like that, join John Nunziata, former Liberal MP, on the outside looking in.⁶³

In a new political space created by public people there would be no place for political parties in the form that they exist today. Nor is the idea of mirror representation serviceable; it would be better replaced by the acknowledgement that everyone is a complex person. In this situation, people vote for others on the basis of their character and their views on certain issues. The immediate criticism is that nothing would ever be achieved in such a structure, but that is to lack imagination. Needs must still be met, budgets made and interests balanced, and necessity is the mother of invention. These tasks will certainly be carried out, although not by the same group of people for a fixed number of years. Rather they will be carried out by members coming together and forming the majority on certain issues. While a particular MP may be on the losing side on one issue, he/she may end up on the winning side the next time. Furthermore, it is almost certain that like-minded individuals will often come together, and so the outlines of party beliefs will still exist. What is prevented is the situation where a group of

⁶³ In *The Globe and Mail*, A15, Tuesday February 27, 2001.

individuals are forced to vote along the same lines against their will. As for the head of state, a presidential system (independent of party affiliation) would be more appropriate than a system which appoints the leader of the winning party as Prime Minister. Just as one may vote for members of parliament based on their beliefs and character, so too would one vote for a President. This form of politics requires a more active interaction with the system on the part of the average person. No longer will he/she be able to turn up at election day and vote for someone based on their party tag, but rather will have to take the time to find out about that candidates' individual beliefs, and vote accordingly.

Is this suggestion an example of rationalism in politics? At first glance it appears to be that way – a total re-engineering of the political system. Yet it has no substantive, public policy goal in mind, other than the achievement of a more relevant public sphere. Oakeshott the conservative may well have disapproved, but the Oakeshott of the politics of skepticism would likely have seen its merits.

Challenges to the Public Person

The USA is a very prosperous country today. Some of the reasons behind this affluence are explained by Weber in the *Protestant Ethic and the Spirit of Capitalism*.⁶⁴ The protestant ethic had the secondary consequence of producing wealth. Its primary consequence however was to strengthen civil society among certain members of the population. Yet as Oakeshott says “[p]rosperity may be the likely contingent outcome of civil association, but to recommend it in these terms is to recommend something other than civil association”.⁶⁵ But this is what has happened in many places. There has been a gradual turning away from civil society as an end in itself, to civil society as a tool for prosperity, to a dangerous neglect of civil society for the sake of prosperity. What were unintended consequences have become goals to be aimed at in themselves, while at the same time, the characteristics that produced the original consequences have been diminishing. The same goals can now be achieved by different means.

This came to a head in the 1980s under the mantra of Thatcher and Reagan. A new brand of economic conservatism arose which found a way to manufacture prosperity

⁶⁴ Max Weber, *The Protestant Ethic and the Spirit of Capitalism* (New York: Scribner, 1958).

⁶⁵ Michael Oakeshott, “Talking Politics”, 457.

which is belatedly being shown to have been at a cost to civil society. Conservatism lost some compassion during this period. But maybe this has always been the case with conservatism, as Emerson noted over 100 years ago, “[t]he conservative party ... is merely defensive of property.”⁶⁶ The governments in the USA and the UK acted in a fiscally responsible way that economists approved of. They ensured that more people could own more things, but they did not act in an altogether politically appropriate manner. Emerson argues that:

The whole constitution of property, on its present tenures, is injurious, and its influence on persons deteriorating and degrading; ... truly the only interest for the consideration of the State is persons; that property will always follow persons; that the highest end of government is the culture of men; and that if men can be educated, the institutions will share their improvement and the moral sentiment will write the law of the land.⁶⁷

That passage, in brief, could stand as the manifesto for the public person. The public person does have a goal – the achievement of a more relevant public sphere, and such relevancy will only be achieved by concentrating on the culture (as way of life) of individuals. Even Oakeshott had goals – the avoidance of rationalism being one of them.

