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Identity Politics in the Public Realm

Bringing Institutions Back In

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Preface
The EDG Series: Governing Diversity

The volumes in the Ethnicity and Democratic Governance series are the product of an international Canadian-based Major Collaborative Research Initiative (MCRI) begun in 2006 under Bruce Berman of Queen's University as principal investigator. Over the course of six years, thirty-nine international researchers and other associated organizations pooled their research and knowledge of one of the most complex and challenging issues in the world today – governing ethnic diversity. The EDG project began with one foundational question: How can societies respond to the opportunities and challenges raised by ethnic, linguistic, religious, and cultural differences and do so in ways that promote democracy, social justice, peace, and stability?

To approach the complex issue of governing ethnic diversity, our academic investigations were broken into four interrelated research streams represented by four main research questions:

- What are the causes of ethnic community formation, political mobilization, and conflict?
- What are the institutional strategies and policies available to states for developing democracy in multiethnic societies?
- To what extent can the international community facilitate the peaceful resolution of ethnic conflicts?

- What normative principles of justice and democracy should be used in formulating or evaluating the governance of diversity?

The themes around which our work has coalesced include nationalism, multiculturalism, federalism, ethnicity and moral economy, recognition and identity, accommodation and integration, conflict resolution, democratic governance, secularism and religious pluralism, citizenship, international intervention, immigration, social integration, self-determination, and territory. Core funding for the Ethnicity and Democratic Governance MCRI comes from the Social Sciences and Humanities Research Council of Canada. Although the project is headquartered at Queen's University, the Université du Québec à Montréal, the University of Toronto, and the University of Victoria are also partner institutions in the initiative.

It is our hope that readers will discover within all of our volumes – and in other project outputs – new understandings of previously neglected or understudied aspects of the nature of ethnic identity formation, the causes of ethnic conflict, and the relationship between ethnic conflict and democratic governance in the contemporary globalized world. For more information on the EDG project and for a list of other EDG publications, see www.queensu.ca/edg/.

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Identity Politics in the Public Realm

Bringing Institutions Back In
How Public Institutions Assess Identity

Avigail Eisenberg and Will Kymlicka

The past thirty years are often described as an era of identity politics, in which a diverse array of identity groups have become politicized and mobilized on the basis of gender, race, language, ethnicity, indigeneity, religion, and sexuality. Of course, identity politics is not a new phenomenon. Western history is full of political struggles between religious groups (e.g., between Catholics and Protestants in the Netherlands), between linguistic groups (e.g., between Flemish and French in Belgium), between racial groups (e.g., between whites and blacks in the United States), and between European settlers and indigenous peoples (e.g., between British colonizers and Aboriginal peoples in Canada), to name just a few of the more obvious examples from the past three hundred years. All of these conflicts involved the political mobilization of identity groups to contest the terms under which they had been incorporated into the state.

Although identity politics is not new, it is surely true that the past three decades have witnessed an intensification and multiplication of such struggles. Long-standing identity groups have become repoliticized, often after decades of relative quiescence, to contest the terms of citizenship (e.g., the re-emergence of nationalist movements in Quebec and Scotland, the rise of indigenous political movements throughout the New World, and the civil rights struggles of African Americans). These older identity cleavages have been joined by a raft of new identity movements – such as those defined by

sexual orientation or disability or by newly settled immigrant groups – many of which have formed organized political movements and have made visible political claims to recognition and accommodation for the first time.

In all of these cases, identity politics has been controversial, and the core issues that have mobilized these new movements often remain unresolved. Throughout Western democracies, and indeed around the world, we have seen a number of provisional settlements of these contestations around gender, race, ethnicity, and religion, but we have rarely found enduring resolutions. There is every reason to expect that these contestations will remain a central feature, and profound challenge, for societies for the foreseeable future.

Not surprisingly, a large and growing scholarly literature about identity politics has now emerged. To oversimplify, we find two broad literatures in the field. First, normative political philosophers have written extensively about what we might call the ethics of identity claims, exploring how claims to the recognition and accommodation of identity relate to broader principles of justice, freedom, human rights, and democratic citizenship (see Appiah 2005; Gutmann 2003; Kymlicka 1995; Taylor 1994; Tully 1995). The goal, in this literature, is to deploy these moral principles in a way that enables us to distinguish those identity claims that advance core values of freedom and justice from those identity claims that threaten or jeopardize these values.

With some notable exceptions (Barry 2001), this literature has been generally sympathetic to at least some manifestations of identity politics. Political philosophers have offered a wide range of arguments to explain why people have a strong sense of identification with their languages, cultures, territories, and religions and how this identification can generate legitimate claims that have too often been ignored or suppressed in contemporary nation-states. Indeed, these claims can be seen as advancing principles of freedom and equality by remedying unjust forms of disadvantage or oppression that have historically limited the freedom and equality of members of these groups. Identity has proven to be a revealing and helpful way to track social exclusion and institutional bias. And the recognition of identity is generally considered an important means to according respect to others (Copp 2002; Eisenberg 2009; Moore 2006; Taylor 1994). In these ways, the normative literature reflects the view that a politics sensitive to considerations of identity can promote justice and emancipation.[1]

Second, we have a more empirical literature – largely emerging from the disciplines of sociology, anthropology, and political science – that attempts

to explore the social and political processes that actually underpin the politicization of identity groups. In this literature, the focus is often on the role of elites in organizing and mobilizing identity-based political movements. Political movements are rarely, if ever, the spontaneous and unmediated expression of grassroots feelings of injustice. Elites typically play an important role in deciding a movement's goals and tactics. And if we attend to these elite strategies, it becomes clear that identity claims are often shaped – and distorted – by intragroup and intergroup power dynamics.

At the intragroup level, for example, elites may frame the group's traditions or culture in such a way as to preserve their own power and authority against potential challenges from inside or outside the group. They may say that they represent the authentic views of the community while dismissing their critics within the group as alien or disloyal. In the name of fighting oppression and discrimination within the larger society, minority elites may reproduce oppression and discrimination within the group.

At the intergroup level, minority elites may end up being co-opted by the state and offered positions of power and prestige that are personally rewarding but that hide ongoing processes of assimilation or exclusion of vulnerable groups. More subtly, elites may strategically reframe the nature of the group's identity to fit the established expectations of governments or international organizations or to respond to incentives made available by the larger political opportunity structure (James 2006; Jung 2008; Tilley 2002). Elites within immigrant groups, for example, decide whether to frame their claims in ethnic, racial, or religious terms, not based on which of these identities is most significant or authentic to group members (insofar as that can be determined), but rather based on which of these categories provides the most leverage within the larger legal and political system.

Dominant groups are not passive in these processes. States often have an interest in seeing groups frame their claims one way rather than another, so as to justify responding to these claims with one set of policy instruments rather than another. For example, conflicts over practices that are deemed to be cultural are often dealt with through forms of intercultural dialogue that aim to find compromise solutions. In contrast, conflicts over practices deemed to be religious may lead to more litigious responses in which groups can invoke the protection of a constitutional right to freedom of religion. Group elites may actively reshape the group's identity to fit the preferred categories of the larger society – to make the group's identity seem more "safe" to the dominant society and to the values of the status quo.

