

# THE MORAL FORCE OF INDIGENOUS POLITICS

Critical Liberalism and the Zapatistas

Courtney Jung



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## **The Moral Force of Indigenous Politics**

Tracing the political origins of the Mexican indigenous rights movement, from the colonial encounter to the Zapatista uprising, and from Chiapas to Geneva, Courtney Jung locates indigenous identity in the history of Mexican state formation. She argues that indigenous identity is not an accident of birth but a political achievement that offers a new voice to many of the world's poorest and most dispossessed. The moral force of indigenous claims rests not on the existence of cultural differences, or identity, but on the history of exclusion and selective inclusion that constitutes indigenous identity. As a result, the book shows that privatizing or protecting such groups is a mistake and develops a theory of critical liberalism that commits democratic government to active engagement with the claims of culture. This book will appeal to scholars and students of political theory, philosophy, sociology, and anthropology studying multiculturalism and the politics of culture.

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Critical Liberalism and the Zapatistas

COURTNEY JUNG



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*This book is for Patrick Macklem*



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# Acknowledgments

The book I have written is not really the book I set out to write. It has grown in scope, and it is more politically charged than I anticipated. It has surprised me, but I have tried to be honest in following the thread. If I have done my job properly, none of it will seem surprising to the reader. I hope it will even seem obvious, like common sense.

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# Introduction

In the hours before first light on New Year's Day of 1994, soldiers of the Zapatista National Liberation Army (EZLN) slipped down from the mountains under cover of mist and captured four towns in southern Mexico. In San Cristóbal de las Casas they occupied the central square and the municipal buildings. In Ocosingo they took over the radio station, broadcasting news of the revolution. With surprise on their side, they held off Mexican soldiers stationed at a nearby army garrison, even though many of the rebels carried only wooden replicas of guns or no weapons at all.

On January 2, Subcomandante Marcos began to issue statements and press releases, and he established contact with the chief editor of a prominent national newspaper in Mexico City. He explained that what drove Mexico's peasants to violence was the suspension of land redistribution through the amendment of Article 27 of the Constitution. The uprising took place on the day the North American Free Trade Agreement (NAFTA) went into effect, and the insurgents took a stand against neo-liberalism and globalization. In their first communiqué, the EZLN demanded land, housing, schools, jobs with fair wages, hospitals, roads, an end to NAFTA, and democracy.

The Mexican army was quick to reinforce its presence in Chiapas and retaliated against the rebels, taking back the towns the Zapatistas had occupied within a few days. Approximately 400 people – mostly rebels and civilians – were killed in fighting over the next two weeks. The guerrillas retreated toward the Lacandón Jungle, and President Salinas declared a cease-fire 12 days after fighting had started. On February 21, formal negotiations began between the government and the Zapatista National Liberation Army.

The original leaders of the EZLN were Maoist students and teachers who began to organize peasants in the Lacandón Jungle of Chiapas in 1982. These urban activists were able to capitalize on already well-established networks of peasant organization and mobilization rooted in longstanding struggles for land redistribution. By 1994, the Zapatista army consisted of roughly 2,000 fighters, many of whom were Tzeltal Indians.

They located themselves in the ideological tradition of the Mexican Revolution, and they took the name of Zapata to situate their identity in a distinctly Mexican, and distinctly class-based, political paradigm (Le Bot, 1997). They claimed that they had learned their military tactics from such Mexican heroes as Hidalgo, Morelos, Guerrero, Mina, Zapata, and Villa (Weinberg, 2000: 108). The Zapatistas insisted that they, and not the government of the Institutional Revolutionary Party (PRI), were the real “inheritors of the Revolution,” and they accused the ruling party of betraying the founding ideals of the Mexican nation.

The Mexican government countered by denouncing the uprising as the work of foreign instigators, attempting to discredit the EZLN by linking it to the outdated Central American guerrillas of the 1980s. Support for the Zapatistas did not come from the revolutionary governments and parties of Central America however. It came from indigenous rights activists, both in Mexico and abroad. Speaking as an indigenous woman, the Nobel Prize-winning Quiché activist Rigoberta Menchú expressed immediate solidarity with the Zapatista movement.<sup>1</sup> The most popular images of the uprising were those that showed rebel soldiers in indigenous dress, holding guns fashioned from wood that would never shoot bullets. People everywhere felt sympathy with the masked indigenous women who faced the Mexican army’s machine guns wearing traditional *huipils* and carrying babies on their backs.

<sup>1</sup> Letter to the EZLN from Rigoberta Menchú, in author’s possession.

In February 1996 the Mexican government and the EZLN concluded the San Andrés peace accords governing “the relationship between indigenous peoples and the state.” The accords focused exclusively on indigenous rights, stating that “autonomy is the concrete expression of the exercise of the right to self-determination within the framework of membership in the national state.” The accord also provided that land would be allocated to indigenous communities as the “material base of reproduction of a people.” By 1996 the Zapatistas had reframed their political claims in terms of indigenous rights, vaulting the concerns of the poorest and most dispossessed segment of Mexican society to the center of Mexican political discourse.

This realignment, from peasant to indigenous identity, marked an important turning point for Mexican politics, one that would transform the scope and strategies of rural activists for at least the next decade. The emergence of the Mexican indigenous rights movement is best understood by situating the Zapatista uprising in the context of two shifting political landscapes. At the junction of the global and the local, indigenous politics emerged from the limits of peasant politics, under the weight of 500 years of exclusion and discrimination. It is this history that illuminates the moral force of indigenous peoples.

On June 17, 2002, the day the United States beat Mexico to proceed to the quarter-finals of the Soccer World Cup in Korea, and a bad day to be an American in Mexico, I was in the Chiapas state congress building in the state capital of Tuxtla Gutierrez. I sat on a hard wooden pew in the hallway, waiting to interview Luis Hernández Cruz. He came up the stairs in animated conversation with other congressmen and aides and walked past me into his office. As his secretary explained who I was, he stepped back into the hall with a broad smile and ushered me into his sparsely furnished office. A ceiling fan squeaked listlessly above the desk, and he offered me a glass of water. We had a conversation about opening the window for the badly needed breeze, despite

the deafening noise of schoolteachers protesting for union recognition in the plaza outside, using tin horns and drums as well as loudspeakers to make their case. As the tape of the interview attests, we left the window open.<sup>2</sup>

Luis Hernández Cruz was elected to the state Congress of Chiapas in October 2001, representing the twentieth district for the Party of the Democratic Revolution (PRD). The twentieth district includes the municipalities of Las Margaritas, where he was born, La Independencia, and Maravilla Tenejapa. I was familiar with his political career and his reputation as a militant peasant activist in the 1980s. In office, he had staked out a position as an indigenous rights activist, a member of a loose caucus that crossed party lines to include the five or six other indigenous representatives to Congress. I had in mind to ask him some questions about the political trajectory of his life.

Luis Hernández Cruz was born in 1958. He attended school for two years before he was taken out of classes by his parents and put to work. At the age of seven he started to work in the fields, on various large privately owned *fincas* in Chiapas, and at thirteen he was sent to a ranch in the state of Veracruz, hundreds of miles to the northwest, where he cleaned out animal stalls. In 1974, when he was sixteen, Hernández decided to return to school. He had forgotten how to read and write, and he had never learned Spanish.

He finished primary school in two years, and then turned to the National Indigenous Institute (INI) for a course in *castellanización* – Spanish language instruction. By 1978, Hernández was working as a *castellanizador*, teaching Spanish and Mexican history and culture in a bilingual school in the community of Veinte de Noviembre in Chiapas.

Through his work as a teacher, Hernández joined the Independent Union of Agricultural Workers and Peasants (CIOAC) in 1980, leaving his job to take a full-time leadership position in CIOAC in

<sup>2</sup> Unless otherwise noted, all quotes and evidence in this section are from this interview with the author on June 17, 2002.

1985. As he explained, "Seeing, as I did, and coming to understand, the plight, the needs, the injustices, the aggravation, and the lack of land of the indigenous communities, I left my job as a bilingual educator and dedicated myself full time to the struggle, to the organization of landless peasants." Hernández was one of the instigators behind a new strategy of land takeovers, in which hundreds of peasants were organized to occupy land in cases where petitions had languished for years without official action or response. In the first half of 1985, thousands of hectares of farm and ranch land were recovered through takeovers, and in August 1985 Hernández was arrested and imprisoned.

Hernández claims that when he was released in February 1986, he was better prepared, both emotionally and intellectually, for the struggle, having had the chance in prison to study Mexican law and to engage in discussion and debate with other political prisoners. Around this time he was involved in founding the Unified Socialist Party of Mexico (PSUM), which later became the Mexican Socialist Party (PMS). In November 1986, Hernández went to Havana, Cuba, where he attended a three-month course in philosophy, political economy, the workers' movement, the history of the Cuban Revolution, and Marxism-Leninism. Upon his return to Mexico, he continued to organize land takeovers, and in 1988 he was again arrested, this time for orchestrating a takeover on the ranch where he was born.

Hernández explains, "From that time on, I started to develop in that direction, using the language of workers, the proletariat. But for all of the activists and leaders in Mexico, in Chiapas, it was the same discourse: the system, the alternative, the socialist project, based on the example of the Soviet Union. This was the solution to poverty, misery, hunger. What's more, I remain convinced that the only alternative to resolve the inequalities and injustices of the world, and in this country, is a system of socialism." He was released within six months, and managed to stay out of jail until 1991. In the intervening years, he continued to organize land takeovers, protests, and marches, all centered around the demand for land, which he describes as the sole focus of peasant activism in those days.

In 1992, however, the Mexican government reformed Article 27 of the Constitution, repealing the commitment to land redistribution that had linked the government and the peasantry since the time of the Revolution (1910–17). Hernández explained the implications of the reform with reference to Mexico's historical legacy: "Zapata fought for land, for the maintenance of communal property. With the reform of Article 27, the ideals of Zapata were buried." Although the government has framed privatization as a way of making land titles more secure for peasants, Hernández argues that privatization makes legal titling more secure for transnational corporations, allowing them to more easily penetrate and exploit indigenous land and resources.

CIOAC and other peasant organizations have resisted privatization, organizing local communities to refuse to sell communal property. Hernández insists that, as a result, the reform of Article 27 has had little actual effect in Chiapas and Oaxaca, where opposition to privatization has been well organized. In Las Margaritas, one of the municipal areas Hernández represents, 83 percent of the land was still communally held in 2002. In the northern states of Chihuahua and Sonora by contrast, privatization of communal land moved more quickly after 1992.

Notwithstanding their success in maintaining communal property, Hernández admits that "effectively, with the reform of Article 27, indigenous people and landless peasants were left without any legal instrument. Articles 18 and 21 of the Agrarian Reform Law established the possibility of forming agrarian committees, [with] presidents, secretaries, and treasurers who were legally empowered to submit land claims. Those rights are repealed – the right to form a committee, to get a hearing – with the reform of Article 27. Practically speaking, those rights disappear, which is why I say that the ideals of Zapata were buried."

Hernández dates the start of the indigenous struggle to 1989 and 1990. "In the 1960s, 1970s, one never spoke of indigenous peoples. One spoke of peasants, because nobody recognized the existence of

the indigenous." As early as 1985, however, his brother Antonio Hernández Cruz and another activist, Margarito Ruiz, started the Independent Front of Indigenous Peoples (FIPI), an outgrowth of CIOAC with an explicitly indigenous orientation. In Chiapas, most people credit Ruiz with being the first to anticipate the potential force of an indigenous movement. He and his wife, Araceli Burguete, an anthropologist, were among the small group of six or seven people, mainly academics, who had helped to develop a model for indigenous self-government in Nicaragua, and attempted, in this period, to disseminate the idea in Mexico (Interview with Araceli Burguete, August 2000).

FIPI and CIOAC, the indigenous think tank and the peasant union, shared office space in the Chiapas city of Comitán in the mid-1980s. Relations between them, however, were strained. Many CIOAC activists (trained, like Luis Hernández, in Cuba) dismissed the political potential of an indigenous identity and criticized FIPI for lacking organizational and programmatic agendas. As both Antonio Hernández and Ruiz admit, the political impact and popular resonance of FIPI were practically nil in the 1980s (Interviews with Antonio Hernández Cruz, June 2002, and Margarito Ruiz, June 2002). Even Hernández's wife, a high-profile indigenous rights activist, former president of the National Plural Indigenous Assembly for Autonomy (ANIPA), and visible presence on the international indigenous rights circuit, laughs at the isolation and failure of those early years (Interview with Margarita Gutiérrez, May 2001). In retrospect, it is both amusing and ironic to them how alien the indigenous really was.

"But then," Hernández goes on, "you have the fall of socialism, at the global level, and the fall of the Soviet Union. . . . We still hold in our hearts and in our minds the belief that this project could rise again, but we also turned to other alternative types of politics to combat the problems facing indigenous people. And this is the alternative of autonomy and collective self-determination. To try to embed in the Constitution the rights of indigenous peoples, the practices of

the communities, their *usos y costumbres*, their traditions, their own laws and forms of legal, economic, and social organization. This is what we came to understand."

Many indigenous rights activists identify the 1992 commemoration of the 500-year anniversary of Columbus's "discovery" of the Americas as the catalyst of the indigenous movement in Latin America. In the early 1990s, Hernández began to take courses in indigenous rights and the protection of indigenous culture. He spoke to people he considered more experienced in the matter of indigenous politics, including the well-known Mexican anthropologist Hector Díaz Polanco, and he explored the possibilities of reconstituting the struggle in terms of indigenous rights. Hernández began to see his brother's work in a new light, and to reconsider the practical possibilities of an organization like FIPI. As he explains, "Well, so, now I am in another trench, working toward the incorporation of indigenous rights in local legislation, and also pressing for the recognition of the rights of the original inhabitants of this nation in the Constitution of the Republic. This is where I am now, but I come from this long and bitter history that I have told you about."

Like other indigenous activists the world over, Hernández puts faith in International Labor Organization Convention 169 (ILO 169), which guarantees the territorial and cultural rights of indigenous peoples. "Now, with the existence of these international conventions," he says, "we recognize the particularity of indigenous peoples." What is more, the Convention provides new political tools for Mexican activists. "Because the Mexican government has signed and ratified Convention 169, I develop my petitions on the basis of Articles 13 and 17 of the international Convention, because that is where you can find a reference to land and territory. More or less, this is where the legal framework of our rights is located. Because of the reform of Article 27, this international instrument is the only one left to us."<sup>3</sup>

<sup>3</sup> In September 2007 the United Nations General Assembly adopted the UN Declaration on the Rights of Indigenous Peoples by a vote of 143-4 with 11 abstentions. Mexico voted in favor of the Declaration.



As the location and content of their rights have shifted, so have the strategies of opposition. As Hernández explained to me, “The proletarian struggle, the workers struggle, is one path, but the struggle of the indigenous peoples for autonomy and self-determination, that is another path. They are both about social justice, they come together, they reinforce one another.” With a smile of patience he added, “The struggle is something one needs to search for; one needs to find the terms of struggle. *La lucha hay que buscarla*. There is no other way but to seek it out.”

Indigenous political identity has also affected the scope of rural Mexican politics. Indigeneity multiplies potential oppositional alliances, linking the indigenous to the class-based left as well as to environmentalists, feminists, anarchists, nationalists, and others. As Hernández attests, indigenous identity expands the arena of contestation beyond the traditional left’s narrower focus on distribution and material well-being. Demands for land and access to resources continue to animate contestation, but are reframed in terms of indigenous rights to autonomy, self-determination, and cultural reproduction. The demand for autonomy has been formulated in such a way that it is meant to confer the right to speak and learn indigenous languages, and to self-government according to traditional practices and customs, as well as a right to land and to such natural resources as petroleum, gas, minerals, and hydroelectric power. Although the Zapatista movement has lost its hold on the Mexican national conscience, even skeptics agree that the EZLN played an important role in ending more than 70 years of PRI one-party rule. It did so in part by multiplying the sites and terms of political contestation beyond state control, issuing new challenges to party legitimacy.

The transformation from peasant to indigenous political identity is not limited to Mexico. Over the course of the 1990s, the politics of indigenous rights developed traction all over Latin America (Brysk, 1994; Van Cott, 2000; Yashar, 1999, 2005). In South Asia, too, many people who were formerly peasants have come to identify themselves as indigenous peoples (Kingsbury, 1998, 2004; Tsing, 2005). The lists of

participants at international indigenous rights conferences and meetings reveals that there is not a continent in the world, and hardly a country, that does not include groups staking a political claim on the basis of their indigenous identity. The United Nations designated the decade 1994–2004 the International Decade of the World's Indigenous People and agreed in 2005 to extend the commitment for a second decade.

Unlike peasant identity, which was primarily constituted at the national level, indigenous political identity has emerged in a dialogue between local and international activists, organizations, and ideas. The indigenous rights movement has been forged through transnational alliances built by activists who convene in Geneva, at the annual meeting of the Working Group on Indigenous Populations, at the United Nations Permanent Forum on Indigenous Issues in New York City, and at a host of smaller regional gatherings. Much of the international work of the indigenous rights movement has been focused on drafting such documents as the United Nations Declaration on the Rights of Indigenous Peoples and on trying to persuade member states of the United Nations to support the Declaration. They seek to apply pressure to their own states through the international community and through organizations like the ILO, the OAS, and the UN, as well as to move beyond the boundaries of states that are increasingly circumscribed in their capacity to guarantee the rights of their own citizens to economic, social, and political security.

"The indigenous" is the most recent in a series of contentious group identities including, historically, "the people," "the proletariat," and "the peasant" that have been forged in different eras to expand popular participation in politics. "Indigenous" is the new "proletariat." Indigenous people sustain a powerful moral critique against neo-liberal globalization because they have been constructed as the literal corporeal embodiment of its antithesis. Indigenous identity is portrayed as ancient, communal, traditional, and moral, able to draw on a wealth of inherited wisdom to operate in organic sympathy with the earth and its natural resources. Globalization is its

constitutive opposite: atomizing and amoral, leaving in its wake the detritus of unemployed labor, depleted resources, and degraded environments. Globalization threatens the indigenous idyll. The indigenous person, and in particular the indigenous woman, stands as a reproach to the ambition of neo-liberal globalization; she is the emancipatory subject of our time.

#### FROM IDENTITY AND CULTURE TO HISTORY AND POLITICS

Notwithstanding the claims of indigenous peoples to ancient ethnic heritages, spiritual connections to specific territorial regions, and cultural practices that rely on community and kinship, indigenous identity is both new and global. In many parts of the world, including Mexico, indigenous identity offers a political alternative to peasant identity, arising as a strategic response to shifts in the political landscape that undercut the discursive leverage of a redistributive political paradigm at the same time that the international human rights regime has expanded to include collective and cultural rights. Far from acting as a defensive retreat to the local and traditional in the face of external threat, indigenous identity constitutes an entitlement to participate in a global political dialogue. Indigenous identity is a resource that allows millions of the world's poorest and most dispossessed to challenge the terms of their exclusion. Indigenous identity is a political achievement; it is not an accident of birth.

Normative political theorists of democracy and multiculturalism have nevertheless elided the political and strategic context in which cultural claims are formulated and advanced. Such theorists have been content, for the most part, to begin from the premise that people feel strong attachments to their cultural groups (Dworkin, 1978; Kymlicka, 1995; Rawls, 1985, 1993), that human identity is in fact constituted by cultural group membership (Galston, 1995; Sandel, 1982), and that human authenticity arises in dialogue with members of one's own cultural group (Taylor, 1994). They assume that demands for bilingual education, local-level self-government, territorial

autonomy, and public support for the cultural practices of minority groups are the political expression of a universal human need for the affirmation and preservation of the cultural groups to which we belong.

This initial assumption is not neutral, of course, and it has played a crucial role in framing the terms of debate over what democratic states owe to ethnic minorities. The contemporary normative discussion over multicultural citizenship is divided between those who insist that democracy requires the privatization of cultural commitments and those who believe that democracies have an obligation to protect, or preserve, the cultural groups in which their citizens have membership. Both impulses, to privatize or to protect the ethnic group – to insulate democratic politics from culture, or to insulate culture from democratic politics – are rooted in assumptions that make a fetish of culture.

Privatizers worry that religious and cultural commitments anchor what is most fundamental in human identity, and that such convictions are therefore not amenable to the normal give-and-take of negotiation and moderation that democratic deliberation requires. Claims that rest on belief or tradition threaten to tear apart the public sphere. Because they cannot be moderated, they should instead be excluded from public deliberation, leaving citizens free to express, preserve, and exercise their pre-existing religious and cultural commitments in private. Democratic society will only be maintained if it is protected from debate among competing conceptions of the whole truth (Holmes, 1994, 1995; Macedo, 1999; Rawls, 1971, 1985). If the public sphere is to remain neutral, and equally available to everyone, it must be limited to reasoning that everyone could understand and agree to. Often, privatizers invoke groups that are unsympathetic, like Christian fundamentalists, Nazis, or skinheads, and invite us to imagine what would happen if their viewpoints were to achieve dominance through the democratic process (Macedo, 1995).

Protectionists agree that religion and culture represent fundamental human commitments, but they argue that this is a reason to protect, not to privatize, the collective units in which citizens hold

membership. They argue for the recognition of group rights, though they may disagree over which groups and which rights the state should protect (Kymlicka, 1995; Taylor, 1994). They maintain that respect for the individual entails respect for his culture, and that cultural and religious minorities should therefore be protected from majoritarian politics that threaten the capacity of a culture to reproduce itself (Taylor, 1994). They argue that democracy requires respect for difference (Galston, 1995), and that individual freedom depends on access to one's own societal culture (Kymlicka, 1995). Protectionists tend to invoke sympathetic groups, such as indigenous peoples and the Amish, and to suggest that the *laissez faire* character of privatizing liberalism threatens to extinguish the traditions and lifestyles of these ancient and vulnerable communities, to the detriment of all mankind.

Theorists on both sides make a compelling case by invoking fear of tyranny of the majority. Privatizers raise the possibility that hate-mongering skinheads might take over local governments in some parts of the United States, which is a genuine concern. Protectionists invoke the threat to the survival of indigenous languages and traditions, which is palpable almost everywhere. Each is correct in thinking that the procedural character of democracy may threaten minority interests and empower dangerous majorities. Their instinct to preclude such outcomes by limiting democracy has nevertheless left them vulnerable to compelling criticism.

By denying cultural groups the grounds to contest politics, privatization has the effect of naturalizing the cultural status quo, leaving little viable choice to minorities but assimilation. And it is not only that others are forced to assimilate to liberalism, as Macedo claims when he argues the case for liberalism with a spine (Macedo, 1995). They are also forced to assimilate to the dominant language, religion, and culture, all of which, absent contestation, will be naturalized as part of the backdrop of social exchange. As critics contend, privatizing cultural commitments really does limit the capacity of minority groups to navigate and prolong many of their own cultural practices (Galston, 1995; Taylor, 1994).

On the other hand, by arguing for the right to collective self-government and cultural autonomy, which is also an exemption from democratic politics, protectionists have come under fire for depriving group members of the political means to contest the norms and boundaries of their own cultural and religious groups. Unless we can assume the complete internal coherence of the cultural group or that the cultural group is literally an organic unit, collective rights that draw their legitimacy from cultural norms alone run the risk of violating individual rights. Recognition is always partial, privileging those who hold power within the cultural group (Okin, 1999) and freezing the cultural boundaries and practices that are salient at the moment of recognition (Appiah, 1994). Ironically, this often gives the state more leverage to adjudicate what counts as tradition, insisting for example that only pre-contact practices warrant special exemptions or that only those people who continue to live on their ancestral lands qualify as genuinely indigenous.

The deepest criticisms against each side stem from the paradox that, despite their different commitments, both privatizers and protectionists support the exclusion, or exemption, of cultural groups from democratic politics – either to protect the supposed neutrality of the state or to protect the supposed integrity of the cultural group (Jung, 2001). The common impulse to exclude derives in turn from the fact that, whether they recommend privatization or protection, normative theorists employ the same assumptions regarding the crucial role of culture in constituting individual identity. Culture should be protected or privatized precisely, they believe, because demands for cultural recognition arise from a universal and trans-historical human need for cultural group recognition. Most people feel a strong attachment to their cultural groups and practices, they say, and such attachments have normative standing. From such attachments flow obligations.

But attachment is simultaneously too flimsy and too strong to be used as a standard for establishing the responsibility of democratic states. It is too weak because we lack evidence to support the

proposition that there is a unique relationship between culture and identity. We simply do not know if human identity is more deeply constituted by culture or, for example, by gender or by motherhood. Not only do we not know, but such questions are in some sense deeply unknowable (Bilgrami, 1992).

As a result, the attachment logic is too strong. If we owe protection to relationships and bonds that people are deeply attached to, how can we stop with culture? Intense preferences are everywhere. The logic that privatizes or protects ethnicity can be extended practically infinitely to protect other affiliations that may mediate individual identity, including race, religion, gender, class, profession, spousal relationships, and so on.

Even if we grant that culture is distinct in the way it constitutes human identity, the attachment standard gives us no grounds for distinguishing among cultural claims and claimants. Attachment gives all cultural groups the same grounds to make demands, regardless of the history of oppression or privilege that has constituted them. By inescapable logical extension, the attachment principle gives the same ground to the perpetrators of oppression, exclusion, marginalization, and even genocide as it does to the victims, so long as both sides portray themselves as bound by culture.

This problem alerts us to the dangers of theorizing from the standpoint of universal assumptions about culture and the nature of ethnic group membership. Universal theories of human identity are mismatched with the task of assessing the obligations of states toward groups that have been forged in particular historical contexts. Ethnic groups have structural origins. They develop social and political salience because states have used differences of language, "race," and cultural practice to mark the boundaries of citizenship and to organize access to power and resources. The link between identity and culture is deeply contingent, dependent on history and politics.

As a result, theorists who are concerned with determining the scope of state obligations toward ethnic minorities should look behind the claims of culture to the structural conditions that have constituted

the group. What they are owed depends not on who they are, or claim to be, but on the history of exclusions and selective inclusions that is the condition of their political presence.

Culture itself is a process and an outcome, insufficiently foundational to offer grounds for assessing the obligations of the state. As we have grown accustomed to doing with “race,” we should house “ethnicity” in quotation marks, to signal that it is a social construction and not a biological reality or even an automatic and timeless category of human social organization. This does not make it any less potentially real or valuable to human experience, but it does mean that the ostensible reality, importance, and value of culture depend not on cultural practices themselves but on the social and structural forces that lend them weight in our lives.

As a result, critical liberalism approaches the question of what demands ethnic minorities can legitimately make on democratic states by shifting the angle of focus from “culture.” If we are to understand culture as “a system of meanings or values” or “as a constitutive social process, creating specific and different ways of life,” both of which options are suggested by Raymond Williams, then, as Ackbar Abbas has pointed out, “culture would now include the study of mass culture, sub-cultures, working class youth cultures, the cultures of ‘ethnic minorities,’ the critiques of race, gender and colonial discourse and so on” (Abbas, 1998: 186; Williams, 1977: 13, 19). Culture is not the province of ethnic minorities alone. If we define culture as “a constitutive social process creating different and specific ways of life,” then we are forced to expand our notion of culture beyond the point where it could be useful for adjudicating the obligations of democratic governments toward immigrants, national minorities, and indigenous peoples. These are just a narrow subset of the myriad social processes that constitute ways of life.

What this demonstrates more fundamentally, again in the words of Abbas, is that culture is “a field of instabilities and destabilizations...” (1998: 186). This could mean many things, but what it means most pertinently for questions of democratic obligation is,



in brief, that there is no there there. In the modern world the “systems of meaning” and “constitutive social processes” in which human beings are embedded are so multiple, cross-cutting, hybrid, shifting, and unstable that it would be impossible even to identify, much less to protect, the frameworks of human consciousness. If we are to think of culture the way anthropologists and many others now do, as just such a field of instabilities and destabilizations, the concept is clearly mismatched with normative theories of democratic obligation.

At the same time, limiting our conception of culture to what Kymlicka (1995) has called “societal cultures” is also misleading in the sense that it implies, wrongly, that ethnicity is of a piece. It assumes that there is an essence to ethnic identity and that the constitutive core of ethnic politics is cultural difference. This logic infers an inappropriate link among such political moments as indigenous struggles for territorial autonomy, the demands of Turkish guest workers for German citizenship, and Serbian ethnic cleansing. But politically and normatively, these are not the same thing, and recognizing this should clarify the ways in which the cultural prism has distorted conceptions of both the problem and the solution. Grounding democratic obligations in cultural difference and attachments casts too wide a net around groups that claim ethnic identity because it misunderstands the origins and stakes of ethnic politics.

Taking “culture” as the relevant catchment category additionally denies a connection between ethnicity, on the one hand, and race, gender, class, and other social categories that organize social and political space on the other. These are best understood as structural groups whose origins lie in the way political elites have used particular markers to organize access to power, rather than fundamentally different forms of human social organization and attachment. As a result, normative propositions about the obligations of democratic governments to ethnic groups need to reach beyond such groups to say something about the other social categories that organize political life. This is not to say that states will have the same obligations to all such groups or that all groups will have the same claim on democratic governments.

Instead it is to say that what legitimate claims they do have will depend on their historically embedded structural positions and not on whether they claim “race,” “gender,” or “ethnicity” as their organizing principle.

A study of the transformation from peasant to indigenous identity in Mexico generates six observations regarding the politics of cultural claims that should be relevant to a normative theory of state obligation toward social groups, including ethnic minorities. First, both peasant and indigenous are more fruitfully conceived as political rather than personal identities. Such identities act as forms of political organization and framing that shape the boundaries and claims of politics. Both peasant and indigenous identities have their origin in the Mexican state-building project. There is no reason to believe that either peasant or indigenous taps a deeper vein of human belonging or attachment, or conversely that either peasant or indigenous identities represent false consciousness. Class and ethnicity represent distinct “master frames” of political organization and claim-making that offer different points of access to politics, but do not necessarily inspire fundamentally different commitments, or deeper feelings of “identity.”

Second, the origins of the indigenous rights movement, in Mexico and elsewhere in Latin America, are to be found in peasant politics and not in cultural difference. Many, and possibly most, indigenous leaders in Latin America have a background in peasant political organization and mobilization, and they have approached indigenous politics through the lens of class struggle. During the 1990s, indigenous political organization was strongest in those areas that had high levels of peasant political organization in the 1970s and 1980s (Yashar, 2005). It did not arise most prominently in those regions that were most ethnically homogeneous or culturally “intact” (Leyva, 1995; Leyva and Ascencio, 1996).

Third, both peasant and indigenous identities are constructed. Neither is primordial or essential in the sense that they do not “emerge organically or evolve out of people’s particular economic, territorial,

demographic, ancestral, religious, linguistic, or cultural identities in some fairly automatic, unconscious process" (Smith, 2003: 32). They develop salience only once they are explicitly espoused as the basis of a conception of political community. Although orthodox Marxists would have us believe that class identity is natural and primary, and many multiculturalists take culture as the default category of human social organization, the rise and fall of peasant identity and the subsequent emergence of indigenous identity demonstrate that neither is an automatic or spontaneous form of human organization, emerging organically out of objective differences of cultural practice, skin color, or wealth. Each develops salience in the context of a particular political moment.

Fourth, and more specifically, the modern state has played the most direct role in constituting such political identities as peasant and indigenous through the ways in which ruling elites have used differences of wealth, skin color, culture, and language to organize and control the boundaries of political membership. As political categories, peasant and indigenous are not simply constructed; they are explicitly constructed through laws, policies, and institutions that embed and entrench such categories as the basis of political organization and entitlement. Therefore, as Judith Butler has argued with regard to women, "it is not enough to inquire into how women might become more fully represented in language and politics. Feminist critique ought also to understand how the category of 'women,' the subject of feminism, is produced and restrained by the very structures of power through which emancipation is sought" (1990: 2–3).

Fifth, although individuals are indeed, to some extent, constituted by social group membership, they also play an important role in forging the groups in which they assert membership. They do so in order to challenge, or protect, the exclusions and selective inclusions that are the condition of their political presence. In the last decade of the twentieth century in particular, indigenous identity emerged through the international indigenous rights movement,

shaped, advanced, and given content in such international forums as the United Nations and the International Labor Organization and inserted into domestic politics by advocates and NGOs with transnational reach. As Rogers Smith explains, leaders and constituents both have “meaningful agency in the forms of peoplehood they imagine, articulate, endorse, and institutionalize” (2003: 36). The decision to mobilize an indigenous identity is partly chosen, and the move from peasant to indigenous identity is a political achievement. Indigenous identity is the hard-won victory of political activists, not a spontaneous global reaction in defense of cultural preservation.

Finally, it is neither accurate nor normatively desirable to sort specific groups like indigenous peoples into such categories as culture and ethnicity. In most countries indigenous peoples are constituted by a web of exclusions that invoke race and class at least as often as language and culture. In Mexico, the indigenous have been serially reconceived as a race, a class, and an ethnic group at different historical moments, and traces of each of these markers persist in present-day constructions of indigenous identity and politics. As a result, it is a mistake to consider indigenous politics and the scope of indigenous rights through the lens of culture alone. The cultural prism distorts the experience of indigenous people and limits indigenous politics to claims that have cultural referents.

The fact that indigenous is a political identity, that it is constructed, that it has roots in class politics rather than cultural difference, that it operates as a framing strategy and a point of political access, that it has developed social and political weight as a result of laws and policies put in place by the state, that it emerges only through the concerted efforts of political activists, and that it cannot be reduced to culture alone, has normative implications for what such groups can legitimately demand of democratic states and what such states owe to the groups they have had a hand in forging.

The appropriate question for normative political theory is not “how can democratic governments accommodate the pre-existing and deeply held cultural commitments of their citizens?” but instead

“how should democratic institutions process the political claims that arise to protect and contest the exclusions and inclusions set in place by the modern state itself?” Taking seriously the historically and politically constituted character of ethnicity leads neither to privatization nor protection but to sustained and transformative political engagement.

### CRITICAL LIBERALISM

Critical liberalism advances a theoretical structure that flows from the six propositions developed in the [previous section](#) regarding the scope and character of cultural groups. A constructivist theory of identity formation commits critical liberalism to particular over universal conceptions of group rights and state obligations, a procedural model of justice, and a political scaffold of rights. More specifically, critical liberalism argues for establishing the legitimacy of particular claims through the language of structural injustice rather than cultural difference, contestation over consensus as a source of liberal democratic authority, and the category of membership rights as a strategic alternative to collective and individual rights.

The intuition that lies at the core of critical liberalism is that blindness to injustices, in which even people fighting to right wrongs fail to recognize patterns of unfairness all around them, is a permanent feature of social and political life. All of the ways in which states might organize access to power, delineate citizenship, and distribute resources rely on the formation of boundaries that are ultimately arbitrary and often pernicious. One way to consider the scope of state obligation is to examine the scope of state responsibility. The framework of structural injustice holds the state accountable for the wrongs it has perpetrated, with the expectation that the “discovery” of new wrongs, and the need to redress such wrongs, will be an ongoing project.