Technology and Critical Capacity

It has been in the postwar period that American individualism took a wrong turn, a turn away from Emerson and Whitman, and a turn towards Locke and Adam Smith. Over this same period of time people have been challenged to re-define themselves and their relationships. People today are more mobile than ever before, and more people have access to education. Mixing is inevitable. In times gone by, people were not challenged to define themselves. They were ascribed positions such as being a member of the working-class, a Christian etc. There was less mixing and mobility and so they were not exposed to different alternatives. While today the possibility for individual definition is greater than ever, in many cases the capacity or the will is lacking. For that reason many people latch onto, easy, ready-made, ‘thin’ identities. The media and the consumer world in

⁶⁶ Ralph Waldo Emerson, “Politics”, *Selected Essays, Lectures and Poems* (New York: Bantam, 1990), 254.

general is in the business of producing culture. Yet they are not alone, religious fundamentalists the world over have always been in this business. It is a business that calls for brand loyalty, to Nike, or to Catholicism. While Catholicism, or being a member of the working class, is an example of a thick identity as opposed to the thinness of consumerist identities, both types share a problem: individual reflection is not called for. Perhaps one of the greatest problems is that of “an ignorant and deceivable majority” or that

Society always consists in greatest part of young and foolish persons. The old, who have seen through the hypocrisy of courts and statesmen, die and leave no wisdom to their sons. They believe their own newspaper, as their fathers did at their age.⁶⁸

The challenge to increase critical capacity is particularly noticeable when it comes to religious issues. The Catholic church is suffering today because of its inflexibility and unwillingness to consider new ideas. As *The Economist* notes “[i]t is no exaggeration to say that the church has still not recovered. Birth control was the first issue on which the bulk of the Catholic faithful decided, quite simply, to disobey.” The unwillingness to consider ordaining women priests is another example of rigidity. *The Economist* continues “[t]ight control of the bishops draws less attention than the very rare occasions when uppity theologians are silenced, but it has much more impact... it stifles innovation at the level of the faithful in their parishes.”⁶⁹

If anything there has been a movement towards a private culture in the latter half of the twentieth century, and a dangerous one at that – for it is an unreflective, consumer-driven, private culture. As John Ralston Saul has noted “[t]he very mass of information and sounds flying around us creates unease, drives us into stubborn, ill-tempered passivity and makes it easier for the ideologues to work us with fear.”⁷⁰ It is too easy today, even in Academia, to pick one’s (ready-made) culture, as a political theorist or sociologist or historian as a liberal or communitarian or realist or feminist – all positions are dangerous in their simplicity. It is a challenge to appreciate the world in all its

⁶⁷ Ibid., 251.

⁶⁸ Ralph Waldo Emerson, “Politics”, 251.

⁶⁹ “Between this world and the next”, *The Economist*, January 25th 2001.

complexity, yet it is a challenge that all should try and meet, for simplification breeds brutality. Perhaps Emerson saw too much simplification when he suggested that “[i]n our barbarous society the influence of character is in its infancy”.⁷¹

Throughout the course of time, technological changes have often driven changes in social morality. A past example of this is the birth control pill. Another is the development of television. After examining the British electorate in the 1960s, David Butler and Donald Stokes argued that the development of television as the main source of information had led to a decrease in partisan influence. They also postulated that an increase in television viewership had meant a corresponding decrease in socializing in pubs.⁷² This was important to them because the pub was a place that tended to enforce party allegiances. It is also important because, as Robert Putnam holds, this decrease in sociability due to television is one of the likely causes of the erosion of social capital.⁷³

Just as television had a profound effect on politics, so too will the internet. It is part of an environment that acts upon our genes and thereby influences our decisions. The problem lies both in the technology and the people. While people’s genes cannot easily be changed, it is possible to alter the environment that selects what (genes) traits will be successful, or at least survive, as Dawkins shows in his discussion of celibacy. It is necessary to examine carefully the impacts of the internet and modern communications technology.

