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Redistribution and Recognition: Assessing Alternative Frameworks for Aboriginal Policy in Canada

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Abstract
In this paper, we argue that government approaches to addressing the claims of Aboriginal peoples in Canada are insufficient. Historically, these approaches have focused on redistribution. At the same time, these approaches have all but ignored recognition. We argue that a more holistic approach that addresses both redistribution and recognition is necessary. Further, we attempt to show that our approach is consistent with the tenets of liberalism. By conceiving of Aboriginal politics as such, the state may be better able to address claims. We begin by providing a theoretical overview of redistribution and recognition, respectively. Then, we proceed to show how redistribution and recognition must work together in an adequate account of justice with respect to Aboriginal peoples in Canada. Finally, we offer a conception of Aboriginal politics that fulfills this desideratum, and integrates the principle of recognition and redistribution in a way that is within the bounds of liberalism.

Keywords
recognition, redistribution, Aboriginal policy, Canada, Rawls, Honneth, Fraser

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State policy in Canada has historically tended towards making the Aboriginal population "legible" to the state through a process of "civilisation" and assimilation (Manzano-Munguía, 2011). Indeed, Manzano-Munguía argues (2011) that the state has historically created policy that is used to control and subdue Aboriginal populations. This colonial-based policy is best exampled by the infamous White Paper of 1969 where the Canadian government effectively tried to close any space for Aboriginal identity or ways of life in the public sphere (Canada, 1969). Given the historical relationship between Aboriginal peoples and the state, it can be seen that we need to restructure the relationship.

Although relations between the two have improved since the 1970s, there is still great room for improvement. The relationship between the Aboriginal peoples in Canada and the Government of Canada continues to be typified by an imbalance of power. Much Aboriginal policy in the latter half of the twentieth century has been focused on the distribution of rights and resources (Richards, 2006). For example, since 1973, Canada has entered into 22 land treaty agreements with Aboriginal peoples (Alcantara, 2008). These treaty agreements are in response to the claims of Aboriginal peoples against the state. As Alcantara (2008) has argued, although land treaties are important, they do not necessarily provide an adequate response to the power imbalances and structural inequalities that exist in Aboriginal and state relations. Following others (see, for example, Bouchard & Vézina, 2003), we argue that alternative policy paths ought to be pursued in order to help foster better relations between Aboriginal peoples and the state.

While land treaties have been used to help restructure Aboriginal and state relations in Canada and other settler societies, such as the United States and Australia (Alcantara, 2008; Scholtz, 2006), we argue that, by moving away from a solely *distributivist* focus and incorporating *recognition*-based approaches into Aboriginal policy, the state may be better able to respond to the claims of Indigenous peoples. We further contend that altering a theoretical framework for policy can be applicable in other settler societies where relations between Aboriginal populations and the state government are characterized by power imbalances. Although we do not make specific policy prescriptions, we argue that a theoretically-informed approach for policy can serve as a foundation for restructuring unequal relations.

We argue that a more holistic approach that addresses both redistribution and recognition is necessary. Further, we attempt to show that our approach is consistent with the tenets of liberalism[1]; thus both the redistributive and recognition perspectives are satisfied. We begin by providing a theoretical overview of redistribution and recognition, respectively. Then, we proceed to show how redistribution and recognition must work together in an adequate account of justice with respect to Aboriginal peoples in Canada. Finally, we offer a conception of Aboriginal politics that fulfills this desideratum and integrates the principles of recognition and redistribution in a way that is within the bounds of liberalism.

Overview of Redistribution and Recognition

In this section, we provide a theoretical overview of distributive ends, which have been so influential in determining Canadian federal policy pertaining to Aboriginal peoples. We will then address the potential role for recognition in coming to terms with claims by Aboriginal peoples. We begin with an overview of distributive justice by briefly analyzing the philosophies of John Rawls and Will Kymlicka.

Distributive justice concerns the proper distribution of social goods (e.g. rights and resources), and it is of central concern to many liberals, including Rawls and Kymlicka. We argue that the distributivist approach typified by these theorists is useful for understanding the majority of responses put forward by the Canadian

[1] Liberalism here is taken to be the dominant approach to government policy. Liberal approaches are typified by a concern for individual rights and the distribution of socio-economic goods.

government, which have focused on distribution, be it distribution of property (assessing land claims) or distribution of rights (differentiated citizenship). Further, their work may be useful for thinking about possible future responses by the Canadian government to claims of Aboriginal peoples. We argue that Rawls (1971, 2002) defends a welfare egalitarian theory of distributive justice, which Kymlicka (1991) then extends in order to accommodate national minorities' claims for justice. The focus of their theories is understandable considering that liberalism represents a set of theories centering on liberty and equality.

Redistribution

Beginning his work in the mid 20th century, American political philosopher John Rawls has contributed extensively to political philosophy, developing a theory of justice that has been enormously influential in contemporary political theory and practice. There are several aspects of his philosophy that can be applied to Aboriginal policy, some of which we will briefly outline here. First, Rawls developed a comprehensive theory of distributive justice for liberal societies (Rawls, 2005). According to Rawls (2001), justice may be understood in terms of the fairness of distribution of social goods. He states, "the most fundamental idea in this conception of justice is the idea of society as a fair system of social cooperation over time from one generation to the next" (p. 5). Rawls' theory highlights that one of the conditions for the possibility of justice in a democracy is that the people must be committed to fair terms of social cooperation with one another. To the extent that they are not, one can expect injustices to occur within that society and its institutions.