Modern states, including but not limited to liberal democracies, have played a part in rationalizing and entrenching the boundaries of exclusion that have transformed such markers as class, gender, race, and culture into political identities. The history of representation

is one of exclusions. C. B. Macpherson has argued that Locke “justifies, as natural, a class differential in rights and in rationality” that he used to defend the political exclusion of the property-less (Macpherson, 1962: 221). Liberal theory and liberal governments have also excluded along lines of gender. Carole Pateman shows that Locke’s naturalistic and uncritical conception of the conjugal bond serves to effectively eliminate women from his understanding of the term “individual” (Pateman, 1988: 52–55). Most liberal democracies excluded women from the franchise until well into the twentieth century.

Uday Mehta also makes a convincing case that, notwithstanding its universal pretensions, liberalism has systematically excluded certain groups and “types” of people from political self-representation on the basis of cultural and racial differences. Such liberals as Locke, both Mills, and Bentham employ descriptions of the inscrutability, childishness, and “manifest incompetence” of colonized populations to justify colonial oversight and withholding the right to self-determination. As he says, “Behind the capacities ascribed to all human beings, there exist a thicker set of social credentials that constitute the real bases of political exclusion” (Mehta, 1990: 429).

On the same grounds, liberalism has also been instrumental in excluding indigenous populations from full rights in citizenship in post-colonial settings. In the Americas, Australia, and New Zealand, native populations have been excluded and marginalized on the basis of cultural and racial differences that purportedly signal their inability, or culturally based reluctance, to engage in the type of political reasoning and rational argument that democratic political deliberation requires. Notably, as late as September 2007, the (only) four countries to vote against ratification of the Declaration on the Rights of Indigenous Peoples were Canada, United States, Australia, and New Zealand.

Ross Poole has argued that the expropriation of indigenous lands and the forced assimilation or elimination of aboriginal peoples represent the original sin of liberal democracies (Poole, 1999: 138). The

strains of liberalism also run deep in Mexican history, and many, though not all, of the exclusions that have constituted indigenous identity can be traced to nineteenth-century Mexican liberalism. The term “internal colonialism,” which has been used to describe the structural relationship between modern states and their indigenous populations, seems to capture the logic that links the political exclusions of the colonial era to those of post-colonialism.

Although it is not only liberalism that draws the boundaries of citizenship through exclusion, the fact that liberal regimes have discriminated on the basis of class, gender, race, and ethnicity undermines liberalism’s universal pretensions and limits its promise. Such exclusions place a special burden on liberal democratic states that enshrine a commitment to equality and freedom as their highest ideal.

The effect of such exclusions, and selective inclusions, has been to make such markers as sex, physical morphology, wealth, and cultural practice socially and politically significant, investing them with the capacity to anchor identities and define boundaries. By organizing access to power, resources, and citizenship on the basis of differences that are otherwise at least potentially arbitrary, states have produced the terms of political belonging and engagement they are in turn faced with adjudicating. When indigenous identity becomes politically salient, it is because the state itself has “raced,” “classed,” and “ethnicized” its aboriginal population, with the effect of defining it out of the polity or of entrenching its position at the bottom of the political, economic, and social hierarchies the state maintains. Indigenous identity arises to contest the exclusions through which it has been constituted and to try to transform the terms of its political presence.

Over the course of the nineteenth and twentieth centuries, first class and property ownership, then gender, and then race were slowly recognized as illegitimate markers of selective inclusion and exclusion. Ethnicity and differences attributed to cultural practices and belief continue to legitimate boundaries and are still often used as grounds for exclusion. This pattern does not seem to be fading, nor

does it seem likely that culture will be the last marker employed to signify irreconcilable difference.

In addition to examining the obligations of democratic states through the framework of structural injustice, critical liberalism therefore also focuses attention on the promise of contestation. New political identities arise to challenge and protect the boundaries of citizenship. They advance to contest or to defend the status quo, and they frame their demands in the terms set out by the existing order of inclusion and exclusion. The emergence of new political identities acts as a condition of potential democratic renewal and a source of relegitimation.

This is what William Connolly has described as the “politics of becoming.” As he says, “In successful instances the politics of becoming moves from a netherworld below the register of positive acceptance, identity, legitimacy, or justice onto one or more of those registers. To cross that threshold is to shake something up in the established world. It is to propel a fork in political time, throwing a wrench into the established code of obligation, goodness, identity, justice, right, or legitimacy” (2005, 122). As new actors enter politics, they transform the scope of debate and the conditions of political action. They open our eyes to injustices we did not recognize before as injustices, exposing naturalized, and therefore invisible, hierarchies and contesting the limits of inclusion and exclusion. They introduce new strategies and alliances to the politics of opposition, and they alter established conceptions of what can be contested when, where, and how. Movements have formed around gender, sexuality, race, class, and culture, not because people have felt the need to express or defend their primary commitments, but because these characteristics have served as markers of political inclusion and exclusion.

Critical liberalism is especially attentive to the difficulties inherent in forging new political identities and to the ways in which the existing political order closes against new claims and claimants. As Subcomandante Marcos has boasted, “All we wanted was to change



the world; everything else has been improvised.”<sup>4</sup> It is not easy to join the dialogue, and people struggling to develop a political voice, to make visible the invisible boundaries that have excluded them, must improvise, testing and exploring new tools and strategies.

Over the course of the twentieth century, the language of rights has often established the leverage of opposition. Rights extend a promise. They behave as a formal acknowledgment that some particular category of people – children, women, workers, or indigenous peoples – are harmed by the existing configuration of power and interests and are deserving of special attention and protection. The language of rights constitutes the terms of struggle, offering standing and political access to many of the people who have most often been denied political presence.

Whereas liberalism has often been criticized for the exclusions by which it has sustained itself, the liberal rights regime also offers the terms in which such exclusions can be contested. This is one reason to appeal to solutions within a liberal constitutional order, despite the evident complicity of liberalism in producing the very problems we are attempting to resolve (Iverson, 2002). Rights have been condemned for entrenching the status quo and closing off the arena of politics (Brown, 1995; Poole, 1999); but they also provide access to political debate and open up the arena of political contestation (Crenshaw, 1998; Williams, 1991).

Because in reality rights act as a promise, and not as a guarantee, they open the space for politics more often than they close it down. No doubt rights are a double-edged sword, but it is the upper edge of the sword that slices from below, subverting the status quo by offering promises, and opening up political spaces, to people who have been marginalized and excluded by the modern state system. It is the commitment to rights that establishes critical liberalism’s liberal orientation.

<sup>4</sup> [http://zapatuga.blogspot.com/2003-11-01\\_zapatuga\\_archive.html](http://zapatuga.blogspot.com/2003-11-01_zapatuga_archive.html) [accessed 9/27/04].

In particular, critical liberalism introduces the concept of *membership rights*, which is meant to untangle the bifurcated dichotomy between collective and individual rights that has dominated thinking on the question of democracy and ethnic minorities. Membership rights are best understood as those that accrue only to members of a group without in any way granting the group itself collective rights over its members. They are individual rights, but they are not universal in the sense that they are not afforded to all individuals. They are essentially a category of add-on rights, assigned to individuals whose group membership has operated as a source of exclusion, discrimination, or oppression, and designed to redress such structural injustices, to put individuals on an equal footing with one another in a robust, and not merely formal, sense. They are designed explicitly to respond to demands for equal treatment that may imply differential treatment.

The argument for membership rights follows from the account of indigenous identity formation that I advance in this book. It tries to respond to the question of what kinds of rights are compatible with the fact that groups are constructed and, more specifically, with the fact that they have been constructed precisely through the unequal allocation of rights, resources, and citizenship. Membership rights take a broad view of what justice demands for such groups, bundling political and civil, social and economic, and cultural rights as an alternative to the narrow focus on third-generation cultural rights that animates much of the theorizing about so-called multiculturalism.

Critical liberalism aims, however, to be as critical as it is liberal and claims critical credentials along three dimensions. First, like other critical theories (critical legal studies and critical race theory, for example), it is rooted in an account of the ways in which reality, in this case the social groups that ground political identities, is structured through institutionally and socially embedded power relations. It insists that political identities arise in the context of particular historical and social configurations and that they are not the organic result of the universal human need for recognition of one's cultural (or racial or gender) identity. Critical liberalism starts with a theory

of power and is attentive to the ways in which ideological contexts, government policies, and economic conditions shape the salience and boundaries of political identity. If culture is politically salient, it is because some particular configuration of ideology, institutions, and distribution has made it a relevant organizing principle of politics. Critical liberalism seeks to reconstruct the process that has propelled “culture” to the front lines of our political dialogue.

Critical liberalism is also critical in the sense that it starts from the premise that “normative reflection must begin from historically specific circumstances because there is nothing but what is, the given, the situated interest in justice, from which to start” (Young, 1990: 5). Critical liberalism rejects the stance of theoretical universalism that has led some theorists to devise abstract principles of justice meant to fit all societies and all injustices in all times. As Iris Marion Young argues, “The approach of critical theory suggests that there are dangers in abstract and generalized normative theorizing, involving, for example, importing into supposedly general theories assumptions derived from the particular socio-historical context in which one thinks, or from the structured social positions conditioning one’s own life in that context” (2000: 14). We have inherited a set of imperfect practices and unequal conditions that we are compelled to redesign as we go, firmly rooted in where we are. Because the contours of injustice are most insidious when they are still invisible, and because most of us will be blind to many of them, critical liberalism approaches justice as a dynamic and continuous project.

By extension, critical liberalism focuses attention on the critical promise of rights. In keeping with the logic of contextually derived principles of justice, critical theory holds that “the normative ideals used to criticize a society are rooted in experience of and reflection on that very society, and that norms can come from nowhere else” (Young, 1990: 5). Rights, set forth by constitutional governments themselves, offer precisely the type of leverage that a critical theory of social justice requires to formulate an immanent critique of actually existing liberal democratic governments. Rights legitimate

democratic systems by setting forth a promise the state is pledged to uphold. They therefore offer an internal normative standard by which liberal democratic governments can be held to account, vulnerable to both scrutiny and critique.

Rights not only furnish a standard by which democratic societies can be measured; they also offer leverage for the transformation of injustices. They have both signaling and transformative potential. Rights afford excluded and oppressed others with practical grounds on which to constitute the terms of struggle through the formation of new political identities. Such identities often arise to contest the exclusionary and anti-democratic impulses that have characterized liberal democratic governments. They locate the terms of struggle. Democratic political institutions have a responsibility to enter into sustained engagement with the political identities that arise to challenge, or to protect, patterns of access and distribution put in place by states themselves.

#### PLAN OF THE BOOK

At an epistemological level, this book endorses an approach to theory building that does not rely on hypothetical thought experiments or the theoretical propositions of ancient philosophers. To the extent possible, it is more useful to ground our normative theories in what we can observe and report of the real world than in the assumptions and debates of historical philosophical thinkers. With others, I argue that normative theorizing is most fruitfully anchored in empirical analysis and contextual observation (Shapiro, 1996, 1999, 2005; Tully, 1995). Not only does context matter, but theories need facts to render them persuasive (Carens, 2000: 1–20).

Where we start has important implications for where we end up. Critical liberalism offers not only a methodological justification for anchoring normative reflection with empirical observation and study, but also a new perspective on the political origins and implications of ethnic politics. Critical liberalism is a (critical) method of theory

building as much as it is an argument about democratic justice and a strategy of political inclusion.

By developing a case study of the emergence of the Mexican indigenous rights movement, I hope to establish a fresh starting point for considering what justice requires of liberal democracies faced with the political demands of ethnic minorities. Such a theory should be based, I argue, on a clear conception of the origins and stakes of the politics of identity. The debate in which I attempt to intervene is conducted mainly by American and Canadian theorists who draw on the experience of these two countries – often implicitly – to develop universal theories of liberal democracy. I use the case of Mexico in part because it is not familiar to the majority of theorists writing today about liberalism and multiculturalism. It may therefore retain the capacity to upend some of the assumptions and conclusions that have been drawn through inference from familiar cases (Carens, 2000: 4).

The Mexican case offers an empirical challenge to the view of identity that informs most theories of liberalism and multiculturalism, as well as support for the alternative theory of identity formation I advance here. It also generates normative questions, about the scope of ethnic politics and the obligations of liberal democratic governments, that traditional scholarship answers in deficient ways. As this politics plays out in an unfamiliar setting, we see the limits of how we have thought through these questions in the past.

Chapter [one](#) explores the concept of political identity, contrasting the assumptions that dominate contemporary theories of multiculturalism and democracy with insights drawn from critical and constructivist theories of identity formation. I start with a review of the contemporary normative literature on democracy and cultural pluralism, demonstrating that arguments for privatizing and protecting cultural claims and groups rest on the assumption that identity politics arises from cultural difference itself, as a natural outcome of a universal human need for cultural group membership and recognition.

I set these assumptions against an alternative view of identity that relies on constructivist insights into the contextual character of such social categories as ethnicity, race, gender, and class. I argue that – like race, gender, and class – ethnic groups are structural groups. I make three basic points. First, political identity emerges as a result of the boundaries that organize access to power in the modern state system. Such social categories as class, race, gender, and culture have political salience because modern states have used these markers to police the boundaries of citizenship and national identity. Second, the markers of exclusion do not automatically become the strategies of opposition. Political activists use rights as a way of gaining access to the public sphere and forcing an opening that extends “the political” to categories of people whose exclusion has been naturalized through existing hierarchies of power. Third, such identities are valuable because they act in turn as a condition of political agency. The ability to make claims and to establish a political presence rests on the capacity, embedded in the very concept of presence, to develop a political identity as a member of a group. Such identities are further constituted, of course, through contestation itself.

Chapters two through five trace the formation and transformation of political identity among Mexico’s rural poor and identify the role of contextual factors in making first peasant, and then indigenous, identity politically salient. Chapter two locates the origin of indigenous identity in the colonial era and shows how the liberal governments of the independent Mexican state used a combination of race and class to exclude indigenous populations from full incorporation into the emerging nation. In the twentieth century, the Revolution played an important role in reifying peasant identity among Mexico’s rural poor, entrenching the peasant as a dominant symbol of Mexican national identity. The Revolution also inspired an era of nation-building aimed at indigenous assimilation. The ruling Institutional Revolutionary Party (PRI) additionally built a popular power base by organizing the middle class, urban workers, and rural peasants into institutionalized pillars of party support, establishing direct lines of

corporatist patronage between “peasants” and the party. Chapter two establishes the structural and historical origins of indigenous peoples, tracing the formation of indigenous identity through the prisms of race, class, and culture.

Chapter three extends this analysis by focusing on the conditions and contours of peasant politics in Chiapas during the 1970s and 1980s. In this period, political activists were able to exploit a range of social, economic, and political openings that facilitated the formation of a peasant political identity. The particular way in which peasants were constituted by the Mexican state, as a national symbol and a pillar of party support, had subsequent implications for the capacity of peasants to organize and mobilize politically, for the degree to which they could develop an independent political agenda, and for the points of leverage they were able to use to make demands on the state. The political standing of peasants rested on a constitutional right to land redistribution. The inclusion of the peasant in the national project afforded subsistence farmers some limited access to state patronage and established the condition for claims to land and agricultural credit. At the same time, it constrained their room to maneuver independently and to establish a genuinely political voice. Peasant politics in the 1970s and 1980s nevertheless laid the base for indigenous politics in the 1990s.

Chapter four explores the contextual shifts that undercut peasant identity and generated indigenous politics after 1990. First, neo-liberal democratization in the third wave opened space for political mobilization around demands for representation and citizenship – which often revolve around such excluded categories as ethnicity, gender, and race – at the same time that neo-liberal economic reforms undermined the leverage of class identities and demands for redistribution. Since 1990, the international human rights regime has expanded its definition of rights to include protection for cultural minorities. Many governments have responded to these changes at the international level by reconfiguring political organization at the domestic level. As states withdraw their commitment to social and

economic support, some have attempted to renegotiate the terms of citizenship by extending cultural rights to their marginalized populations. Many activists with diminished capacity to advance demands as peasants have deployed indigenous identity in an attempt to re-establish their political presence as citizens with a legitimate claim on state resources.

Chapter [five](#) focuses attention on the form that indigenous politics takes, in Mexico as well as on the global stage. Mexican indigenous rights activists have used the dynamics of the particular political and economic juncture they faced in the early 1990s to push indigenous identity beyond the narrow confines of demands for cultural protection. Indigenous politics takes place in a number of different arenas – domestic and international courts; local, state, and national legislatures; international forums – and employs a variety of strategies. Indigenous political activists have asserted their distinctive interests most forcefully in debates over democracy and democratization, autonomy and representation, the Mexican Indigenous Law, globalization and NAFTA, and feminism. They have pioneered some potentially important new political strategies, such as presenting legal challenges through the court system and using international conventions to put pressure on the Mexican government, that were not available to peasant activists. Nevertheless, indigenous identity risks being limited to demands for cultural recognition and bilingual education that will not issue a fundamental challenge to the neo-liberal order and will not transform the location of indigenous peasants at the bottom of that order.

Based on this case study of the transformation from peasant to indigenous identity in Mexico, chapter [six](#) offers a fresh perspective on what democratic societies owe to cultural minorities. Critical liberalism makes a case for democratic engagement with the claims of culture, opening both cultural groups and liberal democratic society to challenge, contestation, and potential transformation. Ethnic boundaries and attachments develop as a result of the way modern states have used cultural beliefs and practices to bound national



identity and citizenship, not as a result of a universal human need for cultural group recognition. Many of the political demands of ethnic groups therefore offer a legitimate challenge to most modern states and anticipate the possibility of democratic renewal by exposing and contesting the boundaries of politics (Tully, 1995).

Ethnic groups nevertheless do not deserve protection from democratic politics on the basis of their cultural differences. The legitimacy of their claims derives from the fact that the state has used differences of alleged phenotype and cultural practice to exclude certain groups of people from full rights in citizenship. The very conditions that led to the formation of the group offer the terms of its political engagement and fix the legitimacy of its claims. The political standing of groups flows not from who they are, but from what has been done to them.

# 1 **Stepping behind the claims of culture: constructing identities, constituting politics**

Democratic societies struggle with the demands of ethnic minorities. In the last decade of the twentieth century, these struggles were exacerbated by the rise of new cultural claims and claimants. Democratization engendered discussions about citizenship and membership, which raised questions of national identity and belonging. The Soviet Union disintegrated as its component units exercised their rights to national self-determination; the European Union attempted to develop new standards for the protection of minorities; and indigenous rights were enshrined in international law. The demands of ethnic minorities punctuate the political landscape in rural and urban areas, in developed and developing countries, in the East and in the West, re-shaping the terms of political debate, and raising new points of political contestation.

Liberal democrats worry about this political turn. They worry about the extent to which democracies can accommodate the competing claims of ethnic groups, and they worry about their obligations to do so. They are concerned in particular because they believe that demands for bilingual education, autonomy, and cultural respect represent fundamental demands for the recognition of human identity, and that they therefore engage a deeper level of commitment than other claims. As such they impose greater obligations on the democratic state. They also pose a greater threat, as democratic institutions struggle to process and accommodate the deeply held but incompatible cultural commitments of their citizens.

Much of the literature on multiculturalism and democracy is grounded in the initial assumption that ethnic politics is driven by a universal human need for cultural group membership and recognition. Most theorists elide the context in which cultural traditions and

practices develop political salience, and they neglect the conditions that generate ethnic political identities. Will Kymlicka best expresses the general consensus that there is no real point in trying to explain the cultural attachments of individuals. As he says, the bond between individuals and their cultural groups is simply “a fact . . . whose origins lie deep in the human condition, tied up with the way humans as cultural creatures need to make sense of their world, and that a full explanation would involve aspects of psychology, sociology, linguistics, the philosophy of mind, and even neurology” (Kymlicka, 1995: 90). Such attachments, Kymlicka and others insist, importantly shape human identity. By making an appeal to neurology, Kymlicka suggests they may even be biologically hard-wired. The challenge for democratic theorists, he and others believe, is not where they come from, but how to deal with them.

Against this backdrop, claims for recognition take on the air of a reflexive reaction against the homogenizing threats of modernity, and the frequency with which supposedly insular and intact cultural units come into contact with one another, with the penetrating reach of the modern state, and with neo-liberal economic policies (Yashar, 1998, 2005). Demands for cultural preservation seem to stem from a protective instinct in defense of the familiar, local, and particular against the threat of Nike, English, and Eminem.

This analytical paradigm has framed the debate over multiculturalism and democracy as a matter of adjudicating among competing conceptions of the good. How should societies that value education and the development of the faculties of critical reasoning deal with the demands of Amish parents to withdraw their children from school to decrease the chances they will decide to leave the community? How should democrats, who value equality, deal with the demands of Sikhs for special exemption to wear turbans instead of the Stetson hats that other members of the Canadian Mounted Police are required to wear as part of their uniforms? How should liberals weigh a commitment to secularism against the demands of Muslim schoolgirls to wear headscarves to school? These concerns go on and on, with yarmulkes

in the army, *kirpans* in schools, Amish buggies on public highways, creationism, kosher butchering practices, female genital mutilation, bilingual education, Christian fundamentalist education, and literally thousands of other issues that arise as stumbling blocks to coexistence in multicultural societies<sup>1</sup> (Arneson and Shapiro, 1996; Barry, 2001; Galston, 1995; Macedo, 1995; Parekh, 1998; Schachar, 2001; Waldron, 2001).

This literature has helped us to think our way through a number of practical issues that crop up as a matter of routine politics in contemporary democracies. Decisions over the legality and admissibility of particular cultural practices need to be made, and it is important that liberal democrats develop a fair standard for adjudicating among demands for cultural exemption and exception.

Nevertheless, there is a prior level of politics that has been obscured by a blinkered fixation on headscarves and yarmulkes. The debate over minority rights is often conducted in a register that leaves many fundamental questions of power, access, politics, and exclusion largely off the table. It does so mainly because it has neglected questions about where cultural claims come from, and why they are salient in contemporary political discourse. Although many theorists concede that ethnic identities are constructed, they draw no analytical connection between the origins of demands for cultural group recognition, on the one hand, and the just disposition of such demands on the other (Barry, 2001; Carens, 2000; Dworkin, 1978; Galston, 1995; Kymlicka, 1995; Macedo, 1995; Rawls, 1971, 1985, 1993; Taylor, 1994). Theorists who have actually confronted this question insist that the fact that social groups are constructed has no bearing on how they are managed, or what they are owed, by liberal democratic institutions (Kymlicka, 1995, 2007; Walzer, 1983: 31).

<sup>1</sup> *Kirpans* are Sikh ceremonial knives that were the subject of a lawsuit in Canada when a young Sikh boy insisted on his right to carry one to school (Clifford Krauss "A Sikh Boy's Little Dagger Sets Off a Mighty Din," *New York Times*, June 25, 2002, A4).

I argue instead that how social groups are constructed, and why such markers as alleged phenotypical traits and cultural practices develop political resonance, should play an important role in determining how ethnic and other groups are engaged by the democratic process. Stepping behind the so-called claims of culture, to examine how and why identities are constructed around certain symbols at particular moments in time, offers a fresh starting point for considering the normative responsibilities of liberal democratic societies toward ethnic minorities.<sup>2</sup> How they are constituted has a direct bearing on what they are owed.

In this chapter I argue that the social categories we think of as “identities” – race, gender, ethnicity, class, and others – develop public and political salience, and the resonance to work as vessels of political identity, as a result of the way they are used to regulate access to power. The state is not an innocent bystander buffeted by “culture wars” and by demands for linguistic, religious, or ethnic exceptionalism. It has played a central role in constituting political identities by using such markers as cultural practices, skin color, biological sex, and property ownership to forge the boundaries of inclusion and exclusion. Only those differences that have been used to organize access to power and resources will gain political salience, and they arise in the act of contesting, or protecting, the hierarchies through which they have been constituted. Movements form around gender, sexuality, race, and culture because these social categories have regulated political access and the organization of power, not because they express people’s deepest sense of themselves. Identity is not only the source of politics; it is also an effect of politics (Butler, 1992; Jung, 2000, 2003; Mamdani, 1996, 2001; Marx, 1998; Thompson, 1963).

Nevertheless, political identities are not simply conferred by the state. They do not spring full blown from the individual’s fundamental

<sup>2</sup> I borrow this term from the title of Seyla Benhabib’s excellent book on the topic (2002).

sense of self, but neither are they wholly crafted by state institutions acting upon hapless individuals. Although the state plays a central role in establishing the social significance of some markers over others – in making skin color relevant and eye color irrelevant – it does not automatically generate political identities. These are the product of the hard work of activists who struggle to forge groups and arguments with the traction to challenge, or defend, existing configurations of power.

As a result, political identity is also a condition of political agency. Becoming “indigenous” is an important political achievement. Indigenous identity has emerged as the condition of political action for many of the world’s poorest and most marginalized populations. Such claims are shaped in contestation over the terms and scope of political debate, in the space between international norms and government policy, and through the channels that link, and fail to link, citizen and state. In the present era, cultural difference offers the possibility of political claim-making, establishing ethnicity as a political category, and a location from which to make demands on the state.

What is at stake in the politics of identity therefore is not the universal need for the recognition of a primary commitment (Taylor, 1994), or the preservation of the cultural milieu that allows one to process meaning (Kymlicka, 1995). What is at stake is the formation of an identity that affords access to political legitimacy and voice. Culture offers a point of intervention into a global political dialogue.

#### LIBERALISM’S CULTURE FETISH

Seduced by a theory that links ethnic politics to an individual’s most fundamental sense of self and to a universal human need for cultural group recognition, many normative political theorists have focused their attention on whether culture should be privatized or protected from democratic political contestation. Privatizers are concerned primarily with the threat that cultural claims pose to the supposedly neutral public sphere, and argue that cultural attachments should be

limited to the private sphere. They seek to exclude arguments that invoke culture from public reasoning (Ackerman, 1981; Dworkin, 1978; Macedo, 1995; Rawls, 1971, 1993). They insist that debate take the form of public reason-giving, and that the reasons given should be universal – intelligible to all sides in a discussion and not only to those who hold a particular set of beliefs.

Protectionists see instead the value of culture, and insist that the principles of freedom and equality require that the state publicly recognize and protect cultural groups (Galston, 1995; Kymlicka, 1995; Taylor, 1994). Such protection may involve public funding for bilingual education, special exemptions from laws that violate cultural practices, allowing groups to have jurisdiction over such culturally sensitive issues as marriage and divorce, or self-government according to cultural tradition. Protectionists disagree over the degree of protection minority groups can demand of states, and they differ as to which groups deserve such protection. While Taylor insists on self-governing authority for such minorities as Québécois, Kymlicka distinguishes among immigrants, national minorities, and indigenous peoples, according different levels of protection to different groups. While immigrants can reasonably be granted access to bilingual education, indigenous peoples can demand self-government and authority over the members of their own groups (Kymlicka, 1995; Taylor, 1994).

Although privatizers and protectionists ostensibly anchor opposite ends of a debate, they are in fact much closer to one another than they acknowledge. Both strategies have the effect of isolating cultural claims and groups from democratic politics, either to protect the supposed sanctity of the cultural group or to protect the supposed neutrality of the public sphere (Jung, 2001). The underlying sympathy between these two seemingly opposed positions is made most apparent through a survey of the critiques that have been leveled against them. Though critics normally align with one side over the other, read together they converge to a single vanishing point.

Critics of privatization argue that, by excluding cultural claims from public deliberation, privatizers entrench the status quo and force

minorities to assimilate to the majority culture. Critics of protection argue that granting cultural autonomy, which is also an exemption from democratic politics aimed at protecting the minority from majoritarianism, violates the rights of individual members of the group who might want to contest particular traditions or cultural practices. Both privatization and protection come under fire for limiting the sphere of democratic political contestation.

Some Rawlsians have tried to defend themselves from the allegation that privatization limits the sphere of democracy. They draw a distinction between what they call public deliberation – the normal give-and-take of politics – in which they allegedly allow claims on behalf of culture and religion and public reasoning – over constitutional matters – where they do not. But the character of indigenous and other types of politics that revolve around issues of minority rights undermines the critical traction of this distinction. It is no coincidence that the Constitution itself is precisely what is often at stake in the politics of exclusion, representation, citizenship, and protection that are generated by indigenous and other minority groups. In Mexico and elsewhere, placing the Constitution beyond the limits of political contestation already goes a long way toward framing the terms of public deliberation in ways that disadvantage those who had no hand in drafting the constitution. If the constitution is beyond the sphere of public deliberation, limited to the sphere of public reasoning, then much of the work of eviscerating indigenous and other claims has already been accomplished.<sup>3</sup>

Protectionists are, for the most part, less concerned to defend themselves against the anti-democratic charge. Democracy is a trade-off between majority rule and minority rights, and they are focused on the minority rights end of the scale. In addition, some protectionists question the boundaries of the polity, suggesting that democratic states ought to be ethnically homogeneous (Taylor, 1998: 143–44). The

<sup>3</sup> See James Tully (1995) for a compelling argument regarding the justice of constitutional politics.



proper boundaries of decision making in Quebec should be limited to Quebec. English-speaking Canada should have little or no jurisdiction over this province in which the majority speaks French (Taylor, 1994).

Kymlicka distinguishes between “external protections,” which protect the minority group from the surrounding majority, and “internal restrictions,” which the group might seek to place on its own members. He argues that liberalism is compatible with external protections but will not justify internal restrictions (1995: 152). Nevertheless, he goes on to distinguish between liberal principles, on the one hand, and whether such principles can be imposed on minorities who do not accept such principles, on the other. These, he says, are two very different questions (164). National minorities (within liberal states) form distinct political communities (167). Liberals cannot impose liberal views on such communities in the same sense that they cannot impose liberalism on Saudi Arabia (165). The boundaries of liberal democratic reach, he suggests, lie with the culturally homogeneous community (1995: 164–70). As much as liberals may hope that they behave liberally, liberal states have no business violating the boundaries of supposedly distinct political communities in order to impose liberalism, even where such communities exist within the boundaries of liberal states.

The conservatism implicit in strategies such as these, designed in part to limit the scope of democracy, is rooted in a shared set of assumptions regarding the role of culture in constituting human identity. Both impulses, to privatize or to protect, follow from the initial assumption that ethnic group membership is a source of universal attachment and of a person’s fundamental sense of herself.

The tendency of normative theorists to anchor their prescriptions for cultural accommodation in theories of human identity has an extensive genealogy in the history of theoretical debate. Charles Taylor has argued in fact that the history of liberal theory is one of advances in our understanding of the human social condition (1994: 39). Whereas the debate between privatizers and protectionists has been cast as a matter of competing conceptions of human identity, I

argue that the two sides employ surprisingly similar theories of the human social condition.

In the contemporary debate, the focus on identity began with the 1982 publication of Sandel's *Liberalism and the Limits of Justice*, which is primarily a critique of the theory of identity that informs Rawls's *Theory of Justice*. Rawls famously based his theory of justice on a thought experiment that explicitly denied the philosophical relevance of how an individual becomes a person of a certain type, and how societies are actually populated, formed, and transformed. Instead, the twin artifices of the original position and the veil of ignorance were intended to produce a universal perspective. As Rawls says, "Among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like" (Rawls, 1971: 12 and chapter three). The principles that emerge are just because they are chosen behind a veil of ignorance where the symmetry of everyone's relations to one another means that no one can formulate principles that will favor his or her particular condition. They are just precisely because people would agree to them if they bracketed the matter of their own identity.

Against Rawls, Sandel insisted that the deontological ethic that prioritizes the right over the good, and justifies a particularly liberal conception of justice, rests on a mistaken understanding of "ourselves as freely choosing, autonomous beings" (Sandel, 1982: 9). Such an understanding is in turn "grounded in the concept of a subject given prior to its ends" (ibid.). Sandel argued that "this liberalism does imply a certain theory of the person. It concerns not the object of human desires but the subject of desire, and how this subject is constituted. For justice to be primary, certain things must be true of us. . . . In particular, we must stand to our circumstances always at a certain distance, conditioned to be sure, but part of us always antecedent to any conditions. . . . Deontological liberalism supposes that we can, indeed must, understand ourselves as independent in this sense"

(1982: 10–11). Sandel traces this Rawlsian view of the subject to Kant, for whom it is the prior and autonomous subject that orders and gives coherence to experience. It is only if the subject is prior that we can understand ourselves as freely choosing autonomous beings, “as agents and not just instruments of the purposes we pursue” (11).

Sandel argued that this view of human subjectivity is wrong, that we cannot understand ourselves as independent and autonomous subjects, and that therefore the primacy of justice, in which “principles of right invariably outweigh considerations of welfare or the satisfaction of desire” (18) cannot be sustained. He thus lays the groundwork for a communitarian theory of the good in which people are in fact constituted by and “identical with” at least some of their ends.

Rawls responded most fully to this critique in his 1985 essay “Justice as Fairness: Political not Metaphysical.” There Rawls explicitly rejected the Millian view of the autonomous subject by insisting that the liberal ideal of human beings forming and revising their conceptions of the good is strictly a political conception of the person. It is not a portrayal of human beings’ deepest self-understandings. In this essay, Rawls in fact essentially agreed with Sandel, stating for example that “(c)itizens may have, and normally do have at any given time, affections, devotions, and loyalties that they believe they would not, and indeed could and should not, stand apart from and objectively evaluate from the standpoint of their purely rational good. They may regard it as simply unthinkable to view themselves apart from certain religious, philosophical and moral convictions, or from certain enduring attachments and loyalties.” Nevertheless, he insisted that “(t)hese convictions and attachments are part of what we may call their ‘non-public identity’” (Rawls, 1985: 241). That is, Rawls used his apparent concession to Sandel to reinforce the importance of the public/private distinction, and to reiterate the point that, though Sandel may be right, such truths about human identity can be bracketed, set outside

political debate. It is precisely because people cannot think of themselves apart from some attachments, because they are in fact constituted by such attachments, that those attachments cannot be allowed to play a role in public reasoning.

Indeed Rawls's 1993 blueprint for "political liberalism" is an explicit rebuttal of the proposition that liberalism must rest on individual autonomy. He concedes that not all people share a commitment to autonomy, or see their ends as potentially revisable, and that autonomy is therefore not a neutral basis of group accommodation.