In short, empirical studies suggest that elites often act like entrepreneurs, engaged in a series of strategic, even opportunistic, decisions about how to mobilize identities in a way that enhances their status both within the larger society and within the group they claim to represent. The politicization of identity groups, on this account, is not only, and perhaps not primarily, an expression of a sincere desire by average members for greater recognition and respect of their identity in the face of discrimination and disadvantage, it is also a highly instrumental and opportunistic vehicle used by self-seeking elites.

If normative political theorists focus on how identity politics can be a vehicle for the legitimate but heretofore unrecognized interests of vulnerable groups, empirical social scientists are more impressed by the way that identity politics can be a vehicle for more familiar interests in power and prestige. People may indeed have legitimate interests in their group identities, as normative theorists claim, but these interests may not be what actually underpin real-world political mobilization. Given its strategic and instrumental nature, identity politics may actually have perverse and harmful effects – indeed, harmful effects precisely on people's identity.

The Risks of Identity Politics

Empirical studies point to a number of risks or perverse effects commonly associated with the political mobilization of identity groups. It is worth spelling these risks out in greater detail (also see Eisenberg 2009, 58-63).

First, as mentioned earlier, one risk is that identity politics will entrench existing hierarchies within minority groups. When the demands of identity groups lead to policies more respectful of group identity, group elites may come to feel emboldened and encouraged to exert pressure on their members to respect traditional lines of authority and follow conservative group practices that have been endorsed by accommodation measures in the public sphere. Conversely, when groups are not accommodated or when they are required to reform their practices, identity politics can trigger a cultural defensiveness or reactivism, which also reinforces the power of conservative elites who will encourage group members to strictly adhere to traditional markers of identity to shield the group from pressures exerted on it from outsiders (see Deveaux 2006, 14; Shachar 2001, 33, 35-37). Both of these perverse effects or risks are exacerbated by the tendency for identity politics to silence critics internal to groups who, in deviating from the traditional group edicts, are more likely to appear culturally disloyal (see Shachar 2001, 6, 61) and more likely to be criticized by group elites as disloyal or apostatic.

The risk of entrenching existing group hierarchies thus arises because of a set of internal group dynamics that depend on public authorities taking group identity seriously.

Second, also mentioned earlier, there is the risk of co-optation. Minority elites may end up being co-opted by the state, offered token positions of power and prestige that hide ongoing processes of assimilation or exclusion of vulnerable groups. In this case, identity politics appears, at best, to provide Band-Aid solutions to deeper social problems, including racism, poverty, and dispossession. In a political context in which public authorities are more receptive to claims that are framed in terms of identity, at-risk groups will repackage their claims in the hope that doing so will provide them with some security, protection, or at least a modicum of additional resources. For example, school boards may commission the writing of a high school text geared towards minority students rather than providing minority-dominated schools with a fair share of public resources. Several studies of Aboriginal political activism in Canada also raise the concern that successful attempts to frame indigenous claims in terms of identity may end up undermining the political and legal legitimacy of the broader project of indigenous people to secure their right to self-determination. In both cases, the risk of co-optation is that identity politics at best secures for vulnerable groups minor adjustments to existing state policies while, at the same time, it diverts the group's resources from political struggles more directly relevant to addressing their broader interests.

These risks of entrenching intragroup hierarchies and intergroup co-optation are familiar and predictable once one acknowledges the strategic nature of elite entrepreneurs in identity politics. But there are other, more subtle, risks. A third risk is essentialism. To motivate identity-based claims and to persuade a skeptical dominant society, groups have a natural tendency to insist that a particular practice is essential to their way of life. They support this claim on either historical grounds (that the practice has been part of the group's culture since time immemorial) or on religious grounds (that the practice is sacred). The result, in either case, may be to encourage especially narrow, stereotypical, and nostalgic understandings of what constitutes a given group's identity. Rather than protecting practices that function to enhance living and vibrant communities, it is not uncommon for public decision makers to endorse nostalgic cultural practices as emblematic of what constitutes the distinctiveness of a group's identity. Communities thereby become imprisoned by static and eventually constricting understandings of their identity or, at least, they enjoy cultural protections only as

long as they adhere to the narrowly defined and potentially anachronistic practices that receive legal protection.[2]

This result may have perverse effects not only on how members of the group think about their practices – exaggerating their primordial or sacral nature – but also on how the larger society views the group-reinforcing stereotypes. Our understandings of Others are highly imperfect, based on crude stereotypes or unrealistic construals of culture, and a highly essentialist form of identity politics can feed into this. Studies have shown that when outsiders – for example, legislators or judges – try to understand the distinctive identity of an indigenous people, they often employ crude stereotypes and highly simplistic understandings of Aboriginality.[3] Indeed, this can generate what might be called the perils of authenticity. In order to defend a certain understanding of their identity in a manner that they believe will be convincing to decision makers, groups may distort their identity or oversimplify their practices to meet the expectations they assume others have of them. Numerous anthropological studies show how groups perform their identities to meet the expectations of outsiders and do so in a way that essentializes, naturalizes, and reinforces the stereotypes associated with their identities (Povenelli 1998; Friedlander 2006; Merry 2001).

And these perverse effects in turn raise more general worries about the effects of identity politics on intergroup relations and, indeed, on the very cohesiveness and stability of society. Identity politics may not only encourage stereotypical understandings of other groups but also lead to more damaging forms of group polarization. A common criticism of identity politics is that it undermines democratic community by encouraging people to identify and mobilize on the basis of what distinguishes them rather than what unites them (Miller 1995; Putnam 2007). Theorists of social capital have seized on this effect and argued that ethnic and religious fragmentation depletes social trust, thereby making cooperative relations among citizens more difficult to attain (see Warren 1999). Perhaps even more seriously, some critics have argued that identity politics is uniquely corrosive of basic democratic virtues of public reason and compromise. According to this view, identity-based claims are both inherently opaque – incapable of being rationally debated – and inherently non-negotiable. The result is that identity politics tends to be a "deadly serious politics" (Waldron 2000, 158) played for high stakes by participants who are willing to present their particular interests as monolithic or non-negotiable even if this leads to democratic deadlock or, still worse, open hostilities (Weinstock 2006, 23).

In light of these risks, it is unsurprising that the empirical literature offers a more skeptical view of the merits of identity politics. Some commentators argue that the emancipatory potential of identity politics is compromised, even negated, by these perverse effects. Normative theorists may be able to offer principled arguments in favour of identity-based claims, but the real-world dynamics of identity politics may be harmful to both intragroup and intergroup relations. In Ruud Koopmans' (2006, 5) words, "we cannot simply assume that what is normatively justifiable will also be practically efficient." He worries that public policy has been unduly shaped by highly normative views about the justice of identity claims, while naively ignoring the real-world sociological dynamics generated by identity politics. Similarly, Anne Phillips (2007, 14) worries that while normative political theory presents identity politics as a "cultural liberator," it too often in practice ends up as a "cultural straitjacket."

How Do Institutions Respond to the Risks of Identity Politics?