Furthermore, Rawls explicates two principles of justice that may be used to determine the political and economic institutions in a modern liberal democracy. The two principles require that every person have access to the basic liberties and that inequalities are justified in so far as they benefit all in society (Rawls, 1971). The basic liberties are described as,

> ...roughly speaking, political liberty (the right to vote and to be eligible for public office) together with freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold (personal) property; and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law. (Rawls, 1971, p. 11)

Rawls' theory is not meant to advance novel principles of justice to govern modern liberal democracies. It is meant to explicate the principles that, in actuality, support modern liberal democracies (i. e. Canada) and are enshrined (in different language) in the Canadian Charter of Rights and Freedoms. Thus, in his theory of justice as fairness, Rawls' (1971) primary concern is with providing principles that capture the proper (i.e. fair) distribution of access to resources. Individuals ought to have equal opportunity to pursue their concept of a good life and exercise their basic liberties. The institutions of the state, then, need to be arranged in order to fulfill the requirements of this distributive framework.

Kymlicka (1991) shares a similar commitment to the basic tenets of liberalism, but he is also concerned with the claims of justice for national minorities. Kymlicka's work can be understood as taking Rawls' theory of distributive justice and extending it to national minorities. Kymlicka (1991) specifically applies his theory to Aboriginal peoples in Canada. In his work, *Liberalism, Community, and Culture*, Kymlicka (1991) argues for a specific definition of culture and for the protection of vulnerable minorities through group-based rights. Kymlicka's (1991) primary concern is to reconcile the legitimacy of minority rights, which are typically grounded in the moral status of groups, with the ontological foundation of liberalism, which only recognizes individuals as the proper bearers of rights. In order to achieve this, Kymlicka (1991) identifies two criteria: "(1) that cultural membership has a more important status in liberal thought than is explicitly recognized… and (2) that members of minority cultural communities may face particular kinds of disadvantage with respect to the good of cultural membership, disadvantages whose rectification requires and justifies the provision of minority rights" (p. 162). Fulfilling these desiderata form the basis of a substantial amount of his work.

Kymlicka is a devoted liberal fundamentally committed to the view that institutions ought to be structured so that we can pursue our conception of the good,[2] as far as it is possible within liberal society. Further, he is committed to the Rawlsian understanding of self-respect[3] and extends the Rawlsian ideal of promoting self-respect by acknowledging the value in our pursuits (within our personal formulation of the good) (Kymlicka, 1991). According to Kymlicka (1991), as individuals our essential interest is to be able to freely pursue life projects that we perceive as valuable. If we come to see our current life projects (i.e. current ends) as lacking value, we have to revise them and follow the new set of ends. Kymlicka argues that this is an essential feature of liberalism.

Kymlicka's view is similar to other major contemporary liberal theories in some ways; however, it diverges when considering the central role that culture plays in determining how we come to understand ourselves and the potential value in our conception of the good compared with others. Essentially, for Kymlicka (1991), liberals should be concerned with maintaining cultural structure for individuals, since that is where individuals derive much of their own self-worth, and this, in turn, is what allows them to formulate their conceptions of the good. Without a conception of the good, i.e., ends, they would have no reason to act and will not exercise their basic liberties.

Key to understanding Kymlicka's argument (1991) is that he sees cultural membership as a primary good in the Rawlsian sense (i.e. it is vital to maintaining or ensuring self-respect and exercising one's basic liberties). Kymlicka, however, relies on a specific definition of culture. For Kymlicka, culture is a structure or framework that allows individuals to make decisions. In his words: "'culture' is defined, as I think it should be defined for these purposes, in terms of the existence of a viable community of individuals with a shared heritage (language, history, etc.)" (Kymlicka, 1991, p. 168). He advances this definition in opposition to one that defines culture in terms of the norms that currently characterize it. His point is that individuals need to have reference to a cultural structure in order to enjoy a fulfilling life (i.e. in pursuit of the good). In essence, living within a cultural structure provides individuals with the proper tools to make decisions on whether or not a certain conception of the good is valuable. Without this cultural structure, Kymlicka (1991) argues that an individual's growth is stunted.

Kymlicka (1991) contends that we must have reference to a cultural structure in order to make informed decisions about the good life. Without the ability to participate in one's own culture (that they were born into), an individual cannot properly make the decision as to whether or not their current ends are valuable and worth pursuing. Moreover, it becomes increasingly difficult to make the comparative judgments between ends in order for people to confirm their value.

National minorities require government protections to ensure cultural viability. Having access to the overarching cultural structure that Kymlicka (1991) suggests is necessary for cultivating the good life requires that Aboriginal peoples are not made vulnerable to certain practices by the state. Put more clearly, protections are put in place that ensures Aboriginal peoples have access to the resources necessary to cultivate Aboriginality in Canada (e.g. access to land, access to resources for ensuring survival the language, etc.). Importantly, however, Kymlicka is not making the claim that we should protect cultural ways of life because of the value of that culture, per se. Rather, cultural protections are put in place as a way to ensure individual autonomy (i.e. that one has the ability to choose a meaningful life). Thus, while his theory makes headway towards recognition-based policy, we are left with an explicitly liberal individualist approach.