Will Kymlicka has argued in fact that Rawls's *Political Liberalism* rests on a communitarian view of identity (Kymlicka, 1995: 160). He notes that Rawls "accepts that these ends may be so essential to our identity that we cannot stand back from them and subject them to assessment and revision" (159). Rawls, he says, holds that, in private life, people may indeed be constituted by their ends, and that their ends are derived from membership in communities of belief and tradition. Because Rawls endorses a view of the subject as privately communitarian and publicly liberal, he focuses attention, in *Political Liberalism* much more than in *A Theory of Justice*, on the importance of limiting the principle of autonomy – the Kantian capacity to stand apart from and revise one's ends – to the political sphere (162). A view of the subject that is at least partly communitarian, and does not rest on the principle of individual autonomy, can still support a commitment to individual rights.<sup>4</sup>

Kymlicka's claim that Rawls has embraced a communitarian view of identity is accurate I think, and it undermines the allegation made by Sandel (and by Charles Taylor in his 1994 essay "The Politics of Recognition") that the logic of privatization rests on the assumption of a subject given prior to his ends. After 1985, Rawls's subject looks quite similar to the subjects described by Taylor and Sandel.

<sup>4</sup> Although Kymlicka may be right that this particular conceptual move does not work, nevertheless Rawls and other privatizing liberals like Moon (1993) have essentially jettisoned autonomy as a core condition of liberalism.

Kymlicka himself defends group rights for societal cultures employing a theory of the subject advanced by Ronald Dworkin, notwithstanding the fact that Dworkin is the primary target of Taylor's critique of radically individualistic conceptions of identity (Taylor, 1994: 56). In his 1978 essay "Liberalism," Dworkin distinguishes between two types of moral commitment. People strive toward their own conception of the good life, he says, while nevertheless acknowledging a responsibility to deal fairly with others, who have other conceptions of what constitute the ends of life. The state is constrained to be neutral in this regard because adopting a substantive position on what constitutes the good life would privilege those who agreed with that position over those who did not, thereby constituting a failure to treat everyone with equal respect. Taylor insists that this procedural conception of liberalism "understands human identity to consist largely in autonomy," and takes a "view of the human agent as primarily a subject of self-determining or self-expressive choice" (57).

Yet Kymlicka uses Dworkin's later description of the way in which human beings value their culture to anchor his arguments for protecting what he calls "societal cultures." Quoting Dworkin, Kymlicka defines a societal culture as "a shared vocabulary of tradition and convention which underlies a full range of social practices and institutions" (Dworkin, 1985: 231; Kymlicka, 1995: 83). It is Dworkin who made the case, fundamental to Kymlicka's conception of the societal culture, that culture "provides the spectacles through which we identify experiences as valuable" (Dworkin, 1985: 228). We must therefore, according to Dworkin, protect the societal culture from debasement or decay. "We inherited a cultural structure, and we have some duty, out of simple justice, to leave that structure at least as rich as we found it" (Dworkin, 1985: 232–33; Kymlicka, 1995: 83).

Kymlicka uses this understanding of the culturally constituted and embedded individual to advance the argument that the liberal commitment to freedom compels the state to protect the societal cultures within which people's choices are made meaningful. Kymlicka does not advance a theory of why people feel such strong bonds to

their cultural groups. Instead he notes that many others have advanced credible theories about why this might be the case. Margalit and Raz say, for instance, that cultural identity “provides an anchor for self-identification and the safety of effortless, secure belonging” (Margalit and Raz, 1990, 447–49; quoted in Kymlicka, 1995: 89). James Nickel argues that important inter-generational bonds are harmed when parents are unable to pass their culture to their children and grandchildren (Nickel, 1995; quoted in Kymlicka, 1995: 90).

Kymlicka thinks these and other theories probably all capture something of what is at stake here. The important point is not why people feel this way, however, but the fact that they do. Therefore, he argues, “for meaningful individual choice to be possible, individuals need not only access to information, the capacity to reflectively evaluate it, and freedom of expression and association. They also need access to a societal culture. Group differentiated measures that secure and promote this access may, therefore, have a legitimate role to play in a liberal theory of justice” (Kymlicka, 1995: 84).

Among these authors, Charles Taylor, however, the author of the epic volume *Sources of the Self*, has been most explicit about the ways in which our theories of identity have informed our normative commitments. Taylor insists that whether the principle of equal respect requires that we be difference-blind or difference-sensitive depends on the assumptions we make about the constitution of human identity.

Taylor develops an even stronger case than Kymlicka for what he calls “equal recognition”. In his influential essay “The Politics of Recognition” (1994) Taylor claims to present a model of liberalism that is capable of respecting diversity (1994: 59), juxtaposing this model against what he calls the “restrictive” liberalism – or what I have called “privatizing liberalism” – advocated by such American political theorists as John Rawls and Ronald Dworkin.<sup>5</sup>

<sup>5</sup> Whether or not Taylor is a liberal more generally, in this essay he states that his explicit purpose is to present an alternative, but still liberal, way of treating the politics of recognition. In this sense, his agenda in this essay is similar to that of Kymlicka (1989, 1995).

Taylor begins his essay by noting that “a number of strands in contemporary politics turn on the need . . . for recognition” (1994: 25), and he goes on to ask, “[H]ow did we get started on this?” (26). Starting with Hegel’s dialectic of the master and the slave, Taylor argues that two changes together “have made the modern preoccupation with identity and recognition inevitable” (ibid.): the collapse of social hierarchies and the ideal of authenticity. The “massive subjective turn of modern culture (is) a new form of inwardness, in which we come to think of ourselves as beings with inner depths” (29), each of us with an original way of being human (30). Taylor goes on to trace this ideal through Herder, who “applied his conception of originality at two levels, not only to the individual person among persons, but also to the culture-bearing people among other peoples. Just like individuals, a Volk should be true to itself, that is, its own culture” (31).<sup>6</sup>

Against this background of authenticity, Taylor argues that the need for recognition emanates from the fact that human individuality is formed in dialogue with our “significant others.” “We become full human agents, capable of understanding ourselves, and hence of defining our identity, through our acquisition of rich human languages of expression” (32). As he goes on to explain, “That is why the development of the ideal of an inwardly generated identity gives a new importance to recognition. My own identity crucially depends on my dialogic relationship with others” (34). The crucial point is the following:

What has come about with the modern age is not the need for recognition but the conditions in which the attempt to be recognized can fail. That is why the need is now acknowledged for the first time. In pre-modern times, people didn’t speak of

<sup>6</sup> Not incidentally, Herder had a great impact in apartheid South Africa, where he was often quoted by Afrikaner nationalists to justify the logic, and philosophical heritage, of “separate development” (Jung, 2000).

“identity” and “recognition” – not because people didn’t have (what we call) identities, or because they didn’t depend on recognition, but rather because these were then too unproblematic to be thematized as such (Taylor, 1994: 35).

Taylor states that it is the concept of authenticity, and the fact that individuals are formed in dialogue with their significant others, coupled with the modern possibility of non-recognition, that has produced multicultural politics. As he explains, “Not only contemporary feminism but also race relations and discussions of multiculturalism are undergirded by the premise that the withholding of recognition can be a form of oppression” (36). He draws the crucial link between the formation of individual identity and the politics of multiculturalism in a footnote that makes reference to psychoanalytic theories of feminism that, he says, root social inequalities in the early upbringing of men and women.<sup>7</sup> As he goes on to say, in a way that presumes the existence of an automatic link between the two, it is “the development of the modern notion of identity [that] has given rise to a politics of difference” (38).

And it is precisely for this reason that Taylor argues that we should now understand the liberal injunction toward non-discrimination, and to a universal politics that emphasizes the equal dignity of all persons, “as requiring that we make these distinctions [to which we were previously purposefully ‘blind’] the basis of differential treatment” (39; inserted parenthetical comment mine). As Taylor says, “The politics of difference grows organically out of the politics of universal dignity through one of those shifts with which we are long familiar, where a new understanding of the human social condition imparts a radically new meaning to an old principle” (ibid.). Respecting universal dignity now requires the recognition of

<sup>7</sup> He refers to Nancy Chodorow, *Feminism and Psychoanalytic Theory* (New Haven: Yale University Press, 1989); and Jessica Benjamin, *Bonds of Love: Psychoanalysis, Feminism, and the Problem of Domination* (New York: Pantheon, 1988).



difference, not only in the present, but also “to ensure survival through indefinite future generations” (41).

A FURTHER ADVANCE IN OUR “UNDERSTANDING OF THE HUMAN SOCIAL CONDITION”

At the end of his edited volume, Anthony Appiah comments on Taylor’s essay, paying particular attention to the way Taylor uses identity to anchor his arguments. As Appiah notes, “. . . one reasonable ground for suspicion of much contemporary multicultural talk is that it presupposes conceptions of identity that are remarkably unsubtle in their understandings of the processes by which identities, both individual and collective, develop” (Appiah, 1994: 156). Appiah’s insight raises the question of what normative implications might flow from a more politically attuned and contextually sensitive conception of identity formation.

The social sciences have begun recently to pay a good deal of attention to identity (Gleason, 1983). Even political science, a relative newcomer to the study of identity, has a fairly well-established literature on the topic, driven by the belief that political identities have an important impact on politics (Brubaker and Cooper, 2000). Starting mainly in the mid-1990s, political scientists turned the lens in the other direction, focusing attention not on the effects of political identities but instead on their origins (Smith, 2004). As a group, what they have demonstrated most convincingly is that such categories as race, class, and ethnicity are constructed. In particular they focus attention on the role of politics and political institutions in making some social categories more salient, more vested with common-sense meaning, and more relevant to political organization than others (Jung, 2000; Kim 2000; Laitin, 1986, 1998; Mamdani, 1996, 2001; Marx, 1998, 2003, but see also Thompson, 1963; Young, 1976).

The advance in “our understanding of the human social condition” that Taylor and others rely on to anchor their theories of liberalism and multiculturalism also rests on the premise that identity is constructed. They argue that human identity does not spring from

deep inside our inner psyches, arising organically from the essence of who we are as individuals. Taylor explicitly takes issue with the Kantian notion that identity springs from the deep psychic structure of the individual. Rather, he and others insist, identity is constituted through our interactions with those we are closest to, the members of our group. As Iris Young argues succinctly, “Groups constitute individuals” (1990: 45).

What is left unsaid, however, is how individual identities come to be constituted by cultural group membership in particular. Taylor and others make the assumption that the group in question, the group that relevantly constitutes human identity, is the group with which one allegedly shares common ancestry, common beliefs, and common cultural practices – that is, the cultural group.<sup>8</sup> The connection between culture and individual identity is simply posited as an organic feature of human existence. Taylor, Kymlicka, and others regard ethnic group attachment as a given. Such attachment is, for them, a basic element of human identity that is both universal and prior to politics.

It is this assumption, that cultural traditions and ethnic group memberships are of fundamental importance to human beings, that fills out the normative content of ethnic groups. For precisely the reason that it is a deep and abiding aspect of the self, culture is something to be valued, cultivated, and supported. As Philip Gleason has noted, “The linkage has important implications from the viewpoint of advocacy, for the intimate association thus established between personal identity and ethnic heritage makes plausible the argument that ethnic cultures require some sort of official recognition if the self-esteem of individuals is not to be damaged” (1983: 921).

The presumption of an “intimate association between personal identity and ethnic heritage,” however, contradicts almost all contemporary social science research on group formation and affiliation.

<sup>8</sup> Taylor refers to race and gender as well, but he drops these categories before he starts to make recommendations for group preservation (40–41).

It is also impossible to reconcile with evidence regarding the changing, multiple, and hybrid character of the interaction between human beings and the groups in which they hold membership. Instead, in the face of such evidence, most social scientists have come to agree that identity is constructed. At the most general level, what they mean is that identity is explicitly not prior to the social and political processes in which it plays a part. This understanding of identity, as I will argue below, has a set of normative implications that are quite distinct from those drawn from the assumption of a natural association between personal identity and ethnic heritage.

There are (at least) four different things that are implied by the claim that identities are constructed, and it makes sense to try to pull them apart. First, one body of literature is focused on establishing that the beliefs, practices, and ancestral lines that ethnic groups invoke to establish their identity, and that they often insist are ancient and unchanging, are in fact new, imported from other cultures or belief systems, and, in the case of ancestry, often false (Collier, 1994; Leyva-Solano and Ascencio, 1996; Leyva-Solano, 1995; Ranger, 1983; Vail, 1988). The stories that people tell themselves in order to establish the unique worth of their own particular group, and to legitimate a particular set of boundaries around group membership, are little more than stories, with limited connection to objective truth. Cultures themselves are constructed and reconstructed over time. The actual practices, languages, and beliefs that distinguish human beings from one another are generated by human beings themselves, and are not simply prior and unchanging life forms into which we are born.

The second meaning is that social categories are constructed. Such markers as phenotypical traits, cultural beliefs and practices, wealth, biological sex, and sexual preferences do not automatically rise to the level of a social category, or generate boundaries, without some type of intervention that assigns social, political, or economic significance to some such marker. Although it may be true that human beings have a natural propensity to form groups (Tajfel, 1970), there is nothing automatic about the types of groups they form, or the

markers that seem to them to have meaning. The transformation of skin color into “race,” wealth into “class,” and cultural practices into “ethnicity” is a social and political phenomenon, not an organic feature of human social organization. The relationship between identifiable markers and bounded solidary groups is contingent and variable (Brubaker and Cooper, 2000: 9).

Third, given that human beings are multiply situated – a single individual may be poor, female, Black, and American – how does she come to affiliate with one such category over another, when will she switch among categories, and how do such categories coexist in the body of a single individual? Constructivists seek to account for the process through which some potential membership categories get elevated to the status of primary categories of affiliation, and understood as the commonsense unit of belonging. When and why do peasants become indigenous peoples? As Brubaker and Cooper make clear, “Reification is a social process, not only an intellectual practice. As such it is central to the politics of ‘ethnicity,’ ‘race,’ ‘nation,’ and other putative ‘identities.’ Analysts of this kind of politics should seek to account for this process of reification. We should seek to explain the processes and mechanisms through which what has been called the ‘political fiction’ of the ‘nation’ – or of the ‘ethnic group,’ ‘race,’ or other putative ‘identity’ – can crystallize at certain moments as a powerful compelling reality” (2000: 5).

The fourth sense in which we deploy the notion of constructedness is perhaps the most confusing, involving the link between social categories and a person’s most fundamental sense of self. One problem seems to lie in the conflation of social groups with “identity” and, further, with “identity politics.” Broadly speaking, identity politics is thus named to distinguish it from so-called interest politics. The former is said to revolve around claims for recognition and demands for acknowledgment of who a person fundamentally *is* (identity), whereas the latter is said to arise from the interests people have, generally conceived as economic interests.

This distinction draws a stark line between ethnicity, race, gender, and sexuality, on the one hand, and class on the other. Yet in other contexts we readily acknowledge the existence of class identities (peasant identity, worker identity), and the fact that categories that invoke socioeconomic status can both organize political membership and shape one's political affiliations (Calhoun, 1993; Thompson, 1963).

The claim that identity is constructed therefore raises the question of the relationship among social category, political identity, and identity in the sense of one's most fundamental sense of being and belonging. It problematizes the assumption that ethnicity taps the essence of human existence, whereas class is merely an expression of our interests. It raises the question of whether and where such affiliations as race and gender map on to identity and, as Appiah points out, of whether it makes sense that all of this talk of authentic identity revolves around such large categories as gender, race, and ethnicity that seem so far removed from the individual (Appiah, 1994: 149).

This discussion seems to suffer in part from slippage between the concepts of "identity" and what is sometimes called "identification." Erikson defined identity as an inner sameness and continuity that persists through change and crisis and is located in the deep psychic structure of the individual (1960). By this definition, identity is precisely that aspect of human consciousness that is permanent and unchanging, and it makes no sense to talk of identity as being fluid and malleable and socially constructed.

For sociologists, and more recently for political scientists, identity has a different meaning. As Gleason explains, identity is "an artifact of interaction between the individual and society – it is essentially a matter of being designated by a certain name, accepting that designation, internalizing the role requirements accompanying it, and behaving according to those prescriptions" (1983: 918). Berger notes that the sociological view of (what he calls) personality challenges the assumption of continuity in the self: "[T]he self is no longer a

solid, given entity, it is a process, continually created and re-created in each social situation that one enters, held together by the slender thread of memory" (1963: 100–6). This view of identity is closer to the definition of identification, which is the process by which "a person comes to realize what social groups are significant to him, what attitudes concerning them he should form, and what kind of behavior is appropriate" (1983: 916).

A constructivist theory of identity formation offers the following path through this taxonomic quagmire. There are doubtless components of human identity that sustain the sameness of the self in most circumstances, understood in terms derived from the Freudian model of the id, ego, and superego. These may correspond to character traits that people seem to be born with, or to early childhood socialization. The precise trade-off between nature and nurture seems not yet to have been decided. Nevertheless, although this dimension of human identity appears to be partly innate and partly constructed, it is not necessarily open to transformation through external social processes. It is this component of human identity – maybe we can call it personality – that can be understood therefore as "given" and prior to politics. It is also this dimension of human identity that can be set aside by constructivist theorists of identity formation.

A second dimension of human identity arises through participation in society. It is this dimension that is described as a process. The process is one of identification through the development of a sense of membership, boundaries, and fellow-feelings. To the extent one internalizes such attachments and sense of belonging, such socialization can also be said to act as a dimension of identity. Nevertheless, this dimension of identity works like a palimpsest on the human psyche because the link between identity and social category is contextually derived. If and when the context changes, either over time or across space, we can expect, and indeed social scientists have shown, that this second aspect of identity will also change. This accounts for the fact that human beings answer the question about who they are with reference to a variety of different groups; that they do not uniformly

invoke ethnic group membership when claiming their own identity, and that they move, often quite easily, among such social categories as gender, race, and even ethnicity. It is this dimension of human identity that is of interest to constructivists seeking to understand the link between social groups and politics.

The most important quality of this aspect of identity is not its fluidity, however, but instead its contextual character. That is, it cannot be said, categorically, to be fluid, or multiple, or hybrid, or any other similar thing. This dimension of identity is potentially open to transformation, but whether or not transformation in fact occurs depends on the context. Group attachments may change quite quickly, or gradually come to be superimposed one upon another, as seems to have happened with the shift from peasant to indigenous identity in Mexico. Membership may also have the appearance of permanence, as doubtless it does for many African Americans who have lived their whole lives under the shadow of race. It is important therefore that constructivists not insist on the fluidity or hybridity of identity. The fact that this second dimension of identity has the potential for fluidity does not mean that the potential is realized. Constructivists should be interested to explain when it changes and when it does not (Jung, 2000).

Similarly, constructivist theorists of identity and group formation study the conditions under which human beings come to claim race, class, culture, gender, or any other commensurate category as a source of attachment. Evidence shows that none of these categories is universally or permanently invoked as the primary locus of identity formation. Whether culture will be a, or the, fundamental mediator of human identity is deeply contextualized. The place of culture in human identity formation is not a fact of nature or an outgrowth of human biology or neurology. Instead it is a condition of the salience of culture in social and political life.

As a result, one's "deepest" sense of identity appears to be tied to one's most public sense of identity. What is most fundamentally felt depends on what most relevantly mediates one's life chances and

locates one socially and politically. As Akeel Bilgrami has argued, religious or cultural identities are not fundamental because they are the spontaneous expression of “the subject’s irreducible interest in the definition of itself” (1992: 831). They are fundamental because of the way [or to the extent] they have developed in particular historical and cultural contexts (831, 833; inserted parenthetical comment mine).

Working through the various findings and implications of constructivist theories of identity formation generates a theoretical alternative to the view that culture is the primary locus of human identity formation. The alternative perspective is not, categorically, that culture is not a source of human identity. Like the claim that culture is the primary location of human identity, such a counter-claim would be necessarily epistemological. As Bilgrami has also pointed out, such questions regarding the true nature of human identity are in a sense “deeply unknowable” and therefore necessarily normative – a statement of our beliefs and commitments rather than of observed reality. Instead, from a constructivist perspective, the logical opposite to the claim that culture is the fundamental mediator of human identity is “sometimes.” Culture does indeed seem to play this role in some places at some times; but it does not always or reliably do so.

The corollary implication is where the normative edge of constructivism lies. If we, as theorists, cannot assume the primary status of culture as the mediator of identity, we are forced to look behind identity, to discover the conditions under which the laws, policies, norms, and boundaries of states shape and crystallize the groups that will become salient sources of identity. The analytical injunction to examine the political uses to which the concepts of “identity” and “culture” have been put has a direct normative trajectory. If the scope of state obligation cannot be inferred from the alleged link between individual identity and cultural group membership, it can be drawn instead through an examination of the conditions under which such membership takes on social and political salience. The “process of reification” is where we should look to establish the obligations of



states – in the formation of social groups, and in the process through which some such groups take on public and political meaning.

#### ELEMENTS OF A THEORY OF POLITICAL IDENTITY FORMATION

If the concept of identity, in the sense of “a person’s understanding of their fundamental defining characteristics as a human being” (Taylor, 1994: 25) is inadequate to the task of establishing the obligations of states toward social groups, the same is not true of political identity. The process of exclusion and selective inclusion through which a social category develops salience as a source of political identity is the key to understanding the scope, and limits, of state obligation. States generate such categories as race, gender, class, and ethnicity to count and classify, draw boundaries and allocate resources. In so doing, they have a hand in forging the very groups they subsequently appear merely to adjudicate among and in shaping the form such politics may take. It is this role that establishes the extent of state obligation.

A theory of state obligation rests therefore on a theory of political identity formation. Such a theory can be derived through attention to two questions, both of which are most usefully framed comparatively. First, what explains why some of the markers that characterize human difference have come to anchor categories of human social and political organization, while others do not? And second, how and when does one such category develop political salience over another?

The answer to the first question points directly to the modern state. The projects of nation-building and state formation have been advanced through the formation of boundaries (Marx, 1998, 2003). Ruling elites have used such markers as wealth, occupation, sex, skin color, and cultural practice to establish the boundaries of citizenship, to marshal constituent support, to build a sense of national identity, to monitor access to resources, and to organize and sustain the hierarchies of privilege that prop up constituent power. Projects of state formation have institutionalized markers of difference through voting requirements, citizenship rules, language and immigration policies,

school curriculums, educational requirements, and employment practices, and they reinforce them through discourses of belonging and membership that value some such markers over others. As Brubaker and Cooper note, "The modern state has been one of the most important agents of identification and categorization. . . . [T]he state monopolizes, or seeks to monopolize, not only legitimate physical force but also legitimate symbolic force. This includes the power to name, to identify, to categorize, to state what is what and who is who" (2000: 15).

States transform practices, beliefs, and physical characteristics into identities with political potential by using such markers as land ownership, sex, alleged phenotype, and cultural practice to establish the bases of selective exclusion and inclusion. It is when class, gender, race, and ethnicity are used to discriminate among people and are transformed into structural categories that shape life chances that they may also be a source of political identity.

Following Foucault, political theorists have begun to attribute the production of identity to the formation of boundaries (Butler, 1992: 12, 13; Connolly, 2002, 2005; Laclau, 1994; Laclau and Mouffe, 1985; Mouffe, 1992: 379). Identity does not spring organically from cultural practice, theology, phenotypical traits, or biological sex. In themselves, the Spanish language and Mayan cultural practices confer no identity. It is only to the extent that language and culture distinguish some people from others, to the extent that they form a boundary, that they will begin to produce a sense of "us" and "them." The sense of "us" is constitutively dependent on the sense of "them." Group difference is not defined by substantive practices and attributes; it is relational (Minow, 1987, 1990). The subject is only produced through differentiation, which sometimes takes the form of exclusion or repression, likely as differentiation is to be bound up with struggles for power. But no matter what form it takes, the production of a subject is always already preceded and conditioned by a social relation (Butler, 1992: 12; Sartre, 1990).

Extended to the political realm, this theory of subjectivity owes an obvious debt to the Gramscian conception of hegemony, and in particular to the hegemonic production of the terms of its own contestation. As David Laitin has argued, a “pattern of political cleavages . . . is best explained by a focus on the actions of the hegemonic state. Even the political organizations that make demands on the state are partly a function of the state’s actions” (1985: 287, 308). Modern states have precarious boundaries, in need of justification and policing. Hegemony is the legitimization of power and coercion by values that provide the basis for consenting participation in dominant practices by all members of society. Because hegemony is unstable, it requires the ongoing articulation of hegemonic values and culture, through media and education, in order to maintain consent. But through its articulation, hegemony invites the counter-hegemonic articulation of opposed values – or of opposing interpretations of the same values (Laclau and Mouffe, 1985: 151).

The concept of hegemony is crucial to theorizing the formation of political identity because it links such identity directly to the hegemonic power – in modernity generally instantiated by the state – and sets limits on what will become an identity with political resonance. If political identities are constituted by prior political relations and the terms of those relations are set by the hegemonic power of the state, then it is the state itself that produces the terms of its own contestation (Laclau, 1994; Mamdani, 2002). Further, if contestation occurs along the lines of inclusion and exclusion made salient by the state, it predicts the emergence and proliferation of a particular – and not random or infinite – set of political identities in every era.

Whereas some conceptions of political subjectivity imply that literally anything could develop salience as an identity, the possibilities are in fact limited by the way power is organized. One of the implications is that liberal democrats can relax their concern that allowing ethnic identities free rein to contest politics is a slippery slope that will expand the range of possible challenges infinitely and

far beyond the capacity of the state to process. There are identifiable limits to the identities that will develop political traction.

In the same way that social identity is preceded by a social relation, political identity is always already preceded and conditioned by a political relation. Only those markers that are employed for the purposes of determining the boundaries of political inclusion, exclusion, and allocation have the potential to develop political resonance. As Iris Young has argued, however, the fact of oppression does not necessarily imply oppression by someone. Oppression also refers to the “systemic constraints on groups that are not necessarily the result of the intentions of a tyrant. Oppression in this sense is structural, rather than the result of a few people’s choices or policies. Its causes are embedded in unquestioned norms, habits, and symbols. . . .” (1990: 41).

As a result, though inclusion is often simply the obverse of exclusion (black constitutes white, women constitute men), inclusion may also forge groups that do not necessarily have a constitutive outside. The selective inclusion of peasants as privileged recipients of state patronage does not necessarily imply exclusion of anyone else, for example. Therefore, it is not only exclusion that has the potential to produce identity and potential agency, as Judith Butler and others have sometimes implied, but also systematic, or selective, inclusion (Butler, 1992; Scott, 1988). The experience of “being on the inside” is as likely to produce political identity, oriented toward protecting the existing order, as the experience of “being on the outside” is likely to try to upend that order.

As Adolph Reed warns, the fact that identities are socially and discursively constructed must not be read to imply however that they have no social reality or consequences (2002). More pointedly, in fact, it is only because they have such consequences that they can be considered “identities” at all. Even if there really is no essential female or indigenous identity that derives from attributes of birth, once markers of gender or ethnicity are used to allocate social and economic power and to bound political inclusion and exclusion, then they develop

a lived – social, economic, political – reality, with the potential to become political identities.

What defines a social group therefore is not, as Iris Young and others suggest, the existence of distinct cultural forms, practices, and ways of life, or the affinity that group members feel toward one another because they share a way of life (1990: 43). This definition does not adequately encompass the groups she herself names as social groups, a category that includes both the disabled and old people. Neither the disabled nor old people share cultural practices, and yet they are a social group because their members suffer from marginalization and cultural imperialism, two of the five forms of oppression she identifies (1990: chapter 2). Indeed, it is only if we use a structural definition of social group formation – one that identifies the origins of a social group in the structural conditions of oppression or privilege that constitute the life chances of its members – that we can understand the disabled or old (or even indigenous peoples) as social groups at all. While disabled and old people do not share cultural practices or ways of life, members of both groups experience marginalization from productive participation in society and cultural imperialism in the sense that their bodies are devalued by comparison with a norm of youth and ability (*ibid.*). The fact that the definition does not fit these groups shows its limitations in describing other groups.

A structural formulation helps to explain the creation of particular nodes of contestation, why certain forms of contestation are linked to particular political periods, and why the contemporary period has spawned the politics of culture. The institutionalization of difference is linked not only to modern states trying to forge national identities in general, but to liberal democratic states in particular.

Liberal democracies vest sovereign authority and moral legitimacy in “the people.” They rely therefore on an account of who “the people” is. Yet the fatal flaw at the heart of democratic citizenship is that the boundaries of liberal democracies cannot be constituted democratically – the people cannot vote on who is to count as “the

people" (Shapiro and Hacker Córdón, 1999: 1). As Rogers Smith has argued, "... vital as they are, doctrines of human rights and democracy are not able to define the boundaries of particular political communities. . . . Such definitions must be provided through means and conceptions of peoplehood beyond those that democratic theories generate" (2003: 158). Liberal democratic states that have vested sovereign authority in "the people" are in need of an account of who the people are, and they are unable to derive that account democratically.

This dilemma poses a problem that has been resolved in part by invoking and essentializing some particular set of markers of difference. Because they are deployed as the basis of the state, such markers are rendered prior to the state, naturalized as the grounds of the state rather than the product of the state. Their relatively new, constructed, and potentially fluid character is masked by a state that has an interest in resting sovereign authority in such markers.

Part of the project of developing an account of the people lies in establishing who the people are not – who is outside the boundaries of the people, taking up the role of constitutive Other. Michael Mann argues that "the citizen body is conceived of as sharing distinctive virtuous characteristics, ethnic and/or political, which may distinguish it from non-citizen inhabitants or neighbors who are not entitled to citizenship. 'We the people' may generate the sense of the alien other" (1999: 21). As he goes on to say, in an account of the founding of the United States, "Who exactly was 'we, the people'? The Founding Fathers did not mean to include women, slaves, and Native Americans. Most did not want to include white males without property – in other words, the lower classes. British politicians of the period were more explicit, distinguishing between 'the people' and 'the populace.' The populace comprised the lower orders, the crowd, the mob – definitely not a part of 'we, the people'" (Mann, 1999: 23).

Mann goes on to argue that "class as a central conflict issue in liberal regimes was soon joined by age and gender. Should only household heads have full rights, and at what age could other males in the household be said to be of independent mind? Then gender

loomed, entwined with age and class, so that women of a certain age or class might be considered politically responsible before other women" (23–24).

What Mann is primarily concerned with, however, is the advent of what he calls "organic democracy" and the relationship between organic democracy and genocide. He says, "If the people or nation is conceived of as organic, as 'a perfect union, one and inseparable' (as in the American creed) then some leaders and movements may be tempted to seek to enhance the 'purity' of the organic people or nation by suppressing the real-world diversity of its seeming members" (1999: 22). Organic conceptions of the people emerged in colonial societies whose "settlers wished to legitimate rule by the 'people,' while seeking to limit the people to Europeans. . . ." As a result, ". . . they were likely to develop the theory of the people as 'race'" (27). Barbara Fields argues that official racial domination emerged with the modern nation-state (1990).

The presumption of a link between states and ethnicity in particular was made explicit by John Stuart Mill, who argued that "the boundaries of governments should coincide in the main with those of nationalities" or "fellow-feelings" (1958: 230, 237). Within Europe, organic conceptions of the nation-state were tied to ethnicity and emerged, according to Mann, in the late nineteenth century. Mann argues that the European state system was built around a belief in: "i) a national essence, distinguishable from other national essences; ii) their right to a state which would ultimately express this essence; and iii) their right to exclude 'others,' with different essences, who would weaken the nation" (30). Such organic conceptions of national identity "led toward the exclusion of minority communities and political opponents from full membership in the nation" (29–30). As Habermas and many other scholars have argued, modern republican citizenship originated in the French Revolution in alliance with modern nationalisms that relied on notions of shared and inherited ethno-cultural identity to provide social-psychological reinforcement for the sacrifices demanded by citizenship (1996: 494–95; 1998: 112–13).

What Mann shows is how liberal democratic states have used class, gender, race, and ethnicity to exclude certain categories of people from full membership in the polity. These four categories are disputably those that have been most often enshrined in the institutions, laws, and policies that reinforce the identity of the nation by designating who is a full member, who is a partial member, and who lacks membership altogether. Sexuality is another marker that is sometimes, though less universally, used to police the polity, as gay men and women have been excluded from full rights in marriage and inheritance, and many states have failed to fully secure the civil rights of gay citizens.

Class, gender, and race, however, no longer count as justifiable grounds for exclusion from the polity. Democratic transitions no longer proceed along the model of extending the franchise (to women and the property-less) and, with the fall of Jim Crow and apartheid, race has finally been abandoned as a legitimate basis of political exclusion. Democratic states have universal franchises that include the poor, women, and members of other so-called racial categories, or they are not democracies.

Culture nevertheless continues to be invoked, in normative discourse as well as in politics, as a legitimate marker of national identity and a reasonable ground for exclusion. Charles Taylor argues, for example, that democracy works best when "the people" is a cohesive group that has the capacity to deliberate together to achieve consensus. "To some extent the members must know one another, listen to one another, and understand one another" (1998: 144). "Democratic states need something like a common identity" (143). Democracy therefore includes a justification for excluding those who appear irreconcilably different. "The exclusion is a byproduct of the need, in self-governing societies, of a high degree of cohesion" (ibid.). This Rousseauian conception of citizenship is echoed by David Miller, who argues that egalitarian republican citizenship cannot flourish without the senses of trust, solidarity, and reciprocity that depend on a shared national identity. He admits that the



national identities he has in mind have strong ethnic elements (1995, 1999).

Politically, it is also often considered best, and institutionally legitimate, to separate cultural groups, to avoid ethnic competition over a single state or a common pool of resources (Lijphart, 1985). Federalism and consociational models of government, such as that which was designed for Bosnia through the Dayton Accord, are two "solutions" that are often put forth to resolve the "problem" of cultural heterogeneity. Both rely to some degree on establishing political boundaries that are said to follow cultural differences. Ethnicity is still actively employed in delimiting the contours of politics.

So it is no wonder that culture has such a high degree of contemporary political salience or that cultural differences are so often invoked to confer political standing. We live in a world in which Harvard professor Samuel Huntington feels free to ask, in a prominent article published by the influential journal *Foreign Policy*, "Will the United States remain a country with a single national language and a core Anglo-Protestant culture?" And he responds, "By ignoring this question, Americans acquiesce to their eventual transformation into two peoples with two cultures (Anglo and Hispanic) and two languages (English and Spanish)." Indeed, according to the professor, such a split "between a predominantly Spanish-speaking United States and an English-speaking United States" is no trivial matter, but instead "a major potential threat to the country's cultural and political integrity" (2004).

Against this backdrop, cultural difference developed particularly contemporary political traction in the context of the third wave of democratization. It is in this climate that many of those who had been constituted as peasants turned their attention to the promise of indigenous rights in the 1990s. New debates about democracy and legitimacy raised questions about representation, participation, and citizenship rights. These often took the form of demands for inclusion and self-government from ethnic minorities who were excluded from culturally homogeneous formulations of national identity. The

discourse of democracy itself has been partially responsible for raising issues of membership, the legitimacy of territorial boundaries, local-level participation, and self-determination, which have cleared a space for ethnic politics.

