Ethnicity and Democratic Governance Series

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? The volumes in this series seek answers to this fundamental question through innovative academic analysis that illuminates the policy choices facing citizens and governments as they address ethnocultural diversity. The volumes are the result of a collaborative research project on ethnicity and democratic governance under the general editorship of Bruce J. Berman.

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This particular volume is the product of collaboration among three research groups: the group on Ethnicity and Democratic Governance (EDG), the group on Indigenous Peoples and Governance (IPG), and the Consortium on Democratic Constitutionalism (Demcon). That partnership has produced a volume that brings together a wide range of expertise and experience on indigenous issues and on the governance of ethnically divided societies generally, drawing upon the extensive research programs of both EDG and IPG. A list of other volumes published by IPG and Demcon appears on page 335.
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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/.
Introduction
On the Use and Abuse of Recognition in Politics

Melissa S. Williams

The language of recognition has held a prominent place in recent political theory. It has unquestionably enriched the moral vocabulary through which we understand the position of cultural and religious minorities, national minorities, and indigenous peoples in their relationships with liberal democratic societies. Debates over recognition have added new ways of thinking about the relationship between cultural identity and justice in plural societies, and conceptions of misrecognition and non-recognition have offered novel lenses through which to analyze the injustices suffered by groups that have been stigmatized, dominated, oppressed, marginalized, or excluded by or within liberal democracies.

It is a mark of the maturation of these debates that many political and legal theorists have begun to question the presuppositions and usefulness of the recognition framework for thinking about these normative issues. The chapters in this volume, taken together, yield a significant and critical re-evaluation of the role of recognition in our normative analysis of relations between groups in plural democracies, of the position of indigenous peoples in settler societies, and of the principle of the self-determination of peoples.

Theoretical accounts of justice as recognition share certain core features. Most importantly, these accounts agree on the harmfulness of misrecognition, understood as the negative valuation of a cultural or social group or
its members by members of a dominant group. For some scholars, such as Charles Taylor (1992) and Axel Honneth (1996), misrecognition is a form of disrespect that may become internalized by individuals within the subordinate or minority group, impairing their self-esteem and inhibiting their capacities for self-development and autonomous agency. Others, such as Nancy Fraser, emphasize the role of misrecognition in reinforcing status hierarchies that preserve the power of dominant groups and impede the equal participation of subordinate groups in democratic society (Fraser and Honneth 2003). Yet these theorists agree that recognition constitutes a dimension of justice that is not reducible to justice in the distribution of income, wealth, and social opportunity and, as such, offers an important amendment to theories of distributive justice. They also broadly agree that the remedy for the injustice of misrecognition or of non-recognition consists in the extension of respect for the cultural or social identity of formerly denigrated groups by dominant groups or by the democratic state. In this way, the account of justice-as-recognition provides reasons for actively affirming the contributions of minority groups to shared social life, for policies of cultural and religious accommodation within mainstream social and political institutions, and for formal state recognition of rights of group autonomy or self-determination.

The idea that recognition is a constituent element of justice in diverse societies is compatible with conflicting accounts of both its normative content and its relationship to the just ordering of a society’s material relationships. First, as noted earlier, the normative core of Taylor’s and Honneth’s account of misrecognition and non-recognition is a psychological analysis of the harm it causes to individuals’ subjective sense of agency and self-esteem. Against this view, Fraser argues that psychological impairments are neither necessary nor sufficient to constitute the injustice of social beliefs and practices that stigmatize or marginalize subordinate groups. Rather, what is most relevant from the standpoint of justice is how misrecognition interacts with power structures to diminish individuals’ and groups’ capacity to participate as equals in social and political life, whether or not they suffer from damaged subjectivity as a consequence of dominant norms (Fraser and Honneth 2003, 30-33).

Second, although theorists of recognition agree that there is more to justice than the egalitarian distribution of benefits and opportunities in the ordering of a society’s material relationships, they disagree about the relationship between justice-as-recognition and justice-in-distribution. For Honneth, the injustice of maldistribution consists primarily in its signalling
the inferior social worth of less advantaged members of society. Thus, struggles over distribution are a type of struggle for recognition and can be subsumed within this larger category (Fraser and Honneth 2003, 171). For Fraser, justice-as-recognition and justice-in-distribution are two analytically distinct paradigms of justice, even if virtually every actual conflict over the justice of a social order contains elements of each (ibid., 11-16). Nonetheless, both share with liberal theorists of justice the dual supposition that justice in material relations is fundamentally about the distribution of resources and opportunities within social and economic structures and that it is a defining role of the state to secure a just ordering of social relationships through practices of redistribution and recognition.