After establishing the importance of culture in people's moral development, Kymlicka moves to justifying minority rights for groups who have been institutionally disadvantaged. One of the most salient cases for

[2] That is, the ends which we desire and base our life projects around. Kymlicka's use of the good here refers to the pursuit of "the good life".
[3] Rawls considers self-respect to be the most important social good. Self-respect refers to citizens' understanding of themselves as being free and equal with others, or as having a similar set of rights and access to public institutions.

Kymlicka is that of Aboriginal peoples in Canada. In his analysis, Kymlicka (1991) finds that, because of institutional disadvantages, state protections are needed in order to make "Aboriginal culture", or "Aboriginality", a viable pursuit for individuals within the community.

The special rights claim is bound to circumstance and not political choice. Aboriginal peoples did not, with free agency, choose the current situation that continues to disadvantage them and undermine their ability to pursue their conceptions of the good, which are largely based on their cultural values. Kymlicka (1991) succinctly states his argument as such: "So I believe that certain collective rights can be defended as appropriate measures for the rectification of an inequality in circumstances which affects aboriginal people collectively" (p. 194).

Kymlicka's approach moves in the right direction, but that it does not go far enough to respond to the demands of Aboriginal peoples. We argue that Kymlicka's distributive response via group-based rights offers a one-sided approach to the claims of Aboriginal peoples. Although the differentiated protections from the state are helpful, and quite useful, they fail to recognize Aboriginal culture, justice, forms of governance, etc., which we argue are required to adequately address Aboriginal demands. Kymlicka's approach, nonetheless, offers a valuable starting point for conceptualizing a holistic approach to Aboriginal demands within a liberal framework. As we will argue further, however, incorporating recognition into a redistributivist approach is required as well. Moreover, as Turner (2000) points out, Kymlicka's argument regarding group-based rights operates ahistorically and fails to recognize the serious power imbalances between the state and Aboriginal peoples. As such, an alternative approach is necessary.

Recognition

In this section, we present an alternative conception of justice as recognition, which is advanced by many communitarian scholars. The fundamental difference between "justice as fair distribution of basic resources" (including opportunities and liberties) and "justice as recognition" is the importance of the individual and society and the interrelation between them. Communitarianism is a branch of philosophy that tends to argue against liberal individualism and the notion of individual freedom and rights (Mulhall & Swift, 1996). Unlike liberals, communitarians see social relations as co-existing with the individual identity. The individual cannot be understood outside the social context. That is, contemporary liberal theories fail to recognize that the social environment – including communities to which people belong – contributes to identity as much as any other aspect of the physical environment. To understand what is meant by recognition and how it is relevant to our discussion here, it will be helpful to start with Charles Taylor's discussion of recognition, highlight aspects of Tully's constitutionalism, and discuss Honneth's view of recognition in social injustice more broadly.

For Taylor, comprehending the rise of originality and authenticity, which began with Jean-Jacques Rousseau and was continued by Johann Herder, is of great importance for understanding the demands of recognition. There is a tension between our need to belong and a need to live an authentic life. By authentic, Taylor (1991) means to live a life that is true to ourselves, one that we internally approve of, and one that we arrive at through engagement with our community. This need for authenticity, then, is coupled with the need for recognition that our way of life is worthwhile. We need our way of life to be recognised as valuable and one worth living by those around us. According to Taylor (1995), initially in hierarchical society, recognition was "built into the socially derived identity by virtue of the very fact that it was based on social categories that everyone took for granted" (p. 231). However, the rise of authenticity coincides with a democratization of hierarchical societies. This change in social structures, thus, degrades the degree to which recognition is possible in the socially derived identity. This new, inwardly-generated identity that the "age of authenticity" brings highlights the importance of dialogical (negotiated) identity.

For Taylor, achieving authenticity (which will be an ongoing process) or self-fulfillment cannot be monological (as mainstream modern philosophy supposes, according to Taylor), but must be dialogical. "We become full human agents, capable of understanding ourselves, and hence defining our identity, through our acquisition of rich human languages of expression ... not only the words we speak, but also other modes of expression whereby we define ourselves, including the 'languages' of art, of gesture, of love, and the like" (Taylor, 1995, p. 231). An essential aspect of developing personhood is expanding the ability to communicate with others, which we do through language, but also through art and non-verbal modes of communication.

It is not simply the acquisition of this language, however, that is relational. It is also its use. Language (in any form) is, quite literally, without meaning if it is not used in relation to another person; that is to say, language itself must imply a relationship among people. We do not, once this language is acquired, retreat to some solitary place, where we then use what we have learned to determine "who am I?." For Taylor (1995), "discovering my own identity doesn't mean that I work it out in isolation, but that I negotiate it through dialogue, partly overt, partly internal with others" (p. 231).