In short, the existing literature in normative political philosophy and empirical social science identifies not only an emancipatory potential in identity politics but also a set of characteristic risks that accompany efforts to frame political struggles in terms of identity. If normative political theories help to explain why people can have legitimate interests in identity that give rise to valid claims of justice, empirical social science helps to explain how that emancipatory potential can be subverted by the social, political, and legal dynamics that foster and channel identity politics.

Faced with this dilemma, it is natural to wonder whether the potential benefits of identity politics are worth the risks. For many commentators, the risks are too great. In their view, the very logic of identity politics reinforces hierarchies, leads to essentialism and stereotyping, gives rise to the perils of authenticity, leads to co-optation, and displaces healthier and more democratic forms of class-based or interest-based politics. Political institutions, on this account, should be designed to discourage rather than enable or facilitate identity politics.

In our view, this sort of sweeping condemnation of identity politics is both unrealistic and unwarranted. It is unrealistic because, as we noted earlier, identity politics is an enduring feature of democratic societies. It is not a new fad or fashion but has deep historical roots and will not disappear in the foreseeable future. But this condemnation is also unwarranted, because there is no single "logic" to identity politics that predetermines its political

effects. Rather, the progressive potential of identity politics depends on a range of factors, and our aim in this volume is precisely to help identify some of these key factors. Although the empirical literature is in general more skeptical of the virtues of identity politics, it is far from univocal on this point, and many studies of identity-based political movements have concluded that they have helped to redress injustice and to deepen democracy. In at least some times and places, the political mobilization of identity groups, even when it reflects the opportunistic behaviour of ethnic entrepreneurs or involves attempts to co-opt minority groups with tokenistic forms of public accommodation, has operated to challenge injustices and to create inclusive and fair societies.[4] Our goal is to try to identify some of the factors that either sustain or subvert the emancipatory potential of identity politics.

In particular, we are interested in the role of public institutions in shaping the nature and outcomes of identity politics. We believe that the capacities and imperatives of public institutions, and of the agents who administer them, are vitally important in this regard. Whether identity politics has perverse effects depends, at least in part, on whether those in charge of public institutions are aware of those potential effects and whether they have the desire and capacity to mitigate them. Identity politics may carry with it a range of characteristic effects, but precisely because these effects can be foreseen, public institutions can take steps to forestall them and can learn over time about how best to mitigate them.

Of course, we cannot assume in advance that the decision makers within public institutions are either motivated by progressive goals or have the capacities needed to achieve them. State structures are not wholly impartial and omnipotent vehicles for implementing our ideal principles of freedom and equality. They, too, are heavily shaped by their own internal power dynamics. But the interests of public institutions may differ from those of other elites involved in identity politics, and they may serve as a check on the strategic behaviour of both minority and majority elites. Public institutions are not merely the instruments of self-interested group elites seeking to preserve their powers and privileges, nor are they merely the instruments of an impersonal system of Foucaultian control. Public institutions have their own diverse (and conflicting) incentives and motives, which need to be considered when predicting the effects of identity politics. In particular, liberal-democratic states provide space for forms of political contestation, public deliberation, and legal reasoning that allow for identity-based claims

making and that compel public institutions to develop procedures and guidelines for addressing such claims in ways that are compatible with the rule of law, constitutional principles, and public reason.

Under these circumstances, the nature of public institutions plays a pivotal role in determining the outcome of identity politics. In some cases, public decision makers may lack the willingness or incentive to counteract the risks of identity politics – indeed, they may have a strong incentive to exacerbate some of those risks. For example, those who administer public institutions may have an incentive both to uphold and to co-opt unrepresentative minority leaders at the expense of a more inclusive or accountable leadership. But in other cases, particularly within liberal-democratic constitutional structures, public institutions may have the capacity, and indeed the obligation, to counteract processes of essentialization, co-optation, fragmentation, or exclusion and to support instead more emancipatory forms of identity politics.

So the question we are asking in this volume is not whether identity politics is to be avoided but rather how public institutions respond to this form of politics and what role they play in either exacerbating or mitigating the risks associated with it. This part of the story has been much less studied. There is an extensive literature in normative political theory on the justice of identity claims and an extensive literature on the internal dynamics and elite strategies of identity-based political movements. By contrast, we know surprisingly little about how public decision makers themselves – whether legislators, bureaucrats, or judges – respond to claims made by groups on the basis of identity. How do decision makers evaluate the merit of such claims, using what criteria? How do they evaluate the representativeness of elites who speak on behalf of groups? Are public decision makers conscious of the risks of entrenching hierarchies, essentialism, authenticity, co-optation, and fragmentation and, if so, how do they seek to respond to them? Do decision makers learn from cases in which these risks are misidentified or mismanaged? Can we find instances of social learning in which the characteristic dilemmas or dangers of identity politics have been recognized or remedied?

Our aim in this volume is to better understand the nature of these institutional responses and thereby better understand the scope for a progressive politics of identity. We are interested in the different contexts in which these claims arise, the different sorts of actors that advance them, and the ways in which these factors affect the responses of public institutions. In

what contexts, and in relation to which sorts of actors or claims, are public institutions most likely to either mitigate or exacerbate the risks of identity politics or to enable or undermine emancipatory claims making?

Outline of Chapters

To answer this question, we have drawn together studies from several different contexts in which a variety of identity claims are at stake. Our authors examine questions about the challenges of identity politics in relation to different types of groups (racial groups, indigenous groups, and religious groups), in relation to different types of policies and political contexts (the census, antidiscrimination policies, land claims, religious accommodation, and autonomy arrangements), and in different geographical contexts (East Asia, Africa, Latin America, the United States, and Canada). Although this volume obviously represents a small sample of the possible universe of cases, it offers a good first step in understanding the role of public institutions in this field.

The volume opens with two chapters that focus on the ways in which public institutions make decisions about the identification of groups within the census. In Chapter 2, Melissa Nobles examines census politics in the United States and Brazil; in Chapter 3, Bruce Berman examines census politics in India and Africa. The census provides a particularly clear example of the need to understand the imperatives and capacities of state institutions. Indeed, as both authors point out, the initial impetus for categorizing groups in the census was not a bottom-up desire for recognition by identity groups, but rather a top-down desire by state elites to be able to consolidate control over the heterogeneous populations they governed. Naming and counting groups was necessary to enable the state to tax people and property, to conscript people into the army, to regulate mobility, and sometimes to engage in ethnic cleansing or even genocide. These long-standing purposes of census categorizations have generated, among some groups, a long-standing reluctance to be counted. Jews and the Roma, for example, have often opposed attempts to have their group identity recorded in the census. However, in recent years, the census has become a site within which many identity groups have sought recognition. To have one's group recognized within the census is often seen as proof of acceptance and inclusion, as well as providing leverage for disadvantaged groups to demand a fairer share of public resources. These demands for inclusion in the census have generated a number of difficult challenges for public institutions: on what basis should decision makers decide which groups to include in the census?