The chapters in this volume challenge certain key premises of these earlier debates. Taken together, they indicate that state recognition practices have as often been a vehicle for sustaining structures of domination over indigenous peoples and subaltern groups as an instrument by which justice is served. States’ strategic interests – in maintaining sovereign authority within their territories, rendering populations legible for the purposes of administration, fostering economic growth, and containing and managing social conflict – actively shape and significantly constrain the policies of recognition that they embrace. This holds true both in states’ recognition of culture-based claims within their domestic political orders and in their role as colonial powers or great powers in granting or withholding recognition of indigenous legal orders and of claims for the self-determination of peoples.

In contrast to both liberal theories of justice and theories of recognition, which treat the justice of material relationships primarily in terms of the distribution of resources and opportunities within a market-based economy, several chapters emphasize deep economic structures as being constitutive of the claims at stake in struggles over recognition. A more robust account of recognition and self-determination, they suggest, would encompass the interest that human communities have in ordering their material relationships with nature and with other human beings in accordance with normative commitments rooted in their cultural self-understandings. As several chapters emphasize, the state’s role in defining recognition regimes has tended to “culturalize” communities’ interest in self-determination in ways that preserve and advance a particular model of political economy, namely a capitalist one whose surplus depends heavily on resource extraction. Further, the culturalization of recognition enables states to cater to the justice claims of subordinated groups while resisting strong redistributive claims.
Nonetheless, the chapters also offer reason to believe that domination is not a necessary outcome of the politics of recognition. Historically, subjugated peoples’ or groups’ practices of self-recognition, both through resistance to domination and in assertion of their agency to constitute their own normative orders, are one component of an emancipatory politics of recognition. The transformation of the regimes of recognition (of rights of self-determination, of non-territorial legal orders, of inter-indigenous political relationships) applied by powerful states is the other, even more elusive, component. The “rules of recognition” in international law – the rules according to which sovereign states recognize one another and non-state entities as rights-bearing agents within international society – are no less susceptible to power inequalities than are the recognition regimes within the boundaries of territorial states, as is borne out by the long resistance of settler colonial societies (the United States, Canada, Australia, and New Zealand) to the United Nations (UN) Declaration on the Rights of Indigenous Peoples.1 As a normative principle, the idea of justice-as-recognition is less likely to produce dynamics of dominating power when it eschews essentialist accounts of peoplehood or culture and favours pragmatist, constructivist, or procedural approaches to identifying the collectivities that are the proper objects of recognition. In practice, as these chapters show, it is rare though not impossible for states to adopt non-dominating regimes of recognition. The prospect of their doing so seems to depend on the resilience and endurance of subjugated peoples’ practices of self-organization and self-affirmation regardless of state authorization. Just as Hegel’s slave discovers his freedom (and ultimately gains recognition) by turning away from the master and carrying out his work, so an emancipatory politics of recognition may depend on the moments in which subaltern groups reorient their activity toward the work of (re)constituting themselves.2

Recognition as Governmentality
The recognition paradigm in political theory configures the state as, ideally, an agent of justice – a role it serves through its active acknowledgment of minority groups’ identities through inclusion in shared social and political institutions, exemptions from or revisions to rules and norms that are arbitrarily biased in favour of dominant groups, rights of group autonomy, and the like. A critical contribution of the present volume is to unsettle this idealized image of the state by calling our attention to the dynamics of power that suffuse the politics of recognition even when it is operating as recognition theory tells us it should – that is, even when it validates and affirms minority

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cultural identities and facilitates subordinate groups’ greater inclusion in society and politics. Recognition as a state policy tends to fall prey to the state’s propensity to “see like a state,” to borrow James Scott’s (1998) phrase, to render subaltern groups legible by delineating the boundaries of their membership and to render them governable by defining the acceptable limits for the expression of group aspirations and identities. State recognition of the claims of the subaltern is made conditional on their conformity to the norms and expectations that are most conducive to the state’s capacity to manage social conflict, to maintain its moral authority to govern, and to secure the conditions of economic growth. While the conditionality of state recognition for minority or subaltern groups does not necessarily erase the benefits of recognition for those groups, recognition may come at the price of the transformation or distortion of their own self-understandings. And most often, it proceeds in forms that set aside any major restructuring of material relationships.