This technology alters the environment in which people live and creates incentives to act in certain ways. Letter writing is almost dead for example, having been replaced by email. Formality and politeness are being replaced by informality and slang. New words (such as ‘email’) are being selected for and new standards are being set for appropriateness in terms of distance and proximity. The internet brings people closer, but not always in a beneficial way. At its worst, this technology is encouraging people towards easy, snap, anonymous decisions and positions. In chat groups, hidden behind an air of anonymity, people can be quite vile, and to a much greater degree than one encounters face to face. The internet is the ideal tool for offering people a quick way to

⁷⁰ John Ralston Saul, *Reflections of a Siamese Twin*, (Penguin, 1997), 34.

⁷¹ Ralph Waldo Emerson, “Politics”, 258.

⁷² David Butler and Donald Stokes, *Political Change in Britain 1963-1970* (New York: St. Martin’s, 1971).

affirm a belief. Do you think x or y? Vote now, and see the results. This is dangerous. Consider for example, the media coverage of the Columbine disaster where one could log on and vote in polls about the cause of gun violence in schools. One of the causes may well be the nature of the internet itself, the impersonality, the suspension of reality, and the breeding of a culture that values quick decisions and information over carefully considered positions and an effort at knowledge. Sound bites, and celebrity have become of prime importance.

Is being there 'as it happens' always appropriate? There is a certain value in distance and detachment at times. Not all distances are bad. Again, it is a difficult but tricky line that has to be drawn. People may become numbed and immune to serious matters if certain issues are turned into entertainment. Shows like *Survivor* and *Big Brother* are apt to do just this. Here one gets a view of individuals, but it is the wrong form of public. People are asked to act, not in the common good, but for their private interest. Cunning and deceit are winning qualities.

Unfortunately many people in the media pander to the lowest common denominator, or what the public wants, which may not be best in the long run.⁷⁴ There exists a fixation with closeness, with the 90 year-old woman or the young child who is pulled from the wreckage of an earthquake, with Elian Gonzalez and countless other child celebrities, with the twins who were bought over the internet. They are accessible and made real by their closeness. Yet most people do not blink an eyelid or feel the slightest bit moved by the nameless others who suffer similar fates. And once the star child is out of the spotlight, and the media attention has dimmed, the real issues that need to be addressed do not go away, they just become forgotten. What is an earthquake if not a good news story? What is sex in the White House if not a good news story? As Gutmann and Thompson suggest:

There are already enough pressures toward superficiality in political campaigns. There is no reason to encourage the further distortions that concentrating on revelations about private immorality causes. A

⁷³ Robert Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000).

⁷⁴ See for example Noam Chomsky, *Manufacturing Consent*, (New York: Pantheon Books, 1988).

political version of Gresham's law operates relentlessly in American democracy: cheap talk drives out quality talk.⁷⁵

Bill Clinton acted unwisely at times as President of the USA because he seemed to ignore the fact that he was an individual in public. He did not act as a public person because if he had, he would have calculated the dangers of certain of his exploits and not gone through with them. On the other hand, the sensationalism of the media in prying into what celebrities do in private goes too far. The media feed the demand for sensational politics, to the detriment of more important issues. There can be no doubt that the vapidness of contemporary politics and culture is aided by the view of paradigm one. The private group calls for simplicity, for clear alternatives, for rigidity and essentialism. Paradigm two calls on the individual to be fluid, to question, to not shy away from complexity and most importantly to be responsible for his/her actions. All actions will have an influence on the public sphere, and because people must live together more than ever before in the past, the requirement to act appropriately and thoughtfully in all that one does is greater than ever. Journalists and politicians have an ethical responsibility to do what they believe is right,⁷⁶ "[t]his self-constraining option, so considered, appears to be consistent with democratic accountability".⁷⁷ The irony of the internet is that it does offer some marvelous possibilities for developing inter-personal relationships with people that one would not otherwise encounter. The internet is here to stay and it will not be easy to regulate. Rather, the public person points out the need to regulate one's own behaviour, one's way of reporting news and one's method of conducting politics.

⁷⁵ Amy Gutmann and Dennis Thompson, *Democracy and Disagreement*, 124.