Nobles examines the way these decisions have been made in Brazil and the United States, focusing in particular on the changes postwar democratization brought to the ways in which census categories in both countries were defined and the purposes for which they were used. Whereas census categories were historically designed to support a racial order – the black-white divide in the United States and the myth of a raceless society in Brazil – democratization led to two important changes. First, it has made these states more responsive to how citizens understand their own identities, requiring states to change their categories to better fit the self-identification of individuals. Second, the purpose of the census has changed from supporting a racist social order to supporting the aims of civil rights and antidiscrimination legislation. These are clearly positive developments but, as Nobles notes, they also raise certain dilemmas for the census process. The two developments may work at cross-purposes. Insofar as the census seeks to track the historical legacy of discrimination, it may need to continue to use the old racial categories that provided the basis on which blacks were discriminated against. Yet many blacks today wish to self-identify under other labels – for example, as mixed race. Using such categories may provide groups with a stronger sense of acceptance and recognition but make it harder to use census data to track inherited inequalities. Policy makers are faced with the dilemma of reconciling the desire of people to use categories that reflect their actual identities, without abandoning the project of accurately tracking patterns of racial disadvantage. As Nobles notes, this dilemma has been resolved in different ways in Brazil and the United States, and in each case, she argues, the resolution may be appropriate to the context.

Berman's chapter offers a less optimistic account of census politics. Starting with the colonial era, he traces how census categories were designed by state officials to facilitate bureaucratic control and impose racialized social orders. In this respect, the story is similar to Nobles' account of earlier stages in US and Brazilian history. However, Berman insists that this colonial-era history has imposed enduring constraints on how identity categories are organized today, and he remains skeptical that democratization will lead towards a more benign or progressive use of group categories. Focusing on Africa, Berman demonstrates that, both in the immediate era of decolonization and in the more recent stage of democratization, ethnic entrepreneurs strategically deployed group categorizations – particularly categorizations of autochthony and indigeneity – to gain access to new sources of wealth, to protect their claims, to suppress internal dissent, and to exclude other citizens on the basis of ethnic difference. The risks of identity

politics are fully on display in this context regardless of democratization, or perhaps because of it. Berman concludes with some sobering reflections on whether these pathologies should be viewed as a form of African exceptionalism or whether they, instead, reflect enduring risks that accompany identity politics in all contexts.

The two chapters that follow focus on a closely related set of issues regarding the state's recognition of indigenous peoples. In many countries, and indeed under international law, indigenous peoples have a distinctive legal status that often confers special rights in relation to land, culture, and self-government. But the official recognition of distinctive status immediately raises a pressing question: how do states decide which groups within a country qualify as indigenous? In Chapter 4, Villia Jefremovas and Padmapani Perez focus on the recognition of indigenous groups in the Philippines; in Chapter 5, Juliet Hooker examines the recognition of indigeneity in Latin America. As both authors note, the global trend towards the recognition of the rights of indigenous people since the 1980s is widely seen as one of the truly inspiring social movements of our time, providing empowerment to one of the most disadvantaged and stigmatized groups around the world. Yet, here too, there are a number of dilemmas confronting public institutions that seek to recognize indigeneity, and these dilemmas have been handled differently in different countries.

The Philippines offers an interesting case study because it is the first country in Asia to adopt international indigenous rights norms, and it has developed concrete criteria for evaluating the claims of indigenous people. As with changes to the census in the United States and Brazil, this shift is intimately tied up with processes of democratization. Jefremovas and Perez trace a historical shift in the Philippines, from an undemocratic system of colonial control premised on ethnic and racial hierarchy to a more democratic, civil rights–based system of antidiscrimination and minority rights that seeks to recognize and empower indigenous groups. However, in the Philippines, as indeed in most countries in Asia, there is no obvious way of determining which of the dozens or hundreds of ethnic groups qualify as indigenous. To tackle this problem, Jefremovas and Perez show that the Philippines has, paradoxically, relied heavily on colonial-era anthropology. Nineteenth- and early twentieth-century anthropological texts are cited today as providing key evidence about the nature of indigenous groups, including their culture, practices, histories, and territories. This is paradoxical because colonial-era anthropology was fundamentally shaped by the very

racialist and colonialist ideologies that historically justified the oppression of indigenous peoples. Yet, as the authors explain, indigenous people have come to rely on these categories and have adopted them in order to wage their political struggles. Categories that were once used to maintain a racial order are now the source of political mobilization and even group pride. At the same time, these categories carry liabilities in that they essentialize indigenous peoples and force them to articulate their claims within narrow and outdated conceptions of group culture and identity. Jefremovas and Perez trace this dilemma and search for an alternative approach that can address the risks of essentialism without fragmenting communities and thereby undermining their chance to respond to the injustice they have suffered.

Hooker's chapter examines some of the same issues in the Central American context, focusing specifically on how public institutions in Nicaragua define indigenous identity. In a novel approach, Nicaragua decided not to draw a sharp distinction between indigenous peoples and other minorities – particularly Afro-descendants – who often live in similar circumstances. Instead, it emphasized the common injustices they had faced and tried to build a form of regional autonomy in the Atlantic coastal region that empowered both. As Hooker presents it, this policy can be seen as responding to two of the main worries we discussed earlier. On the one hand, it seeks to avoid the dangers of essentialism that plague many other attempts to come up with a narrow definition of indigeneity. On the other hand, it also seeks to channel identity politics in a way that builds solidarity among different groups rather than dividing them. Yet here, too, there are dilemmas and paradoxes. Subsuming the claims of Afro-descendants and indigenous peoples under the broader project of establishing a multiethnic regional autonomy has arguably enabled the central government to ignore the distinctive claims of both groups (e.g., in relation to land claims), as well as the historical patterns of exclusion and dispossession. Regional autonomy avoids the pitfalls of essentialism but also makes it more difficult to track historical patterns of inequality between identity groups. Subsuming these different claims has also created the possibility that this regional autonomy will actually be dominated by members of the dominant society in Nicaragua – the mestizos – who have moved in large numbers to the region. Hooker concludes by speculating whether indigenous and Afro-descendant identities can be conceived in ways that recognize their distinctive and shared vulnerabilities while, at the same time, empowering them vis-à-vis the mestizo population.

The question of indigeneity is not simply a matter of categorization. Even when it is uncontroversial that public institutions should treat a particular group as indigenous, difficult questions remain about how these institutions should conceptualize indigenous culture and identity. In Chapter 6, Avigail Eisenberg examines the manner in which domestic courts in Canada assess the identities of Aboriginal peoples and compares it to the way human rights bodies at the United Nations address this issue. As noted earlier, fears of cultural essentialism are particularly salient in the context of indigenous peoples, as are fears about co-optation. Many commentators worry that identity politics weakens political struggles for Aboriginal self-determination while raising the risks of essentializing and co-opting Aboriginal peoples. Eisenberg, however, argues that the comparison of Canadian and international experiences shows that there are many ways for institutions to mitigate these risks. The risks of identity politics, she argues, arise primarily because of the criteria used by public institutions to assess these claims. Domestic courts in Canada use overly restrictive criteria that aim primarily at shielding the state from the threats or costs associated with these claims. In contrast, international norms tend to be more expansive, adopt a future-oriented perspective, and require states to consult with indigenous groups. At least some of the risks of identity claiming can be mitigated when institutions adopt better criteria. The question, then, is whether public institutions have the capacity to reflect on and change the criteria that they adopt. Domestic institutions have shown some openness to adopting international norms of assessment, especially the duty to consult. But insofar as their decision making continues to be directed by the state's narrow interests in protecting its sovereign interests, the risks associated with identity claiming will remain in place for Aboriginal peoples.