This line of criticism highlights the tendency of theories of multiculturalism and recognition to characterize identity groups as if they were constituted pre-politically, already formed as objects that dominant groups or the state can recognize or fail to recognize. Courtney Jung’s study in this volume of the Mexican state’s relationship to local indigenous populations shows that the legal and political frame for the cultural recognition of indigenous peoples is a relatively recent phenomenon and stands as a successor to earlier frames of race (treatment as *indios*) and class (treatment as *campesinos*). Tracing the changing categorizations of indigenous people through three phases of Mexican history, Jung makes the case that the formation of group identities and group claims is profoundly shaped by the categories deployed by the state to organize politics and policies. “Groups of human beings,” Jung argues, “do not sort naturally into categories like race, class, and ethnicity. They inhabit such categories to the extent that state laws and policies make them socially and politically salient.”

It follows from Jung’s analysis that to understand the politics of recognition it is essential to analyze the ways in which the state’s interests are served by constructing social groups in one way rather than in another as well as the ways in which alternative constructions open up, or close off, pathways of resistance to structures of social power and, in so doing, reshape groups’ own self-understandings. The shift to a framework of culture and recognition, she argues, opens up possibilities for local political autonomy for Mexico’s rural poor in the name of indigenous self-determination but, at the same time, makes it more difficult for them to assert strong claims for
material redistribution despite extreme inequality and the additional economic stresses created by neoliberal public policies. Categories of race, class, and culture can be shuffled around in a shell game in which justice – the genuine transformation of the social and political structures that reproduce relations of domination and exploitation – can be glimpsed only fleetingly before it is shifted out of sight and out of reach. By fixing on the state’s recognition of cultural identity as a site of justice, recognition theory obscures the processes by which recognition, too, can be deployed to distract attention from persisting structural injustice.

These dynamics are characteristic of what Jakeet Singh calls “recognition from above,” in which the state (or the political philosopher) is positioned as the arbiter of just and unjust claims for recognition from subordinate groups. Although recognition so understood can have a role to play in overcoming group-structured injustices, it is flawed by biases that occlude alternative ways of understanding the politics of recognition, in particular, the dynamics by which citizens engage with one another over the meaning of group membership and the terms of living together – what, broadly speaking, Singh calls “recognition from below.” The paradigm of justice-as-recognition tends to characterize social diversity as a challenge, a problem to be managed by the liberal democratic state. In doing so, it positions subaltern groups as claimants or supplicants, appealing to the state or to dominant social groups for validation. Like conceptions of toleration de haut en bas, the logic of recognition theory replicates a hierarchical social relationship even while asserting equal respect as the metric for assessing recognition claims (see Brown 2008; Waldron and Williams 2008). It also privileges an understanding of politics that locates the state at the centre of analysis and consequently occludes forms of political agency that are neither oriented toward, nor generated by, the state.

Should these powerful critiques of recognition theory lead us to dismiss its normative claims regarding the legitimate exercise of state power in granting or withholding recognition to minority groups? While Singh implies that it should, Rinku Lamba argues that theories of multiculturalism, recognition, and group rights offer a strong rationale for the state’s role in regulating minorities’ recognition – its responsibility to prevent or redress unjust power relationships. One dimension of this role is to prevent domination of minorities by cultural or religious majorities, what Lamba calls intergroup domination. A second is to prevent the domination of vulnerable individuals by other members of their religious or cultural community, or intragroup domination. The paradox on which Lamba focuses is that in
seeking to protect individuals’ autonomy and equality interests, the state becomes enmeshed in an exercise of policing groups according to the degree to which they respect these principles. The effect is that it wittingly or unwittingly pressures them to become more liberal (egalitarian, autonomy promoting, and individualist) in their commitments and orientations. Thus, the state performs a disciplinary role – what Lamba calls neocolonial governmentality because of its imposition of Eurocentric liberal norms (an updated *mission civilatrice*) – even as it also performs (or claims to perform) an emancipatory role. From Lamba’s perspective, the challenge for normative theory is to distinguish the baby from the bathwater in a critical assessment of state action.