The third wave of democratization has also had a distinctly neo-liberal edge, with important implications for the realignment of political cleavages in new democracies. Neo-liberal democratization has undercut the purchase of the redistributive politics of class, prompting political activists to renegotiate the terms of struggle by developing an intellectual framework that anchors culture as a recognizable political identity. As states have withdrawn their commitment to provide the social and economic benefits of citizenship, they weakened the political leverage of demands for land, subsidies, social benefits, and a living wage. Neo-liberal governments explicitly disavow their obligation to provide such goods, severely limiting the space in which class politics can occur.

States, of course, are not unitary actors, and different bureaucracies, levels of government, and politicians may offer conflicting grounds of political leverage. Activists navigate, exploit, and get caught between these contradictions. One effect of the decentralization policies that have accompanied democratic transitions in many developing countries has been a rise in local-level and indigenous participation. As constitutional and policy commitments to social and economic welfare have diminished, some branches of government have begun to renegotiate the terms of national belonging by extending cultural rights to their marginalized populations.

So far, I have proposed an account of social group formation that highlights the role of structures, in particular state institutions, laws, and policies, in shaping human conceptions of which markers “count” – socially and politically. The modern state does not come to a society already divided by the distinct commitments, affiliations, beliefs, and physical attributes of its citizens. The state itself is complicit in producing such divisions (Comaroff, 1987; Jung, 2000, 2003; Mamdani, 1996, 2002; Marx, 1998, 2003; Nobles, 2000; Vail,

1989; Young, 1976). The political salience of race, ethnicity, and gender is not a trans-historical psychological phenomenon, arising spontaneously as a result of the universal and timeless human need for primary-group recognition; it is a contemporary political phenomenon.

Nevertheless, although the selective inclusions and exclusions of the modern state provide insight into why some markers are politicized even as others remain politically latent, the link between political institutions and the organization of power cannot explain timing. Why did race fail to mobilize a coherent oppositional identity until the 1960s and 1970s in the United States and South Africa, even though skin color had been determining life chances in both those societies for centuries? And why did indigenous identity only emerge as a political subject position with trans-national reach in the last decade of the twentieth century? Despite the centuries-old history of the people we now recognize as indigenous, and despite the briefer, though still far too lengthy, history of their exclusion from the public sphere of rights-bearing citizens, political identities framed in indigenous terms are largely new to the period after 1990 (Brysk, 1994; Jung 2003; Van Cott, 1994; Yashar, 2005). We need something more than exclusions alone to explain the contemporary moral leverage of demands for cultural recognition.<sup>9</sup>

Constructivism breaks with post-structuralist conceptions of social life and with Foucauldian notions of the scope and mechanisms of power, in according an important role to human agency in the construction of identities and social categories. The transformation from a group-in-itself to a group-for-itself does not happen through state categorization alone. Political activists, and their potential constituents, have significant agency in determining how they frame their demands,

<sup>9</sup> Of course, there is an entire social movement literature dedicated to answering this question, focusing primarily on resources and opportunities and networks and organization (McAdam, 1982; Morris, 1984; Tarrow, 1989; Tilly, 1978, 1996). I don't discount the importance of these conditions of mobilization, but I am asking a slightly different question about how a particular identity develops a moral claim.

which markers they will mobilize, what stories they will tell to try to bind an identity, and which political accounts they will throw their weight behind (Smith, 2003: 36). Human beings have a hand in shaping the groups in which they claim membership.

What is more, forging political identity is hard work, precisely because the realm of the political is contested. Building political identity involves embedding a category within a political framework, building an ideological program, and mobilizing a membership base (Calhoun, 1991; Cohen, 1985; Morris and Mueller, 1992; Tilly, 1996). Advancing new political identities is a matter of fierce political contestation, often involving transgressions that challenge the boundaries of what is already considered political. The attempt to invest a social category with new political weight can fail, and it can be thwarted. Political identity depends on recognition, and such recognition is not often easily granted.

It is no coincidence, therefore, that we can understand the contemporary salience of indigenous political identity in the same terms that Joan Scott used to describe the making of the English working class in her critique of E. P. Thompson's famous book. Scott argues that although Thompson set out to historicize the concept of class, to show that it did not arise spontaneously as Marx predicted from material conditions, instead he essentialized it by linking it directly to structural conditions that prefigured politics (Scott, 1999: 30; Thompson, 1963). Scott argues instead that it was the political rhetoric of Chartism that produced workers, by describing "a particular position, the identity of 'working men,' whether antagonistic to, or in cooperation with, masters, the middle classes, shopkeepers or aristocrats" (Scott, 1999: 61). The English working class was constituted and reproduced not by structural conditions that placed millions of people in close proximity in urban slums and on the factory floor, but by Chartist political activists, "as a way of organizing collective identity through an appeal to shared economic, political, and social experience" (ibid.).

Similarly, indigenous people are partly constituted as a potential group because they occupy a common location of structural exclusion from the modern state, not because they possess a common language or culture – which they do not. It is this structural location that makes indigenous a group-in-itself.<sup>10</sup> But such a structural location did not produce an indigenous rights movement, a group-for-itself, until the concept of indigenous rights developed sufficient traction to orient, and to open the political space for, indigenous politics. Markers develop political resonance when activists, like the Zapatistas or the Chartists, exploit an ideological opening to produce, mobilize, and circulate a discourse that orients a group of people to a recognizable set of political claims and alliances.

Part of the need to insist that political identity is an achievement stems from the concern that it is possible to be without a political identity at all. The absence of political identity does not imply an absence of political consciousness. It suggests instead a lack of political purchase, the loss of a particular source of leverage. Many of the world's worst off experienced precisely such a loss as the spread of a neo-liberal economic order enabled states to ignore demands for material redistribution, undercutting the discursive power of class identities. For some of those who used to be workers or peasants, ethnic identities have emerged as alternative locations of political claim-making – but not without a struggle.

This view of the politics of claim-making, of the intensely political character of the attempt to become a member of a group that can make claims, differs significantly from the liberal account of the status of claims. Rawls argues, for example, that the right to make claims inheres in citizenship in a liberal society. The freedom of liberalism means that citizens “regard themselves as self-originating

<sup>10</sup> This is both a normative and an empirical point. In places like Africa and India that are not still ruled by a colonial over-class (as arguably Latin America still is), the term “indigenous” has little purchase because all people are native to that land (New York: United Nations Permanent Forum on Indigenous Issues, 2003).

sources of valid claims" (1985: 242). It is only slaves who "are not counted as sources of claims," and this is because they are not free (243).

Instead, I argue that many people cannot make claims in a liberal society, and that their inability to do so does not rest in the fact that they are not free, technically speaking, but rather in the fact that they are denied, or for other reasons cannot locate, a political identity. What liberals imagine as pre-political, and automatic, is in fact deeply political. What counts as a language of claim-making is contested precisely because new languages constitute new political actors in ways that may threaten old ones and challenge the boundaries and terms of the public sphere.

Those who would issue a critique against dominant patterns of power need first to develop a space and language of contestation. They must transform the terms of exclusion into the basis of opposition. Manuel Castells has proposed "that, in general terms, who constructs collective identity, and for what, largely determines the symbolic content of this identity, and its meaning for those identifying with it or placing themselves outside of it" (1997: 7). He goes on to distinguish among legitimizing identity, produced by the state to rationalize domination; resistance identity, generated by devalued people to resist the principles of domination; and project identity, "when social actors, on the basis of whichever cultural materials are available to them, build a new identity that redefines their position in society and, by so doing, seek the transformation of overall social structure" (8).

This is a useful heuristic distinction that breaks down, and exposes, the political project of identity formation and the relationship of identity to power. But the distinction among Castell's three categories of identity is likely to blur in practice. Social actors do not really cast about for "whichever cultural materials are available to them" to build resistance and project identities. Instead, they employ, and transform, the *legitimizing* identity itself. The potential political resonance of *resistance* and *project* identities derives from their

prior implication with the terms of inclusion and exclusion (Marx, 1998; McAdam, McCarthy, and Zald, 1996). Only certain cultural materials or ascriptive markers will accomplish any political work at all. The South African anti-apartheid movement, for example, built a Black identity to anchor political opposition, not coincidentally, but because race was the condition of apartheid exclusion (Jung, 2000; Marx, 1992). The civil rights and Black Power movements in the United States employed the same logic, and the indigenous rights movement in Mexico has also appropriated the terms used by the state itself to legitimate exclusion on the basis of racial, economic, and cultural differences. The parameters of opposition are both less random and more closely intertwined with the terms of domination than Castells suggests.<sup>11</sup>

Another way in which oppositions are tied to master frames of in/justice is through the language of rights. Rights are enshrined in constitutions and in international law, as a way of protecting individuals, and increasingly groups, from the arbitrary exercise of power. By conferring rights on particular categories of people, like refugees or workers or indigenous peoples, the state and the international community implicitly acknowledge that some extraordinary protection is owing to people marked in a particular way because the social relation that has constituted them has been one of oppression or marginalization.

People struggling to carve out new political identities and to challenge the boundaries of what can be contested have often, and increasingly over the course of the twentieth century, used the language of rights to establish the legitimacy of their political presence. By conferring entitlement, rights offer a promise, and it is the normally

<sup>11</sup> See Sartre, "Anti-Semite and Jew," and Fanon (1963). Paraphrasing, Butler, Laclau, and Žižek explain that "each determinate historical figure of universality involves a set of inclusions/exclusions – universality simultaneously opens up and sustains the space for questioning these inclusions/exclusions, for re-negotiating the limits of inclusion/exclusion as part of the ongoing ideologico-political struggle for hegemony" (2000: 101).

large gap between the promise and its fulfillment that provides a political wedge anchored in moral leverage. Rights are an important condition of contemporary political identity, and in particular an important condition of indigenous identity.<sup>12</sup>

James Anaya has traced the evolution of the concept and framework of indigenous and other minority cultural rights in international law to an extension of the universal commitment to human rights that was developed between World War I and World War II, and most particularly after World War II (2000). The concept of cultural rights has intellectual origins in the Wilsonian ideal of the right to national self-determination, but it has been used as much to contest existing configurations of power as to shore them up.<sup>13</sup> Although the right to self-determination initially upheld the integrity of existing states, it was soon employed to contest the legitimacy of colonialism. If France had the right to national self-determination, why not Algeria? Culture emerged as a site of political struggle in lockstep with nineteenth- and twentieth-century projects of state formation and nation-building that foregrounded culture as a boundary of citizenship.

The right to national self-determination is additionally invoked by national minorities seeking territorial homelands, such as Kurds, Québécois, and Basques. The political currency of culture owes something to the idea that the world is populated by groups of people who share a common ethnic heritage – nations – that form the natural boundaries of government – states. To the extent that nations and states fail to coincide, national minorities can sometimes invoke a right to national self-determination to press claims for autonomy.

<sup>12</sup> Laclau and Mouffe say that nodal points of antagonism are created at the point when relations of subordination become relations of oppression, and further “that there is no relation of oppression without the presence of a discursive exterior from which the discourse of subordination can be interrupted.” It follows that “it is only from the moment when the democratic discourse becomes available to articulate the different forms of resistance to subordination that the conditions will exist to make possible the struggle against different types of inequality” (154). Both of us are arguing, I think, that subaltern politics depends on the creative exploitation of some promise (implicit or explicit) made by the state to some set of rights.

<sup>13</sup> I explore this debate over the role of rights in politics in chapter six.



Cultures also make claims of a different type: for inclusion rather than secession. The legitimacy of these claims derives from the notion of political rights in citizenship, and they have therefore grown particularly salient in the context of the widespread turn to democracy. Such rights are also invoked by groups organized around race, gender, and class in their struggle for access to representation and power.

In the context of the interplay between these two frameworks, indigenous activists take up a distinctive political space, deploying culture to demand both autonomy and inclusion in different degrees. The expansion of the international human rights regime to include rights specifically targeting “indigenous peoples” has come at the cost of diminishing rights to social and economic protection. It is an achievement of indigenous rights activists and the condition of their continued capacity to develop a political agenda and following, but it also signals the limit of their political leverage. “Indigenous” has emerged as an identity with political resonance in the space that has opened up between the international promise of indigenous rights and the failure, for the most part, to fulfill such promises at the national level.

The role of rights in the constitution of identity is to open a space for politics. Indigenous rights activists readily admit that they depend on the existence of international conventions like ILO 169 to establish the condition of their political presence.<sup>14</sup> Such activists craft identities and challenge the terms of their political incorporation in an opening carved by rights. Rights provide no guarantee, but by anchoring political identities they offer a framework for participation and voice.

Having established that the laws, institutions, and policies of the state play a primary role in forging such social categories as race, ethnicity, gender, and class, and that activists work hard to invest

<sup>14</sup> Interviews with Mexican indigenous rights activists, including Margarita Gutiérrez, Margarito Ruiz, and Araceli Burguete.

such categories with political weight, we can now turn our attention to the question of why. Why do political activists expend so much energy in transforming race and ethnicity into meaningful political categories? If neither peasant nor indigenous can be presumed to arise spontaneously as an expression of an individual's deepest sense of human belonging, if they are not necessarily the irreducible source of the self, why are they nevertheless valuable to democratic politics?

Politically mobilized collective group memberships are valuable because they confer political agency, the capacity to intervene in politics, to shape the terms of the debate and to reconfigure the conditions of incorporation. Activists mobilize such categories because, in the words of Luis Hernández Cruz, they are seeking the terms of struggle. Even as identities are self-consciously built and shaped by political activists, so do they behave as a condition of political participation (Calhoun, 1994; Gould, 1995; Marx, 1998; Melucci, 1995).

The issue of the proper location of agency in the formation of political identity formed the basis of an illuminating debate between Seyla Benhabib and Judith Butler in the early 1990s. Benhabib expressed concern that a strong version of post-structuralist theories of identity, which she attributed to Butler, eviscerates the subject as an agent of her own destiny and political action. If we are wholly constituted by the discourses and structures we operate within, she worried, what chance have we of transforming those discourses and structures (1992: 214–15)? Only a self that exists prior to such structures will develop a capacity for critique.<sup>15</sup>

But from a post-structuralist perspective, and also from a constructivist perspective, the presumption of agency, and of a subject

<sup>15</sup> Nancy Fraser (1991) has attempted to reconcile these two positions, on the premise that both critical and postmodern theories have something to offer feminist and other emancipatory projects. Fraser makes the case, against Benhabib, that it is not at all impossible to conceive of identity as something that is discursively constituted and yet capable of self-reflection and what Butler calls re-signification. And she makes the case, against Butler, that a more powerful theory of critique, and of the production of subjectivity, should be brought into postmodern theories of political action.

prior to politics, naturalizes, and places beyond politics, the very political process through which a person becomes an agent of a particular type – a woman instead of a worker or a worker instead of a Latino (Butler, 1992).<sup>16</sup> People do not automatically, by fact of birth, have critical capacities. Part of the way they develop such capacities is by constructing identities with social and political meaning and by inhabiting such locations. The formation of political identity itself arises as a self-conscious act of political contestation.

Therefore, it is not, as Benhabib suggests, that only the self that exists prior to her socially constructed political identity will have the capacity for critique. It is instead once she inhabits the discourses and structures that identify her as an individual of a particular type that she will develop the capacity for critique. The choice to identify as a member of a particular category in turn produces the particular narratives of oppression, emancipation, courage, and solidarity that define the point of critical entry to which women, or African Americans, or indigenous people will have access.

There are therefore two reasons it may be wise to set aside the deepest conundrums raised by the Butler-Benhabib debate. By drawing a distinction between normative and empirical propositions regarding agency, we are able to take off the table the question of whether people have any agency at all. It is empirically demonstrable that individuals play a role in forging and inhabiting the identities that in turn seem to determine who they are. I show in chapters [three](#) and [five](#) especially that peasant and indigenous rights activists have been at the center of forging peasant and indigenous political identities.

Nevertheless, strong claims about whether human beings are agents of their own actions are always value-laden in the sense that there is simply no way of testing or proving agency at that metaphysical level.<sup>17</sup> Perhaps we are mere pawns of an overdetermining logic or

<sup>16</sup> Judith Butler, "Contingent Foundations," in Butler (1992).

<sup>17</sup> The question of human agency is raised in interesting ways throughout the history of liberal thought, including in Rousseau (*The Social Contract*, 1762), Kant (*The Critique of Pure Reason*, 1781), and Berlin (*Two Concepts of Liberty*, 1958).

structure. No amount of empirical evidence could prove that people are making truly free choices when they fight to transform indigenous identity into a meaningful political category, or when they argue the case for indigenous rights.

Establishing that agents play a role in forging the political identities that behave as a condition of agency requires a formal distinction between political agency and other forms of agency and identity. This distinction allows us to accept that people are partly constrained by structural conditions not of their own making when they inhabit an “indigenous” or a “peasant” subject position, while nevertheless recognizing that they play an active role in forging, and locating themselves within, a particular subject identity. Once inhabited, the identity itself provides critical leverage that would not otherwise exist. Some political identities may be more valuable than others, but all political identities should be presumed to provide an advantage over none at all.

From the perspective of critical liberalism, political identities therefore have both signaling and transformative value. First, because they develop social significance as a result of the exclusions and inclusions of the modern state, they alert us to the injustices that have constituted this category of people. Second, indigenous and other political identities confer political agency – the capacity of individuals to act effectively on their own behalf – on people who have often been constituted through exclusion from public space. Indigenous identity not only informs us of a set of injustices that may have been invisible to us but, by conferring political agency, offers the grounds on which indigenous peoples themselves can challenge, and potentially transform, the conditions of their own incorporation and future.

## CONCLUSION

In Mexico, a peasant is either a subsistence farmer who farms as a member of an *ejido* cooperative, a farm laborer or, very often, both. Most peasants are poor. When this line of sight situates the rural poor, they appear as a class. Many peasants, and in southern Mexico most

peasants, are also descendants of Mexico's aboriginal population. They may have dark skin and straight black hair, and they may be short in stature. On the basis of putative phenotypical distinctiveness from the Mexican majority, this population has also been fitted into a racial category. Some may not speak Spanish as their first language, and they may live in communities that blend traditional practices of governance with national political institutions in different ways. A few will have a distinct style of dress, and many have some beliefs and practices that are not shared by other Mexicans. When state policy is framed through this prism, ethnicity emerges as the dominant paradigm for conceptualizing indigenous difference.

Mexico's native population is constituted by a web of cleavages that has both serially and simultaneously defined it in terms of race, class, and ethnicity. Each frame has had a hand in shaping the terms of their incorporation into the Mexican state, their political status and access, their economic well-being, their capacity to navigate the Mexican legal system and other mainstream political institutions, and their social presence. Each prism has its own logic of integration and exclusion.

Class, race, and ethnicity are therefore not different "identities" so much as they are different structural scaffolds that afford, as a result, distinct political locations and strategies (see Cohen, 1985). They are frameworks into which people are inserted as objects of policy and frameworks in which they insert themselves in order to gain political voice and leverage. They offer languages in which people project their claims. Invoking a class identity orients one's claims toward material goods, focusing on demands for redistribution, agricultural subsidies, employment, and so on. Situating oneself in cultural terms anchors demands for land, the recognition of cultural languages and practices, and territorial autonomy.

A shift from "race" to "class" or from "class" to "ethnicity" entails no fundamental break with one's deepest conception of who one *is*. Luis Hernández Cruz is clear that his initial reluctance to embrace an indigenous identity was political and strategic. He did

not think it would work, and it did not fit easily into the Marxist political paradigm that structured his conception of oppression and the struggle against it. His concern was never an existential one over the loss of his fundamental sense of self. Nor, conversely, did he believe that indigenous politics would embrace his true self. Instead, what he hoped was that indigenous identity would reconstitute the terms of struggle.

## 2 Internal colonialism in Mexican state formation

Because ethnicity and other social categories are not only constructed, but in fact constructed through interaction with government institutions, laws, and norms, the state and the public sphere are never neutral observers in the production of groups. The institutional context in which political identities develop crucially determines the form that they take, and what is at stake in the political claims they make. Once it becomes evident that subjects are formed through exclusionary operations, it becomes politically necessary to trace the operations of that construction and erasure (Scott, 1999).

The fact that the state itself is implicated with the ways identities are constructed implies a very different set of obligations, on the state and on the cultural group, than the assumption that the state is simply faced with, but plays no role in forging, the competing commitments of its citizens. If states, including liberal democratic states, make race and ethnicity and class, and have a hand in who ends up in each of these categories, and in the extent to which such categories determine life chances, then states themselves can be subject to critique and reform.

The following four chapters trace the evolution of indigenous identity in Mexico from the colonial encounter to the rise of the indigenous rights movement in the 1990s. Mexico's native population first acquired indigenous status as an excluded racial group, subject to distinct juridical status and discriminatory social practices, in the colonial period. Such exclusions persisted after independence as a series of mostly liberal governments abolished racial and caste distinctions, building a Mexican national identity that denied the existence of the indigenous population. The Mexican Revolution ushered in an era of nation-building that enshrined the indigenous as the historical

and cultural emblem of Mexican nationalism and incorporated the country's remaining indigenous population into the Mexican polity as peasants. During the 1970s, a "critical" turn in Mexican indigenous policy re-focused attention on indigenous culture, re-conceiving both the "problems" and the "solutions" governing relations between the Mexican government and its native population.

Mexico's aboriginal population has been variously "raced," "classed," and "ethnicized," constituted by a matrix of exclusions and selective inclusions that has shaped, and changed, its political location and traction over time. Although the indigenous were constituted as a separate race by the legal and juridical structure of the colonial government, they were incorporated as a class by the post-colonial and Revolutionary governments (for different reasons). Starting in the 1970s, however, Mexican government bureaucracies and development programs began to frame the indigenous as a cultural category, once again shifting its political ground. Whether it is understood as a racial category, a class category, or an ethnic category has had dramatic effect on the capacity of the aboriginal population to establish a political presence, and on the particular form such a presence would take. While the most recent shift from "class" to "ethnicity" has been instrumental in propelling the indigenous onto the international political stage, this transition was presaged by the nineteenth-century move from race to class, each of which offered its own political opportunities, spaces, and constraints.

The history of Mexican indigenous policy is often divided into three phases: the colonial era, the period from Mexican independence to the Revolution, and the post-Revolutionary era (Aguirre Beltrán, 1973: 21–28). Under colonial rule, the Spanish government explicitly denied legal and other specific rights to the indigenous population based on perceived differences of culture and race. In the post-colonial period, the independence government embraced a liberal conception of citizenship that formally included indigenous people as Mexican citizens while nevertheless reinforcing discrimination against unasimilated indigenous populations and perpetuating the reality of a



bifurcated nation. The post-Revolutionary Mexican government initiated a new era of nation-building that was deeply rooted in the ideals of the revolutionary struggle, reducing the indigenous to mainly cultural and historical relevance, and channeling rural political organization into peasant politics.

Pablo González Casanova has nevertheless characterized the entire history of Mexico's relationship with its indigenous population as one of "internal colonialism" (1970: 79–103). Internal colonialism is best described as a complex web of policies designed simultaneously to include and to exclude. The formal equality bestowed by liberalism on Mexico's native population has done nothing, he argues, to mitigate the *de facto* exclusion of indigenous people from participation in the political, civil, and economic life of the nation. González presents evidence of low rates of voter turnout in indigenous areas, along with high rates of infant mortality, poverty, malnutrition, and illiteracy, to support the allegation of internal colonialism, and focuses particular attention on Mexico's history of indigenous exploitation as a legacy of colonial practice. Indigenous people have been subjected to indentured service, lower wages for the same jobs, employment and trade-union discrimination, and unfair terms of trade. Two elements of Mexican history are crucial to González's characterization of this relationship as one of internal colonialism: the practice of institutionalized discrimination on the basis of cultural difference; and the exploitation of one group of people (and their lands and resources) for the benefit of another.

The explicit link between indigenous peoples and colonial histories – indigenous identity resonates most convincingly in the Americas, Australia, and New Zealand, where European colonial powers left non-native settlers who continue to dominate the autochthonous population – makes "internal colonialism" a particularly useful framework for analyzing the structural conditions that have produced indigenous politics. It highlights many of the ways in which states themselves have shaped indigenous identity by using it as a marker of collective exclusion. It also points to the complicity of liberalism in justifying

such exclusions on grounds of cultural difference. The charge of internal colonialism nevertheless fails to take into account the ways in which indigenous identity has also been forged by the selective inclusions of the post-colonial state, as governments try to co-opt the political claims of native populations, and have often embraced indigenous culture and history as symbols of national identity.

This chapter traces the history of Mexico's indigenous policy from the colonial era, focusing particular attention on the ideological, institutional, and economic forces that channeled the rural poor into peasant, not Indian, politics for most of the twentieth century. Analytically, the chapter establishes the role of the Mexican state in shaping the parameters of rural political organization and identity. It tries to demonstrate that neither peasant nor indigenous identities are pre-political or automatically primary. Each is implicated in the history of Mexican state formation, and has operated as a category of official exclusion and/or inclusion. Each has developed salience as a political identity at a particular political moment, in interaction with governmental policies, laws, and institutions.

#### THE INDIGENOUS PEASANT IN MEXICAN HISTORY

The Spanish colonial administration of New Spain included a heterogeneous body of law called the *Derecho Indiano*, which gave separate legal standing to indigenous people. Under *Derecho Indiano*, the term *pueblo* had a particular juridical character, referring only to those settlements that were populated by Indians, and distinct from a *villa*, a *ciudad*, or a *real*, which were inhabited by Spanish citizens of the Crown (Kouri, 2002: 78; Zavala and Miranda, 1954). *Pueblos* received special protection from the monarchy. They held their lands in common, and *pueblo* lands were inalienable – secured by claiming ancient consuetudinary land rights or presenting pre-conquest documents, as well as through royal grants and purchase (Kouri, 2002: 79). The monarchy also created a special tribunal that heard appeals by Indians against lower colonial officials. Because the courts recognized indigenous laws and customs as precedents, Indians often won such cases (MacLachlan and Rodriguez, 1980: 103). Indians were entitled

to a *fuero* – immunity from some taxes – although they were also obligated to pay a tribute.<sup>1</sup>

Underlying these policies was the notion of a separate *República de Indios*. Throughout the colonial period, the Spanish tried to secure the acquiescence of their native subjects by conceding some degree of autonomy to the Indian population, and allowing them to form native governments. *Pueblo* governments consisted of officers elected by the native population who were supervised by district-level Spanish officials and non-Indian parish priests. The *Repúblicas* managed most of the internal affairs of the community, collecting tribute taxes, administering justice, policing the rural population, and regulating vast economic resources of land and labor (González-Hermosillo, 2001; Israel, 1975). In exchange for this limited autonomy, the colonial government used the *Repúblicas* as an instrument to exact tribute and labor from the colonized population. Spanish supervisors held officers responsible for the prompt collection of taxes and the loyalty of inhabitants (Ducey, 2001: 527–28).

As a corollary to granting indigenous “autonomy,” the colonial government also denied Indians rights in citizenship, including political rights such as the right to vote. The legal distinction between Spanish and Indians was predicated on the belief that Indians comprised a class of people who were akin to minors. As immature, uncivilized, or inferior beings, they required special protection or tutelage from the Crown, and should be denied equal legal status with their Spanish overlords. As Emilio Kourí explains, “In the eyes of the Spanish *letrados* who crafted these colonial institutions, the specific legal character given to the Indian pueblos merely reflected – and was hence especially appropriate for – the particular civilizational characteristics of their inhabitants” (2002: 80).

In 1812, the Constitution of Cádiz replaced the indigenous semi-autonomous republics with ethnically blind municipal governments – *ayuntamientos* (Ducey, 2001: 528). Whereas the colonial order had strictly limited such political rights as voting and holding office to

<sup>1</sup> For an excellent overview of Chiapas in the colonial period, see Wasserstrom, 1983.

non-Indians, the new order extended citizenship to all residents. Independence granted equal rights to all, regardless of caste or race, formally erasing the legal distinctions that had separated the indigenous from the non-indigenous population. According to the popular account of Mexican history, the wars of independence were motivated by four fundamentally liberal impulses: national sovereignty, the principle of self-determination, equality under the law, and economic and social justice (Labastida, 1987). Liberal ideals dominated Mexican political thought throughout the nineteenth century, and legislators were insistent that the term *indio* in fact be abolished. We must insist, said José María Luis Mora, one of the most prominent liberal thinkers of the pre-Reform era, that by law “Indians no longer exist” (Hale, 1968: 218).

Charles Hale argues that Mexican liberals in fact sought to erase the Indian altogether. The ostensible inclusion of the liberal order masked the exclusion of the indigenous from Mexican social and political life. He cites the lack of literature on the Indian population as evidence of a generalized indifference toward Mexico’s indigenous heritage, and a doctrinaire effort to remove the designation “Indian” from social and political thinking (Hale, 1968: 217). Hale notes that Jesús Reyes Heróles devoted three volumes to *El Liberalismo mexicano* from 1808 to 1867 without ever directly addressing the relationship between liberalism and the Indian (216). Liberals such as Lorenzo de Zavala blamed the impoverished and “degraded” condition of the Indian *pueblos* on the legacy of the colonial era, and on the *Derecho Indiano* that had kept them from learning Spanish and prevented them from entering the “rational world” (221).

In general, Mexican Liberals seem to have converged on a fairly fluid conception of “race,” maintaining for the most part that the indigenous condition could be overcome with education and, in the long run, through *mestizaje*. As Justo Sierra would insist, “The social problem of the Indian race is a problem of nutrition and education, . . . let them eat more beef and less chile, let them learn the useful

and practical lessons of science, and the Indians will transform themselves: that is all there is to it" (Kourí, 2002: 87). He and other important liberal thinkers supported a policy of mandatory education, insisting that Indians were educable and that society, and evolution, could be transformed through human effort (Stabb, 1959: 415). Francisco Pimentel, another well-known Liberal and the only nineteenth-century thinker to dedicate a full-length monograph to "the contemporary situation of the Indian race," placed full blame for Indian degradation on institutional and environmental forces (411). The Liberal attitude toward Mexico's indigenous population was that it would soon disappear; it would be incorporated into the Mexican national identity through assimilation and miscegenation.

Scholars differ over the degree to which Independence actually transformed indigenous life. Here it is useful to distinguish between the effect of liberalism on local level government and its effect on Mexico's property regime. The effect of Independence on local level government seems to have been mixed and to have differed by state. Karen Caplan argues, for example, that while indigenous communities remained fairly autonomous in Oaxaca, they came under *mestizo* domination and were largely transformed in Yucatán (Caplan, 2003). Ducey maintains that even in Oaxaca, however, "the new *ayuntamientos* in the larger municipalities with significant numbers of non-Indian residents tended to come under the domination of *mestizos* and creoles while smaller towns with more homogeneously indigenous populations tended to elect Indians to municipal posts" (Ducey, 2001: 529). In these smaller villages, however, "the initial objective of integrating the old colonial identities into a single political organism did not become reality... Non-Indian governments found that the *Repúblicas* continued to be a necessary intermediary between the state and the indigenous population" (531).

Ducey nevertheless admits that "(t)he decade of the 1820s witnessed an opening of the political system during which local communities explored new systems of constitutional rights, ethnic

equality, and town councils" (537). After the wars of Independence, local politicians quickly emerged to inform indigenous people of their rights. According to the former colonial district official José Gómez Escalante, the new constitutional order threatened the agricultural economy. "Constitutional mayors have imbued the Indians with the idea that since they are now citizens they are free to decide whether or not they wish to go to the fields where they are needed even if they are paid" (quoted in Ducey, 2001: 533). Ducey presents evidence that villagers immediately began to use their constitutional rights to refuse "Indian" burdens such as clerical taxes and traditional labor demands. They often referred directly to the concept of rights, and accused local officials of failing the Constitution (534).

The effect of Liberal ideals on Mexico's property regime was more uniform. Emilio Kourí argues that Mexican Liberals viewed clerical property as the main obstacle to the development of Mexican agriculture, freedom, and progress, and focused their attention on the privatization of church lands. "For two whole generations of liberals, the legal disentailment of church estates became a common and urgent objective, the key to ensuring the young republic's freedom and progress" (Kourí, 2002: 83). Indian lands, which were like church lands in the sense that they were also entailed and held corporately, came to be regarded as structurally similar to the *terrenos concejiles*. As such, though indigenous lands were not the primary target of Liberal reformers, their disentailment also formed part of the new Mexican Liberal credo. "It was thus, by association with other forms of 'corporate privilege' that the pueblo-villages became embroiled in a larger ideological struggle over disentailment that would culminate in the wars of the Reforma" (ibid.). Under the administration of Porfirio Díaz, privatization reached far into village life, leaving 95 percent of the rural population landless at the end of the *Porfiriato* (Randall, 1996: 36). As Michael Ducey explains, "Historians have often suggested that when independence eliminated paternalistic colonial institutions such as the República and the Indian Tribunal,

peasant communities lost an important source of protection. When *pueblos de indios* ceased to pay tribute, the government lost its incentive to protect them and land hungry *hacendados* expanded their holdings at villagers' expense" (Ducey, 2001: 529).

The Mexican Revolution is generally understood as a backlash against the 40-year dictatorship of Porfirio Díaz, and in particular against the concentration of land in the hands of wealthy *hacendados* and foreigners (Tannenbaum, 1929). Though land privatization was an important part of the Liberal agenda from the time of independence, it wasn't until after the Reform period in the 1850s that the link between individual private property, citizenship, and social progress was institutionalized in the Ley Lerdo and the 1857 Constitution. The consolidation of state power under Porfirio enabled the aggressive implementation of liberal ideas about land ownership through legislation and policies designed to break up corporate village and church holdings (Katz, 1988; Kouri, 2002: 74–75).

The fundamental demands of the Mexican Revolution were the sub-division of large estates and the return of communal lands to the rural poor. Both Pancho Villa and Emiliano Zapata championed the land rights of *campesinos* and built popular support for the revolution by promising land to those who worked it (Katz, 1988; Womack, 1999). Zapata's *Plan de Ayala* called for the return of one-third of all of Mexico's hacienda lands to the *campesinos*, under the slogan "*Tierra y Libertad*" – land and liberty (Weinberg, 1994: 8). The Agrarian Law of 1915 annulled all judicial acts that dispossessed Indian communities and peasants of their lands, laying the foundation for subsequent agricultural legislation and for the approval of Article 27 of the Constitution, which committed the government to *ejido* land redistribution. Whereas the old Article 27 (1857) had denied all corporate bodies the right to own property, the new law stated that property could take a variety of forms in accordance with the public interest. Communal landholding became legal once again, and the *pueblos* regained their juridical standing (Kourí, 2002: 108).

Article 27 of the Constitution of 1917 enshrined the primary role of the state in the expropriation and distribution of lands, recognizing the nation as the original owner of lands and water located within the national territory. Under the terms of Article 27, “the centres of population that are wanting of common lands . . . shall be provided with lands, woodlands, and waters sufficient to constitute them according to the needs of their population; in no case shall the extension which they need fail to be granted to them. . . .” (Excerpt Article 27 of the Mexican Constitution). As the original owner, the state reserved the right to impose on private property the limits dictated by public interest, and established its responsibility to restore and provide lands to rural communities (Ibarra, 1996: 51).