This interplay of domestic and international factors is also a central theme in Victor Armony's chapter, which examines the role of identity claims in the distinctive context of Latin American political cultures, with their universalistic, republican, formalistic, and centralist tendencies. He notes that the formalistic tendencies of Latin American regimes make it more difficult for identity groups to gain official recognition of racial and ethnic discrimination. Where states deny that ethnic and racial differences exist, it is difficult to get effective political action to contest ethnic and racial discrimination. Under international pressure, however, various countries have adopted new policies for recognizing groups and for measuring intergroup inequalities. Armony focuses in particular on Argentina, which in the wake of having signed international human rights agreements adopted a

national plan to address ethnic discrimination in 2005. Yet, as Armony notes, human rights solutions supported by international actors often fail to reflect the complexities of local realities. The categories privileged by international actors, and their priorities, may be at odds with the often subtle and complex operation of intergroup dynamics at the local level. Racial categories operate very differently in Argentina than in the United States, for example, and international models based on the latter may not work in the former. At the same time, international actors and transnational advocacy can have the effect of shedding new light on local situations, helping to mobilize identity groups that suffer from discrimination and opening up previously closed political systems to participation from previously excluded and marginalized groups. In short, international actors can either exacerbate or mitigate the risks of identity politics. Armony concludes with some suggestions to build more constructive linkages.

These first six chapters focus primarily on issues of race, ethnicity, and indigeneity. The final four chapters shift the focus to religion, which in many ways has become the most controversial and contested sphere of contemporary identity politics. In Chapter 8, Eléonore Lépinard examines the regulation by state agencies of Islamic practices in France. In Chapter 9, André Laliberté examines the recognition of religious groups in East Asia; while in Chapters 10 and 11, Lori Beaman and Jocelyn Maclure examine recent debates about the reasonable accommodation of religious groups in North America.

Lépinard's chapter discusses the interaction between two policy frameworks used in France to address the claims of minorities: a republican integration model focused on immigrants and a *laïcité* model focused on religious groups. The former categorizes people primarily on the basis of ethnicity or country of origin and aims to ensure their integration into French citizenship – an integration that is assumed to require a degree of cultural assimilation. The latter, which evolved to resolve the historical conflict between secularists and Catholics in the early twentieth century, focuses on the idea of the religious neutrality of the state vis-à-vis the religious beliefs of citizens. As Lépinard shows, the integrationist objectives of the former have started to reshape the latter, leading to a more restrictive and assimilationist conception of laïcité, particularly when applied to the growing number of native-born children of Muslim immigrants from North Africa. Whereas older ideas of laïcité were grounded in the idea of state neutrality, the newer conception of laïcité also emphasizes ideas of social cohesion, public order, and a common civic culture – ideas drawn from the

republican model of immigrant integration – and uses these ideas to restrict the public expression of religious beliefs and identities, particularly of Muslims. As a result, although we see a clear shift in the categories used by state institutions from immigrants (defined by ethnic origin and citizenship status) to Muslims (defined by religious affiliation) and, similarly, a shift in policy framework from immigrant integration to laïcité, the effect has not led to a reduction in the assimilationist pressure facing minorities. As laïcité is redefined to serve integrationist objectives, the space for Muslims in France to advance identity-based claims is shrinking. And yet Lépinard also notes the emergence of a third framework, rooted in European antidiscrimination norms, that may yet serve as a counterweight, providing legal grounds for Muslims to say that the restrictions on their religious practices qualify under European norms as forms of discrimination. She concludes by noting that the future interaction between these three frameworks remains uncertain, leaving minorities in France with contradictory messages about how public institutions will respond to their identity claims.

Laliberté's chapter examines recent changes in state policy regarding the recognition of religious groups in East Asia, focusing in particular on Taiwan. As with several other chapters, his analysis emphasizes how practices of group recognition have changed as societies have moved from more authoritarian approaches aimed at controlling civil society to more democratic ones aimed at recognizing and accommodating identity groups. But whereas democratization in the United States and Latin America has meant an increasing reliance on self-identification as a guide to policy, in Taiwan state policy remains closely tied to imported Western categories of religion. These categories are interpreted in a way that reflects a fundamentally Christian, congregation-based understanding of religious life – an understanding that is singularly unsuited to the religious practices found in East Asia and that leaves many important forms of spirituality and religion unrecognized. In this respect, as Armony shows, international influences have a potentially distorting effect on local realities. But Laliberté shows that it is not obvious how this dilemma can be addressed. The recognition of religious groups in East Asia is not simply a struggle between the historical inertia of identity categories and a newly democratic impulse towards self-identification. A deeper challenge comes from the unique characteristics of religious identity in East Asia (and perhaps elsewhere). Religious affiliations and identities in Taiwan are remarkably elastic and porous and may simply be impossible to capture in official categories. This, of course, is

a familiar critique of all identity categories, whether racial, ethnic, indigenous, or religious. But Laliberté's analysis suggests that the challenge of religion in East Asia may be distinctive, in ways that can inform our more general theories about the preconditions of an effective and progressive identity politics.

Beaman's chapter pushes this question of the relationship between individual identity and group categories further, focusing in particular on recent debates in Canada about the interpretation of freedom of religion. Courts in Canada and elsewhere have shifted away from group-based interpretations of religious identity and religious conflict to interpretations that rest on subjective, individualist, and lived understandings of religion. Religious freedom is not (simply) the freedom to do what group scriptures or group authorities say, but rather the freedom to do what the individual himself or herself sincerely believes, even if this belief diverges from the orthodox or traditional understanding of the group's faith. In Canada these shifts coincide with the adoption of the Charter of Rights and Freedoms in 1982 and with the entrenchment of multiculturalism several years before that. These shifts have created new possibilities for accommodating religious identities in a way that is more responsive to the diversity of faiths within contemporary society. However, Beaman holds that these shifts have raised their own dilemmas. The courts, she argues, have not found a neutral way to test the sincerity of an individual's beliefs, to assess the nature of harms caused by religious practices, or to assess what counts as a reasonable accommodation of religious belief. In all of these matters, the courts in Canada continue to privilege the views of the Christian majority, asserting a false neutrality that asks that minority groups adopt the religious norms of majorities. In light of these implicit biases, which are often denied or hidden through official discourses of secularism, the substantive equality of minority religions is significantly diminished. Beaman insists that public institutions, such as courts, must become more critically reflective of these biases.