While Jung, Singh, and Lamba draw attention to the dynamics through which acts of recognition underwrite the power of states and dominant social groups, Yasmeen Abu-Laban outlines the processes by which misrecognition yields similar outcomes. Liberal theory’s emphasis on the limits of permissible cultural diversity constructs some groups as essentially and irredeemably illiberal. This process has been particularly evident in the politics of (mis)recognition targeted at Muslim minorities in Western liberal democracies in the post-9/11 period. Abu-Laban makes clear that, despite its official commitment to multiculturalism and the key contributions of Canadian political theory to the justice-as-recognition paradigm, Canada has not been exempt from these dynamics. In many cases, the process of recognition and of misrecognition are one and the same: both often entail the distillation of a group’s identity to an essentialized content, which is then scrutinized for its compatibility or incompatibility with liberal commitments. Anti-Muslim discourse frequently includes the trope of the essential conflict between Islamic beliefs and a commitment to gender equality, as happened in the Ontario debates over Sharia arbitration, Quebec debates over “reasonable accommodation,” and in national debates over the invented problem of the veiled voter. By placing Muslim Canadians on the defensive, Abu-Laban argues – here reinforcing Jung’s critique of cultural politics in Mexico – that these political debates have drawn attention away from the persistent and growing material disadvantage of Muslims within the societal distribution of wealth and opportunity in Canada.

**Agents and Structures of Recognition**

As Singh and Lamba both emphasize, the critique of “recognition from above” and the associated risks of governmentality need not lead us to conclude that struggles over recognition lack emancipatory potential altogether.
However, we are likely to miss the most promising sources of the transformative power of recognition if we focus, as recognition theory too often does, on the state as the agent of recognition and the subaltern group as its recipient. Instead, as Singh urges in his account of “recognition from below,” some of the most potent transformations take place when people in dominated social positions turn away from institutionalized power hierarchies, shaping their own social orders without the approval or permission of any authority beyond themselves. These processes of self-constituting power, realized (inter alia) through acts of resistance or through prefigurative political movements, also entail struggles for recognition, but the agents of recognition are the subaltern themselves. Glen Coulthard (2007, 456) refers to these actions as practices of “self-recognition” through which dominated or colonized subjects “critically revalu[e], reconstruct ... and redeploy ... culture and tradition” and, in the process, radically transform their own self-consciousness as political agents. In a different vein, Lamba’s analysis of Muslim women’s mobilization describes a struggle for recognition from the state but locates the emancipatory significance of that struggle in the agency women have exercised to shape the terms on which recognition was ultimately provided.³

In his contribution to the present volume, Coulthard draws out the contrast between indigenous and state constructions of what is at stake in the politics of recognition, critically analyzing the relationship between economic structures, political autonomy, and culture as it has played out in the Dene Nation’s struggles for recognition and self-determination since the 1970s. Drawing on a land- and place-based ethics, in which humans’ ethical responsibility extends not only to other human beings but also to other living beings and to the natural environment as a whole, Dene activists of the 1970s and 1980s pursued a transformative vision of self-determination in which their understanding of obligations to the land deeply informed their negotiations with the Canadian state over land claims settlements and Northern economic development policies. They also forged coalitions with Métis communities to advance a province-like government in the Northwest Territories, Denendeh, which would institutionalize strong democratic practices of decision making.

In response, the state advanced a conception of Aboriginal cultural rights as distinct from rights to economic and political autonomy, asserting sovereign authority over the economic uses of the land and an imperative of non-renewable resource extraction as the backbone of economic development. The state’s insistence on the extinguishment of Aboriginal rights claims as

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a condition of a comprehensive land claims settlement, and its refusal to recognize political rights as a component of the settlement agreement, fractured indigenous communities and ended the unified struggle for self-determination. For the Dene activists, recognition of indigenous place-based ethics meant that cultural self-determination was inseparable from economic and political autonomy; for the state, treating culture, economy, and politics as separate rights domains was a defining strategy for securing its interests in capitalist economic development in the North.