In many ways, the text of Article 27, and the *ejido* system of communal land distribution that emerged from the Revolution, reverted to colonial indigenous policies. Andrés Molina Enríquez, the author of Article 27, insisted that the colonial *pueblo* system was the only solution to the indigenous situation. “Communal property,” he asserted, “has sustained the life of the Indians in an admirable way. Communal property has had two indisputable advantages: It preserved forever the land that the Indian cultivates, and it motivated every Indian in a community to defend the common land, which was the only effective means of defense that the Indians could deploy against the Spanish” (Molina-Enriquez, 1906: 30, quoted in Kourí, 2002: 102). Emilio Kourí argues that, at a time when the Liberal belief in the role of private property as an engine of development dominated the public discourse, Molina Enríquez emerged strongly in favor of communal property. His conviction that the Constitution should recognize “different kinds of private territorial rights” to accommodate “the various groups of the national populations which in fact represent differences in the stages of evolution” was enshrined in the Revolutionary Constitution (Kourí, 2002: 109; Molina-Enriquez, 1922: 8–9).

Article 27 would in fact become the cornerstone of the social contract between the Mexican state and the peasant, anchoring rural support for the PRI for most of the twentieth century. The dominant



form of land tenure to emerge from the Revolution was the *ejido*. *Ejido* land was allocated by the state, could neither be bought nor sold, and was communally owned and farmed. *Ejido* land could be passed down to heirs, but if any individual or family was unable to farm his portion, or left his land, the land would pass along to another *ejido* member. The basic features of *ejido* land reform were government tutelage, the inalienability of land grants, and bureaucratic adherence to the idea that rural communities constituted internally cohesive and harmonious social bodies (Kourí, 2002: 109). The revolutionary social and political origins of *ejido* land redistribution removed it from the logic of the marketplace and located *ejido* land tenure and access firmly in the realm of politics and state patronage (Ibarra, 1996: 52).

The central role of the state in controlling access to rural land would structure the parameters of rural politics throughout the twentieth century. The Mexican peasantry was incorporated into the populist discourse of the post-Revolutionary state as a privileged political actor. Much of the historical credibility of the PRI has been drawn from its Revolutionary credentials and its origins in a Mexican nationalism whose heroic figure was the peasant. The role of land, and of the peasant, in rural politics must therefore be understood through the prism of the commitments and protagonists established in the Revolution. Peasant struggles for land have played a central role in the history of engagement between the Mexican state and its native population.

#### THE STRUGGLE FOR LAND IN THE FORMATION OF IDENTITY

The actual commitment of the government to redistribute land nevertheless varied by region and shifted with presidential administration. The legacy of the Revolution, and the history of land redistribution, is far from uniform. In Zapata's home state of Morelos, most private ranches were seized by the Zapatistas during the Revolution. Once the agrarian reform was institutionalized, the new government forced peasants to petition the state for title to lands they had already recovered, in order to establish their debt to the party.

The post-Revolutionary governments of Venustiano Carranza, Alvaro Obregón, and Plutarco Elías Calles had close ties to the land-owning classes and failed to implement land redistribution for fear of alienating productive landowners. At the start of the Revolution in 1911, 95 percent of peasants (15 million families) were landless, and by the early 1930s roughly 70 percent remained landless – working for the most part, especially in the south of Mexico, as indentured peons (*peones acasillados*) on large coffee and maize plantations (Randall, 1996: 36).

The Mexican government did not seriously begin to implement the promises of the Revolution until 1934, when interim president Abelardo Rodríguez (1932–34) managed to establish a number of the laws and bureaucratic structures that would support land redistribution. In 1934, Rodríguez passed a reform to Article 27 that suspended the temporary status of the *ejido* and established an institutional commitment to communal land ownership through the Agrarian Department, an autonomous governmental organization that answered directly to the executive office and was charged with the redistribution of land. The Agrarian Code freed indentured workers from the hacienda and fixed the terms of *ejido* property at four irrigated, or eight non-irrigated, hectares of land per male head of household. The codes of 1934 additionally devolved to the president extraordinary powers of direct intervention in the internal organization of the *ejido* (Warman, 1976: 184).

Lázaro Cárdenas, who came to power in December 1934 on a populist platform that mobilized the organized support of the urban worker and the rural peasant, built on his success in implementing a broad program of land redistribution as governor of Michoacán. The peasantry was constituted as a political force to lend support to an administration that was trying to break the political and economic hold of the oligarchy, in the interest of modernization and industrialization. Land redistribution was crucial to the social incorporation of the rural poor into the Mexican nation and to its political

organization as a class. During Cárdenas's term, 18 million hectares of land were redistributed among 812,000 *ejidatarios*. Close to one-half of the territory of the country, and more than one-third of irrigated land, was converted to *ejido* property (Warman, 1976: 185).

As "peasants," the indigenous were explicitly incorporated into the Mexican political project. The roots of PRI penetration into the countryside, and the extent of its ability to garner rural support, extend back to this era, in which Cárdenas succeeded in constituting the peasantry as a base of political party support (Rus, 1994). The president stipulated that land be claimed communally, by 20 or more peasants living within seven kilometers of the land they wanted, and that land claims must be activated by the state government – a provision that further solidified the dependence of peasants on government patronage.

The National Confederation of Peasants (CNC) was formed in 1938 to unify the peasantry into a single national hierarchical structure through which the government organized, and delivered benefits to, Mexico's subsistence farmers. State control over land has traditionally afforded the ruling party greater influence in rural areas than it can boast in urban politics, where the means of production and access to livelihood are less closely dependent on access to party patronage.

The Revolution sought in part to restore to the rural community a degree of autonomy, reinstating communal property and allowing elections, governance, taxing, and spending to take place at the local level. The post-Revolutionary government nevertheless resisted devolving power to traditional leaders and communities (Aguirre Beltrán, 1991: 223) and was careful to allocate land in the form of (peasant) *ejidos* rather than (indigenous) *comunidades*. *Ejidos* were lands that were redistributed by the state to peasants, whereas *comunidades* were communal lands that were restored to the indigenous communities that had held title to them in the colonial period. Only in Oaxaca was a significant proportion of communal land designated *comunidad*. In Chiapas, only 11.7 percent of land was in the form of

*comunidades* in 2005, whereas 48.33 percent of the land was classified as *ejido*.<sup>2</sup> The agrarian revolution reconstituted the legitimacy of communal property, but stopped short of restoring the administrative and political autonomy of the colonial-era República de Indios. Instead, the potential institutional functions of the community were dispersed among a variety of bureaucratic structures, with distinct constituent bases and direct links to the ruling PRI (Warman, 1976: 315).

The Mexican Revolution is best understood as a series of regional insurrections and upheavals that took different forms in different parts of the country. In Chiapas, much of the fighting took place between rival factions in Tuxtla Gutiérrez and San Cristóbal de las Casas. When an invading army from the north tried to bring Chiapas under the control of the constitutionalists in 1914, the leader promulgated the *Ley de Liberación de los Mozos* (the Servant Liberation Law), canceling the debts of indentured servants, limiting the length of the working day, and obliging landowners to pay workers (Villafuerte Solís, 1999: 18). The so-called *familia chiapaneca* – the wealthy landowners who controlled political and economic power in Chiapas – organized their workers against the invading army and fought off the threat to their economic base. In Chiapas, as in many other parts of southern Mexico, most peasants did not rebel against landowners; and at the end of the Revolution, the economic and political order of Chiapas remained intact (Benjamin, 1989: 96).

The impact of land reform did not reach Chiapas until the Cárdenas era in the 1930s. The Cárdenista reform program was initially thwarted by a conservative governor tied to landowning elites, a member of the *familia chiapaneca*. As President Cárdenas was building labor and agrarian organizations as a base of political support in the rest of Mexico, Governor Grajales was suppressing and undercutting such organizations, which he considered a threat to economic and political stability in Chiapas. It was not until mid-1936 that Cárdenas

<sup>2</sup> <http://www.sra.gob.mx>, accessed February 22, 2006.

was able to oust Grajales and to install a sympathetic candidate who would extend land redistribution to the state.

During the course of the late 1930s and 1940s, the government of Chiapas completed the political organization of peasants and workers (who were compelled to form associations as a condition of demanding and gaining land) by pushing agrarian reform to the central highlands of Chiapas and to the coffee-producing Soconusco region on the southwestern border with Guatemala (Benjamin, 1989: 195). Benjamin argues that mobilized peasants split into "official" and "dissident" wings during the 1930s. By linking themselves to the populist presidential campaign of Lázaro Cárdenas, the dissidents were integrated into the new national and state regime, and peasants became dependent on the government for land, credit, work, and security (148)

Between 1936 and 1944, 53 new ejidos were formed in the Central Highlands of Chiapas alone, granting more than 500,000 hectares of land to over 60,000 families (Wasserstrom, 1983: 165–66). Between 1950 and 1970, the number of *ejidatarios* doubled, from 71,000 in 1950 to more than 148,000 by 1970 (Benjamin, 1989: 228). Starting in the 1950s, many of the new *ejidos* were established in the fragile ecosystem of the barely inhabited Lacandón rain forest. During the 1950s and 1960s, roughly 150,000 Mayan peasants moved to the Lacandón from the highlands and from the Ocosingo valley of Chiapas (Benjamin: 228). Despite this dramatic expansion of the *ejido* sector, most ejido lands were over-populated by the 1960s. Although *ejidos* comprised almost one-half of agricultural land in Chiapas, they earned only one-third as much as private land and possessed land valued at one-third as much as the private sector. High population density led to soil degradation and deforestation, and most *ejidatarios* were forced to supplement their income by working on the coffee plantations (*ibid.*).

By incorporating the rural poor into the revolutionary project as a class, and not as indigenous people, the PRI forged a Mexican peasantry that was both the prime beneficiary and the heroic figure of

Mexico's twentieth-century nation-building project (Warman, 1976: 315). While millions of rural poor continued to speak indigenous languages, to respect traditional elders, and to adhere to their own cultural practices, they represented themselves publicly and politically as *campesinos*, and they were incorporated as peasants into the Mexican state. Starting with the Revolution, and in part because of the focus on land redistribution as the centerpiece of rural politics, the limited rights and access of the rural poor to state-allocated resources and patronage were conditional on their identity as peasants.

#### THE EVOLUTION OF INDIGENOUS POLICY

The attempts of the ruling PRI to channel rural politics into peasant organization were part of a larger agenda of "mexicanization," supported by a policy of *indigenismo*. Gonzalo Aguirre Beltrán, an early architect of *indigenismo*, described the policy as follows:

The most substantial (mechanism of integration) was the restitution of lands usurped from the communities, followed by the attempt to modernize agriculture through the provision of credit. This was followed by an educational campaign, through the rural school and the cultural missions, that attempted to instill, throughout all sectors of the population, new, and uniform, forms of common life. Upon seeing the scarce effects of these measures in the most traditional areas, the Revolution created an organization specifically charged with improvement through the deployment of technical interns, procurement facilities, and communities of promotion. Through these tentative and partial forays, a program of action began to take shape that has matured into the development of an integrating politics put in place by the creation of the National Indigenous Institute (INI) in 1948. (Aguirre Beltrán, 1954: 178).

The ideology of *indigenismo* was first articulated at the Inter-American Indigenist Congress in Pátzcuaro, Mexico, in 1940 and became a model of state indigenous policy throughout Latin America

until the 1980s (Velasco, 2001: 49). *Indigenismo* included three components. First, it was primarily a policy of state guardianship. Official *indigenista* policy framed the “indigenous problem” as one of development and aid. As a result, Indians themselves were located as objects of modernization, health, and education programs, rather than as political subjects (Flores, Paré, and Sarmiento, 1988: 525). *Indigenismo* thus plainly represented a continuation of the policy of channeling potential indigenous political expression into peasant mobilization and organization. The indigenous policy formulated by the Mexican government conflated “indigenous” with poor, rural, and marginalized. Indigenous did not mark any particular cultural or political content.

In its role as a development agency, the National Indigenous Institute (INI) created Coordinating Centers in regions of dense indigenous population. The first one was opened in Chiapas in 1950, and by 1970 there were eleven nationwide, serving around 1 million people, or nearly one-tenth of the indigenous population. The INI acted primarily as a coordinating agency, however, and was inadequately funded from the start, with little independent political power. For its development operations, the INI was dependent on other federal agencies such as the Ministry of Public Education, the Ministry of Health and Assistance, the Ministry of Agrarian Reform, and a variety of other agricultural agencies and extension programs. The developmental strand of *indigenismo* led INI to a primary focus on vaccination and sanitation, the promotion of technical reform in agriculture, and the expansion of roads and communications. In 1966, the Institute received less than 14 pesos for every indigenous person who passed through its Coordinating Centers (de la Peña, 2000: 557–60).

The second prong of *indigenismo* was “mexicanization” through assimilation and integration. The goal of INI’s development policies was not merely the improvement of rural indices of well-being, but the incorporation of the indigenous population into the Mexican nation. *Indigenismo* sought to “fix” the indigenous problem by transforming the indigenous into *mestizos*. In the modern

Mexican context, *mestizo* identity could be achieved by learning Spanish and abandoning indigenous traditional culture. Indigeneity was not fixed by race or bloodline and could be transcended through education and miscegenation. In this sense, the integrationist dimension of twentieth-century *indigenismo* can be traced to nineteenth-century Liberal thought and to the Liberal commitment to equality through assimilation.

Unlike the Liberals, however, *indigenistas* viewed the state as the primary engine of development and modernization. The main tenets of *indigenismo* included agrarian reform, agricultural extension, and the development of infrastructure aimed at modernizing the economy and improving socioeconomic well-being for the ultimate purpose of integrating the indigenous population into the national culture. The strategy of assimilation was intended to convert Indians to Mexicans, thereby ending their exclusion from the benefits of modernization and citizenship. Assimilation had both nation-building and developmental components.

Mexicanization was primarily accomplished through education. The purpose of indigenous education was the formation of a national culture modeled on *mestizo* identity. By formalizing teaching methods, standardizing knowledge, and deploying specialized personnel, INI sought explicitly to interrupt the informal transmission of culture from parents to children. The so-called Rudimentary Schools, which operated in indigenous areas between 1910 and 1921, taught only Spanish and the four basic operations of mathematics. When the Department of Education and Indigenous Culture was created in 1923, the curriculum of indigenous schools was expanded to include agriculture, hygiene, and medicine. The school took the form of a cultural mission, with a pragmatic spirit that placed more emphasis on technical training than on standard primary education. Spanish continued to be the main subject. The school building formed part of a larger compound that included a vegetable garden tended by the students and their families under teacher supervision, and ablution blocks in which sanitation and hygiene were taught. The "rural schools" were



the primary arm of government intervention and acculturation in rural communities (Acunzo, 1991; Aguirre Beltrán, 1991).

The third component of *indigenismo* was the exaltation of the indigenous past and of the role of the Indian in Mexican history. In the aftermath of the Revolution, the nation-building project included developing a naturalized account of the political community that highlighted the indigenous roots of national identity. Mexican nationalists reached back to the artistic and architectural achievements of the pre-colonial past in order to legitimate the modern Mexican state. As Luis Villoro explains, during the 1920s and 1930s the *indigenistas* advanced the belief that it was the indigenous that gave Mexico its distinctly American character (Villoro, 1984: 196). The Aztec and Mayan pyramids were appropriated as symbols of the Mexican national heritage (Barabas, 1990: 37–38), and Mexican muralists like Diego Rivera and José Clemente Orozco incorporated indigenous figures and themes into their artwork.

Judith Hellman argues that the celebration of indigenous history in post-Revolutionary intellectual life would provide the ideological foundation for future debates over Mexican identity (Hellman, 1994). Manuel Gamio, another early architect of *indigenismo*, boasted that Mexicans were ignorant of European art. The Mexican, he insisted, could not understand European art, because he could not “feel” it. For him, “the indigenous” acted as a reminder of Mexican specificity, distinguishing Mexico from Spain as an independent nation. The figure of Cuauhtémoc, the nephew of Moctezuma, who led the uprising against the Spanish *conquistadores*, was recovered as a national hero. In 1934, President Lázaro Cárdenas indeed named his son Cuauhtémoc.

The integrationist policies driven by *indigenismo* weakened the already limited autonomous political space that rural communities had been able to sustain through the colonial and independence periods. Following the Mexican Revolution, officials set out to fold rural communities into national political and party structures by modifying the organization of local government. Every municipality in Mexico was required to elect civil officials to a council that would represent

the community and report to state and national governments (Rosenbaum, 1993: 148).

Indigenous leaders were traditionally chosen on the basis of a history of community service in the form of *cargos*. *Cargos* means literally “responsibilities” or “charges.” A *cargo* might involve organizing and footing the cost of an annual festival, for example, or maintaining a public space such as a church. *Cargos* served to redistribute wealth and reinforced ties between leaders and constituents, as only communal elders with a long history of successful *cargo* service were chosen as leaders (Cancian, 1965).

The introduction of the councils circumvented traditional routes to power, as well as traditional power holders. Jan Rus argues that, by the end of the 1940s, the integrity of the internal hierarchical structures of most indigenous villages in Chiapas was compromised by dependence on the ruling PRI through the CNC and the Syndicate of Indigenous Workers (STI) (Rus, 1994). Starting in the 1930s, the government began to require that indigenous communities be represented by individuals who were literate and proficient in Spanish. Access to government bureaucracies, developmental assistance, agricultural support and subsidies, government-funded schools, and medical clinics all depended on community representation through a leader who was officially recognized by the government. The *cargo* system was not abolished, but the location of communal power shifted substantially from communal elders to government liaisons. As a result of the requirements of bilingualism and literacy, these positions were filled mainly by young rural teachers and scribes. This new generation of community leaders had little of the communal legitimacy built up by years of *cargo* service, and few incentives to achieve such legitimacy once the basis of leadership shifted from status within the community to links outside the community (Collier, 1994; Rus, 1994).<sup>3</sup>

<sup>3</sup> Even after losing the 2000 election, the PRI continued to control the vote in most rural Chiapas villages through its ties to communal leaders and the persistence of party patronage (Viqueira and Sonnleitner, 2000).

Because of their ability to deliver the rural vote, on one hand, and their privileged access to party patronage on the other, these indigenous leaders wielded tremendous power in rural Mexican politics, as interlocutors between party support and the distribution of social welfare. Until the 1970s, indigenous *caciques* were largely able to prevent independent political organization, or the penetration of opposition parties into the countryside. In a 1970 internal evaluation, INI admitted that its own policies had exacerbated social and economic stratification in indigenous communities and generated a new class of indigenous impresario who wielded enormous power, both within the community and in relations between the community and external bureaucracies and PRI party structures (de la Peña, 2000: 559).

The PRI used the discourse of “cultural respect” to justify its refusal to recognize opposition within the community, or to protect the interests of individual members of the community against community leaders. The party’s ostensible respect for indigenous tradition protected many *caciques* from criticism or removal by solidifying the link between “tradition” and PRI party membership. Critics of *indigenismo* would later argue that the paternalistic twist implied by some forms of “cultural respect” impeded the democratic development of indigenous life (de la Peña, 2000: 560).

The so-called government policy of cultural respect was accompanied by a sharp increase in development assistance starting in the 1970s. Beginning in 1971, the government of Chiapas, in coordination with the United Nations and the federal government, implemented a development program called Program of Socioeconomic Development of Chiapas (PRODESCH), financed by the UN at a base rate of \$6 million per year. After decades of neglect, Chiapas enjoyed a tenfold increase in public spending during the Echeverría administration (Hellman, nd: 3). The stated objectives of PRODESCH were to develop education, including bilingual education, improve public health and agriculture, extend communication and electricity, and “encourage inter-communal organizations in the pursuit of integrated development for strategic zones” (Álvarez, 1988: 287). The growth of

PRODESCH partly undercut the strength of INI as funds and responsibilities that had been administered by INI, to target indigenous people, were transferred to PRODESCH and directed toward the peasantry. PRODESCH extended agricultural credits and price supports for small private and *ejidal* producers, provided subsidies for popular consumption items, extended irrigation, and increased the provision of public services. PRODESCH also funded the construction of 2,000 kilometers of roads in Chiapas, intended to reduce the economic isolation of peripheral areas (Marion-Singer, 1988: 14).

Through the creation of a development program that encouraged the re-organization of agricultural workers, Echeverría's reforms laid the groundwork for a new legal and institutional relationship between peasants and the state. PRODESCH funding required the creation of agricultural, artisan, and consumer cooperatives and promoted inter-communal organization and networking that occasionally developed the capacity for autonomous mobilization (Benjamin, 1989: 229; Marion-Singer, 1988: 14).

The most important change, however, was in the Federal Agrarian Reform Law of 1971, which provided increased government support through subsidized inputs and preferential rates of credit to *ejidos* that joined together in larger productive units called *Uniones de Ejidos*. With the intention of promoting greater efficiency through larger-scale production, the government created incentives for *ejido* members to develop broader networks and connections, which in turn gave them some economic leverage and independence from government patronage.

Although PRODESCH was self-consciously designed to reconstitute the peasantry as an organized base of support for the Echeverría government, some government programs unwittingly opened the space for the organization of opposition groups. As Luis Hernández Cruz explained, "The government itself opened the space, but then we took it, we opened it up more."<sup>4</sup> The agrarian reform program for

<sup>4</sup> Interview with Luis Hernández, June 2002.

instance included new courses in agrarian law, marketing, and agricultural techniques. In Chiapas, the organization of new *Uniones de Ejidos* and PRODESch-funded classes were most often directed by activists who had participated in the student movement and used their new semi-official platform as a base of opposition mobilization and organization (Harvey, 1998: 76–77). As a result, this period was characterized by the growth of both official and opposition peasant groups that made a variety of claims on the state. The simultaneous resurgence of independent and state-sanctioned unions led to the polarization of political space at the local level as the two groups vied with each other for land, power, and resources (Marion-Singer, 1988: 53; Pérez Castro, 1982; 1995: 310).

One early and sustained example of highly mobilized opposition came in response to the government's decision in 1971 to turn 600,000 hectares of land in the Lacandón rain forest over to 66 Lacandón families, displacing roughly 2,000 Chol and Tzeltal families of recent migrants.<sup>5</sup> Although this enormous land redistribution project was an important victory for the Lacandóns, it also represented a reversal of the government policy that had sponsored the migration of thousands of landless peasants, from the Chiapas highlands and even from outside the state, into the Lacandón since the 1950s (Paz Salinas, 1997). Some of those who were displaced had legal land titles (Le Bot, 1997: 55), and the decree put a further strain on land outside the Lacandón area. It also sparked the formation of the *Unión de Ejidos Quiptic ta Lecubsel*, an important anchor of peasant opposition in Chiapas throughout the 1970s and 1980s.

During the López Portillo administration (1976–82), the government shifted away from agrarian reform centered on land distribution

<sup>5</sup> I have found no information that explains why the government enacted this policy. In this period, however, the Lacandón Indians were considered Mayans (whereas other indigenous were considered *campesinos*) and enjoyed tremendous international and anthropological attention as a newly discovered tribe that maintained ancient hunting and gathering traditions in their native Lacandón Jungle. Probably as a result of this privileged status established early on, the Lacandóns have not united with other inhabitants of Chiapas who are now also considered indigenous.

toward a policy of modernization designed to increase agricultural productivity. A large proportion of the Mexican peasantry, in particular in Chiapas, was drawn into wage labor during Mexico's oil boom, and Mexico's future was charted in lockstep with urbanization and industrialization. Government officials reasoned that wage labor would decrease peasant demands for land as the peasantry made the transition to the proletariat.

"Modernization" involved, in part, building another layer of consolidation above the *Uniones de Ejidos* introduced by the Echeverría government, to further maximize the benefits of large-scale production. Two or more *Uniones Ejidos* were encouraged to join in a Rural Collective Interest Association (ARIC). Harvey argues that these autonomous producer organizations were able to stretch the old corporatist models by gaining control of their own organizations, formulating autonomous demands, and protesting government policies (Harvey, 1998: 127). As the government promoted peasant organization at increasingly broad levels, it created the space for the development of wider networks of peasant activism in the late 1970s and early 1980s.

In 1982, the government of Miguel de la Madrid backed General Absalón Castellanos Domínguez, a military commander and a Chiapas landowner, as its candidate for governor in Chiapas. At a time when civil war in Guatemala and elsewhere in Central America was perceived as a security threat by conservatives in both the United States and Mexico, the Mexican government began to focus on the militarization of its southern border (Benjamin, 1989: 238; Harvey, 1998). De la Madrid sent additional troops to the border state, upgraded and modernized military equipment, and began to place new emphasis on professional training. By 1987, approximately 4,000 troops were stationed in Chiapas (Benjamin, 1989: 237). De la Madrid's "development" program for Chiapas focused primarily on the construction of immigration posts and roads to facilitate troop movements along the border. The border was additionally secured through the promotion of further colonization in the Lacandón rain forest (Harvey, 1998: 152).

During the brutal governorship of Castellanos, the military extended its mission beyond protection against invasion from Central America. Chiapas's (recent) record of gross violations of human rights stems from this period in which the military began to intervene in land disputes on the side of landholders, harassing, intimidating, arresting, and killing independent organizers for such crimes as "activism" and "agitation" (Marion-Singer, 1988). Castellanos would in fact later be kidnapped, tried, convicted, sentenced, and released by the Zapatistas for human rights abuses committed during his tenure as governor. The police also acted with impunity, arresting opposition organizers on false charges and imprisoning people indefinitely on no charges at all. Many of the links that were forged between peasant activists in different parts of Chiapas were made while they were incarcerated in the mid-1980s.<sup>6</sup> The crackdown against independent organizations during the 1980s had the dual effect of radicalizing some opposition leaders while co-opting or neutralizing others, polarizing peasant politics.

In 1984, the government briefly implemented another redistribution scheme designed to resolve land disputes in Chiapas. Through the Agrarian Rehabilitation Program (PRA), the government purchased land that had already been occupied by peasants. Because the program targeted areas in which land conflicts already existed, it initially favored members of independent unions who had already invaded land over members of the more conservative official peasant union, the CNC. The program therefore created incentives for CNC peasants to invade land already occupied by independently organized peasants, leading to violence between independent and official unions. The PRA nevertheless overwhelmingly favored CNC unions in the allocation of land and was suspended after only one year due to rampant corruption (Benjamin, 1989: 240).

The Castellanos government also issued 7,646 certificates of non-affectability, designating enormous tracts of land beyond reach

<sup>6</sup> Interview with Luis Hernández Cruz, June 2002. Also in Harvey, 1998.

of possible future land redistribution. By comparison, not more than 100 were issued in any administration since the 1960s, and never had more than 500 certificates been issued (Harvey, 1988: 153). It is largely because cattle ranchers possess such certificates that some observers have been able to argue that there is simply no land to give to the thousands of would-be claimants in Chiapas (Hellman, nd).

Carlos Salinas de Gortari entered office in 1988 under a penumbra of illegitimacy resulting from continuing economic recession, accusations of electoral fraud, and the government's failure to cope with the 1982 debt crisis and the 1985 Mexico City earthquake. Some analysts have noted that the inability of the Mexican government to respond adequately to the earthquake forced it to engage in a more open and cooperative bargaining relationship with a highly mobilized and demanding civil society (Cornelius et al., 1994). The *concertación social* signaled the emergence of a more pluralistic style of decision, making than the traditional corporatist pact, weakening the PRI hold on power. Like 1968, 1985 marks an important moment in Mexico's democratic opening (ibid.).

Salinas attempted to use the model of *concertación* to shore up support for the faltering PRI through the Solidarity development program. The program was designed to target poor peasants, indigenous people (as a category separate from peasants), and the urban poor, focusing on the provision of drinking water, sewage, electricity, health clinics, roads, schools, and housing. Assessments differ as to whether Solidarity simply funneled money through the traditional PRI hierarchy (Diaz Polanco, 1997; Russell, 1995) or in fact bypassed traditional government agencies to deliver services and infrastructure directly to needy recipients (Fox, 1994: 182–84). Jonathan Fox argues that Solidarity funding targeted areas where PRD support was high in order to siphon off electoral support for the PRI (185). Others argue conversely that Solidarity merely reproduced traditional patterns of delivery to PRI stalwarts. The effectiveness and effects of Solidarity are hotly debated as analysts attempt to understand the relationship between



the massive influx of development funds in the early 1990s and the uprising that followed it in 1994.

One effect of the Solidarity program was the creation of both space and incentives for the organization of Solidarity committees that were responsible for decisions over the allocation of funds at the local level. Communities were required to form committees in order to receive funds (Fox, 1994: 187). By mid-1993, over 120,000 committees had been formed, and while many of them were short-lived, convened only to allocate funding, roughly 40 percent developed traction in the community and were able to use the organizational base of the committees to demand project accountability and mobilize other campaigns (*ibid.*). In many communities, Solidarity committees formed the nucleus of a reinvigorated civil society in the 1990s (Rubin, 1997).

The Solidarity program also funneled a significant proportion of its development funds through INI during the 1980s, thereby creating incentives for groups seeking funding to self-identify as “indigenous.” The INI budget increased eighteen-fold in the first three years of the Salinas administration, dramatically increasing its presence and independent power in the countryside (Fox, 1994: 189). INI focused on Regional Solidarity Funds and on a coffee program that provided credits for small-scale coffee growers affected by the collapse of the Mexican coffee price and of the Mexican Institute of Coffee (INMECAFE) in 1989.

Following the intervention of the critical anthropologists in the late 1970s, and the turn to cultural respect in Mexican indigenous policy, the INI’s mission also expanded to include bilingual education and the promotion of cultural festivals and pageants.<sup>7</sup> Like the Solidarity committees, the Regional Solidarity Funds were designed

<sup>7</sup> In her ground-breaking book *Being Indian in Hueyapan* (1975), Judith Friedlander notes the role of the Mexican government in the production of local indigenous culture even before the critical turn of Mexican anthropology.

to transform state–society relations by “increas[ing] the role of civil society in decision-making and in the definition of policy” (INI internal document, 1991, in Fox, 1994: 193). Through the regional funds however, development money was turned over to pre-existing (indigenous) organizations for their own use, with no requirement that they change their structure as they had been forced to with the newly minted Solidarity committees. INI explicitly used the Solidarity funds to “strengthen indigenous organization, increase their capacity for autonomy, and their capacity for representation and project management” (INI internal document, 1990, in Fox, 1994: 192).

The relationship between INI and the Chiapas state government grew particularly tense in this period as INI used Solidarity funds to wield power and channel money independent of state control. In collaboration with the state government, landowning elites have long controlled access to resources and influence in Chiapas. Landowners have blocked land reform, stopped or controlled federal funding for development projects, and employed *guardias blancas* – paramilitary vigilantes – against independent peasant organizations. Landowners have monopolized local power structures and, with state support, used public resources for their own benefit. Three INI directors were arrested in 1992, and subsequently forced out of Chiapas, for funding projects through independent organizations rather than the CNC (Harvey, 1998: 186). The sudden strength and independent agenda of INI polarized an already narrow political arena in Chiapas as landed elites tried to quash, and INI tried to foster, independent political organization in 1990 and 1991.

#### THE ECONOMIC PARAMETERS OF PEASANT IDENTITY

As much as peasant political identity must be understood in the historical and political context of Mexican society, so has it been shaped by the simultaneous stagnation and transformation of the rural economy. The political parameters of peasant identity were limited by the dependence of subsistence farmers on state patronage and by the degree to which peasant demands were focused on land distribution.

As economic opportunities began to expand in the 1970s, peasants were able to use their relatively more autonomous economic base to mobilize independent trade and workers unions to challenge the government and to politicize peasant identity. The contraction of the economy in the 1980s and 1990s played a role in undermining the political space and leverage of peasant political identity.

While *indigenismo* was arguably a failure as a program of assimilation – the 1990 and 2000 censuses reported an increase in indigenous self-identification, both in absolute terms and as a percentage of the population – by 1990, it had failed even more spectacularly as a development program. Roughly 10 percent of Mexico's population – just over 10 million people – are indigenous. In 1990, 80 percent of the indigenous population fell below the poverty line, compared to only 18 percent of non-indigenous people (Velasco, 2001: 55). Chiapas has the second largest indigenous population in Mexico, with almost 1.5 million indigenous people – roughly 35 percent of the state population. In 1994, Chiapas was ranked as the poorest state in Mexico. Thirty percent – three times the national average – of the adult population of Chiapas was illiterate. Sixty-two percent of the population over the age of 15 had not completed primary school, compared to 21 percent nationwide. Over 50 percent of the population was malnourished, and in indigenous areas 80 percent of homes were determined to be overcrowded. Sixty to 75 percent of indigenous homes lacked electricity, and over 50 percent lacked drinking water (Harvey, 1999: 183–84)

The recent economic history of the state of Chiapas mimics the pattern of agricultural production and consumption that has marked most agriculturally based developing societies in the period of, and since, the Green Revolution. In the postwar era of agricultural modernization, global food output soared even as rural poverty and hunger persisted. In most countries, as in Chiapas, pricing and market policies were geared to favor urban consumers, large-scale farmers, and the needs of rapid industrialization. As the export market expanded, subsistence producers switched to cash crops and were drawn into global

markets. When the recession in the industrialized economies caused commodity prices to fall in the 1980s, small farmers in developing countries were hit hard. The prices of primary goods on the international market have not yet recovered (and probably never will), and neo-liberal policies have dried up credits and subsidies that used to sustain farmers through fluctuating markets. As in many other agriculturally based developing societies, the long-range economic picture in Chiapas is bleak (Hewitt de Alcantara, 1992).

The persistent economic weakness of Mexico's rural poor has reinforced the dependence of peasants on the state and the limits of rural political leverage. Mexican agriculturalists were drawn into the marketplace primarily through teachers, indigenous scribes, and *caciques* who acted as interlocutors between local communities and the state. In Chiapas, teachers and official scribes introduced consumer goods to rural areas in the 1930s, with the effect that indigenous people first entered the marketplace as consumers of secondary products. Peasants were also drawn into the market as producers of cheap agricultural products. Warman argues that the Mexican peasant (like farmers in other parts of the developing world) implicitly subsidized urban industrialization by selling low and buying high in what amounted to a redistribution from country to city. Asymmetrical relations of exchange between rural and urban areas additionally undermined traditional agricultural methods, and younger generations began to move to the cities, where they drove down wages by forming an enormous reserve of labor (Warman, 1976: 186).

Oil exports propelled the Mexican economy during the 1970s. After nationalizing the oil fields in 1936, Mexico limited its oil development to meet its internal needs. When oil prices skyrocketed as a result of the Organization of the Petroleum Exporting Countries (OPEC) crisis in 1972, however, Mexico began to export petroleum and to expand coastal and inland oil production. As a result of oil exploration that uncovered vast reserves on Mexico's southeastern coast, in Tabasco and in the northeastern region of Chiapas, the government was able to secure large loans from the international banking

community. Borrowed money was used to expand oil production and to underwrite the ambitious social programs, including PRODESCH, that Echeverría used to try to shore up PRI party support (Collier, 1994: 91).