Further, engaging in dialogue with others is necessary not only because this may provide one with epistemic checkpoints in self-discovery. Recalling the point made earlier, our part in social relationships constitutes us as persons. Thus, for Taylor (1995), one cannot be a person without being in social relationships with others. In Taylor's account, it is also important to note, for our purposes, that a person need not be a single individual. Taylor (1995) discusses the dialogical relationship of identity formation and authenticity for a person and a people – that is, for an individual as a person and as a member of a culture-bearing group. Thus, the dialogue that leads to self-identity is mirrored by a dialogue among cultures themselves at the macro level.

To understand Taylor (1991) we must understand his meaning of identity – "it is 'who' we are, 'where we come from'" (p. 34). Our subjectivity, then, consists of exterior factors that are informed by others and our context. Try as we might we cannot escape the dialogue that informs who we are. It is not only the dialogical process that is important for one's own identity formation, but also the reflection that one is given by "significant others." Identity is something we form in dialogue with others who matter to us, so it is crucial how others see us; we often struggle against the image reflected by the significant others with whom we dialogue. Because of the crucial significance of others in realizing and affirming identity, recognition becomes important.

Taylor's contentions are congruent with Michael Sandel's argument that some aims are constitutive of the self and some allegiances and loyalties go beyond choice and revision (on the liberal view). Living by these allegiances and loyalties has a moral force that is inseparable from "understanding ourselves as the particular person we are" (Sandel, 1982, p. 179). These allegiances go beyond temporal values and inform our very identity as members of a family, community, nation, etc. However, it cannot be the case that my identity is constituted by all the attachments or loyalties I might have as "any change in my situation, however slight, would change the person I am" (Sandel, 1982, p. 20). If this was the case, given that situations necessarily change from moment to moment, my identity would be in constant flux. Thus, we would say that the attachments we find with the significant others that Taylor discusses are important.

The problem of misrecognition is central here, as "the projection of an inferior or demeaning image on another can actually distort and oppress, to the extent that the image is internalized" (Taylor, 1995, p. 232). Because recognition is vitally important, misrecognition can inflict harm, either on the individual person or on the culture-bearing people by representing their culture in a distorted and demeaning way. This is especially evident in an economy of unequal cultural, economic, and political power within a single state.

A good example of this is the lasting effects of the imagery of Aboriginality in North America perpetuated by the state. An express purpose of the residential schools created in Canada in the 19th century was to contrast the degenerate and despised view of the "Indian" with the civility and dignity of the dominant culture. At

least part of the process of destroying Aboriginal culture that took place in these residential schools involved the presentation of a misrecognised figure of Aboriginality and a denigration of Aboriginal language and custom. In the United States the process of anthropological cataloguing that occurred during the American romantic period toward the end of the 19th century similarly (consciously or unconsciously) sought to reflect a unilaterally conceived image of the American "Indian". Photographers, such as Edward Sheriff Curtis, set out to capture on film the last of the "noble savages", going as far as to carry with him a wagon of "Indian" props, such as headdresses and spears. He would force Aboriginal peoples to conform to his image when he found that they did not (King, 2003). Thus, an identity is forced upon a group thereby degrading them and inflicting harm upon their sense of worth (Taylor, 1995). The demand for recognition is the demand for acknowledgment of legitimate collective ends and people's worth.

With this understanding of recognition we can make some sense of the constitutional imperative that James Tully (1995) articulates in is work, *Strange Multiplicity*, namely mutual recognition (among continuity and consent). Tully is important for us here, as this work is directed at constitutionalism in Canada between settler and Aboriginal peoples. This idea of recognition consists in the reciprocal nature of the treaty system first established between the British Crown and Aboriginal peoples (nations) in North America (Tully, 1995); that is, it implies recognition of each by the other as autonomous nations. In fact, the workability of a modern constitution between these nations requires that each nation recognize the other. This gives constitutional content to the basic idea of recognition expressed above, namely the acknowledgment of legitimacy and worth of cultures. Clearly, Tully sees recognition as being central to providing a just accommodation of both Aboriginal and non-Aboriginal peoples in Canada. What is important here is the consistency with Taylor above. Tully's view of mutual recognition expressly supports the legitimacy of collective ends and starts from the position of equal worth of these cultures.

Axel Honneth (2003) discusses recognition in the broader context of social injustice. He sees recognition as being the central problem of justice, and other problems of injustice (i.e. distributional ones) as being derivatives of recognition (Fraser & Honneth, 2003). Material inequality here is considered a species of misrecognition. Although Honneth (2003) argues that "the opposition of 'distribution conflicts' and 'struggles for recognition' is not very helpful, since it creates the impression that demands for economic redistribution can be understood independently of any experience of social disrespect", it is clear that he considers "distribution conflicts as a specific kind of struggle for recognition" (pp. 170-171). While distributional problems present themselves, it is only as a form of misrecognition, not systemic distributional problems. This point, as we will see later, is criticized by Fraser (2003) and ultimately seen as insufficient, on its own, to articulate solutions for injustice. Honneth, as Fraser points out, cannot account for systemic distributional inequalities in capitalist economies, leaving an important form of injustice outside his focus on recognition.