⁷⁶ But businesspeople have a responsibility to turn a profit and business exerts a strong control over politics and the media, so unless there is a collusion of businesspeople to change their ways of going about business not much will change. It is a rational choice problem, where there is little incentive for a handful of businesses to act ethically because they will almost certainly be devoured by hawkish, un-ethical one's.

⁷⁷ *Ibid.*, 125.

Conclusion

since humans were not designed to fit neatly into any social form, and since no ideal form has been designed to mesh with every drive and stirring within the self, every particular form of completion subjugates even while it realizes something in us, does violence to our selves even while enabling them to be.

– William Connolly¹

This thesis has attempted to do two things: firstly, to try and unveil the complexity of the world as it is and secondly to consider the world as it might be; a world that appreciates subtlety and dissonance and consequently subjugates less. In the first instance, the world is a place that has seen the development of the politics of fear over the second half of the twentieth century. One way of dealing with the problems thrown up by multicultural/multinational states has been the assimilation of minority groups, often supported by the analogy of the melting pot; the other has been a focus on separatism/self-determination often supported by the analogy of the cultural mosaic. Both analogies are problematic, and both tend to lead to new fears and instability. The positions of the theorists who seek to justify one side or the other are also problematic. Neither side sufficiently appreciates the nuances of individual and group interaction and therefore both fail to grasp fully either the one or the many. As William Connolly has noted, “[e]ach theory [individualism or communitarianism] gravitates toward an ontology of concord... the issue between them is how normalization is to proceed. Otherness – that which does not fit neatly into the form assumed by self or society – is not treated as that which might not fit because even a good order (or self) must itself produce elements that do not synchronize with its structure.”²

The latter half of the twentieth century has seen the re-emergence of “the honest soul”³ in politics. This integrated group perspective has been necessary in enabling minority groups to achieve a greater level of political power. However, the private group

¹ William Connolly, *Politics and Ambiguity*, (University of Wisconsin Press, 1987), 13.

² *Ibid.*, 10.

³ Lionel Trilling, *Sincerity and Authenticity*, (Harvard University Press, 1972).

view of politics normalizes too much, by ignoring the existence of discordant others who must be considered, and by maintaining an unrealistic emphasis on internal cohesiveness. In so doing the private group view of politics is liable to distanciate both fluid individuals and other groups. Even deliberative democracy when it concentrates on achieving consensus normalizes too much; believing too strongly in the possibility and desirability of achieving some kind of concord. Instead of using the analogy of the mosaic or the melting pot to give a picture of inter-state relationships, a far better understanding is provided by using an example from chemistry.

Molecular Multiculturalism

At base everything is made up of atoms. Atoms join together to form molecules such as water, salt and oxygen. Molecules join together to form even more complex substances, such as human beings who in turn join together to form societies.

Every atom is made up of a nucleus (a group of people with core beliefs) with a number of electrons (fluid, multicultural individuals) orbiting the nucleus in one (or a series) of electron shells. Heisenberg's uncertainty principle states that one will never be able to know both the exact position and the momentum of an electron. This limited uncertainty, this fluidity caused by constant motion, is key to understanding individual and group interactions, and political life as a whole.

A water molecule is formed when an Oxygen ion with 6 electrons in its outer shell joins with two hydrogen ions which each have one electron in their outer shell (like a federation of different nations). By themselves these ions are unstable because they do not have complete electron shells. When they join together as a water molecule, H_2O , a complete outer shell of 8 electrons is created. The 2 hydrogen nucleus' and the oxygen nucleus remain distinct, although related, and the molecule as a whole has a distinct shape. This corresponds to the distinctiveness of the core values of the three founding nations, and the interaction between them that gives shape to Canada. However, to understand the structure as a whole one must also appreciate the role of multicultural individuals (electrons). These electrons are continuously moving and hence can never be fixed in one position, just as some individuals move between groups and blur the edges of cultural boundaries. These are individuals who do not fit in with a core understanding of