In Chiapas, thousands of peasants left the land, seeking work in the Reforma oil fields in the northeastern part of the state. Work in the oil industry was lucrative compared to the agricultural work, mainly on coffee plantations, that was previously available to peasants forced to supplement subsistence farming. The oil fields therefore attracted peasants who might not otherwise have left the land, creating a phenomenon economists call "Dutch disease." An export boom in one sector of the economy tends to undermine other sectors because it diverts resources in the form of both investments and labor. In Mexico, it was the agricultural sector that suffered most from the oil boom, as the contribution of agriculture to the GDP fell from 14 percent in 1965 to 7 percent in 1982 (Collier, 1994: 91).

Work in the oil fields nevertheless had unforeseen consequences, playing a crucial role in the development of the syndicalist movement in Chiapas. Workers from Chiapas gained a new perspective on union organizing in the oil fields, where they mingled, for the first time, with workers from all over Mexico, learned to speak Spanish, and gained a national political perspective on their interests and concerns (Aubry, nd: 47). When they returned home, they brought with them a new labor consciousness that played an important role in shaping the direction of a number of peasant unions and organizations during the 1980s.<sup>8</sup>

While the oil industry itself generated unprecedented employment opportunities for Chiapas peasants, oil exports and loans also financed secondary investments that created additional jobs. During the 1970s, the government completed the construction of the Grijalva–Usumacinta hydroelectric complex, a total of three dams that flooded 500,000 hectares of agricultural land in Chiapas

<sup>8</sup> Interview with Marcelino Núñez, June 2002.

(Benjamin, 1989: 229; Collier, 1994: 91). Chiapas's dam projects had the dual effect of forcing farmers off the land by flooding it and providing incentives for people to leave the land for dam-related construction jobs. Thousands were additionally employed in building PRODESCH-funded roads, clinics, and schools.

Coffee, Chiapas's other primary export, also performed exceptionally well in the 1970s. In 1974, the price of coffee rose dramatically due to the collapse of Brazilian and Colombian coffee production. In order to take advantage of the price increase, Mexico's coffee marketing board, INMECAFE, embarked on a campaign to persuade peasants to plant coffee on land traditionally reserved for subsistence cultivation. Mexico became the world's fourth largest producer of coffee as small indigenous producers almost totally abandoned the production of cereals and maize in favor of the more lucrative cash crop. One unanticipated result of the wholesale switch in agricultural production was a sharp increase in the price of maize (Marion-Singer, 1988: 19). During the 1970s and 1980s, close to two million families in Mexico – mostly small producers with less than two hectares of land – made a living from coffee (Hernández and Celis, 1994: 219). On average, small *ejido* farmers in Chiapas produced 33 percent of Mexico's total coffee exports (Marion-Singer, 1988: 18).

In 1949, the government established the National Commission on Coffee to increase production, improve cultivation, and provide a better system of credit for small holders and *ejidatarios*. When the Mexican Institute of Coffee (INMECAFE) replaced the commission in 1958, it additionally tried to regulate the national coffee market by guaranteeing prices to protect farmers from international market fluctuation. The functions of INMECAFE were further expanded in 1973 to include financing, transporting, storing, and marketing coffee, as part of Echeverría's strategy to modernize small-scale production and increase the presence of the state in regional markets (Hernández and Celis, 1994: 219). Through Economic Units for Production and Marketing (UEPCs), INMECAFE provided credits in the form of advance payments on coffee crops. Because the crop was

used as collateral, INMECAFE reached unusually high repayment rates of over 90 percent, paid in marketable coffee (Harvey, 1998: 76; Hernández and Celis, 1994: 219).

INMECAFE's record was nevertheless mixed. The board played an important role in stabilizing coffee agriculture because it was able to affect pricing through storage and marketing. For small growers, INMECAFE therefore provided relatively higher prices as well as access to markets and transportation. At the same time, however, the board was corrupt and inefficient, the target of broadly based opposition mobilizations in the 1980s. INMECAFE offered credit as short-term cash only, which inhibited investment aimed at increasing productivity. Because credit was additionally insufficient to cover all the necessary phases of production, and usually arrived late, INMECAFE did not eliminate the vulnerability of farmers to usurious moneylenders (Hernández and Celis, 1994: 220; Marion-Singer, 1988: 78). UEPCs were often controlled by local *caciques* who used the resources of their office to secure a power base.

The relative prosperity of the 1970s ended abruptly with the drop in oil prices in August 1981 and the subsequent debt crisis of 1982. By 1980, 70 percent of Mexico's income from exports came from oil (Semo, 1986: 24–25). With oil production at 2.3 million barrels per day, Mexico was the fifth largest producer of oil in the world (Montejo, 1994: 49). When the oil price dropped by two-thirds in 1981, the sudden loss of revenue propelled the Mexican economy into a downward spiral. When Mexico's debts came due in 1982, the country could not afford to re-pay them. By the end of 1982, unemployment had doubled, production had come to a complete standstill in certain sectors, many companies had gone bankrupt, inflation was over 100 percent, investment had fallen, capital flight had reached unprecedented levels, and Mexico had virtually suspended payment on foreign debt (Semo, 1986: 24). When the IMF provided Mexico with a \$4 billion bailout loan, the attendant austerity package, which required the government to slash public spending, raise taxes, and curb imports, exacerbated the crisis.

In Chiapas, the oil fields stopped production and workers were forced to return to their land or to find agricultural employment. Development, in the form of federally funded road and school building projects, came to a standstill as development funds evaporated or were funneled into militarization and securing the Guatemalan border from illegal immigrants. In addition to the pressures Chiapas peasants faced as a result of internal economic forces, an influx of tens of thousands of Guatemalan refugees entered Mexico during the 1980s to escape war and destitution at home and to seek work on the coffee plantations in the Soconusco region of southwestern Chiapas. Mexicans could not afford to work for the meager wages the illegal Guatemalans were forced to accept. As a result, refugees were actually recruited to work on the coffee plantations as collaborating border officials turned a blind eye to illegal immigration (Marion-Singer, 1988: 15). Even the low-paying, back-breaking work on the coffee plantations, which had supplemented subsistence farming in Chiapas for generations, inched beyond the reach of many peasants in the 1980s (Collier, 1994: 109–10).

As the safety valve of employment in the oil fields, on development projects, and on the coffee plantations was sealed off, the pressure on land grew more intense. Arable land, which has always been scarce and hotly contested in Chiapas, was almost completely unable to absorb returning workers. In Chiapas, each *ejido* member had access to an average of 2.3 hectares of land in 1991, compared to a national average of 16.5 hectares. *Ejid*os themselves were much smaller in Chiapas, averaging 53.8 hectares compared to a national size of 264 hectares. By the end of the 1980s, only 37 percent of peasants in Chiapas were engaged in subsistence agriculture, the remainder having been drawn into coffee production or lacking land altogether (de la Peña, 1995: 7). In 1983, Chiapas had a backlog of 58,000 unresolved land claims, and 40,000 so-called peasants were actually working as day laborers (*jornaleros*) with no land at all (Marion-Singer, 1988: 42). In 1991, 30 percent of Mexico's unresolved land claims were



from the state of Chiapas (de la Peña, 1995). Among those engaged in subsistence farming, very few subsisted successfully.

Austerity measures implemented as a condition of international aid additionally dried up agricultural subsidies and credits. In Chiapas, the number of producers with access to credit for planting fell from an already low (compared to the national average) 20.4 percent in 1985 to 12.7 percent in 1990. The regions with the lowest proportion of credit were the central highlands and the Lacandón forest – the poorest and most densely populated regions of Chiapas and not coincidentally the subsequent stronghold of the Zapatistas (Harvey, 1998: 175–76). In 1987, the government lowered support prices for corn and increasingly allowed cheap foreign corn to compete in the domestic market. From 1987 to 1989, real support for corn plummeted and failed to keep pace with the cost of agricultural inputs or the consumer price index. The recession in the countryside worsened as the overvalued peso made imported corn even more attractive.

Throughout the 1980s, the price of coffee was nevertheless kept stable, and high, by the International Coffee Agreement (ICA), a producer's alliance that set prices and prevented competition and underselling on the international market. During the 1988–89 season, coffee exports brought in nearly \$600 million in foreign exchange (Hernández and Celis, 1994: 218; Marion-Singer, 1988).

The 1988–89 season also marked a turning point in Mexican coffee production, however. The coffee crop was hurt by a combination of drought, rain, and frost that affected the planting season. At the same time, Mexico and the United States colluded to dissolve the ICA system of national quotas – the United States because it opposes price fixing (of goods it does not produce), and Mexico because it hoped to free its high-quality coffee from restrictive pricing quotas (Bates, 1998). By selling its large inventory of stored coffee, Mexico also made a one-time windfall profit. When the International Coffee Agreement disintegrated in 1989, however, it led immediately to a sharp drop in the price of coffee, from \$130 to \$140 per hundred pounds to

\$70 per hundred pounds. For Mexico, this drop represented an annual revenue loss of \$300 million (Hernández and Celis, 1994: 218).

Salinas simultaneously disbanded INMECAFE as part of a broader policy to restructure the Mexican economy through institutional reform and privatization. The technocratic view that predominated in the Mexican government was that there was no viable future for the production of basic crops in Mexico, and that the old system of import substitution, which had supported the production of such crops as maize, should be replaced with structural adjustment and stabilization (Hewitt de Alcántara, 1992: 14). The sudden privatization intended by the dissolution of INMECAFE created a number of additional problems for coffee growers, however. Although some autonomous social cooperatives attempted to take over the storage and marketing functions of INMECAFE, these were primarily usurped by middlemen and large transnational companies whose terms were generally more unfavorable to growers. An array of rural banks and development programs stepped in to fill the financing role of INMECAFE, including Solidarity and Banrural, but the allocation of funds was disjointed and inefficient. For a number of years, small coffee growers were lucky to break even and were still not able to recapitalize as late as 1992. Many small producers went bankrupt (Hernández and Celis, 1994: 222).

In the relative context of Chiapas history, the 1970s was a prosperous decade. The price of coffee was high, and many small producers managed to diversify their crops to take advantage of the international market. For those who lacked access to land, there were well-paying jobs in the oil fields and jobs in construction that provided workers with usable skills. As workers, many people became organized through peasant and worker's unions and began to demand not only land but control of the means of production.

In the 1980s, the economy contracted and, with it, the independent organizing space the rural poor had carved out as peasants and workers in the 1970s. The oil fields shut down, and construction

jobs dried up as development projects were halted. As opportunities for alternative employment evaporated, people tried to return to subsistence farming, but there was not enough land to absorb the sudden increase in demand. Only coffee producers continued to prosper throughout the 1980s, but this sector also confronted an abrupt crisis in 1989.

## CONCLUSION

Within the broad parameters of “internal colonialism,” it was the legacy of the Mexican Revolution, the corporatist strategies of the ruling PRI, and the shifting economic opportunities that attended the rise and fall of oil and coffee production that established the terms of Mexican political organization and identification through most of the twentieth century. This chapter tries to build an account of the way that structural conditions – especially government policies, political strategies, and economic conditions – established “the indigenous” as a cultural and historical artifact and channeled rural politics into peasant identification and organization. The twin projects of “Mexicanization” – exalting the legacy of the Revolution by incorporating the rural poor into the ruling party as peasants while attempting to integrate the indigenous population through education and development—enshrined the peasant, and not the Indian, as the leading dramatic figure of modern Mexican nationalism. The shifts from “race” to “class” and from “class” to “ethnicity” that have shaped the parameters of indigenous politics, and the space within which it operated, were constituted in part by the exclusions and selective inclusions that have characterized Mexican policy toward its native population.

Explicit government tactics, along with the retrieval of certain histories and the design of economic policy, have had the effect of making some potential identities more politically available than others. Structure only goes so far in shaping the terms of politics, however, as different political actors see some opportunities, ignore others,

and attempt to re-shape their political environment. In Chapter 3 I focus greater attention on the interaction between structure and the ideological beliefs and organizational strategies of political activists, which combined to shape the form of peasant politics, creating both opportunities and constraints for independent political organization.

### 3 “The politics of small things”

Throughout most of the twentieth century, the inclusion of the peasant in the national project afforded subsistence farmers some limited access to state patronage. As an officially organized sector of party support and an important symbol of Mexican national identity, peasants were able to call on promises established in the Constitution to demand land redistribution, agricultural subsidies and credits, and some social services. Through corporatist institutional mechanisms, the Mexican government was able to limit peasants to *la política de dar cositas* – the politics of small things.<sup>1</sup>

Starting in the 1970s, subsistence farmers in Chiapas (and elsewhere in Mexico) began to challenge the limits of their official role as a pillar of party support and to reinvest the peasantry with explicitly political content. Whereas the government had long tried to depoliticize the peasantry through co-optation, a new generation of activists attempted to forge a peasant political identity by broadening their claims, linking local demands with national struggles, and insisting on such principles as recognition and negotiation and not only on the provision of material goods and benefits.

Their ability to do so depended in part on structural changes, like government reforms that opened up the space for oppositional organization, and new employment opportunities that gave subsistence farmers greater independence from state patronage. Equally important, however, were the social changes that opened up the possibility of dissent and opposition at the communal level by disrupting the authority of traditional leaders. Socioeconomic stratification within

<sup>1</sup> Margarita Gutiérrez used this expression to describe the history of peasant politics during an interview in May 2001.

indigenous communities, immigration to the Lacandón Jungle, and the success of Evangelical missionaries in converting villagers to Protestantism combined to undercut the power of indigenous *caciques* to guarantee support for the PRI. Oppositional organization was strongest in those areas where indigenous systems of control were weakened or had never existed. In the 1990s, these areas would also emerge at the heart of the indigenous rights movement, not because indigenous customs were threatened there, but rather because oppositional organization was already well entrenched there.

Peasant political identity was neither automatic nor spontaneous, however; it was shaped through the hard work of activists affiliated with the Catholic Church and with a variety of Marxist and Maoist movements. Guided by the commitments of Liberation Theology, the Catholic diocese in San Cristóbal began to send catechists into rural areas in the 1970s. Along with fulfilling their liturgical functions, catechists were instrumental in organizing peasants and in framing the "option for the poor" in the class terms used by Liberation Theology. At the same time, various factions of the Mexican Left were fanning out into the countryside to focus attention on mobilizing peasants after decades of seclusion in the halls of urban universities. Some made their way to Chiapas.

The 1974 Indigenous Congress in San Cristóbal de las Casas is generally credited with precipitating much of the peasant political organization and mobilization that followed in the 1970s and 1980s. Discussions and connections forged through the Indigenous Congress spurred the formation of a wide variety of grassroots organizations, many of which were still active in the 1990s. The groups and networks spawned by the Indigenous Congress organized as peasants, however, and were mobilized around such redistributive issues as land reform, control of the means of production, and the rights of agricultural workers. Congress delegates chosen to represent their ethno-linguistic groups formed unions of workers and peasants that crossed ethnic lines and included non-indigenous farmers to demand land, credits for farming, access to transport and markets, control of the means

of production, and better wages. These activists explicitly eschewed the indigenous category that had officially framed the parameters and substance of the Indigenous Congress because in the 1970s indigenous identity was almost entirely devoid of political content and standing. Instead, they emerged from the Indigenous Congress as highly mobilized peasants.

Peasant activism took various forms in this period, breaking into three main regional strands that differed strategically over the degree to which they cooperated with the government and with the party system. Activists struggling to establish the political presence of peasant identity engaged in politics on two fronts. They set concrete goals that would mobilize popular support while pursuing a broader agenda aimed at transforming state–society relations and forging an independent political base. They attempted to broaden their demands beyond the local level and to insist on government recognition and negotiation. Throughout the 1970s and 1980s, peasants struggled to establish a political identity against government attempts to depoliticize the peasantry by co-opting their demands and factionalizing the movement.

Although they had some successes in this period, the political viability of peasant identity began to contract in the late 1980s as a result of neo-liberal economic policies that undermined the rhetorical leverage of class politics and freed the government from its historical obligation to provide a social safety net. Most of the tangible gains of political mobilization were made at the price of limiting demands and building clientelistic relationships with the ruling PRI. By the early 1990s, many activists in Chiapas felt that the peasant had lost traction as a political identity.

#### CHANGING SOCIAL CONDITIONS

During the 1970s, dramatic economic and demographic changes associated with the rise in oil production and increasing pressure on land precipitated widespread social upheaval (Rus and Collier, 2002). The heightened levels of peasant political organization that followed were

concentrated in the two areas of Chiapas that also experienced the greatest social transformation in the same period: the Lacandón Jungle and *Los Altos*, the highlands of central Chiapas. In some areas, shifts in the organization of power led to community involvement in new political associations opposed to the PRI. In others, social changes produced divisions within existing communities, opening the way for a greater plurality of voices.

The Lacandón rain forest is roughly 150 square kilometers in size, located in southeastern Chiapas on the border with Guatemala and the Yucatán peninsula. Migration to the Lacandón began in the 1930s and increased in the 1950s as part of a government-orchestrated program to ease land tension in other parts of Mexico. Except for the so-called Lacandóns, a small group of hunter-gatherers who were “discovered” by the anthropologists Frans and Trudi Blom in the 1950s, the jungle was uninhabited and ostensibly available for settlement. Most of the migrants to the Lacandón were from other parts of Chiapas, particularly *Los Altos* and the Ocosingo valley, but many were from other states, as far away as Guerrero and Hidalgo. Migration proceeded in a steady flow throughout the 1950s and 1960s, but it increased markedly in the 1970s and 1980s, as a result both of government programs and of the independent movement of people migrating from areas of dense over-population.<sup>2</sup> By the mid-1980s, the fragile soil of the Lacandón had absorbed approximately 150,000 Tzeltal, Chol, and Tzotzil subsistence farmers (Benjamin, 1996: 228).

Community organization in the Lacandón bears scant resemblance to traditional rural living patterns in other parts of Chiapas (Leyva, 1995, 1999, 2001; Leyva and Ascencio, 1996). New communities of immigrants do not normally employ the traditional *cargo* system of self-government. They elect community leaders from among

<sup>2</sup> What migrants would find is that the Lacandón rain forest is unsuited to sustained agriculture because it has a very thin layer of topsoil that is depleted within a few years of agricultural use. See Paz Salinas in Leyva and Ascencio (1996) for a good account of government sponsorship of migration to the Lacandón.



the younger cohort of men who led the migration from their original villages, and not from among village elders. Many leaders are catechists and union organizers with significant experience in political organization and indoctrination outside the community. Inhabitants of the Lacandón are generally unfamiliar with the traditions and celebrations practiced by their ancestors even a generation before, and the second generation of migrants – the cohort of people ranging in age from 20 to about 45 in the 1990s – date the origin of the community to the time of migration, not to an ancient ethnic heritage (Leyva and Ascencio, 1996: 103).

In addition, the majority of communities in the Lacandón are multi-ethnic. Ethnic intermarriage is common. The *ejido* of Tierra y Libertad, for example, was settled by Tzotzils from Huitiupán, Chols from Sabanilla, and Tzeltals from Ocosingo (96). The Lacandón has also been settled by Protestant refugees fleeing religious persecution and expulsion from indigenous communities, mainly in Los Altos. Twenty-five percent of the population of the Lacandón is Protestant. A minority of *ladinos*, non-indigenous Mexicans, also inhabit the rain forest, often living in the same *ejidos* as indigenous people of different ethnic groups and participating in communal life, including as members of peasant unions and cooperatives. Although Tzeltal and Spanish have reportedly emerged as the common languages of the Lacandón, men who are politically or commercially active are often multi-lingual (98–99).

It is precisely the break with tradition that has facilitated oppositional political organization in the Lacandón. Lacandón communities generally lack the old commitments of patronage and debt that tie many so-called traditional indigenous *caciques* to the PRI and to the official peasant union, the CNC. Migration to the Lacandón produced a generation of younger, more radical organizers who were able to establish bases outside the PRI power structure to demand land, land titles, credits, and access to markets. The experience of moving also had a radicalizing effect on many young migrants as they came into contact with new people and new ideas.

By the 1970s and 1980s, the ideal of indigenous peoples living in traditional communities of inviolate cultural norms and attachments offering meaning and security had already disappeared for many of Chiapas's rural poor. In the Lacandón Jungle, the heart of the indigenous rights movement, indigenous norms, customs, and traditions have never really existed. This region does have a strong history of peasant activism and class militancy, however. It is the history of peasant political organization, and not the existence of indigenous customs and traditions, that best predicted indigenous political mobilization (Leyva and Ascencio, 1996; Marion-Singer, 1988).

Although social change in Los Altos has taken a different form, it also had the effect of opening space for opposition to the PRI in rural communities. By the 1990s, the only indigenous peasants who did not face serious economic hardship was a new class of entrepreneurs who had parlayed their savings by investing in transport vehicles and leases on stores and market stalls (Collier, 1994). The rapid growth of the coffee and oil industries in the 1970s, and the spillover effect of the latter in terms of funding for other large-scale projects, in turn affected the structure of socioeconomic networks and hierarchies in many Chiapas communities (Cancian, 1992). Through employment in the oil fields and elsewhere, many subsistence farmers were able to save enough money to buy additional land and agricultural equipment, or even buses and trucks. This type of investment was often sufficient to propel a minority of villagers into a higher socioeconomic position than most of the members of their community as they consolidated their gains by making money off their investments (Marion-Singer, 1988: 14–15).

George Collier has written about the effects of socioeconomic differentiation on community structures in the highland village of Zinacantán, describing the transformation of the *cargo* system.<sup>3</sup> Communal power in Chiapas was traditionally held by leaders who

<sup>3</sup> See Rus and Collier (2002) for an analysis of social change in both Zinacantán and Chamula between 1974 and 2000.

undertook costly and time-consuming service to the community through the *cargo* system. Over the course of a lifetime, individuals who successfully undertook a number of *cargos* would become village elders, making decisions for the community, speaking for the community in external interactions, and controlling access to resources. Status depended on community service, monetary investment in the community, and the support of the community. The *cargo* system knit leaders and followers together in mutual dependence (see also Cancian, 1965, 1992).

Collier chronicles, as a counterpoint, the story of Marcos Bromas, who began his rise to power in Zinacantán following in the footsteps of his father-in-law by undertaking *cargos* and developing a following in his hamlet. In 1976, Bromas led his followers out of the PRI and into the National Action Party (PAN), when the PAN promised to provide assistance in credits and resources for the community that the PRI had refused. Bromas was in the meantime able to take advantage of entrepreneurial opportunities created by employment in the oil fields and bought a truck. When he applied for a route concession for his Fruit and Vegetable Producers Association, however, he was refused because he was no longer a member of the PRI. Bromas rejoined the PRI to secure approval for his union as part of a trucking alliance overseen by the PRODESCH development program. When he moved from the PAN back to the PRI, however, he lost a portion of his following, who perceived that he was acting for personal profit rather than community welfare.

A class cleavage between truckers and peasants – *camioneros* and *campesinos* – has subsequently dominated local political organization in Zinacantán. As a trucker, Bromas is allied with other truckers who are also PRIistas, against *campesinos* who have remained PANistas, thus overlaying the class cleavage with political affiliation. Bromas no longer needs community support in order to cultivate power, because he has money. His faction now consists of other wealthy truckers whose interests coincide with his, against those of peasants in his own community (Collier, 1994). Collier makes the

case that the introduction of a cash economy and the development of class cleavages transformed the character and meaning of community ties in the Chiapas highlands in the decade between 1980 and 1990. Divisions within the community have also opened the way for parties other than the PRI, in this case the PAN, to gain a base of support in rural areas.

The integrity of the traditional community has also been violated by religious expulsions, which started in the 1950s but increased in the 1980s. According to the 2000 census, only 63.8 percent of people in Chiapas identify as Catholic, compared to 88 percent nationwide. Fourteen percent are Protestant or Evangelical compared to 5.2 percent nationally, and 13 percent identify as non-religious, as compared to a national average of 3.5 percent.<sup>4</sup> The Evangelical missionaries who began working extensively in Central and South America in the 1950s have been very successful in Chiapas (see also Dow, 2005).

The indigenous oligarchy tied to the PRI has expelled thousands of Protestants from Los Altos in the last 30 years (Carr, 1998: 8). Many indigenous leaders maintain that Protestants undermine traditional practices by refusing to take part in traditional ceremonies or to undertake traditional responsibilities. Many of these so-called traditional practices are tied to Catholic religious observances, and almost all involve ritual and excessive alcohol consumption, which the Protestant church in Chiapas strictly forbids. In 1991, the number of expelled stood at roughly 10,000, and those Evangelical Protestants who remain in their communities are under constant threat (Morquecho, 1994: 57).

The government has failed to intervene to stop the expulsions, insisting that it is a traditional and cultural matter that must be resolved within the community (Herrera, 2002: B16). The traditional leaders they support have close ties to the PRI, and not coincidentally there is a strong link between Protestantism and opposition party

<sup>4</sup> INEGI, *Estados Unidos Mexicanos, XII Censo General de Población y Vivienda, 2000, Tabulados Básicos*, Aguascalientes, Ags., 2001.

membership. Speed and Collier argue that opposition party members often become Protestants only after they are expelled from their communities (2000: 902). It also works the other way around, however, where Protestants who have been expelled ostensibly because of their religious conversion have joined the opposition PAN or PRD in search of social services and support that the PRI will no longer extend to them.<sup>5</sup>

Just as critics of cultural protection warn, respecting the authority of traditional leaders and practices runs the risk of endangering the rights of vulnerable members of the community and stifles opposition. So-called traditional leaders argue that Protestants are a threat to the community, not only because they do not act in compliance with tradition and custom, but also because they violate communal integrity by affiliating to another party against the ruling elite. PRI party membership is one of the "cultural traditions" that Protestants are said to flout when they join the PRD or the PAN (Morquecho, 1994: 68). Whatever the link between party politics and religious affiliation, it is clear that one of the motivating factors in the conflict is the scarcity of land. When Protestants are expelled, their land and homes are expropriated by community leaders. Many expelled Protestants have gone to the Lacandón; others have become long-term refugees, living on the outskirts of large towns and surviving by begging or picking up odd jobs. In San Cristóbal de las Casas, whole neighborhoods and shantytowns of Protestant refugees have sprung up at the edge of the city. At their center are Evangelical missions and opposition party offices (Gossen, 1999: 196–200).

#### ACTIVISTS

Samuel Ruiz, the former Bishop of San Cristóbal, was one of Mexico's three high-profile "liberation" bishops, along with Bishop Sergio

<sup>5</sup> Unlike the conservative Catholicism practiced by the indigenous *caciques*, the Catholic Church in Chiapas has allied itself with the opposition. The Catholic diocese in San Cristóbal does not endorse the practices adopted by indigenous *caciques* in the name of Catholicism.

Méndez Arceo of Cuernavaca and Fernando Romo of Torreón. Starting in the late 1960s, the Catholic Church in San Cristóbal has taken as its mission the “option for the poor,” transforming both the manner in which the Church has disseminated its message and the message itself. In the wake of Vatican II and the Medellín Conference in 1968, in which the Church adopted the position that human beings had the right to decent living standards, education, and participation, Ruiz initiated a program to train indigenous people as lay catechists who would be able to disseminate the teachings of the Church and fulfill certain basic liturgical functions in remote areas where the faithful lacked regular access to priests.

Bishop Ruiz initially developed the catechist program to extend the reach of the Catholic Church in an attempt to compete with the Protestant sects that had started to make significant inroads into Chiapas in the early 1960s. Mimicking the Evangelical strategy, the Catholic diocese also began to adopt a more flexible approach to the integration of Catholic and traditional faiths, making Catholicism easier to assimilate (Hernández Castillo, 1995: 419). By 1985, 2,050 catechists operated in the southeastern zone of Chiapas alone, in and near the Lacandón Jungle (420).

The key ideas of Liberation Theology are participation and, as the name implies, liberation. Over time, the catechists reportedly pioneered a style of open and reciprocal reflection and engagement in rural communities, insisting that they had no sacred knowledge to impart, and that individuals carried wisdom and the word of God within themselves (Leyva-Solano, 1995, 2001). Catechists developed this style of organization in line with the principle that leaders could only govern by obeying (Harvey, 1998: 65; Krauze, 1997: 782).<sup>6</sup> Liberation Theology transformed the character of the hierarchical church by insisting that the Catholic poor should participate in the life of their church, bring it their concerns, and seek physical as well as spiritual well-being through it. Some priests and lay activists additionally

<sup>6</sup> “*Mandar obedeciendo*” remains a central theme of Zapatista discourse.

began to take an interest in Marxism because it provided the intellectual tools for a class-based, and explicitly political, analysis of poverty (La Botz, 1995: 35). Catechists encouraged broad participation of the base and insisted on the use of indigenous languages as they urged community members to speak out on issues of concern to them.

The doctrine of Liberation Theology also generated social and political activism as the Church undertook a responsibility to move beyond spiritual concerns. Xóchitl Leyva has documented the connection between the catechists and political opposition in Chiapas in the 1970s. Communities pooled money to send boys and young men to train at missionary schools. After 1968, training involved political as well as religious education, and catechists who returned to their communities often became union and peasant leaders (Leyva-Solano, 1995: 397; 2001). The catechists have been described as "the catalyzers of social change in the communities and in the region," and both Jesuit and Dominican missionaries began in the early 1970s to open discussion on such themes as anthropology, sociology, history, and Marxism, along with religion. Catechists conceived the duality of their function along the following lines: "The Church and the Word of God have said things to save our souls, but we do not know how to save our bodies. While we work for the salvation of ourselves and others, we suffer hunger, poverty, and death" (392). The catechists played a crucial role in creating networks of communication and exchange between communities that would later facilitate broad-based organization and information dissemination. The catechists also redefined the parameters of political contestation, at the 1974 Indigenous Congress and beyond, in terms of an "option for the poor," using the grammar of Marxist class analysis to situate the terms of political contestation (Harvey, 1998: 81).

Maoist student activists also played an important role in constructing the political voice of the rural poor, particularly in the 1970s. Until 1968, the Mexican Left was dominated by a form of vanguardist Marxism, located in the universities and focused on intellectual reflection and student mobilization. The syndicalist wing of the Left

concentrated on the unionization of the urban proletariat. The crisis that followed the 1968 Tlatelolco massacre of more than 100 students in Mexico City provoked a shift away from vanguardism and led to an internal critique of the inattention of the Mexican left to mass mobilization. Leftist intellectuals began to abandon Marxism for Maoism, exchanging students and urban workers for rural peasants and the poor as the privileged engine of social change. The Maoist move of the Mexican left is often attributed to Adolfo Orive Berlinguer, a professor at the Universidad Nacional Autónoma de México (UNAM) who in 1968 wrote a pamphlet titled "Toward a Politics of the People," arguing that the left had to establish an organizational base among the common people (LaBotz, 1995: 32–34).

Starting in the early 1970s, brigades of Orive followers belonging to a group called Popular Politics (PP) dispersed through the Mexican countryside, primarily in the north, to build bases of rural support through community assemblies. Maoist student activists and organizers first entered Chiapas at the behest of Bishop Ruiz. Ruiz evidently learned of Popular Politics during a visit to Bishop Fernando Romo, who supported their organizing efforts among the poor in the northern city of Torreón, Coahuila. Ruiz initially invited members of PP to engage in community organizing in Chiapas in 1976, although other groups such as Union of the People (UP), a Maoist group from the University of Chapingo, were also active in the state in the 1970s. UP in fact assisted in the political education and organization that prefigured the Indigenous Congress. According to one long-time peasant activist, Chiapas's high levels of political organization and oppositional upheaval in the 1970s and 1980s were "because of the northerners. That's what we called them, those groups who came and organized. Because of them."<sup>7</sup>

The impact of the northerners was indeed widespread. UP was later instrumental in forming the Unión de Ejidos Quiptic (Harvey, 1998: 79). PP divided into the Proletarian Line (LP) and the Line of the Masses (LM), and LP adopted the controversial strategy of "fighting

<sup>7</sup> Interview with Jose Antonio Vázquez, June 2002.



with two faces," a combination of confrontation and negotiation that was gradually effective in winning some concessions from the state (LaBotz, 1995: 33). LP was very influential in the Chiapas Teacher's Union Movement (SNTE), which was an important base of political opposition, allied with peasant unions, in the 1970s and 1980s (Harvey, 1994: 82; LaBotz, 1995: 33).<sup>8</sup> As a result of a conflict with the diocese, the Maoists were eventually asked to leave Chiapas, however, and the principal advisors left in 1982 and 1983. Marcos claims that by the time he reached Chiapas in 1983, the Maoists were no longer active in the Lacandón (Le Bot, 1997: 151). Others say that Marcos himself arrived in Chiapas with the Maoists from Torreón (LaBotz, 1995: 34).

#### THE INDIGENOUS CONGRESS AND PEASANT IDENTITY

The 1974 Indigenous Congress formed part of President Echeverría's initiative to reach out to the rural poor in Mexico, and it was proposed by Chiapas Governor Manuel Velasco Suárez to honor the 500th anniversary of the birth of Fray Bartolomé de las Casas, whose popular image is that of a defender of native rights. The government's initiative was part of a broader effort to respond to the concerns of a vocal group of critical anthropologists who opposed the assimilationist thrust of Mexican indigenous policy. The state turned organization of the Indigenous Congress over to the Catholic Church in San Cristóbal de las Casas, under the direction of Bishop Samuel Ruiz.

Though the Congress was intended in part as a celebratory cultural event, the Church took participation seriously and invited Maoist organizers as well as activists, teachers, and lawyers to conduct courses in economics and agrarian law in preparation for the Congress. Harvey recounts, for example, that in Simojovél, community assemblies elected 50 representatives from different ethnic groups to attend classes on political economy and agrarian law to prepare their delegation for the Congress (Harvey, 1998: 77). Catholic catechists were

<sup>8</sup> Interview with Luis Hernández Navarro, October 2000.

responsible for the bulk of the organizational, logistical, and educational work that went into preparation for the Indigenous Congress, and in the months leading up to the meeting, they helped to define the issues that would be addressed at the Congress by organizing discussions and meetings, facilitating communication between communities, and teaching courses in Marxism-Leninism.

In October 1974, the Indigenous Congress brought together delegates from 327 communities representing the state's four major ethnic groups: Tojolabal, Tzeltal, Tzotzil, and Chol. Under the headings of land, commerce, education, and health, delegates organized seminars and discussion groups. They demanded the titling of *ejido* and communal lands and complained that their ignorance of the Agrarian Law allowed ranchers to invade their land. They demanded the return of expropriated land and a solution to the backlog of land claims. They identified merchants and middlemen as a "plague of locusts" forcing them to sell goods cheaply and buy expensively, and they insisted on control over warehouses, markets, and transportation. They claimed that "the education system is very poor and does not serve to improve our communities," and they demanded good and conscientious teachers who could speak their languages. Delegates also complained that doctors were concentrated in urban areas, forcing peasants to rely on merchants who sold medicine that was supposed to be free (Collier, 1994: 63; García de León, 1995: 145–46).