Kirsty Gover’s study of indigenous constitutions in settler democracies unsettles the depiction of the state as the primary agent of recognition from a different angle by revealing the devices by which indigenous communities bypass state-defined criteria of indigenous identity and membership. Many tribes, she shows, recognize some individuals as indigenous despite their lack of membership in the tribe. Further, they extend benefits to indigenous non-members that they do not extend to non-indigenous non-members. Tribal recognition of “exogenous” indigeneity constitutes a political space shared between indigenous peoples that is not subject to state authorization, a practice by which they subvert the colonial authority of the state to regulate who is and is not indigenous. By recognizing the indigeneity of persons who are not full members of their communities, they effectively constitute an inter-indigenous order of political-legal relationship that, at least potentially, constrains the state’s capacity to manage indigenous identity and to define it solely in terms of the cultural distinctiveness of particular peoples or tribes. In a similar way, the UN Declaration on the Rights of Indigenous Peoples generates international actors as arbiters of indigenous claims, tempering the hitherto exclusive power of states to set the terms for recognizing such claims. In contrast to culture-based accounts of the recognition of indigenous peoples, which essentialize and ossify cultural identity as a condition of self-rule and self-determination, these practices open up the possibility of grounding collective autonomy in the processes of deliberation and decision making by which communities continuously reconstitute their own boundaries and identity.

The critique of cultural essentialism as a common feature of the theory and practice of group recognition is a theme that runs through many of these chapters, and it applies with particular force to the state recognition of indigenous identity (Eisenberg 2010, Chapter 6). Essentialism is wrong-headed empirically because the continuity of a cultural community through time does not depend on its retaining, unchanged, particular belief sets or practices. Cultures evolve over time without losing their coherence as
cultures or their salience as grounds of identity for their members. From a normative perspective, basing state recognition of a culturally defined group on a construction of its essential or defining features is wrong because it sets up an external authority to define group identity. The power to impose an essentialized construct of culture is one of the key targets of the critique of recognition as governmentality. The critique of essentialism presents a challenge for indigenous communities in asserting collective rights against outsiders’ appropriations of their cultural production. How can they claim collective ownership of cultural knowledge, symbols, and art forms without positing these to be constitutive of, or central to, their cultural identity?

In his chapter defending indigenous communities’ rights against the appropriation of their culture, François Boucher argues that such rights need not rely on an essentialization of culture. Rather, indigenous peoples’ ownership of their cultural production can be understood as an instrument of their power of self-determination as the authoritative interpreters of their own traditions. Just as determining the rules by which individuals are recognized as indigenous is part of the self-constituting power of indigenous peoples, indigenous communities are the only agents who should be vested with the power to recognize the modes of expression and the forms of knowledge that constitute their cultural identity.

As we have seen, the core structure of the stylized recognition paradigm – the state as agent of recognition, the subaltern or colonized group as object or recipient – generates the potential for recognition politics to become a site of domination. Recasting the subaltern subject as both agent and object of recognition, so that the politics of recognition becomes a process of self-definition, is one strategy for unsettling the paradigm and redeeming the emancipatory potential of recognition politics. What happens to the paradigm when we shift the structure of recognition in a different way, such that the agent of recognition is international society rather than the state? I have already noted that the UN Declaration on the Rights of Indigenous Peoples is an innovation in international law that opens up the possibility that both state and non-state agents can function as arbiters of struggles between indigenous peoples and states over the recognition of indigenous claims. However, the idea that international society should function as a deliberative entity for judging claims to recognition dates back to the original articulation of the right of self-determination of peoples in the Paris Peace Conference following the First World War and formed the logic of the decolonization movements following the Second World War.
Zoran Oklopcic’s analysis of the trajectory of self-determination in more recent decades highlights the role of external actors – great powers and the international institutions that they disproportionately control – in constituting the capacity of a people to become a self-determining state. In the abstract, the idea of self-determination implies that a people’s right to govern itself need recur only to its will for independence. As Oklopcic draws out, this idea depends on an aspiration to the unanimity of the popular will, lest the principle generate an infinite regress of secessionist claims by “peoples within peoples.” Ethnic constructions of the demos are one solution to this problem, but of course they fall prey to the same perils of essentialism sketched earlier in relation to cultural groups, and even then they still depend on the absence of competing ethnoi on the same territory.

For my purposes in this introductory chapter, however, the most important feature of Oklopcic’s argument is his emphasis on the tendency of self-determination arguments to obscure the fact that it is often the power of external actors that determines whether and when a polity should be formed in the name of the right of self-determination. Self-determination is contingent upon the recognition of already-existing states, but not just any such states. Rather, the conditions for self-determination are set by great powers, by criteria calculated to serve their strategic interests. Interestingly, Oklopcic quotes the same passage from James Tully (2007, 91; 2008, 158) that Singh also quotes in the context of his critique of “recognition from above”: “Self-determination ... through international law promoted today [is] not [an] alternative ... to imperialism but rather the means through which imperialism operates against the wishes of the majority of populations in the post colonial world.” In other words, Oklopcic’s critique of the disciplinary power of self-determination in international society runs exactly parallel to the critique of recognition as governmentality in the arguments of Jung, Singh, and Lamba. In the international context, however, the emancipatory option of self-recognition appears unavailable; the external constitutive power of recognition is a necessary condition for the success of self-determination claims. This observation raises the question of whether the parallel also runs the other way. Is the practice of self-recognition by subaltern groups a viable alternative to playing the recognition game with states? Or does it find its limit at the point where the practice of self-recognition presents a challenge to the power of the state?