The Redistribution *and* Recognition Perspective

Above, we have seen the liberal emphasis on distributional mechanisms (rights and resources) as a mechanism for correcting injustice eschews consideration of recognition. Within this distributive framework, injustice can be overcome simply by providing state protections or resources; there is no need to recognize the constitutive effects of group membership or the degrading effects of misrecognition per se. As well, we have seen above how Honneth (2003) contends that distribution is a subset of misrecognition. We cannot understand the demand for economic redistribution independent of the experience of social disrespect. So here, recognition eschews distribution and concentrates on the subordination of distribution to recognition. In essence, each of these perspectives on addressing injustice is constructed as either/or mechanisms. Here we will present the both/and perspective best articulated by Nancy Fraser.

Fraser (2003) argues that both recognition and distribution are required to deal with injustice. Against views that posit recognition and redistribution as antitheses - as either/or - Fraser contends that recognition and redistribution are better conceived as both/and. The problem with a distributional approach alone is that it

cannot adequately deal with difference. The distinction of class for the materialist debate of distribution prioritizes differences in material resources only; other differences, such as ethnicity and culture, are subsumed under the primary dichotomy of material resources. Consequently, the response to injustice is to destroy difference by eliminating the material conditions that produce this inequality (Fraser, 2003). Thus, if a group's experience of injustice is more than material – if, for example, they also experience social disadvantage – redistribution alone is not adequate. Fraser (2003) terms these groups "two-dimensionally subordinated groups" for whom both recognition and redistribution are needed (p. 19). In the case of Aboriginal peoples, we can easily see that marginalization takes on aspects of economic inequality, social disadvantage, and lack of social respect.

In order to correct injustice on this account, Fraser argues for "participatory parity" that allows members of society to interact on an equal footing. For participatory parity, she argues that two conditions are necessary: the objective and inter-subjective conditions. Excesses of material inequality degrade the ability to participate on an equal footing, which is a primary concern for liberals as we have seen above. The second aspect of participatory parity focuses on the degree to which institutionalized patterns of cultural value allow equal opportunity for social esteem (Fraser, 2003). This brings the importance of material and social equality together. Fraser, in contrast to Honneth, is committed to a view of justice that does not reduce the role of either recognition or redistribution. Fraser (2003) proposes "perspectival dualism" where we must "assume both the standpoint of recognition and the standpoint of distribution, without reducing either one of these perspectives to the other" (p. 63). Rather than constituting separate domains, we can see recognition and distribution as applicable.

This "perspectival dualism" gives us a place to start that does not foreclose the possibility of either distributive or recognition approaches to injustice. In the case of Aboriginal peoples in Canada, it is manifestly clear that it is not simply a matter of distributional inequality, but also a lack of secure access to culture that needs addressing. Some studies have indicated how the recognition of Aboriginal life choices (supported by resource distribution) can pay social dividends. Hallett, Chandler, and Lalonde (2007), for example, report that increased Aboriginal language knowledge in Aboriginal communities is associated with lower youth suicide rates at the band or reserve level in some communities. While this is a preliminary investigation, we can see some parallels to what Kymlicka (1991) claims in regards to having access to cultural resources and an ability to cultivate the good. This requires that both the local community and government recognize the importance and viability of Aboriginal life choices and commit resources to programs that require support, such as Aboriginal language literacy. In another study, Chandler and Lalonde (1998) find that efforts taken by some Aboriginal communities to preserve cultural continuity (broader than just language here) are strongly associated with variability in youth suicide rates. As cultural continuity increases, youth suicide rates in these groups decrease. Factors that contribute to cultural continuity and are associated with reduced rates of youth suicide include measures of self-government, engagement in land claims, as well as band control over health and education. Thus, at stake in some of these cases is clearly not only the preservation of cultural diversity for its own sake, but also support for the preservation of culture to address real social and material issues within a particular community.

Clearly this is a narrow, but important, example of the effect of recognizing the viability of Aboriginal life choices on one disturbing aspect of social pathology disproportionately present in Aboriginal communities. It is also an example of the link between distribution and recognition in addressing social disadvantage. Presumably, it is not only the community control over these mechanisms of cultural continuity that foster better social outcomes, but also resources needed to run them (often distributed by a level of Canadian government). In a limited way this empirical and psychological example illustrates the perspectival dualism that Fraser argues is most effective in redressing injustice.

Bridging the Gap

In this final section of the paper we offer one potential solution to incorporating the claims of recognition, while still maintaining a commitment to distribution. To do this, we advocate theory driven policy that is based, in part, on Rawls' ideas expressed above, as well as those from his *Law of Peoples*. We argue that one of the main reasons that traditional multicultural approaches have failed is that they have mainly focused on distribution, while all but forgoing recognition. Thus, we argue that policy should be refocused to incorporate recognition into redistribution. Ultimately, we argue that current policy debates need to shift focus to establish a discursive space for genuine recognition.

We contend that Rawls' later work in *Law of Peoples* can be used to provide the basis for refocusing policy debates for Aboriginal politics in Canada. By conceiving of Aboriginal communities as peoples, based on Rawls' work, the state may be able to more fully address the concerns of Aboriginal peoples. The term 'peoples' in Rawls' (2002) work describes independent groups demarcated by a common social structure and/or governing structure. We do not speak directly on the policies that will come out of this or make specific recommendations; we are simply trying to show that a conceptual overhaul of Aboriginal politics in Canada is required.