By contrast, Maclure's chapter offers a more optimistic analysis of recent shifts in the way courts evaluate religious claims. He argues that emerging doctrines of reasonable accommodation can lead to fair and equitable decisions for religious minorities while, at the same time, mitigating the risks often associated with religious identity claims. Maclure argues that, in the case of religion, states are morally obliged to accommodate in order to protect religious equality and to respect the importance of conscience to religious believers. In particular, public institutions ought to follow two guiding

norms when assessing religious claims: first, they should display sensitivity to the possibility that legitimate societal norms sometimes indirectly discriminate against certain groups and, second, they should recognize the distinctive moral status of the meaning-giving beliefs and commitments that religious believers assume. The question, of course, is whether courts can apply these norms without generating the various perverse effects associated with identity politics. Maclure suggests that courts are aware of these risks and have attempted to address them by focusing on the sincerity of religious belief and on standards of reasonableness in relation to claims for accommodation. Although there are no ironclad guarantees, he suggests that, over time, we are learning how to fairly accommodate religious identities without triggering the deadly serious pathologies of religious conflict.

Lessons and Implications

As the studies in this volume confirm, there is nothing new about identity politics. Political mobilization among, and conflict between, identity groups dates back to the very origins of the modern state, as long as peoples have been counted and categorized by a census. Identity politics is as deeply rooted in the political fabric of most societies as are their histories of settlement and nation building. Identity politics is not new and is not fleeting in significance.

The studies also confirm that identity politics is, in the end, like most forms of politics, full of strategic and opportunistic actors attempting to advance their interests in the most effective ways they can. Yet, at the same time, identity politics has strong normative features, mobilizing deeply held beliefs and values in response to discrimination and disadvantage. These strategic and normative features are not mutually exclusive. Nor are they contradictory. Politics holds many examples of actors engaging in strategic, incentive-driven and opportunistic behaviour in order to secure what is of normative value to them. In our view, the question is not whether identity politics is really about emancipatory movements for social justice or about the strategic self-interest of elites. It does not make sense to ask whether identity politics is really about grievance or about greed.[5] Identity politics is always both normative and strategic.

The question, rather, is whether we can draw any lessons about how to enhance the emancipatory potential of identity politics while minimizing its characteristic risks and perverse effects. This is a serious challenge, but it is important to emphasize that it is hardly unique to the sphere of identity

politics. Similar challenges arise in virtually all areas of democratic politics, whether in regard to class, or the environment, or gender. In all of these spheres, we find elite entrepreneurs seeking to mobilize grievance but doing so in an opportunistic way that runs the risk of entrenching inequalities and co-optation. Yet few people would suggest that we should therefore seek to minimize or abolish democratic mobilization around these issues. The remedy, rather, is to ensure that such political mobilization is subject to various tests of publicity, democratic contestation, accountability, negotiation, and compromise, so as to enhance its ability to address legitimate grievances while minimizing the risks of abuse.

In our view, we should follow the same basic approach when thinking about identity politics. If identity politics carries with it certain characteristic risks, we should address those risks through the familiar democratic remedies of publicity, accountability, contestation, and negotiation. Unfortunately, much of the literature on identity politics operates with a double standard. On the one hand, when diagnosing the risks, critics insist that identity politics is as subject to strategic behaviour as any other form of politics. Yet, when it comes to remedies, they write as if identity politics is uniquely incapable of being democratized, that it involves claims and values that are opaque and non-negotiable in ways not true of other sorts of claims, that identity politics is categorically different from interest-based politics precisely because it evokes deep-seated and enduring values rather than temporary material benefits, such that claimants are unwilling to negotiate or compromise on their claims.

But there is an obvious inconsistency in this critique. If identity politics exhibits patterns of strategic and opportunistic behaviour similar to other forms of politics, then it should be subject to similar remedies of democratic contestation, accountability, negotiation, and compromise. If we should not glorify identity politics as being somehow immune from strategic manipulation, then we should not demonize it as being immune from the processes of democratic accountability. Instead, the challenge is to understand how identity politics can be democratized, whether public institutions have developed effective means to respond to the risks of identity claims, and under what circumstances identity groups are likely to engage in democratic debate, negotiation, and compromise over their identity claims.

With these questions in mind, the various chapters in this volume offer a rich set of cases for reflecting on how institutions are able to identify and manage the risks associated with identity politics. We cannot hope to

summarize all of the possible lessons and implications from these cases, but we would like to highlight four themes that we see as particularly salient throughout the different chapters.

History Matters

To begin, history matters to the emancipatory potential of identity politics, but it matters in ways that raise dilemmas for public institutions. As several contributors show, governments are often tied to the historical legacies of identity politics, and this is, in no small part, because identity groups have considerable attachment to these legacies. In the Philippines, Taiwan, the United States, and throughout Latin America, identity categories used in the census, in public policies, and in constitutional provisions have existed for a hundred or more years. These categories form the historical basis upon which groups have organized and mobilized and, in some cases, have given rise to group pride and a sense of belonging, often regardless of the pernicious motivations behind their original design. So, even when the original intention behind the design of identity categories was to control indigenous populations or to facilitate racist segregation, these categories have over time become important to the organization of political life and the mobilization of democratic activity aimed at emancipation. Moreover, contemporary attempts to address discrimination or historical injustice often require being able to identify and target people according to the same categories that were used to discriminate against or exclude them in the past. Paradoxically, categories initially designed for oppression may provide a necessary basis for successful democratic engagement.

At the same time as historical legacies provide a foundation for democratic engagement, however, they also constrain groups and public institutions in ways that may entrench group hierarchies and essentialize identities. Courts and legislators may reinforce static boundaries of group membership or stereotypes about group practices, in some cases at the behest of groups that have mobilized to defend these identity categories and practices. In order to sustain group identity and strength, leaders may resist attempts by group members to develop more fluid or hybrid notions of membership that would more accurately reflect the nature of people's social attachments and identities. The boundaries that define the group, unite it, and distinguish it from other groups are reinforced, and efforts to reconfigure group identity are rejected as forms of fragmentation or even disloyalty. For example, the internal diversity among blacks in the United States or Brazil is downplayed so as to avoid fragmentation, while the contrast

between indigenous peoples and Afro-descendants is exaggerated, so as to preserve a strong sense of indigeneity. Similar problems occur in regard to group practices. Particular practices are advanced by elites as emblematic of the group's identity, partly to protect the group from being fragmented but often also as a means to reinforce a definition of the group's identity that will justify the position of the elites as the appropriate representatives or protectors of that identity.

In short, historical inertia has both the effect of helping to organize political life and mobilize groups so that they can wage struggles against discrimination and injustice and the effect of essentializing groups and entrenching group hierarchies by defining identity groups in static and stereotypical ways. History matters, but it poses a dilemma between empowering identity groups and exacerbating the risks of entrenching group hierarchies and essentializing group identities.

International Influences

The influence of international actors on local identity politics raises another kind of dilemma for public institutions. On the one hand, common sense suggests that decision making about the recognition of group identities must be sensitive to local realities. The historical record is full of examples of colonial powers imposing on vulnerable communities imperialist policies and governance structures that utterly failed to reflect – or failed even to try to reflect – local realities. Indigenous peoples in Africa, Canada, the United States, and many other places were counted and classified by colonial authorities in order to control them and to shape local identities to fit the political priorities of colonial regimes. This concern about the role of outside powers in classifying and controlling identity groups remains alive today, albeit in a rather different form. Today, the concern is that Western-dominated international organizations are pressuring less powerful states to adopt particular conceptions of identity classification – including how racial divisions ought to be drawn in the census, who should count as an Aboriginal or indigenous person, and how ethnic pluralism ought to be managed. This kind of international influence is sometimes seen as a new form of global imperialism whereby more powerful states implicitly or explicitly universalize their own policies regarding identity, treating their own folk categories of identity as if they were somehow universally valid (Bourdieu and Wacquant 1998).