The fact that the Congress was framed in indigenous terms by the Mexican government, and that all of the political mobilization that emanated from it nevertheless took the form of peasant and worker unions, is one indicator of the tension involved in establishing a political identity. The Indigenous Congress was the immediate catalyst for the mobilization and organization of a variety of peasant and worker unions in Chiapas. Union organizers explicitly eschewed an indigenous identity because being "Indian" did not afford the political standing, access, and organizational networks that were potentially available to "peasants." These groups focused primarily on issues of land and control of the means of production. They also tried repeatedly

to move beyond economic concessions, to challenge the politics of small things by insisting on the political character of peasant activism and linking local demands to national movements.

In this period, opposition political organization in Chiapas took three main forms, distinguished primarily by the degree to which they cooperated with the government and the strategies they employed to establish their independence.<sup>9</sup>

1. A number of important Union of Unions (*Unión de Uniones*) with quasi-official status, strong organizational bases, and broad support sprung up in the political space opened up by the government's PRODESCH development initiative, with leadership drawn directly from the Indigenous Congress.
2. The Independent Union of Agricultural Workers and Peasants (CIOAC) aimed to organize laborers into agricultural unions on coffee plantations and cattle ranches and to link peasant and worker's struggles with electoral support for the Communist Party and the Unified Socialist Party of Mexico (PSUM).
3. The Emiliano Zapata Peasant Organization (OCEZ) was the most radical of the three strands, organizing in direct confrontation with the state over the struggle for land, and explicitly rejecting electoral politics (Hernández, nd: 46).

Although these political strands differed strategically, all three deployed the peasant as the relevant political actor and attempted to mobilize a peasant organizational base to press their demands on a state that was by turns responsive and recalcitrant. Within the broad contours of peasant political contestation, the politics of claim-making took a variety of forms at the local level, however, with varying degrees of success. The possibilities of peasant politics were circumscribed by state responsiveness and by the types of pre-existing commitments activists were able to call on to invoke the

<sup>9</sup> See also Benjamin (1996: 235–45) and Mattiace (2003) for excellent accounts of peasant activism in this period.

responsibility of the state to redress their grievances. Within these confines, however, peasant activists were able to take spaces they were never given and to push the government beyond its intentions.

### 1. *Unión de Ejidos/Unión de Uniones*

During preparations for the Congress in 1973 and 1974, members of the Maoist People's Union (UP) played an important role in educating activists to participate directly in shaping the Congress. Delegates were encouraged to develop and disseminate sophisticated theoretical critiques of government complicity in the reproduction of poverty and inequality. UP leaders René Gómez and Marta Orantes went on to play an important role in organizing opposition to a new perimeter road then being cut into the Lacandón forest by the Mexican military. In combination with discussions surrounding the Indigenous Congress, mobilization against the perimeter road soon led to the formation of the *Unión de Ejidos (UE) Quiptic*, organized through networks of Catholic Church deacons and catechists who had been active since the late 1960s.<sup>10</sup> The UE Quiptic initially represented eighteen communities in the valley of San Quintín that were mobilized against the road and the expulsions and government penetration it threatened (Harvey, 1998: 79–80).

In 1979, UE Quiptic began to turn its attention to improving the terms of coffee marketing for peasant producers (Harvey, 1998: 83). In response to pressure from the union, the coffee marketing board INMECAFE agreed in 1979 to absorb the majority of the costs involved in transporting coffee to markets. The focus on coffee marketing and the success of the UE Quiptic in forcing INMECAFE to respond to its demands, led two other unions, *UE Tierra y Libertad* (Land and Freedom) and *UE Lucha Compesina* (Peasant Struggle), to unite with UE Quiptic to form the Union of Ejidal Unions and United

<sup>10</sup> There are many accounts of this period and of the history of UE Quiptic. They are confusing and often contradictory. In the account rendered here, I follow Neil Harvey almost exclusively, because his account is exceptionally clear and detailed.

Peasant Groups of Chiapas (called simply *Unión de Uniones* – UU) in 1980.

Quiptic continued to use the terms and organizational template set forth by the state (*Unión de Ejidos* and *Unión de Uniones*) to situate itself politically and to build a popular base. As one activist explained, "In those days organizations all had to be named *Unión de Ejidos* to have any legitimacy at all with people."<sup>11</sup> With 12,000 members from 180 communities in 11 municipalities, the UU was the first and largest independent peasant organization in Chiapas (Harvey, 1998: 84). Although the original base of Quiptic was Tzeltal, the Union of Unions additionally united Tojolabal and Tzotzil activists (Le Bot, 1997: 54).

Harvey shows that the construction of a common project was based on a strategy of "pretexts and objectives." Because coffee marketing affected all of the communities in the Cañadas region of the Lacandón, the issue was developed as the "pretext" for the "objective" of organizing a mass peasant movement. The Maoist line of the UE Quiptic carried over into the UU, and advisors insisted on broad participation and mass mobilization as the most effective strategy for pressing their demands on the state. They also promoted a "from the masses to the masses" organizational approach that stressed contact among communities, not only among leaders (Harvey, 1998: 84).

As an organization with quasi-official status, the UU used "the politics of two faces" to gain concessions from INMECAFE by cooperating with the state, while simultaneously building a critical independent peasant organization (86). The UU leadership focused on tangible and limited demands that would deliver immediate benefits to their followers. But Harvey also describes the UU as one of the "earliest examples of the type of new political linkages established between independent peasant movements and reformist functionaries" (88). Such linkages were made possible by the space and access afforded to peasant organizations under the terms of the government's

<sup>11</sup> Interview with Araceli Burguete, August 2000.

PRODESCH development program, which anchored demands for credit, loans, transport, and other requirements of agricultural production.

Internal disagreements over cooperation with the government finally came to a head in 1983, however. The Orive faction, located in the northern highlands, was engaged in negotiations with the government over approval of a credit union that would help to control production and finance agricultural development. Over the course of negotiations, the government evicted a number of UE Quiptic members from land they had been occupying in the south, and UE Quiptic called for mass protest. For fear of disrupting negotiations over the credit union, Orive's faction refused to participate in the mobilization. UE Quiptic leaders accused Orive of complicity with the government, and the disagreement led to a split in the UU in 1983. According to Harvey, this break weakened political participation and opposition for the remainder of the decade. In the words of one participant, the split had the effect of "vaccinating the people against any type of organization" (90).

## 2. CIOAC

The second strand of political organization that characterized this period centered in the Chiapas highland community of Simojovel, where the struggle for land continued to motivate political mobilization. Starting in 1971, indentured peons and landless peasants began to invade land they had petitioned for years without response. The early leaders of the land invasions became delegates to the 1974 Indigenous Congress. After the Congress, a Coordinating Committee of Congress delegates established over 30 local committees in communities surrounding Simojovel. When the government responded to land invasions with the co-optive strategy of agreeing to review land claims on a case-by-case basis, contingent on withdrawal from contested areas, the invaders turned for assistance to the national peasant trade union, CIOAC.

CIOAC organizers linked the Simojovel land grievances with the struggle of small holders threatened by the flooding of the Itzuntún

Dam and with the demands of agricultural workers for control of the means of production and workers' rights (Marion-Singer, 1988: 30). Through the use of broadly participatory assemblies, CIOAC promoted the creation of a labor union aimed at developing a local leadership base and organizational transparency (Harvey, 1998: 95). The 1980 opening ceremony of the CIOAC-affiliated Miguel de la Cruz Syndicate of Agricultural Workers was attended by 300 delegates representing 22 plantations. By the end of 1981, CIOAC had organized strikes at 47 plantations, demanding recognition for the independent union and the right of tenant farmers to organize as workers and presenting labor demands for minimum wages, back pay, and unpaid credit (González and Pólito, 1995: 116). By 1982, the first regional CIOAC Congress drew 900 workers from 36 cattle ranches and coffee plantations (Álvarez, 1988: 295).

CIOAC vacillated strategically between the politics of land redistribution and of workers' rights throughout the 1980s (Álvarez, 1988: 285; Marion Singer, 1988: 30–42). Long-time CIOAC activists insist, however, that land stood at the center of political organization in this period. "The struggle then was for land, always land, and only land."<sup>12</sup> Harvey argues that CIOAC eventually began to use strikes as a way of forcing the breakup of the plantations into *ejidos*, switching the goal of union organization from labor rights to land reform (Harvey, 1998: 96). When the union was denied official recognition for the fourth time, four CIOAC leaders were arrested and 2,000 members marched from Simojovel to the state capital at Tuxtla Gutiérrez to demand their release. Although the government released three leaders and agreed to begin talks with union representatives, registration was never granted to CIOAC in Chiapas, and in 1982 two leaders were killed during a demonstration in support of union demands (97).

At the same time, CIOAC continued its campaign against construction of the Itzuntún Dam, which threatened to exacerbate the demand for land by displacing 14,000 families near Simojovel. CIOAC

<sup>12</sup> Interviews with Luis Hernández Cruz and José Antonio Vázquez Hernández, June 2002.

demanded that the Federal Electricity Company (CFE), which was offering inflated prices to large landholders with property in the projected flood zone, compensate displaced peasants with ten hectares of land per family and insisted that the government sign an agricultural wage agreement before it began compensating ranchers (Marion-Singer, 1984: 34). The union's hand in negotiations was strengthened by a march of 3,000 supporters who converged on the CFE offices in Huitiupán during the second meeting with the government (Harvey, 1998: 98).

### 3. OCEZ

The third dominant strand of independent political organization in Chiapas was the Emiliano Zapata Peasant Organization (OCEZ), formed in 1980 to unify land struggles in the area of Venustiano Carranza in central Chiapas. Mobilization in Venustiano Carranza had begun as early as 1967, when ranchers refused to hand over 50,000 acres of property awarded under Article 27 to the *ejido* (Montejo, 1994: 49). In 1972, the community of Venustiano Carranza built a new meeting place in the municipal center and named it *Casa del Pueblo*, the People's House (Harvey, 1998: 100). In 1973, Casa del Pueblo members took over the offices of the Agrarian Delegation in Tuxtla Gutiérrez and immediately won title to the backlog of lands it claimed. When Casa del Pueblo leader Martínez Villatoro was incarcerated months later, an armed uprising won his release almost immediately. Peasants rose up against local *caciques* and landholders again in 1974, and in 1975 members of *Casa del Pueblo* received payment for 2,545 hectares of land submerged by construction of the Angostura Dam. Martínez Villatoro insisted that the payment be used for the communal purchase of cattle, farming equipment, mills, and buses. In 1976, the group mobilized a large-scale land takeover that culminated in an armed confrontation that killed seven soldiers and two peasants (Harvey, 1998; Marion-Singer, 1988: 51).

In 1979, leaders from Casa del Pueblo met with members of other communities and agreed to form an independent land reform



movement (Harvey, 1998: 108–9). OCEZ was formed in 1980. OCEZ distinguished itself strategically from the other two currents that dominated opposition organization in the 1970s and 1980s by adopting the most radical position against cooperation with the state. OCEZ was critical of CIOAC, for instance, for organizing rural electoral support for the Communist Party (Weinberg, 1994: 9).

Álvarez argues that what marked the transformation from an earlier cohort of peasant movements to OCEZ is that the latter "politicized" its struggle, moving beyond direct confrontation between peasants and landowners to make a broader range of demands on the government through participatory strategies (Álvarez, 1988: 296). Casa del Pueblo, for example, took over the Municipal Palace for five days in 1979 and demanded an end to repression, recognition from municipal authorities, and respect for the decisions of the majority of the community. OCEZ coupled such far-reaching demands as freedom for political prisoners and recognition for communal authorities with narrower agricultural claims. Marion-Singer argues that OCEZ became further politicized after 1981, when the movement adopted new forms of struggle: peasant marches on the capital, linkages with other independent peasant movements, and prison hunger strikes (Marion-Singer, 1988: 52–53).

These three movements played an important role in carving out a more explicitly political space within the context of a notoriously weak peasant politics under constant threat of co-optation. By selectively responding to peasant demands for land redistribution, the government had long succeeded in limiting peasant politics and maintaining mostly quiescent rural support for 50 years. Through PRODESCH and the influence of Liberation Theology and Maoist activism, however, the possibilities of peasant organization were expanded to include agricultural workers and demands for control of the means of production. In this context, a new wave of activists began to insist on representation, autonomy, and recognition in an attempt to extend their tactical reach beyond the limits set by the government. By moving claims beyond the realm of such tangible goods as roads,

land, and jobs, these movements attempted to challenge the parameters of peasant politics and played a crucial role in organizing and radicalizing the support base of the EZLN.

#### NEO-LIBERALISM AND THE SHRINKING SPACE OF CLASS POLITICS

In Mexico, as in Latin America more broadly, the rise of the indigenous political subject has been intimately linked with the eclipse of the peasant as a privileged client of the corporatist state (Yashar, 2005). The diminishing traction of class politics resulted from a combination of neo-liberal economic policies, declining terms of trade in agricultural production, and a government crackdown on independent peasant political organization.

In an attempt to recover from the 1982 debt crisis and under pressure from the IMF and United States, the Salinas administration (1988–94) implemented a series of neo-liberal economic reforms that reduced the social capacity of the state and weakened the ties of social responsibility that linked the ruling party to its mass constituent base. As part of the neo-liberal reform package, the government cut investment in the economy, liberalized trade to boost non-oil exports, privatized most public enterprises, reduced import tariffs to increase domestic competitiveness, withdrew subsidies and price guarantees for agricultural products, opened the agricultural sector to foreign investors to increase productivity, and opened the agricultural market to foreign competition.

In Chiapas, which depends almost solely on agricultural production, the stress of liberalization was exacerbated by the collapse of the International Coffee Agreement (ICA) in 1989, when the price of coffee on the world market was cut in half. The average income of small coffee growers dropped by 70 percent between 1989 and 1993 (Harvey, 1994: 21). Between 1970 and 1990, the percentage of the Chiapas population occupied in the agricultural sector declined from 73 percent to 58 percent (*Chiapas en Cifras*). According to the World Bank, the number of people below the absolute poverty line in Mexico rose

from 17 percent in 1980 to 23 percent in 1989. The percentage of people in extreme poverty rose from 2.5 percent to 7 percent in the same period. Income distribution also worsened, as the GINI coefficient rose from 0.51 in 1984 to 0.55 in 1989. The income share of the bottom 20 percent of the population dropped from 4.1 percent in 1984 to 3.2 percent in 1989 (Weiss, 1996: 76). As Raymundo Rivas Palacio, editor of *El Financiero*, explained, "The naked capitalism unleashed by Salinas has not only affected Chiapas but the whole country. The administration's economic policy has resulted in the rich getting richer while the lower middle class, the working class, and the poor have become increasingly impoverished." According to *Forbes* magazine, the number of Mexican billionaires, measured in U.S. dollars, rose from 1 in 1990 to 24 in 1994. In the same period, the number of rural poor increased from 8.4 million to 8.8 million (Russel, 1995: 16–19).

The North American Free Trade Agreement (NAFTA) represented the pinnacle of Salinas's economic liberalization program. The central feature of NAFTA is the removal of trade barriers and tariffs among the United States, Canada, and Mexico. For Mexico, part of the anticipated advantage of NAFTA was that it would encourage foreign investment by companies seeking to capitalize on the lowest labor costs within the NAFTA region (Weiss, 1996: 66). The logic behind opening up a free-trade zone is the rationalization of production and consumption. Assuming full employment, non-competitive producers will have incentives to move into other sectors of the economy, maximize productivity, and clear the market. The model smacks abruptly against the reality of very high rates of unemployment and underemployment, however, with the result that farmers who are forced out of agriculture are unable to move to another sector. They move instead into the ranks of the permanently unemployed, or they move to New York.<sup>13</sup>

<sup>13</sup> As Jonathan Fox (1994) argues, since 1988 the Mexican government's rural development strategy has been based on the assumption that a large proportion of the rural poor would move to the cities or to the United States.

For Mexico, the production of corn has emerged as a particularly sensitive strand of the NAFTA agreement. The United States annually produces roughly twenty times the amount of corn produced in Mexico. Mexican farmers produce an average of 30 bushels an acre, as compared with 134 bushels produced per acre in the United States. Mexican production costs are roughly 30 percent higher than American costs (Wollock, 1994: 53). The production of one ton of corn in eastern Chiapas can take up to 300 days of labor, measured in man-hours. The Mexican average is eight days, and the average in the United States is 0.15 days (*Chiapas en Cifras*). Clearly, the United States holds the productive advantage, and under the terms of NAFTA the Mexican market was gradually opened up to American corn through a 15-year phase-out of trade protection, cutting the cost for Mexican consumers (*Economist*, 2002: 30).

Nevertheless, for the 3 million Mexican farmers who produce corn on small, inefficient fields without access to irrigation, who with their families represent nearly one-quarter of all Mexicans, the terms of NAFTA threaten a way of life (Wollock, 1994: 53). Protectionist policies in the form of import tariffs and agricultural subsidies, which support vibrant farming sectors in such developed countries as France and the United States, are an unlikely alternative in developing democracies, where political elites are required to comply with trade policies dictated by the Washington Consensus. Open markets endanger inefficient small farmers in the structurally vulnerable countries of the global South, where governments are unable or unwilling to erect trade barriers to cheaper imported food.

Faced with the reality that most developing countries lack both the incentive and the capacity to protect small farmers, activists have insisted that the threat to subsistence farming is a threat to indigenous culture and national identity, not only to the economic well-being of the rural poor. Faced with a similar crisis of subsistence agriculture in Guatemala, Rigoberta Menchú has described the depth of popular anxiety by explaining, "Maize is the center of everything for us. It is our culture" (La Botz, 1995: 25). The maize plant originated in Mexico,

and Mexico still has the oldest strains of corn in the world. These seed lines could easily be contaminated by genetically modified corn, however, which was found in shipments from the United States in 2003 and 2004. American corn could literally spell the extinction of Mexican corn, affecting the Mexican diet, and transforming the character of the countryside.

The danger to subsistence farming, and to the political leverage of the peasant, was dramatically compounded by the reform of Article 27 of the Mexican Constitution guaranteeing land redistribution to Mexican peasants. Article 27 governed land tenure in Mexico from the end of the Revolution in 1917 until 1992, linking access to land directly to government patronage for most of the twentieth century and establishing very strong ties between the peasantry and the PRI (La Botz, 1995: 25). Article 27 offered the promise of rights. It obliged the state to redistribute land in the form of *ejidos* – an area comprised of individual plots and communal property that could not be sold, rented, or used as collateral – to petitioners who fulfilled the necessary legal requirements. Together with a small number of designated “indigenous lands” – notably called “agrarian communities” (*comunidades agrarias*) – located primarily in Oaxaca, *ejidos* accounted for almost one-half of all the land in Mexico. Article 27 removed that land from the market. In order to signal its commitment to the principle of private property-ownership in anticipation of NAFTA requirements, Mexico repealed its constitutional guarantee of land redistribution in 1992.

The reform has particular potential impact in southern states like Chiapas with large numbers of *ejidos* and the largest indigenous populations. In Chiapas, *ejidos* and *comunidades agrarias* make up 57 percent of all exploitable land – the highest percentage of any Mexican state (Russell, 1995: 16). One-third of Chiapas’s total population of 3.5 million people live on *ejidos*, although the land is of generally poor quality and undercapitalized (La Botz, 1995: 25). Many of the two thousand *ejidos* and *comunidades agrarias* in Chiapas are located in the Lacandón rain forest, which is notoriously ill suited to

sustained agriculture, and where land tenure is additionally threatened by international environmental campaigns for the protection of the rain forest (Harvey, 1994: 22–23).

In fact, the reform of Article 27 has, so far, had little effect on land tenure in southern Mexico, even as late as 2006.<sup>14</sup> According to the website of the Secretariat of Agricultural Reform (SRA), 1,914 ejidos occupied 46.16 percent of the total land in Chiapas in January 2002, whereas this number had grown to 2,714 ejidos occupying 48.33 percent of the land in Chiapas by January 2006 (<http://www.sra.gob.mx/internet/index.htm>)! In Oaxaca, most of the indigenous land is held in *comunidades agrarias*, which are not affected by the reform of Article 27. Even *ejido* land is not confiscated under the terms of the reform or converted automatically to private ownership. Instead, the reform creates incentives for privatization by allowing individual members to sell their share or to use *ejido* land as collateral. In Chiapas and Oaxaca, grassroots campaigns against selling *ejido* property, and for maintaining traditional communal structures of land tenure, have so far succeeded in preventing much real privatization, and in the first decade after the reform, there was very little transformation in the organization of subsistence agriculture in southern Mexico.<sup>15</sup>

Nevertheless, notwithstanding its limited effect on the actual structure of agricultural production, the reform of Article 27 dramatically undercut the political leverage of the Mexican peasant. The special relationship that existed between peasants and the state was predicated on the commitment of Article 27 to redistribute land to a category of people explicitly recognized by the Mexican state as peasants. Rural Mexican politics revolved around land claims, and Article 27 located peasants in a recognizable and legitimate public space.

<sup>14</sup> Interview with Luis Hernández Cruz, June 2002.

<sup>15</sup> This is less true in northern Mexico, where there are more large-scale commercial farms and ranches, and where *ejido* land is better, and therefore more desirable for private entrepreneurs. In Chihuahua, Sonora, and Baja California, the percentage of total land in use by ejidos has diminished since 1994 (<http://www.sra.gob.mx/internet/index.htm>).

When the Mexican government withdrew its promise to peasants, however, it sharply limited the grounds on which they could make political claims, and it transformed the terms of their citizenship in the Mexican state. Under these conditions, it has become increasingly common to hear rural activists insist that NAFTA is a threat not only to peasant subsistence, but also to indigenous culture.

By the end of the 1980s, the social base of political organization in Chiapas was also fragmenting under the twin pressures of a very weak economy and state repression and co-optation. In 1989, the Mexican peso was worth one-fiftieth of its 1980 value, and Chiapas governor Garrido had banned logging, land clearing for farming, and financing for cattle operations in the Lacandón Jungle, shrinking to almost nothing the sources of rural livelihood and vastly diminishing the capacity of the rural poor even to survive economically as a peasantry (Le Bot, 1997: 58). The collapse of the international price of coffee in 1989 further undermined the economic independence of peasant producers and their political leverage.

Government co-optation and repression also undermined peasant politics (Benjamin, 1989: 245–50). In 1986 and 1987, UE Quiptic became involved in negotiations with the government to press for the recognition of an existing agreement to respect the *ejido* titles of 26 Lacandón communities and to revise the boundaries of the *Comunidad Lacandona* to include them. A final agreement was signed in March 1987, including the establishment of a special Coordinating Committee for the Preservation of the Lacandón Forest.

The agreement additionally stipulated the unification of various Unions of Ejidos, including UE Quiptic, into the ARIC Union of Unions, the Rural Collective Interest Association favored as a structure of peasant organization by the López Portillo administration. Many ARIC leaders were co-opted by their success in negotiating with the government, and they subsequently avoided independent action and mobilization. The lack of secure land titles in the Lacandón weakened ARIC, and the government rejected subsequent legal petitions, and even a request to purchase land, between 1990 and 1992 (Harvey, 1994: 25).

A number of ARIC leaders eventually moved into a formal alliance with the PRI, and ARIC president Lazarus X stood as the party's candidate for elected office in 1994. Out of frustration with the increasing conservatism and evident co-optation of some ARIC leaders, many of its rank and file deserted to the EZLN between 1988 and 1992 [Carr, 1998; Le Bot, 1997; Legorreta-Díaz, 1998]. As late as 2001, much of the violence that persisted in the Chiapas highlands and the Lacandón forest was a result of this old political split between ARIC members with ties to the PRI or the PRD and those who left ARIC to join the EZLN (Associated Press, October 29, 2001; Legorreta-Díaz, 1998). After 1994, ARIC split further into five distinct branches, and many communities in the Lacandón experience what Xóchitl Leyva has described as insecurity and uncertainty as a result of the pluralization of politics at the local level (Leyva, 2001; 2002: 58–67). What has not changed is that most of the violence continues to be over land (Leyva and Ascencio, 1996; Mattiace et al., 2002; Villafuerte et al., 1999).

In the second half of the 1980s, CIOAC suffered severe state repression. Nine organizers from a single office in Comitán were killed in 1985 and 1986, and almost everyone involved in the organization was a target of state or landowner vigilante violence, making it evident to organizers that the entire leadership was at risk.<sup>16</sup> In 1987, seven people were killed when police broke up two demonstrations of CIOAC and OCEZ peasants (Harvey, 1994: 25). In 1989, the Chiapas criminal code was amended to classify participation in unarmed mass protest as a threat to public order, punishable by two to four years in prison (26). Although CIOAC continued to operate as a peasant union throughout the 1990s and even beyond, harsh government repression constrained the size of its membership, its targets of protest, and its choices of strategy.

OCEZ also suffered from state repression and co-optation. Between 1986 and 1990, OCEZ and CIOAC were involved in a number

<sup>16</sup> Interview with Araceli Burguete, August 2000.



of joint actions in which members were killed. In April 1990 and April 1991, vigilante landowners operating with the Chiapas police destroyed several OCEZ-affiliated settlements on illegally occupied land. In 1989, the OCEZ groups in the northern highlands and La Trinitaria split from OCEZ Venustiano Carranza in a disagreement over whether to accept state offers to negotiate. The conflict escalated as OCEZ activists on both sides were assassinated by government-affiliated vigilantes (Harvey, 1994: 25; Weinberg, 1994: 10).

Against this backdrop, peasant leaders floundered to recover both the space and the grammar of autonomous political action. Luis Hernández Navarro, who worked for 15 years as an advisor to the National Coordination of Coffee Growers (CNOG), a nationwide coffee cooperative with a presence in the Lacandón, admits that independent political organization in Chiapas was eviscerated after the International Coffee Agreement collapsed in 1989. "We were undone," he explained. "We didn't know which way to turn, or what vocabulary to use to fight our fights. We were completely lost."<sup>17</sup>

## CONCLUSION

The Mexican Revolution enshrined the peasant at the heart of the Mexican nation, and of rural politics, for most of the twentieth century. This hallowed space afforded both opportunities and constraints to independent political organization and structured the shape of rural politics.

In retrospect, it seems ironic that the so-called Indigenous Congress launched two decades of peasant activism inspired by Liberation Theology and Maoist doctrine. But in this period, the indigenous was still a historical and anthropological category, while the peasantry was invested with potential political leverage. Politics was framed in the language of class struggle as part of the legacy of the Mexican Revolution, in combination with PRI attempts to revitalize a peasant support base and the presence of union and church-based activists

<sup>17</sup> Interview with Luis Hernández Navarro, October 2000.

who used class to formulate a political response to the socioeconomic condition of the rural poor. As Luis Hernández Cruz explained, "In those days the struggle was simply for land. Everyone knew we were in the struggle for land, and that is how we saw it. We were peasants fighting for land that was owed to us, that was ours."<sup>18</sup>

Oppositional peasant politics took hold in regions where indigenous traditions and leaders either were undergoing social and economic transformation or where such traditions and leaders had never existed. In both cases, the absence of a homogeneous communal structure opened space for political activism against the government and sowed the seeds for the rise of the indigenous rights movement in the 1990s.

Political activists who attempted to push the peasant paradigm beyond its institutionalized limits had some success in making demands for land and agricultural support, making the most of the corporatist structure that anchored support for the ruling PRI. But they were ultimately stymied by that same structure, and they were stalled altogether by a combination of neo-liberal economic policies and a violent government backlash against independent political organization. The peasant had its limits as a category of political identity.

Nevertheless, it was the networks and organizational ties of peasant political mobilization that would ultimately anchor indigenous political organization in the 1990s. The origins of the indigenous rights movement are to be found not in the desire to protect intact and sacrosanct indigenous communities and practices, but instead in a history of peasant political organization and in the hope that indigenous identity could renew the terms of struggle.

<sup>18</sup> Interview with Luis Hernández Cruz, June 2002.

## 4 From peasant to indigenous: shifting the parameters of politics

As peasant identity began to lose political traction in the late 1980s and early 1990s, it was gradually supplemented and replaced by political organization around indigenous identity. Even Subcomandante Marcos, who subsequently played an important role in shaping the discourse of indigenous politics and elevating the political visibility of indigenous peoples, admits that, prior to the 1990s, “indigenous people [were] part of the community, but without any specificity. They were an exploited people – peasants – and they had to be treated like peasants” (Subcomandante Marcos, 1997a: 137). Yet as Luis Hernández Cruz explains, “Now the struggle has changed, we are fighting a new struggle . . . and yet still it is the same.”<sup>1</sup> The new struggle he is referring to is the struggle for indigenous rights.

Like peasant identity, indigenous identity is not a permanent feature of rural Mexican politics. The sudden change in the terms of contestation caught many observers off guard. Mexican journalist and political organizer Luis Hernández Navarro worked as an advisor to a coffee cooperative in Chiapas for 10 years, meeting once a month with a core group of organizers. During those 10 years, when men rose to speak in meetings, they addressed the assembled group as *compañeros* – comrades – and they spoke in Spanish. In February 1994, Hernández attended the first cooperative meeting after the Zapatista uprising. As the first man rose to speak, he looked out over the group and began, “Indigenous Brothers . . .” – speaking not in Spanish, but in Tzeltal.<sup>2</sup>

<sup>1</sup> Interview with Luis Hernández Cruz, June 2001.

<sup>2</sup> Interview with Luis Hernández Navarro, October 2000.

The presence of people who spoke indigenous languages and lived by distinct customs, traditions, and systems of belief was universally recognized, but politically irrelevant, for most of the twentieth century. Indigenous identity developed ideological and political resonance in the crosshairs of a particular historical moment.

First, the third wave of democratic transitions has been defined in part by its tight alliance with neo-liberal economic policies. The discourse of democracy has opened space for political mobilization around demands for representation and citizenship that link politics to groups constituted in terms of ethnicity, gender, and race. At the same time, neo-liberal ideology and economic policy played an important role in undermining the leverage of class identities and demands for redistribution. In much of the developing world, the claims of aboriginal populations for self-government and territorial autonomy have achieved particular prominence in the context of neo-liberal democratization. The third wave has generated the politics of identity by constricting the political leverage of class and expanding access to the language of rights at the same time that international financial institutions like the World Bank have begun to insist on decentralization, local autonomy, and public participation as conditions of loans and development assistance.

Second, indigenous political identity is constituted globally, as the international human rights regime has expanded its definition of rights to include not only individual rights to physical and political protection but also collective rights to cultural protection. Cultural rights are now enshrined in International Labor Organization (ILO) Convention 169; the Universal Declaration of Human Rights; the International Covenant on Economic, Social, and Cultural Rights; the Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; and the Convention on the Rights of the Child; as well as the Declaration on the Rights of Indigenous Peoples. Indigenous rights activists also exploit the existence of international rights that are not particular to cultural identity but nevertheless provide some moral leverage, such

as the right to a family, environmental rights, human rights, and the right to shelter (Macklem, 2007).

Third, many governments have responded to these changes at the international level by reconfiguring political organizations at the domestic level. As states withdraw their commitment to social and economic support, some have attempted to renegotiate the terms of citizenship by extending cultural rights to their marginalized populations. Starting in the 1970s, the PRI began a shift away from indigenous assimilation toward the cultural reevaluation of indigenous customs and languages. Under pressure from a new generation of critical anthropologists, and in the context of the attempt to reconstruct its base of rural support, the government implemented a series of policy changes that involved community participation, autonomous decision making, and support for bilingual education. This trend was amplified in 1992, when the government amended the Constitution to recognize the multicultural character of the Mexican nation, opening up new spaces of political contestation.

Finally, many activists with diminished capacity to advance demands as peasants have deployed indigenous identity in an attempt to reestablish their political presence as citizens with a legitimate claim on state resources. In Chiapas and in some other parts of Mexico and Latin America, a small group of indigenous rights activists tried for many years to establish the public resonance of indigenous identity. These activists played an important role in pushing indigenous identity into the political sphere and in developing an indigenous political agenda. This nascent movement was influential in orienting the terms of the Zapatista uprising, and the Zapatistas in turn propelled the issue of indigenous rights to the center of Mexican politics, challenging the boundaries of the political and insisting on renegotiating the terms of their incorporation into the Mexican nation.<sup>3</sup>

<sup>3</sup> Shannan Mattiace (2003) has written an excellent book that covers much of this period in Chiapas politics, interviewing some of the same people I have spoken to. These chapters were substantially written before I discovered her book and so do not take advantage of her work as much as they otherwise would have.

NEO-LIBERAL DEMOCRATIZATION IN THE  
THIRD WAVE

Latin American politics has long aligned along a recognizable left-right dimension anchored at one end by Communists, Marxists, socialists, and revolutionaries and at the other end by Christian conservatives, free-market capitalists, and the military. The sudden collapse of Eastern Europe and the Soviet Union in 1989 disoriented this political alignment, however, as the ideological framework of the Left unraveled in evident failure. As the Marxist ideological paradigm – which centered the political role of class actors – lost traction, capitalist democracy was quick to announce its victory over communism. As free-market economic policies took hold in country after country, in part through neo-liberal policy prescriptions imposed by the International Monetary Fund (IMF) and the World Bank on countries in need of funding and debt relief, corporatist ties linking the state with such class actors as workers, peasants, and the middle classes were severed (Yashar, 2000). This transformation led to a dramatic reorientation of political cleavages the world over, in particular in Latin America.

The fall of communism had the simultaneous effect of legitimating free-market democracy and neo-liberal global economic and development policies. Democracy has emerged as the dominant legitimating appeal of both government and opposition. Only a handful of countries dare to locate themselves outside of its covering rhetoric. This logic has had a profound effect on the character of politics almost everywhere. The opposition has practically abandoned its revolutionary zeal. Instead, those groups that demand radical transformation of the public sphere, who used to call for the overthrow of government, now insist on the liberalization of political space and free and fair elections. At the core of the insistence on democracy lies an almost universally deployed demand for rights, rooted in the language of democratic citizenship.<sup>4</sup>

<sup>4</sup> The language of rights centers the discourse of civil societies as far apart as South Africa and Iraq, for instance. See Bhuta, 2004; Paremoer and Jung, 2007.