In *Law of Peoples,* Rawls' argues that his principles of justice, outlined above, can only properly operate within a liberal society. He points to the fact that there are nonliberal societies that we must tolerate and allow sovereignty, as long as they maintain individuals' basic rights. According to Rawls,

> A main task in extending the *Law of Peoples* to nonliberal peoples is to specify how far liberal peoples are to tolerate nonliberal peoples. Here, to tolerate means not only to refrain from exercising political sanctions – military, economic, or diplomatic – to make a people change its ways. To tolerate also means to recognize these nonliberal societies as equal participating members in good standing of the Society of Peoples, with certain rights and obligations... (Rawls, 2002, p. 59)

Rawls is arguing that particular peoples (as differentiated from states) who are well-ordered, but nonliberal in nature, require basic autonomy and recognition as a viable and well-ordered community. It should be noted at this point that the *Law of Peoples* is referring to a theory of international relations - not domestic policy. Rawls is arguing that these groups deserve respect for several reasons. Primarily, respect can foster solidarity and lack of it can "wound the self-respect of decent nonliberal peoples" (Rawls, 2002, p. 61). Rawls is not using the term "decent" pejoratively; rather, decent merely signifies that the people may not be liberal, but they still have a well-ordered set of principles and members' basic rights are being met. Nonetheless, the use of the term decent illustrates that much still needs to be done to recognize nonliberal people's ways of life, as opposed to simply tolerating them.

Thus, in international relations, liberal states must respect and recognize nonliberal peoples as pursuing an equally viable way of living. What we are arguing is that, for the purpose of policy prescriptions, some Aboriginal peoples could be seen as constituting a nonliberal society, through their alternative approaches to governance and justice, and should be afforded the respect and recognition as required by the *Law of Peoples* within Canada. At the same time, there is great diversity amongst Aboriginal ways of life in Canada. Given this diversity, conceiving of Aboriginal and state relations by way of the *Law of Peoples* could help frame policy that recognises the value of nonliberal Aboriginal ways, while at the same time respects liberal Aboriginal ways. In this way, we contend, incorporation of a theoretical framework such as the *Law of Peoples* may provide the state with the ability to better respond to the diversity of claims presented by Aboriginal peoples, be they liberal or nonliberal in nature.

For Rawls, principles of justice "... are a conception of social justice; they regulate the relations among people living in the same society, specifying their duties to one another and society's duties to them" (cited in Freeman, 2007, p. 416). A main impetus behind the notion of a law of peoples is that principles of justice are inherently social. These principles are determined by a people, a nation, or a state. For various reasons, Rawls argues that we should not attempt to extend the principles of justice, as determined in a liberal society, to nonliberal societies. One justification for this idea is the different valuation of the good. For thinkers like Michael Walzer (1994, 2006), for example, notions of the good – those that help form a substantive morality in society – are social ideas that are discovered within a particular society. Already we can begin to see the relevance of this aspect of Rawls' work to Aboriginal policy in Canada. If we can conceive of Aboriginal peoples as peoples distinct from Canadians, then Rawls' law of peoples can potentially be applied domestically. Again, by doing so, policy prescriptions could better fulfill the redistributive and recognition sides of policy to both liberal and nonliberal groups.

We argue that Rawls' international theory can be applied domestically to Canada for several reasons. First, Canada is a multi-national federal state, and, as such, the state is comprised of several peoples (as defined by Rawls. To describe a group as a "people" requires that they have a shared set of institutions that allows for social cooperation (Rawls, 2002). Secondly, in our view, Aboriginal peoples in Canada have a legitimate claim to pursue Aboriginality based on history and past injustices. Further, the Canadian state has recognized these claims, but has not been able to fully address them due to a focus on redistribution inherent in liberal politics. Finally, the Aboriginal peoples of Canada constitute groups of peoples, as per Rawls' definition:

> First, the society does not have aggressive aims, and it recognizes that it must gain its legitimate ends through diplomacy and trade and other ways of peace ... The second criterion has two parts. (a) The first part is that a decent hierarchical people's system of law, in accordance with its common good idea of justice ... secures for all members of the people what have come to be called human rights .... (b) The second part is that a decent people's system of law must be such as to impose bona fide moral duties and obligations...on all persons within the people's territory. (Rawls, 2002, p. 64-66)

Having a unified culture is not necessarily required; there only needs to be a sense of social cooperation and a shared basic structure of society for a group to constitute a people (Freeman, 2007).

We feel that the Aboriginal peoples of Canada represent a "people" in the Rawlsian sense. This alters the way we can theorize about and conceive of Aboriginal policy in Canada. We must recognize the value of Aboriginality in Canada as something beyond a contribution to the diversity of the state. That is, we must actually recognize that Aboriginal ways of life (although they may not necessarily be liberal) are reasonable ways of living, due the proper recognition and respect as outlined by Rawls. By doing so, we may be able to carve out a space for the recognition of Aboriginality in Canada. The recognition that Aboriginal peoples in Canada constitute a people must inform our policy. Policies must be formulated so as to respect and recognize the value of Aboriginal forms of governance. Additionally, Aboriginal people must be given the autonomy required for them to properly govern traditionally. As long as they constitute a "decent people", Aboriginal peoples should be given a substantial autonomy in governance. Aboriginal policy in Canada should be guided by theory.