These are, at root, empirical questions. Indeed, it is worth noting that the critique of recognition as governmentality also rests fundamentally on
empirical claims about political actors, grounded in an analytic account of their interests. There is, consequently, some slippage between normative theoretical accounts of the purposes of recognition (why it is required from the standpoint of justice) and the empirical analysis of how it operates in political life — a gap that is of course familiar in debates over Michel Foucault’s account of power. One of the virtues of this volume is that it does not sacrifice one mode of inquiry (the normative, the analytic, and the empirical) for another. This collection does not settle the debates over how we should answer the question: “What is critique?” but it sustains an engaged conversation between alternative answers to it, sometimes within and sometimes across the individual chapters.

Whereas Oklopcic’s approach to the idea of the self-determination of peoples is predominantly empirical in its analysis, Michel Seymour’s chapter addresses the same issue from the perspective of ideal theory. Although he defines “peoples” in cultural terms, his argument neatly dodges the problem of essentialism in identifying the peoples that have valid moral claims to self-determination by distinguishing between the character and the structure of a culture. The character of a culture is constituted by the substantive norms, beliefs, and practices embraced in common by its members. Culture-based accounts of recognition and self-determination run the risk of essentialism precisely when they identify a culture with these contents and treat the contents as constitutive of the identity of the culture and as more or less constant through time. Instead, Seymour grounds a people’s right to self-determination in the fact that its culture has an enduring structure — a system demarcated by a common language, practices of deliberation, relations of economic and social exchange, and common institutions, all of which have some endurance through time that is itself expressed in a common public history.

In this sense, Seymour offers a pragmatic or constructivist account of the boundaries of culture that bears important similarities to Gover’s account of the construction of an inter-indigenous order and offers a helpful way of understanding the processes of self-recognition and self-constitution that other authors connect to the emancipatory potential of a politics of recognition. Putting aside the question of whether the structures of power in domestic and international society make the external recognition of a people’s right of self-determination likely or even possible, Seymour makes the normative case for the external recognition of the institutional identity of peoples, understood in terms of their possession of an enduring cultural structure. Since this recognition is conditioned on the structure of a culture
and not on its character, Seymour argues, this approach avoids the potential tension between recognition and self-determination. There is no question of the content of a culture being prescribed, imposed, or regulated by outsiders.

Most accounts of self-determination, including Seymour’s and Oklopcic’s, proceed from a background model of the self-determining collective subject as a people on a territory, where the practice of self-determination entails the exercise of some degree of jurisdictional autonomy by the people within its territory. In his chapter, Ghislain Otis unsettles this model by tracing the history of the territorialization of law as part and parcel of the process of colonization. Colonial powers carried a Westphalian understanding of law as grounded in territorial sovereignty and, on this basis, denied (or grudgingly extended) recognition to the normative legal orders of indigenous peoples, which were pejoratively termed “customary law.” Recognition of customary law and of the plurality of systems of personal law in colonized territories was a concession to the facts on the ground. Colonial powers encountered these legal forms as a regrettable necessity to be tolerated until the full territorialization of law could be achieved. Here, again, it is not difficult to see the logic of governmentality at work in the dynamics of colonial recognition of customary law. This logic continues to operate in settler societies such as Canada, but customary law has remarkable resilience among indigenous peoples here and in other parts of the world. The recognition of customary law in the South African Constitution, Otis argues, demonstrates the possibility of reconciling territorial and customary legal orders within the same politico-legal space and points toward a post-territorial, and post-colonial, principle of recognition for customary law as an element of indigenous self-determination.

The Moral (In)Adequacy of Recognition

Although the authors of this volume are largely critical of the paradigm of recognition as a state-centred, top-down construct, their overall thrust does not support a wholesale rejection of recognition as a normative principle for relations between cultures or peoples. None of the contributors disagree with recognition theory’s core proposition that the systematic and institutionalized denigration of specific cultures or religions is unjust. Nor does anyone argue against a principle of equal respect, of which recognition is one interpretation, as a foundation of just relationships.