one particular group. It is these individuals that much of political theory overlooks, these fluid individuals who can partake in more than one different culture, and who in the end may hold the whole together because they fit imperfectly in any one group. Only the public person model takes account of these people. The molecular analogy supports Connolly's belief that democracy should be situated within a philosophy of "dissonant holism"⁴ and supports Tully's view that the diverse characters in Bill Reid's 'The Spirit of Haida Gwaii' "exist as they are, in all their distinctiveness, not in spite of, but because of their interdependency over time and history."⁵ Robert Pirsig expresses a similar view in terms of 'dynamic goods' and 'static goods'.⁶

Assimilation or the melting pot, concentrated only on the creation of one new nucleus – it overlooked the importance of the core values of some minority groups. It failed to appreciate or do justice to the dissonance of people with strong attachments to their cultural identities. The cultural mosaic looks only at the individual nucleus' and fails to see the electrons which hold together the whole. In so doing, it fails to do justice to the dissonance of people who do not fit neatly into one group. Charles Taylor, Alasdair MacIntyre, Joseph Raz and others only understand the importance of the individual nucleus', they miss the electrons that hold the whole together.

Thus the world as it might be, suggests that only recognition of the importance of the public person will do justice to the fluid individuals, while at the same time recognizing the importance of the core groups. As long as the people in the core groups appreciate the importance of the people who are more fluid then they cannot insist on creating citizens just like themselves, for any viable association of people will have to have electrons as well as a nucleus – both are essential components. Any insistence on group rights that essentializes threatens the fluid individuals by ignoring them or placing them at a distance as 'he/she'. A concentration on the private group does this and in so doing increases fear and instability.

At first view the model of the public person may appear to be just as guilty of normalizing as the private group. But upon closer examination, it is not. The private group model is not as open to difference and discord as the public person view of politics.

⁴ William Connolly, *Politics and Ambiguity*, 16.

⁵ James Tully, *Strange Multiplicity*, 24-25.

While the private group is superficially concerned with preserving difference between groups, it leans towards an internal theory of sameness, a cohesiveness that is required for preserving *group* differences. The public person concept of politics does not require the same type of fraternity. It does not seek harmony and consensus, but rather toleration of individual differences and a decrease in the politics of fear. It requires acknowledgement that to live together successfully one must share a moral world, but does not require agreement on the particulars of that moral world. It is an understanding of pluralism in accordance with Isaiah Berlin. Given the potential dangers and injustices produced by a neglect of individual differences, or a fixing of differences, the public person requires a certain standard of behaviour supported by a belief in the value of reciprocity and civility. There will still be moral disagreements, and most people are unlikely to change their positions. What is important however is their behaviour and how this affects the quality of the relationship with others that they disagree with, and with whom they still have to live. Like deliberative democracy, the view of the public person requires an acceptance that the person with whom you disagree has a legitimate moral argument, even if you do not believe it to be a *better* moral argument. You agree at least that you are operating in the same moral world; for without this there can be no civil society.

This has been the second goal of the thesis, to show how the politics of fear could be lessened by the growth of public people. It does not ask people to abandon their identities, rather to re-examine them so that differences are viewed in a relational sense to be lived with rather than a political sense to be fought over. The regime of public people can achieve stability. It requires those in the nucleus while choosing to remain in their position, to recognize the importance of those who are different for the coherence of any whole. It is necessary to protect the ability of fluid individuals (electrons) to join with other groups and form a whole. All people are public (even if not all are multicultural), both those in the nucleus and those in the electron shells – they may act differently and form different attachments, but they all understand the necessity of publicity and civility in holding the whole together and the need to tolerate differences. The model of the public person thus attempts to follow Connolly's recommendation that "we open

⁶ Robert M. Pirsig, *Lila: An Inquiry into Morals*, (New York: Bantam, 1991), 130-140.

ourselves to a philosophy that seeks, even in its commitment to the common good, to establish more space for otherness to be.”⁷