We argue that the *Law of Peoples* can help inform Aboriginal policy in Canada as it maintains the necessary redistributive side, while justifying the recognition aspect to liberal politics. In order to show why this is a possible solution we turn to the work of Taiaiake Alfred. Alfred (2009) calls for complete reform of the conceptualizations of multicultural policy towards Aboriginal peoples in Canada. One of the main problems hampering the resolution of Aboriginal governance in Canada is history. Despite several well-intentioned approaches so far, the problem of establishing real Aboriginal governance in Canada persists. According to Alfred,

> The imposition of Western governance structures and the denial of indigenous ones continue to have profoundly harmful effects on indigenous people. Land, culture, and government are inseparable in traditional philosophies; each depends on the others, and this means that the denial of one aspect precludes the recovery for the whole. Without a value system that takes traditional teachings as the basis for government and politics, the recovery will never be complete. (Alfred, 2009, pp. 25-26)

Although we do not discuss the recovery process specifically, approaching policy with Alfred's comments in mind may help lead to harmony between the Canadian state and Aboriginal peoples. Additionally, as Alfred (2009) argues, true recognition of the history and contemporary situation is required before any policy initiatives will be successful. It is important to note that policy initiatives must be aimed towards imposing a balance of power between the state and Aboriginal peoples in Canada. According to Alfred,

> We need to realize that ways of thinking that perpetuate European values can do nothing to ease the pain of colonization and return us to the harmony, balance, and peaceful coexistence that were – and are – the ideals envisioned in all traditional indigenous philosophies. In fact, it is not possible to reach these goals in the context of Western institutions at all, because those institutions were designed within the framework of a very different belief system, to achieve different objectives. (Alfred, 2009, p. 65)

We do not necessarily suggest that Aboriginal governance must be mutually exclusive from Western institutions of governance; we feel that Alfred (2009) offers some insights into the issue that traditional approaches to multiculturalism have missed. However, Aboriginal self-governance is not necessarily the only response. Henderson (2009) argues that Aboriginal peoples can find redress through traditional institutions in Canada, while Ladhner (2006) argues that Aboriginal forms of governance are sufficiently different from traditional Western forms. Despite the fact that we do not begin to delve into the complexities of Aboriginal governance in Canada, we are arguing that policy needs to be aimed more at balancing a respect for and recognition of true autonomy, while still providing redistributive justice.

Although some (notably Coulthard, 2007) contend that incorporating recognition-based approaches to Aboriginal claims will only further exacerbate the imbalances between Aboriginal populations and the state, we contend that this is not necessarily the case. Coulthard (2007) is likely correct when he suggests that, if recognition-based policies are framed within a notion of "liberal pluralism", they will fail. However, we argue that, by reframing our theoretical understanding of the relationship between Aboriginal peoples and the state as one typified by Rawls), we may be able to avoid Coulthard's criticism. Recognition-based policy framed within a society of peoples will be characterised by an understanding of autonomy and genuine value in governing and ways of life. By restructuring policy initiatives to fit within a "society of peoples" type model, policy need not be translated into liberal language or made "legible" by the state (following the language of Manzano-Munguía, 2011). The response from Kymlicka (1991) to establish protections over Aboriginal culture as a way to foster individual autonomy, for example, remains problematic as it fails to engage with the deep history between Aboriginal peoples and the state. Recognition-based policy, on the other hand, can work to foster a more equal balance of power between the groups – one that genuinely recognises Aboriginal peoples and the value of their ways of life and modes of governing. We argue that, as opposed to furthering colonial policy, recognition-based policy has the potential to receive Aboriginal peoples as they really are and not simply as subordinate groups subsumed within the Canadian state. This is not to suggest that recognition-based policies alone can restructure relations between Aboriginal peoples and the state – they likely won't (Bhandar, 2011). It is impossible to undo the historical legacy of colonialism, especially considering that colonialism is what characterised policy in Canada; however, we maintain that we need to reconceptualize the relationship between Aboriginal peoples and the state. Incorporating recognition-based policy is a step in the right direction in the theoretical overhaul of Aboriginal policy in Canada. Indeed, following Turner (2006),

reshaping the future of Aboriginal and state relations needs to be done dialogically; Aboriginal peoples and the state need to work together. Aboriginal policy should be marked by both redistribution and recognition.

Conclusion

We need to rethink our conceptualization of Aboriginal policy in Canada if we are to consider Alfred's view seriously. We must be aware of the language we use and its implications; for example, the concept of "justice" may have various meanings for the state and different Aboriginal peoples, even though the contexts may overlap. Additionally, we need to work more closely with Aboriginal communities in an attempt to: (a) cultivate strong Aboriginal leadership with knowledge of traditional ways of life, and (b) establish an equal power relationship.