On the other hand, because international actors are free of the constraints found at the local level, they often have less at stake than do local

actors in upholding historical myths or in reifying existing identity categories and their corresponding elite hierarchies. In some cases, international influence on local policies provides perspective to local communities on just how mythic and conservative these policies are. In other cases, international actors can make national governments more sensitive to local groups, to the need to consult groups, or to the need to adopt less narrow and essentialized interpretations of a group's culture by alerting local populations to a different perspective more in keeping with emancipatory aims. Ironically, international actors can help national governments become more sensitive to local realities.

International influence, it seems, is not intrinsically good or bad. An actor's proximity to local circumstances can be both an asset and the source of risk when it comes to the assessment and classification of identity groups. The question then is what determines whether international actors contribute to or inhibit a more democratic form of identity politics. The answer surely depends, at least in part, on the motivation for international action in the first place. The motives behind the International Monetary Fund's activities in postcolonial Africa (discussed in Berman's chapter) surely differ from the motives of the UN Human Rights Committee in assessing indigenous claims (discussed in Eisenberg's chapter). International organizations have a mix of motives – including concerns for international peace and security, economic development, and human rights – that often point in different directions on issues of identity politics. Forms of identity politics that may seem legitimate and desirable from a human rights perspective may nonetheless be seen by some international organizations as a threat to regional security or as an obstacle to rapid economic development. But another part of the answer depends on the extent to which international organizations are themselves subject to appropriate forms of publicity, accountability, and contestation, allowing local actors to challenge hegemonic international presumptions about appropriate forms of identity politics.

Democratic Engagement and Effective Participation

One of the most striking conclusions suggested by the chapters in this volume is the central importance of democracy. The capacity of minority groups to influence state policies and to challenge state assumptions about the nature of their identities and interests largely depends on whether the governance of identity is democratized. When identity groups become democratically engaged – both internally, in matters within their communities, and externally in the broader political community – they can mobilize

their identities as a touchstone to wage struggles against discrimination and oppression. In many of the contexts studied in this volume, groups have been able to negotiate their identity claims democratically in a peaceful manner that exhibits a willingness to compromise rather than simply engage in inflated identity rhetoric and non-negotiable posturing.

A key means by which groups have challenged state assumptions about their identities in the postwar period is by insisting on the principle of self-identification. We see this not only in the cases where efforts have been made to democratize the governance of identity (e.g., Brazil, Argentina, Taiwan, Canada, and the United States) but also perhaps most vividly in the cases where democratization remains limited (e.g., in much of Africa and the Philippines). These examples show that the risks associated with identity politics are greatest where citizens are unable to effectively contest how the state governs their identity. Elite manipulation, essentialism, co-optation, and fragmentation are problems where people have little choice but to fit themselves into pre-given, rigid identity categories that are then used to advance static or elite-inspired ideas about what counts as group interests.

Even within consolidated democracies, there are important variations in the extent to which particular decision-making forums are open to participation and contestation. Various chapters suggest that the risks of essentialism and stereotyping are exacerbated in nonparticipatory, judicially driven decision making, especially decision making controlled by local and national elites. Legal processes can have the effect of privileging conservative definitions of groups and their practices and shielding such definitions from contestation both within the group and outside it. This is especially a problem when courts feel bound to defend narrow legislative agendas that are wedded to recognizing minority identities in anachronistic or stereotypical ways or that are set by legislators who are themselves responding to heightened public anxieties regarding minority rights. Decision making that is more open to minority group consultation and participation offers fewer opportunities to ignore the variety of interests within the group and internal disagreement among group members about how identity values ought to be prioritized and protected. More open processes of decision making and consultation are better able to shine light on potential abuses of power.

But, at the same time, open and democraticized processes do not resolve all the dilemmas associated with identity politics. Democratic values and impulses themselves often pull in competing directions. Democratization enables people to challenge inherited categories and to insist on the principle of self-identification, which ensures that identity categories more accurately

reflect people's actual identities. Yet democratization also involves a commitment to equality through the rectification of inherited inequalities, and this in turn may require the ability to track inherited patterns of discrimination and disadvantage by counting people on the basis of inherited categories. An approach to identity groups that rests solely on the principle of self-identification, and on freeing individuals from imposed categories, may have the perverse effect of rendering racial and ethnic inequality officially invisible. Democratization cannot fully resolve this dilemma, which is itself the product of democratization.

Just as democratization is not always the answer, less participatory forums for decision making are not always a liability for identity politics. Courts and other judicial bodies provide controlled environments in which the considerable risks of identity politics may be exposed and mitigated. As many of the chapters in this volume show, courts are often called upon to assess the validity of identity claims, with mixed results. Such assessments sometimes fail, either because courts rely too heavily on conservative views about minorities already entrenched in law and politics or because legal processes rely too heavily on the knowledge and discretion of judges, who are overwhelmingly members of the majority elite whose perspectives may reflect broader public stereotypes and misinformation about minorities. Yet, at the same time, judicial bodies have considerable power and potential to provide public guidance to other institutions and to more public and participatory forums about the values and questions that ought to guide a normatively defensible assessment of identity claims.[6] Legal reasoning is open to critical reflection, and in democratic societies, courts are obligated by constitutional principles to reflect on whether the principles they apply treat the diversity of citizens as equals. Judicial bodies can outline a public method of decision making that is attentive to the risks of identity politics, that is able to navigate these risks in relation to the specific groups and circumstances before them, and that can outline an even-handed way of assessing identity claims without capitulating to every claim made in the name of identity. So the potential is great for judicial forums to play a leading role in democratizing the assessment of identity claims. But this potential is often unrealized, which perhaps explains the ambivalence in minority rights scholarship regarding legal forms of decision making as a means to resolve identity-based conflict.

Yet most of our case studies trace ways in which identity groups have been inadequately consulted in decision making, denied opportunities to contest the ways that national or international actors delimit their identities,

and are underrepresented in the judicial or legislative bodies within which crucial decisions about their freedoms are made. The conclusion to draw from these cases is that the risks and dilemmas of identity politics signal not a failure of identity politics per se but a failure of states to democratize their political processes. This failure is highlighted, not created, by identity politics. Identity politics – like class politics, gender politics, or youth politics – is not the sort of thing that fails or succeeds independently of the values that guide it. The emancipatory potential of any form of politics depends on the extent to which democratic norms and processes inform the ways in which interests are formulated and decisions are made both within groups and in the broader public sphere. What has come to be criticized as the failure of identity politics is often, instead, the failure of seemingly robust and resilient democratic processes to ensure that historically excluded and disadvantaged minorities have adequate opportunity to participate in decision making and that decision making is open to sincere consideration of the values and beliefs related to their identities. Identity politics often exposes the inadequacy of existing democratic processes by pointing to the ways in which forums of decision making fall short of their democratic promise.