Nonetheless, the “psychologization” of recognition, according to which the injustice of misrecognition consists in the damaged subjectivity of the
misrecognized person or group, receives sustained critique in this volume. Subaltern groups can exercise political agency with or without the engagement and validation of dominant groups. Rather than focusing on the psychological harms of misrecognition, some, like Jung, argue that we should attend instead to enduring patterns of structural injustice and material inequality that preserve racial, cultural, class, and gender hierarchies. Cultural misrecognition can contribute to the reproduction of those hierarchies, and to that extent it should factor into our judgments about justice. As Jeremy Webber argues, paying excessive attention to the psychological impact of recognition “simplifies and distorts minority groups’ concerns, turning them into little more than a craving for majority acceptance.” Sometimes formal acts of recognition, such as apologies for past injustice, are important elements in overturning relations of domination, but they are not a substitute for concrete measures to eliminate arbitrary cultural biases in public institutions or to dismantle structures of material inequality.

Other lines of criticism emphasize the epistemic component of recognition’s interpretation of the principle of respect. They call into question whether respect requires convergence between agent and object – recognizer and recognized – on either the substantive content or the worth of the other’s identity. The critique of cultural essentialism expresses one strand of the critique of recognition’s epistemic suppositions. As noted earlier, the attempt to distill the content of a culture to specific core beliefs or practices necessarily gets the content wrong, even if it is positively valued. More fundamentally, any notion of recognition that is premised upon the affirmation or acknowledgment of the content of another’s culture vastly underestimates the opacity of others’ subjectivity, particularly across deep cultural divides. From this perspective, a stance of epistemic abstinence or humility is more respectful of the other than is the attempt to render the other’s cultural identity transparent and to affirm it as worthy.

This stance of humility as a form of respect grounds Webber’s argument on behalf of toleration as a better formulation of the principle of respect for deep cultural difference than more robust forms of recognition. The conception of toleration that he defends is thin in the sense that it does not rely on a substantive account of rational autonomy as its moral foundation. Instead, it gives priority to the good of peaceful living together as a worthy end in itself and, on this basis, frees cultural and religious communities to form zones of relative autonomy within which their members can craft experiments in living well. Over time, what begins as a modus vivendi may
thicken into richer forms of shared community and the positive valuation of
diverse modes of life. Even if this scenario occurs, however, it does not dis-
place the centrality of toleration as an enabling condition of such commun-
ity under circumstances of diversity.

Webber’s account of toleration accords well with the pragmatic or con-
structivist accounts of culture and peoplehood in other contributions to
this volume. His account abstains from assigning either content or value to
the substantive forms of community through which human beings order
their relationships, focusing instead on the interest we have in being free to
establish such orders in concert with others without external control or
domination. This interest is what grounds the enduring appeal of the idea
of collective self-determination. Even if, as in Webber’s argument, it need
not rely on a robust account of recognition in which communities are ac-
knowledged as valuable, it does require recognition by others of a commu-
nity’s existence as a zone of human freedom in which they should not interfere
without reason. As a principle of respect, even this thin form of recognition
cannot abstain altogether from the criteria of respect worthiness, generat-
ing the possibility that these criteria will stimulate new cycles of disciplin-
ary control and resistance. Principles of toleration, recognition, and self-
determination can guide, but never displace, the formation and exercise of
political power. A key virtue of this volume is that it engages diverse meth-
odological approaches in the critical analysis of the relationship between
normative principles and structures of power.

Notes

Annex (9 December 2007).

2 I am indebted to Jim Tully for this insight, expressed at the Conference on Recognition
and Self-Determination (University of Victoria, Victoria, 28 February – 2 March
2008), from which this volume proceeds.

3 In a sense, these re-readings of the emancipatory elements in struggles over recog-
nition return us to the original philosophical sources of the idea. Hegel’s master-
slave dialectic depicts both figures as equally potent agents, and the slave’s discovery
of his freedom arises in the moment when he turns away from the master and fo-
cuses on his work. These elements are not absent from political theory’s accounts of
the politics of recognition, but they become sidelined when the emphasis is upon
recognition as something the state provides and the powerless receive rather than
the outcome of a struggle over power.