We argue for the need for recognition, but we must also consider how redistribution fits. Kymlicka's (1991) formulation of group-based rights is beneficial in that it can help guarantee the basic resources needed to sustain Aboriginality as a viable culture in Canada. Redistribution is necessary and cannot be ignored; however, it is only part of the solution. Similarly, recognition, despite its importance, cannot be conceived without redistribution. Without a redistribution of resources, individuals will not be able to alter their situations. Minow (1998), while speaking of state apologies argues, "perhaps most troubling are apologies that are purely symbolic and carry no concrete shifts in resources or practices to alter the current and future lives of survivors of atrocities" (p. 112). A state-offered apology fulfills the need for recognition, as the state recognizes committing a wrongdoing; however, the apology is essentially empty without a transfer of resources to actually change the situation. Consequently, recognition and redistribution must be taken together when attempting to address the demands of Aboriginal peoples.

Although we do not offer any specific recommendations for policy, we argue, nonetheless, that policy shaped by both recognition and redistribution can help better respond to the claims of Aboriginal peoples. By maintaining a focus on distribution of rights and resources, policy will continue to foster better economic outcomes and reduce structural inequalities. Incorporating recognition into policy can help ensure that the self-worth of Aboriginal peoples is not devalued or undermined by the state. Additionally, recognition-based policy can help alleviate some of the social pathologies explored earlier. By creating policy that properly allocates resources to Aboriginal peoples and also comes from a place of genuine recognition of the value of Aboriginal ways of life and governance, we argue that the state can better respond to the claims of Aboriginal peoples and help relations between the two groups going forward. We resist providing explicit examples of what this policy will look like, as it will necessarily be varied and ever-changing. We can say, however, that it will be characterised by mutual engagement and dialogue (this is also noted by Castellano & Reading, 2010). We already have seen some examples of a willingness to engage in this type of policy (Bouchard & Vézina, 2003). In the international context we have seen policy that tends towards either recognition or redistribution as well. For example, the Australian government has implemented policies similar to those in Canada (i.e. typified by concerns for the proper allocation of resources) and acknowledged past injustices through the "sorry day" apologies (Duhs & Davidoff, 2010). Recognition of historic injustice from the state is necessary if we are going to foster better relations, but it does not end there. Again, our central point is that policy needs to strike a balance between the two if we are hoping to provide better responses to the claims of Aboriginal peoples. This type of policy, we argue, will be characterised by mutual engagement between groups, community involvement, and a balance between the state's typically liberal policy and governance and the Aboriginal groups' potentially nonliberal stance (Johns, 2007).

With this in mind, we recognize that a plethora of implications and potential policy routes could be undertaken. One of the major implications is that the needs and requirements of the Aboriginal community must be identified. Who should act as the representatives of the community? Are all Aboriginal communities representative of the same values? Is there even a single Aboriginal community that we can speak of? These are serious questions that deserve close scrutiny, but they are beyond the scope of this paper. Nonetheless, we

maintain that policy must be aimed at fulfilling both the redistributive and recognition aspects as outlined here. Further, we argue that, by conceiving Aboriginal peoples as a people in the Rawlsian sense, we can justify recognition to both liberal politics and Aboriginal groups. The goal of this paper is merely to demonstrate a way in which we can shift conceptions of Aboriginal-state relations in Canada to help guide policy initiatives.

Finally, we argue that this is well within the bounds of liberalism. By conceiving Canada in the way we have, we are arguing that Aboriginal peoples constitute a Rawlsian people and are due a certain level of respect and autonomy. Further, if Aboriginal peoples fulfill the criteria of a decent hierarchical nonliberal people, which we believe they do, there is no reason to suggest that this is illiberal.

By incorporating a theoretical background from both liberal and traditional communitarian theories, we argue that the state can better respond to the claims of Aboriginal peoples. The impetus for the reconceptualisation of Aboriginal policy is largely the fault of Canadian state policy, but this failure is one that goes beyond the Canadian context. In Australia, for example, policy that focuses on the distribution of rights and resources has largely failed to significantly improve the lives of Aboriginal peoples (Westwood & Westwood, 2010). Thus, the notion of reconceptualising Aboriginal policy is one that is applicable to other settler societies (e.g. Australia and New Zealand). The overall goal of policy should be to respond to the claims of Aboriginal peoples in a way that corresponds to the particular community. Our belief that policy should be aimed at fulfilling both the redistribution as well as recognition is not something that should be seen as distinctly Canadian. Rather, Canada is used here to: (a) show why states ought to recognize Aboriginal ways of life as valuable ways of living alongside non-Aboriginals, (b) explore why liberal states' responses to the claims of Aboriginal peoples tend towards redistribution, and (c) investigate why that focus has failed.

In this paper, we have attempted to provide an analysis of why traditional approaches to Aboriginal policy in Canada have failed. Additionally, we have attempted to show that, by refocusing policy to incorporate more genuine recognition, we may be able to provide a better response to the claims of Aboriginal peoples. Theoretically driven policy that enhances an understanding of Aboriginal peoples' claims would allow for the autonomy over governance that scholars like Alfred and Turner argue is required, while still maintaining the primacy of liberal values in the state. This is just one way to approach the issue and may not necessarily be the best. We feel that, by incorporating the Rawlsian understanding of a people, Aboriginal policy may come closer to addressing the claims for recognition and redistribution.

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