Institutional Reflexivity

One final conclusion to draw from these studies is that public institutions are not passive sites or repositories for the challenges and risks associated with identity politics. Institutions have grappled for a long time with many of these challenges and, in some cases, have found ways to discourage opportunistic identity claims and avoid their perverse effects. We see this clearly in institutional responses to religious identity claims in the last thirty years. In the past, courts often invoked essentialist assumptions about what it means to be a member of a particular group. More recently, however, courts have shifted to a new approach – illustrated by the sincerity criterion used by Canadian courts – which provides a broad ambit for protecting religious identity while allowing variation in how believers practise their beliefs. The adoption of the sincerity criterion aims to privilege more subjective and lived understandings of religion while undercutting the legal sanctity of canonical interpretations of the faith (and hence of the religious elites who define this canon). Similarly, decision makers in census bureaus have learned how to allow for self-identification in the census, just as jurists have learned how to broaden the definition of culture in international legal guarantees for cultural rights. These developments have proven enormously

helpful in providing greater opportunities for people to pursue the legitimate interests associated with their identities, without being tied to essentialist and static notions of who they are and what interests they are supposed to have as members of defined groups.

At the same time, many of our case studies show that institutions are not always successful at addressing the risks or resolving the dilemmas of identity politics. This is true of courts, which have had limited success in realizing an egalitarian understanding of freedom of religion or designing criteria for the assessment of Aboriginal identity that avoids the risks of cultural essentialism. More broadly, it is also true of public institutions within societies, such as Africa, where problems of ethnic fragmentation and entrenched elite hierarchies seem to overshadow the possibilities democratization has offered in other contexts.

A key concern is that few if any Western democracies have established transparent and reasonably justified criteria that can be used by courts and legislatures to guide their assessments of claims made by minorities for the accommodation of a practice important to their identity. One of the most common concerns about how public institutions assess the practices of minorities is that decision makers are not objective but rather use their own personal biases or misinformation to guide their decisions (see, for example, Phillips 2007; Renteln 2004; Volpp 2000). This is often invoked as an argument against multiculturalism, but countries that have weak or no multicultural policies may actually do worse in this respect. Where states have weak multicultural policies, or where they have policies directed at ignoring the relevance of race or religious identity in decision making, public agencies are less likely to have institutional memory, publicized best practices, or documented experiences to draw on in assessing the identity of religious believers or ethnic minorities. In the absence of transparent guidelines or established best practices, public officials employ their discretion. James Beckford and colleagues offer a good example in their comparative study of Muslims in French and British prisons (Beckford, Joly, and Khosrokhavar 2005). Whereas the code of criminal law in France recognizes that prisoners have the right to practise their religion (subject to reservations about security and good order), it does not offer any criteria for deciding what counts as religion. Administrators therefore must decide this question for themselves. Beckford relates a story of asking a French prison director why Catholic nuns were permitted to wear their distinctive veils when they served as chaplains or chaplaincy volunteers in prisons when Muslim women were

not allowed to wear a headscarf. The director's answer was that the clothing of nuns was "traditional" and therefore permissible anywhere in a prison, whereas the clothing of Muslim women was "religious" and therefore impermissible in the public areas of prisons because of laïcité (ibid., 117-18). The personal discretion of prison directors has led to inconsistent policies for accommodating Muslims in French prisons and usually a denial of opportunities for collective prayers or meetings with imams, which causes resentment among prisoners. One result is that French prisons experience greater religious radicalism among Muslim prisoners today than do British prisons. This is hardly surprising given that, in the absence of access to prayer sessions and imams from the external community, French prisoners are forced to practise their religion individually and secretly, and extremists among them are given free rein to influence other prisoners. In the absence of well-established criteria in French prison regulations for what counts as a religious belief or for how to assess requests for accommodation from inmates who are believers (other than by denying these requests), decision making about matters related to religious identity proceeds on the basis of personal discretion.

The chapters in this volume make clear that institutions such as courts and legislatures struggle with the risks and challenges of identity politics at different rates of success. Although in some cases improving the institutional capacity to reflect on identity claims requires clear and fair-minded guidelines, in other cases improvement requires institutions to be more open to people who are drawn from minority ranks. As several chapters show, state elites tend to deny or ignore the ways in which existing rules and practices continue to privilege dominant groups and to disadvantage minority groups. In other cases, the success or failure of institutions to respond effectively to the risks and challenges of identity politics seems to depend on the clarity and nature of institutional aims. Where identity claims are interpreted with emancipatory aims in mind, such as responding to discrimination or historical disadvantage, the risks and challenges of identity politics are easier to meet. Where institutions are instead motivated by their own strategic concerns – such as protecting the colonial privilege of one group, enjoying favourable status with particular allies, or bending to the demands of powerful interest groups – identity politics become distorted and confining. Many of the risks of identity politics flow from these kinds of distortions, which could be avoided if states were more responsive to the democratic and emancipatory aims of identity politics.

These concluding reflections on lessons learned are clearly only a first step towards developing a more systematic account of how public institutions deal with identity claims. Given our relatively small and heterogeneous set of cases, our main aim is to identify some promising lines of inquiry, which we hope will inspire further research in this area. Indeed, if the various chapters teach us anything, it is precisely the contingency and diversity of institutional responses to identity politics. There is no preordained logic that determines whether public institutions will enhance or inhibit the emancipatory potential of identity politics. These outcomes will depend on the democratic agency of citizens and the capacity of institutions to learn from their own successes and failures.

Notes

1 There are, of course, important disagreements about precisely how to specify and evaluate these claims. In particular, there are disagreements about what role identity itself plays. Although many theorists are sympathetic to claims for recognition and accommodation by identity groups, they often insist that identity-based claims are not self-validating. It is not enough for members of a group to simply say, "I have a right to x because x is part of my identity." Instead, members must show that x is needed to advance some further interest, such as, say, individual autonomy or democratic citizenship or self-respect. In this way, some normative theorists hope to endorse the claims of identity groups by appealing to something other than identity per se. For discussion of this strategy, and its limitations, see Eisenberg (2009).

2 In the case of religious groups, this sacralization can become a basis for intercommunity competition as different sects try to outbid one another to present themselves as more pious and devout, as champions of the authentic standards (and usually the leadership) of the community (see Horowitz 1985).

3 Relatedly, several studies of cultural defences show that in attempting to be culturally sensitive to defendants, judges latch onto narrow stereotypes and false, sometimes racist, assumptions about how cultural factors affect criminal behaviour (see Fournier 2002; Phillips 2007, Chap. 3; Renteln 2004; Song 2007, Chap. 4; Volpp 2000).

4 This seems particularly true of the indigenous movement in Latin America (see, e.g., Brysk 2000). For a more general discussion of how the social science evidence relates to normative theories, see Kymlicka (2010).

5 Recall the intense debate about the World Bank study by Paul Collier and Anke Hoeffler, in which it was argued that civil wars in Africa are due to greed not grievance (Collier and Hoeffler 2000). Most commentators in that debate now insist that we need to go beyond greed versus grievance to understand the interaction between the two.

6 See Eisenberg (2009) for an outline of a normatively defensible method of public decision making about identity claims.

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