Of course, a water molecule as a whole can be split apart under certain conditions to become hydrogen and oxygen molecules. In the same way if enough members of a core group such as Quebec were to vote for separatism, two new molecules, or countries, would be formed. Canada, and any other country then, is fluid like a water molecule. It is a dissonant whole, filled with differences pulling in different directions, but differences that are ultimately fundamental to its continued existence. There is a certain inherent cohesiveness and perhaps beauty in its current shape but this does not preclude change. The complete essence of the country can never be determined because to fully understand the country one would have to stop it to see the fluidity which by its very nature cannot be fully seen. The country as a whole has elements that stay the same, and elements that are always changing. Fundamental elements of the whole can be easily ascertained e.g. practices such as parliamentary democracy and the English language can be seen as part of the oxygen nucleus while other practices such as the Cree language and different dances form part of the hydrogen nucleus. As long as these differences are not so incompatible that they force the whole apart, then the molecule remains stable. As a country, a molecule is usually stable in its existing form, but when the environment changes it may be forced apart and become stable or unstable, just as separation was peaceful in Czech and Slovakia’s case and violent and bloody in the case of Yugoslavia.

Even without separation, envisioning Canada as a mosaic of fixed cultures is a loose-loose situation. This is because, at base, difference is always defined as opposed to something else, as Appiah says “in ways that matter to us deeply”⁸. There is always a value attached. Someone always feels for his/her way and against the way of another. Resentment and bitterness sets in. It is these differences that should not be politicized if at all possible. When such differences become political and get rubbed in one another’s faces most people are not strong enough to restrain themselves. They feel threatened (even the majority) and respond, often aggressively, and in the worst cases, violently.

⁷ William Connolly, *Politics and Ambiguity*, 11.

⁸ K. Anthony Appiah, “The Limits of Pluralism”, 52.

Human history is filled with bloodshed caused by politicized differences. These actions have often been fuelled by people who felt wronged and defensive. In Germany, the perceived differences between Jews and Germans were tolerated until they became politicized in the late 1920s and early 1930s. The theorists who ask us to celebrate group differences and make them political, are profoundly naive in ignoring the lessons of history. They hope that people can be one way, without realizing that the majority are, in fact, another way.

In the end, the emphasis on the person and relational difference that I argue for leaves the future more open for those as yet unborn. It closes fewer doors than an emphasis on the collective which would like to map out the futures of those as yet unborn to ensure the survival of traditional societies. The best one can hope for, I believe, is the equal respect of each individual's potential. In fact, in order for a human to achieve his/her own inner identity there must be agreement that the outcome is not predetermined by the wishes of those who came before.

Charles Taylor writes "[a]fter all, if we're concerned with identity, then what is more legitimate than one's aspiration that it never be lost?"⁹ Alternatively, what is more legitimate than that one is open to new experiences and new interactions with other people? What is more legitimate than that one is able to choose one's own identity? Protecting 'our' identity may prevent me from choosing mine. It may prevent me from realizing my unique potential. It is only through being open to new experiences that racism and fear of the unknown will diminish. As Habermas puts it

[c]ultures survive only if they draw the strength to transform themselves from criticism and secession. Legal guarantees can be based only on the fact that within his or her own cultural milieu each person retains the possibility of regenerating this strength. And this in turn develops not only by setting oneself apart but at least as much through exchanges with strangers and things alien.¹⁰

Given these new experiences I may still decide to reaffirm my 'given' identity, but even then, as Taylor recognizes, it is not totally up to me, it is also up to others. The

⁹ Charles Taylor, "Multiculturalism and 'the Politics of Difference'", 40.

¹⁰ Jürgen Habermas, "Struggles for Recognition in the Democratic Constitutional State", *Multiculturalism: Examining The Politics of Difference*, 132.

important point is that I have a variety of options to choose from; that the future is not closed un-necessarily.

In the end, I too have to be open to the fact that I may be convinced that the model of the public person is not the best, and that what I have said is wrong. But I am always prepared to show my reasons for believing that it is not.

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