The combination of democratization and neo-liberal development policies that characterizes the third-wave democratic transitions has universalized the language of rights at the same time that it constricts the ideological and structural space for the political expression of class identities. In the same era, the international legal framework has endorsed the claims of subnational cultural groups. Recognition of the rights of indigenous peoples is often framed as a condition of deepening democratic citizenship. As Margarito Ruiz explained, "Autonomy is not about self-marginalization. The autonomy that is sustainable over the long term is that of inclusion, under conditions of equality. Our proposal is that the indigenous peoples have a guaranteed minimum representation of ten percent in the federal congress," corresponding to the percentage of the population that claims indigenous identity.<sup>5</sup> Andrés Aubry, who is closely associated with the Catholic diocese in San Cristóbal and played a key role in facilitating negotiations between the government and the EZLN in 1994, also sees a link between indigenous politics and democracy that did not exist with class politics. As he says, "With autonomy, the key to development is not economic, it is political, that is, it is democracy, the indigenous govern themselves."<sup>6</sup>

Neo-liberal democratization has also been defined by a drive toward fiscal, bureaucratic, and political decentralization that has unwittingly opened a space for indigenous politics and generated top-down incentives for advancing a culturally embedded political identity. Starting in the 1980s, the de la Madrid administration began to implement policies aimed at devolving power from the federal and state levels to the municipal level of government, which had emerged as a key element of his campaign platform. Caroline Beer argues that demands for decentralization were linked to democratization in the sense that they came mainly from governments facing electoral competition for the first time. PRI party politicians at state and municipal

<sup>5</sup> Interview with Margarito Ruiz, June 2002.

<sup>6</sup> Interview with Andrés Aubry, August 2000.

levels demanded greater fiscal and policy autonomy so that they could better respond to voters (Beer, 2004: 191). The decentralization project gained steam after the 1985 Mexico City earthquake, which prompted critics to argue that Mexican bureaucracies should be less concentrated in Mexico City, but also that devolution would make government more responsive to the demands of citizens (Stansfield, 1992: 120).

The municipal reform of 1984 was the cornerstone of de la Madrid's decentralization initiative. As he said, the reform was intended to "strengthen the development of *municipios* in order to increase regional development [and] to increase the feeling of belonging in a community. . . ." He went on to elaborate on the role of decentralization as a strategy for dealing with distinct regional imperatives and needs. "In accordance with the constitutional principle regarding the internal regimes of the states, the regulation of municipal communities will be guided by the local laws and constitutions in order for these to contain the norms that will correspond to the specific geographic, ethnographic, demographic and economic characteristics that are distinctive of each one of the states" (Cámara de Diputados, 1983: 12).

In particular, Section II of Article 115 was amended to grant *municipios* autonomy in the management of their finances, and it enabled them to design their own laws and rules of government (Rodríguez, 1992: 136). Although Rodríguez argued that decentralization did not take immediate effect in the de la Madrid administration, these reforms laid the groundwork for the subsequent devolution of power and, in particular, for the 1995 and 1997 electoral reforms that allowed indigenous municipalities in Oaxaca to choose between *usos y costumbres* and party politics in electing municipal leaders.

During the 1990s, such international financial institutions as the World Bank and the IMF also embraced decentralization as a strategy for reducing bureaucratic impediments to service delivery and



to the effective implementation of development programs.<sup>7</sup> Decentralization has been identified as a neo-liberal development strategy in the sense that it bypasses federal bureaucracies to focus on the local level of government that is allegedly closest to the community or tries to eliminate the state altogether by providing funding directly to “communities.” The World Bank and other multilateral organizations seek to identify communities that can bear organizational and fiscal responsibility for carrying out development programs.

Deborah Poole argues that “culture,” in the form of indigeneity, is used by the World Bank and other multilateral donors as an indicator of the ability of a “community” to successfully implement development programs. Donors may believe that such communities come with a built-in social consensus for long-term development and are able to promote effective governance by fostering transparency and accountability. The World Bank also believes in the ability of indigenous communities to play a role in the direct delivery of social and economic services and in natural resource management and environmental protection. Thus, she argues, communities in Oaxaca with “traditional authorities” and *usos y costumbres* are eligible for international funding that non-indigenous communities cannot access. The neo-liberal agenda of decentralization and devolution thus serves as impetus for strengthening a particularly organic and local conception of culture, and some of the incentives to advance

<sup>7</sup> Although some people have argued that the international financial institutions (IFIs) have driven the imperative for decentralization in developing countries, Montero and Samuels point out that, in Latin America at least, fiscal and political decentralization were already under way in the mid-1980s. “Decentralization,” they say, “emerged as a major theme in the IFI discourse in the region only after 1988, and it did not mature until the middle of the 1990s, well after political, fiscal, and administration decentralization were under way . . . IFIs have joined the pro-decentralization chorus quite late, and we can discount their role as primary causal agents or forces that initially promoted decentralization” (Montero and Samuels, 2004: 17). Though they may not have been the initial instigators, the IFIs nevertheless play a role in providing continuing incentives for decentralization and devolution.

an indigenous identity trickle down from international development organizations.<sup>8</sup>

Grassroots incentives to identify as indigenous peoples will be dramatically exacerbated by the July 2005 World Bank operational policy reform that requires borrowing countries “to engage in a process of free, prior and informed consultation for all projects that are proposed for Bank financing and affect indigenous peoples.” Operational Policy 4.10 (OP4.10) also insists that World Bank–financed projects “ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate and gender and intergenerationally inclusive.” This policy is likely to encourage indigenous self-identification in particular because the World Bank uses the definition of indigenous peoples that has been agreed upon by the Working Group on Indigenous Populations and informs the United Nations Declaration on the Rights of Indigenous Peoples, namely “self-identification as members of a distinct cultural group and recognition of this identity by others.”<sup>9</sup> This World Bank policy, which is in line with the bank’s emphasis on public participation in the design and implementation of its development projects, appears to afford indigenous people a degree of leverage that non-indigenous people have never had over the scope and disposition of World Bank activities in developing countries.

#### THE FORMATION OF AN INTERNATIONAL INDIGENOUS RIGHTS FRAMEWORK

The expansion of recognition beyond states and individual citizens to include the claims of substate political actors who could contest state boundaries and decisions comes as a major shift in the international state framework constructed after World War II. The governance of international society has dealt primarily with the rights and responsibilities of states. The Law of Nations for instance, is “the science of the rights which exist between Nations or States and of the obligations

<sup>8</sup> Poole, personal correspondence, June 2005.

<sup>9</sup> <http://wbIn0018.worldbank.org/Institutional/Manuals/OpManual.nsf/B52929624EB2A3538>, accessed August 2, 2005.

corresponding to these rights" (de Vattel, 1968: 3). Under international law and in international forums, indigenous groups have not qualified for rights or representation as distinct communities unless they also qualified as states – with exclusivity of territorial domain and hierarchical centralized authority. Otherwise, indigenous people have been dealt with juridically as citizens of states, conceptually reduced to the status of individuals and therefore barred from such international forums as the United Nations.<sup>10</sup>

The system of international representation and law that was established through the United Nations at the end of World War II reinforced the inviolability of state boundaries. As colonial empires began to break apart and the boundaries of states grew ever more contested, the United Nations General Assembly upheld the principle of independent statehood for colonial territories. Colonialism was delegitimated in part by the construction of a link between groups of people who share a common ethnic heritage – nations – and the natural boundaries of government – states.

The resolution in favor of colonial independence was accompanied, however, by a further commitment to halt the serial renegotiation of state boundaries, as states agreed together not to recognize the claims of substate actors that would challenge their sovereignty and the stability of the international state system. For decades, this norm held, and the international legal framework denied institutional and representational space to claimants demanding collective rights as subnational groups against member states of the UN.

James Anaya argues that the international human rights movement has been at the forefront of the expansion of international law into the area of cultural rights. As human rights activists have fought to moderate the doctrine of state sovereignty to justify intervention

<sup>10</sup> At the first meeting of the Permanent Forum on Indigenous Issues in New York City in May 2002, a number of indigenous representatives made reference to the failed 1924 attempt by Cayuga Chief Deskaheh to address the League of Nations in Geneva. <http://www.7genfund.org/perm-forum-p4.htm>, accessed December 5, 2002.

into the internal affairs of states, in defense of victims of human rights abuses perpetrated by the states themselves, they have also called into question the morality of the historical link between international law and the individual/state dichotomy of human organization (Anaya, 1996: 42). Anaya explains that an ongoing international conversation on the topic of human rights has focused attention on values that support human beings' associational and cultural patterns. It is in the articulation of human rights norms that the concept of collective rights has begun to take hold (*ibid.*). Although international law remains state-centered, it is increasingly influenced by such non-state actors as independent experts, non-governmental organizations and indigenous rights activists working multilaterally to increase the competency of international law over matters that were once considered the exclusive domain of the state.

The first international covenant to refer explicitly to the concept of indigenous rights was International Labor Organization (ILO) Convention number 107 of 1957. The ILO developed Convention 107 following a series of studies signaling the particular vulnerability of indigenous workers to discrimination and exploitation. ILO 107 framed a concern with the rights of indigenous people as a demand for equal treatment, however. Although the convention called for the recognition of customary laws and communal land ownership, it did not recognize the principle of collective rights to indigenous autonomy or self-government.

During the 1970s, a small number of Latin American critical anthropologists began to foster a cross-national dialogue on indigenous peoples through conferences, the development of a scholarly literature, and direct appeals to international organs like the UN and the Organization of American States (OAS). The first major development was the 1977 International Non-governmental Organization Conference on Discrimination against Indigenous Populations in the Americas, which formed the basis of an international indigenous rights network and played an important role in publicizing and politicizing the concept of an indigenous identity and of particularly

indigenous issues and grievances. Following the conference, indigenous representatives began to give testimony before the UN Commission on Human Rights, and several groups achieved consultative status within the Economic and Social Council (ECOSOC), the parent body of the UN's human rights machinery. In this period, the threat to indigenous peoples was treated as a matter of human rights violations.

This nascent activism on behalf of indigenous people played an important role in the development of ILO Convention 169 a decade later. Convention 169 revises Convention 107 by including recognition for "the aspirations of [indigenous] peoples to exercise control over their own institutions, ways of life, and economic development, and to maintain and develop their identities, languages, and religions, within the frameworks of the States in which they live" (Anaya, 1996: 48). In addition to the protection of cultural integrity through the recognition of social, cultural, religious, and spiritual traditions, the convention also recognizes rights in land and resources, introducing a weak but symbolic conception of territory and habitat. Convention 169 enshrines the right of indigenous peoples to decide their own priorities for development, in light of the social inequality suffered by indigenous peoples and the systematic violation of their citizenship and human rights. Convention 169 came into force with ratification from Norway and, ironically, Mexico in 1990. Unlike Convention 107, ILO 169 is widely perceived as a fundamental challenge to the dichotomous focus on states and individuals that has shaped international standards of justice, and the convention has opened a space at the international level for indigenous groups to act as legitimate political actors.

The former president of the National Plural Indigenous Assembly for Autonomy (ANIPA), a Mexican indigenous rights organization that enjoyed substantial political access at the beginning of the Fox administration and remained active on the international indigenous rights circuit, describes the importance of this political appeal to Mexican indigenous rights activists. "States themselves put the noose around their necks when they sign these international conventions.

Because then there are verification committees and other things that can be used by indigenous groups, if they know how to use them. These mechanisms are like a tiny door of entry, but if we know how to use it, it can be very successful.<sup>11</sup>

The United Nations has been directly involved with indigenous issues since 1970, when the Sub-Commission on Prevention of Discrimination and Protection of Minorities recommended a study of discrimination against indigenous populations. The Cobo Study, written by José R. Martínez Cobo of Ecuador, led to the establishment of the Working Group on Indigenous Populations (WGIP) in 1982. The WGIP is made up of five independent experts who are members of the Sub-Commission on the Promotion and Protection of Human Rights and represent each geopolitical region of the world (Keal, 2003: 117). The WGIP meets annually in July, and the meetings are open to representatives of indigenous peoples and non-governmental organizations.

The most important achievement of the WGIP is the United Nations Declaration on the Rights of Indigenous Peoples, which was approved by working group members in 1993. This Declaration is the only UN instrument to be drafted with the direct participation of indigenous people and to develop standards on indigenous peoples rights, including “the preservation and development of ethnic and cultural characteristics and identities; rights related to religions, languages, and education; protection against genocide and ethnocide; ownership, possession, or use of indigenous lands and natural resources; protection of cultural and intellectual property; and maintenance of traditional economic structures and ways of life.”<sup>12</sup>

The Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted the Draft Declaration in August 1994 and submitted it to the Commission on Human Rights (CHR). The

<sup>11</sup> Interview with Margarita Gutiérrez, May 2001.

<sup>12</sup> Office of the High Commissioner for Human Rights, Fact Sheet No. 9 (rev. 1), The Rights of Indigenous Peoples, <http://www.unhcr.ch/html/menu6/2/fs9.htm> (accessed May 19, 2002).

CHR did not accept the draft “because of states’ concerns that the provisions regarding self-determination went further than the states were prepared to accept in an international document” (Irons Magellanes, 1999: 24). Although ratification of the Draft Declaration in the General Assembly was a major goal of the United Nations International Decade of the World’s Indigenous Peoples (1994–2004), the Declaration was not adopted by the end of 2004, prompting activists to argue for a second decade for indigenous peoples.<sup>13</sup> The Declaration on the Rights of Indigenous Peoples was in fact adopted by the Human Rights Council in June of 2006, but it was subsequently rejected by the General Assembly in October of that year.

The Draft Declaration was finally adopted by the General Assembly in September 2007, by a vote of 143–4 with 11 abstentions. Even though the Declaration is not binding, it may contribute to the crystallization of new international norms, practices, and policies toward indigenous peoples. The fact that it passed with such an overwhelming majority also contributes to the legitimacy and potential power of the Declaration, making it more likely that its commitments will trickle down, at least to those states that voted in favor. Activists hope that it will be an important source of legitimacy and protection for indigenous populations.

In June 1993, the Vienna Declaration and Program of Action called for an International Decade of the World’s Indigenous People, to begin in January 1994. In the framework of such a decade, the Declaration recommended the establishment of a permanent forum for indigenous peoples within the UN system. Following six years of discussions, workshops, and annual meetings through the Working Group on Indigenous Populations and the Commission on Human Rights, a resolution to establish a Permanent Forum on Indigenous Issues was passed by 43 member countries of the Commission in July

<sup>13</sup> Author’s notes from WGIP meeting, July 19–23, 2004. In fact the proposal that the UN dedicate a second decade to indigenous peoples was passed in January 2005, ostensibly recommitting the international community to addressing the concerns of indigenous populations.

2000.<sup>14</sup> The Permanent Forum meets annually for two weeks in May at the UN headquarters in New York. The Forum operates within the framework of ECOSOC, and its leadership consists of 16 members divided equally between government and indigenous representatives. The Mexican government's first official representative was Marcos Matías Alonso, a former director of INI and an indigenous rights activist.

Despite its limitations, the Permanent Forum is generally considered to be a significant improvement over the Working Group on Indigenous Populations (WGIP), an annual five-day session in Geneva to which indigenous people are invited as guests. Whereas the WGIP is not empowered to make recommendations, the 16-member council of the Permanent Forum prepares a report after the annual meeting that incorporates the input of indigenous delegations, state governments, and UN agencies at the meeting. Based on the report, the council submits recommendations to its parent body, ECOSOC, which votes on accepting the recommendations and is responsible for executing them.<sup>15</sup>

On the other hand, Forum members remain skeptical of the real impact it will have on the status and well-being of indigenous people. The Vienna Declaration called for a permanent forum "for indigenous peoples," not "on indigenous issues." It is not clear if this will end up making an important difference in the scope of the forum's work, but the use of the word "issues" reflects the reluctance of member states to formally recognize indigenous peoples in a way that will outlast the issues over which they currently have grievances. What's more, the "Permanent" Forum meets for ten days every year and has no mandate or budget to work or to implement resolutions between annual sessions. The Permanent Forum is empowered to meet regularly, but far from permanently. Finally, members have called for the Permanent Forum to be raised to the status of

<sup>14</sup> <http://www.yachaywasi-ngo.org/forum.htm> (accessed December 5, 2002).

<sup>15</sup> <http://www.7genfund.org/perm-forum-p4.htm> (accessed December 5, 2002).



an independent secretariat, at the level of and not subordinate to, ECOSOC. A secretariat, staffed with professional indigenous personnel, would have greater influence within the UN, greater prestige, and the institutional capacity to execute the recommendations and resolutions adopted at the annual meetings, more closely approximating the promise of a Permanent Forum.<sup>16</sup> The current budget of the Permanent Forum is derived exclusively from voluntary contributions of UN member states, with no official allocation from the regular budget of the UN.

Nevertheless, participation in such arenas as the Permanent Forum and the Working Group has become a condition of indigenous political identity for many indigenous rights activists. Perhaps surprisingly, given the limited success of these forums, these meetings enjoy tremendous legitimacy among participants. Some activists dismiss the indigenous credentials of the Zapatistas, for example, because they maintain no presence on this international circuit of indigenous rights activists.<sup>17</sup> In these spaces, indigenous people have developed a recognizable language and political orientation that amount to an international indigenous agenda or position. Indigenous representatives meet one another at hearings, meetings, and conferences in different parts of the world an average of six times per year. The Latin American contingent is particularly intimate, meeting even more frequently through the Organization of American States and the Inter-American Development Bank, and to challenge trans-national development projects such as the Plan Puebla Panamá and the Central American Free Trade Agreement (CAFTA). The Latin American regional caucus typically speaks as a bloc, meeting in the mornings and evenings for strategy sessions. Its members share hotel accommodations and exhibit notable camaraderie and solidarity at the UN.<sup>18</sup> In certain circles, access to indigenous identity is determined not primarily by

<sup>16</sup> <http://www.7genfund.org/perm-forum-p4.htm> (accessed December 5, 2002).

<sup>17</sup> Interview with Araceli Burguete, August 2000.

<sup>18</sup> Author observation at second annual Permanent Forum meeting, May 2003.

bloodline or ancestry but by familiarity with the international discourse and politics of indigenous rights.

#### INDIGENOUS IDENTITY AND DOMESTIC POLITICS

Over the course of the last 30 years, and in particular after 1990, discursive and institutional shifts in international and regional politics have had an effect on the Mexican government's indigenous policies and on the types of demands that domestic activists have made on behalf of indigenous populations.

During the 1960s, widespread popular opposition to the ruling PRI came to a head with the student massacre at Tlatelolco in 1968.<sup>19</sup> Inspired by the student movement and influenced by the American Indian Movement (AIM) in the United States, in 1970 a group of young critical anthropologists mounted a searing critique against the assimilationist thrust of *indigenismo* policy.<sup>20</sup> The defining manifesto of the critical movement was the 1970 tract *De eso que llaman antropología mexicana*, edited by Guillermo Bonfil (Bonfil, 1970). One of the central critiques of the book was that indigenist policy was linked to a capitalist system that made it incapable of recognizing and attacking the structural inequality that victimized indigenous people. Besides their concern that indigenous policy had failed to improve the economic and social well-being of the indigenous population, the critical anthropologists insisted that the policy of assimilation and integration created a situation of cultural oppression. The theme of cultural oppression had also emerged at the 1970 Barbados conference on indigenous rights and linked Mexico's critical anthropologists to a nascent global movement in defense of indigenous cultural rights.<sup>21</sup>

<sup>19</sup> Mexican police shot and killed over 100 student demonstrators just before the Mexican Olympics in 1968. The student massacre precipitated a number of changes in government policy as the PRI tried subsequently, but never fully successfully, to reestablish its popular legitimacy.

<sup>20</sup> Luis Hernández Navarro and Araceli Burguete Cal y Mayor both mentioned the influence of the American Indian Movement in interviews conducted by the author.

<sup>21</sup> Interview with Margarito Ruiz, June 2002.

President Luis Echeverría was scrambling in the early 1970s to recapture the legitimacy squandered by the government in the 1968 student massacre. Partly to this end, the Echeverría administration held a conference at the National Indigenous Institute (INI) in 1971 titled “Has *indigenismo* failed?” The conference was attended by intellectuals, social leaders, teachers, and practitioners in the field of *indigenismo* and spawned a nationwide policy debate that was to have widespread repercussions. The Echeverría government responded by increasing the INI budget tenfold. During the six-year Echeverría administration, the number of INI coordinating centers rose from 12 to 70. The government also undertook the mobilization of indigenous leaders and charged the national peasant organization CNC with organizing a series of Indian congresses, the first of which took place in Chiapas in 1974 (de la Peña, 2000: 560–61).<sup>22</sup> The government fostered the creation of the National Council of Indigenous People (CNPI) in 1975, and in 1976 the National Alliance of Bilingual Indigenous Professionals (ANPIBAC) was formally recognized by the López Portillo government. Both organizations were intended to “give voice” to, as well as to channel, indigenous concerns. The critical anthropologists were invited to join INI and to reform indigenous policy.

The new thrust of indigenous policy was oriented primarily toward respect and recognition for indigenous culture. INI was charged with formulating a new philosophy of relations between the state and indigenous peoples and began to promote the concept of a multicultural, not *mestizo*, nation (de la Peña, 2000: 563). INI was additionally charged with greater cultural sensitivity and respect in the implementation of development policies and began to build programs aimed at cultural protection and revival.

During the 1976 electoral campaign of José López Portillo, the CNPI demanded greater indigenous participation in policy making.

<sup>22</sup> The Chiapas Indigenous Congress was actually not officially part of those congresses convened by the government, but analysts agree that the Chiapas congress played a similar role and set the tone for the others. De facto, it was the first of the indigenous congresses (de la Peña, 2000: 561).

Once in office, López Portillo launched a new program he called “*indigenismo* of participation,” or “ethno-development,” which was intended to allow for the expression of indigenous concerns. Ethno-development was accomplished by including indigenous representatives on INI planning committees, technical councils, and at the national consultative level. During the term of López Portillo, INI implemented a number of programs intended to stimulate and defend indigenous cultures, eventually drifting from its initial brief as a development organization and focusing more pointedly on explicitly cultural projects.

Among other things, INI initiated an attempt to redefine the juridical status of indigenous populations through legal recognition of the cultural difference of indigenous communities. They also focused attention on the conservation of cultural patrimony through the revaluation of local cultural practices, often in contradiction with immediate past policy (de la Peña: 568, 569).<sup>23</sup> Finally, the INI developed a commitment to local capacity building through Regional Solidarity Funds that explicitly targeted indigenous communities and required recipients to form planning committees that developed specific programs and projects for which they sought funding.

Ros Romero also notes a discursive shift in INI language and publications in this period, showing that INI began for the first time to recommend “that the solution to indigenous problems rests with the community itself,” along with “assistance for the purpose of allowing indigenous communities to continue their own path” and “the right of the indigenous to make their own decisions” (Ros, 1992: 114–15). By juxtaposing this language against earlier analyses of “the indigenous problem,” Ros intended to demonstrate that *nuevo indigenismo* really did represent a fundamental ideological break with old-style *indigenismo*.

<sup>23</sup> See Friedlander (1975) on the role of the Mexican government in fostering, and re-creating, traditional dances and celebrations.

Beyond the new discursive paradigms of “participation” and “multiculturalism” introduced by *nuevo indigenismo*, the most consequential result of the new policy was the defederalization of education and the development of bilingual education in indigenous areas. In 1978, the government formed the National Directorate of Indigenous Education, charged with implementing bilingual education for indigenous students (Acunzo, 1991: 21).

Mexico’s new language policy was intended to preserve indigenous languages in Mexico and to make bilingualism a functional option for indigenous Mexicans whose first language was not Spanish. Bilingual education included a strong emphasis on “bi-culturalism” to ensure that the philosophy and values of indigenous traditions were considered in the development of culturally sensitive educational plans.<sup>24</sup> In 1979, a Project of Ethnolinguists was formed with the intention of producing a generation of bilingual teachers, “cultural promoters,” and ethnolinguists who would work on the development and dissemination of indigenous languages (33).

The bilingual curriculum allowed students to speak and to learn to read and write in indigenous languages. In first grade, the pedagogical project was to “develop in the student a sense of the social location of national identity, and the internalization of values for the knowledge of his nation, ethnicity, and of himself.” Bilingual education included a much stronger focus on the child with relation to his or her family and community, and then with regard to the nation as a whole, than traditional indigenous education. Teachers focused on the customs and activities of other groups within Mexico and then on “The Customs and Traditions of our Community.” Teachers spoke and taught in the native tongue until third grade, gradually introducing Spanish-language education in fourth grade (92–97). Even after third grade, the native language was neither prohibited nor shunned, as it had been in the old indigenous schools.

<sup>24</sup> Interview with Pedro Chulín Jiménez, June 2002.

Although bilingual education is judged to have been a resounding failure in Mexico, compared with the achievements of other Latin American countries, the program played an important role in building an indigenous political identity at the grassroots and in grooming the current generation of indigenous politicians and activists. Bilingual teachers were committed to the preservation and recuperation of traditional cultures and languages, often taking on the role of cultural brokers as they tried to reinvigorate indigenous customs and practices and to instill pride in indigenous culture (Friedlander, 1986: 364). In Chiapas, half of the indigenous representatives to the state Congress in 2002 were members of the PRI. All of these had a background in bilingual education, either as teachers or promoters.<sup>25</sup> Many other activists and elected indigenous leaders, including, for example, Luis Hernández Cruz, were also educators in the bilingual education system.

In 1989, the Mexican government formed the Commission of Justice for Indian Peoples (CJPI) to draft a proposal to amend Article 4 of the Mexican Constitution (Ewen, 1994: 36). During 1989 and 1990, the CJPI undertook an extensive series of opinion surveys and consultations to prepare the ground for legislation on the indigenous population. The consultation consisted of 136 meetings with both indigenous and non-indigenous groups. No indigenous rights activists (that is, people who were politically, and not just physically, indigenous) were consulted, however, and the Commission of Justice did not include a single indigenous representative. Even with this fairly conservative background, the proposal to legislate indigenous rights met with considerable opposition in Congress, not only over the content of the reform, but also over the location of the reform within the Constitution. After significant delays, the initiative proposed by the president, to confer cultural rights on indigenous peoples, was passed unchanged in 1992 (Hindley, 1996: 232–36). For the first time, “Indians” were formally recognized by the Mexican government.

<sup>25</sup> Interview with Pedro Chulín Jiménez, June 2002.

Although this law was later superseded by the 2001 Indigenous Law, the recognition of different cultures and languages represented an important departure from the ideal of *mestizaje* and an explicit rejection of the Revolutionary project of indigenous assimilation and integration.<sup>26</sup>

It also served as a focal point for indigenous political mobilization and organization, which coalesced around opposition to the reform of Article 4.<sup>27</sup> Human rights and indigenous organizations worked through the left-wing Party of the Democratic Revolution (PRD) to propose alternative legislation, and Congressional delegates like indigenous leader Margarito Ruiz played a role in keeping the limitations of Article 4 in the public eye between 1991 and 1993.<sup>28</sup> From an indigenous rights perspective, these limitations are significant. For example, Article 4 is located in Chapter 1 of the First Section of the Constitution, titled "Of Individual Guarantees," rendering explicit the point that it does not recognize the collective rights of indigenous groups, but limits its guarantees to individuals. Moreover, Article 4 did not in fact use the word "rights" at all. It pledged to protect and promote the culture and language of indigenous people, reinforcing the traditionally paternalistic character of the state's relationship with its indigenous population and failing, once again, to recognize the

<sup>26</sup> After the Revolution, the government actually prohibited political organization along ethnic or religious lines. In the 1920s, the Society for the Unification of the Indigenous Race (SURI) was forced to change its name and orientation to the Society for the Unification and Moralizing of the Mexican Race.

<sup>27</sup> The first paragraph of Article 4 of the Constitution was amended to read: "The Mexican nation has a multicultural composition, originally based on its indigenous peoples. The law will protect and promote the development of their languages, cultures, uses, customs, resources, and specific forms of social organization and will guarantee their members effective access to the jurisdiction of the State. In the agrarian judgments and procedures in which they are a part, their juridical practices and customs will be taken into account in the terms established by the law" (Congreso de la Unión, Constitución Política de los Estados Unidos Mexicanos. Mexico: Editorial Sista, 2003). Though careful not to give away any sovereignty in the form of indigenous autonomy, the constitutional amendment attempted to suggest compliance with ILO 169 by using such terminology as "peoples" to describe its indigenous population.

<sup>28</sup> Interview with Margarito Ruiz, June 2002.

indigenous person as anything other than a cultural artifact. Finally, the amendment was never supported by any of the additional principles, relations, institutions, or regulatory laws required to bring it into effect. Without such laws, a constitutional mandate is nothing more than a statement of principle, powerless to effect change in practice.

In the early 1990s, the reform of Article 4 helped to locate the politics of indigenous rights in the political space of legislation and courts and to give it a particular political content that revolved around the Constitution. Opposition to Article 4 was also linked to opposition against the reform of Article 27, as some people argued that the government directly substituted the guarantee of land provided to Mexican peasants by Article 27 with the guarantee of cultural protection for indigenous people (Ewen, 1994: 36). The Zapatista uprising would shift the terms of indigenous politics after 1994, but the challenges against Article 4 helped to open the space in which indigenous identity developed political content and salience in the early 1990s.

In addition to ILO 169 and the amendments to Articles 4 and 27, the Salinas administration further opened the space for indigenous politics by continuing to promote a consultative approach to development that explicitly engaged indigenous people in participation through INI. Salinas increased the INI budget by 1,800 percent in the first three years of his administration. By appointing Arturo Warman, a well-known anthropologist with an established commitment to the cultural integrity of Mexico's indigenous population, as director of INI, Salinas sent the strong signal that the state was ready to recognize the cultural plurality of Mexico.

The two major programs of the INI during the Salinas *sexenio* (six-year term) were INI-*Solidaridad* and the Justice Procurement Program. INI-*Solidaridad* had the dual function of promoting cultural programs and of providing credit and technical support to indigenous economic organizations. The Justice Procurement Program aimed at promoting justice for indigenous people, through the education of government bureaucrats and the provision of translation and expert witnesses. INI additionally set up research projects to provide information for future policy formulation and assembled publications to



educate indigenous people about the rights conferred by the Constitution, ILO Convention 169, and Article 4 (Hindley, 1996: 239–41). The INI also worked with independent indigenous groups such as the Independent Front of the Indigenous People (FIPI) and the State of Guerrero Council for the Five Hundred Years. More generally, the Regional Funds dispensed through the Solidarity Program strengthened local-level indigenous organization by funneling money directly to already constituted indigenous groups.

The sudden prestige of the INI and the fact that at least some government bureaucracies were courting clients specifically identified as “indigenous” provided incentives for indigenous self-identification and an opening for the mobilization of indigenous groups as political interlocutors. Jane Hindley argues that “in supporting grassroots organizations and promoting information and debates about indigenous rights and issues, the INI’s actions contributed to shifting the climate of opinion toward indigenous people in society, promoting a new ethic against which state action could be assessed, and thus the conditions for indigenous mobilization and resistance” (Hindley, 1996: 241).

#### BUILDING INDIGENOUS POLITICS

Mexico’s nascent indigenous rights movement prefigured and had an important effect on the Zapatista movement that emerged in 1994. In turn, however, the Zapatistas have played an important role in raising the domestic and international profile of indigenous rights and in expanding the political space within which demands for indigenous rights can be voiced and heard. There are important political differences among the various strands of the indigenous rights movement in Mexico, as well as differences between other indigenous activists and the Zapatistas. In this account, I focus on one particular strand of the movement, which has roots in Chiapas and developed traction in the context of a certain synergy with the Zapatista uprising. This synergy played an important role in orienting the EZLN toward indigenous politics, but also expanded indigenous politics beyond a singular focus on culture. In Mexico at least, indigenous identity overlaps

significantly with peasant identity and is intended to perform many of the same functions as the peasantry, challenging persistent patterns of inequality and exclusion that affect both categories of people.<sup>29</sup> Indigenous rights activists hope that indigenous identity will succeed, where peasant identity largely failed, in forcing a fundamental reorientation of state–society relations.

That strand of the Mexican indigenous rights movement that is now represented through ANIPA and FIPI originated in the Mexican Communist Party and independent peasant unions.<sup>30</sup> In the mid-1980s, Margarito Ruiz and Araceli Burguete joined a number of Mexican anthropologists who had been involved in the design of autonomous regions in Nicaragua and believed that the Nicaraguan model could be used effectively in Mexico. As leaders of the Independent Union of Agricultural Workers and Peasants (CIOAC), Antonio Hernández Cruz and Margarito Ruiz collaborated to start FIPI, an organization with roots among the Tojolobals of Chiapas. In fact, FIPI and the Union of Ejidos of the Tojolabal Peoples (UEPT) were both generated from within CIOAC and shared offices during the 1980s.

Ruiz and Hernández were both Congressional representatives during the Salinas administration, and the Nicaraguan model of Autonomous Pluri-ethnic Regions (RAPs) was influential in the constitutional reform initiative to amend Article 4, submitted by the opposition PRD in 1990. The model of autonomous multiethnic

<sup>29</sup> Indigenous identity can occupy a variety of political locations, however – depending on the politics of mobilization. The pan-Mayan movement in Guatemala, for example, has explicitly located itself in opposition to peasant identity – in the context of a postwar politics that positions the Guatemalan peasant as a collaborator in the government's genocidal campaign against the indigenous people.

<sup>30</sup> As Burguete explained to me, "We are still Marxists. If you look at all the indigenous movements of Latin America, all of them have their origins in the Communist Party. Nicaragua, Panama, Guatemala, El Salvador, Peru, everywhere. And the leaders of these indigenous movements are still from the generation that came out of the Communist parties. They have the same intellectual origins and commitments. It is the same agenda. It is just the same as the class demands, but it is articulated in different forms. It is a new language we are using to try to force a fundamental structural change to the system to improve the lives of the most marginalized. This position articulates better with democracy" (Interview with Araceli Burguete, August 2000).

regions locates self-government at the level of the region rather than the community. A single autonomous region is designed to include multiple ethnic groups, to take into account the demographic interspersal of ethnic groups throughout much of Mexico. The creation of autonomous pluri-ethnic regions would entail a fourth level of government above the municipal level and the redrawing of regional and municipal boundaries.<sup>31</sup> The RAPs model is additionally inspired by the experience of the indigenous movement's Tojolabal leadership in the Lacandón rain forest. The Lacandón is home to multiple ethnic groups that coexist, intermingled, in the relative autonomy of almost complete government neglect and isolation. Practically speaking, Tzeltals, Tzotzils, Tojolabals, Mams, and Chols are already living the RAPs model in the Lacandón.

The history of this thread of the indigenous rights movement is best recounted in the words of Araceli Burguete, who is both a member of the academic team that devised the RAPs model and the wife of Margarito Ruiz, the "indigenous intellectual" who founded both FIPI and UEPT.

In those days the groups who took an Indianist line were very few, but I mean, really extremely few. "Indianism" developed in Chiapas, in the Tojolabal region, primarily propelled by FIPI. FIPI created, in the early 1980s, the first autonomous region, of which there are now many, but the first one, which was actually called an autonomous region, was created by FIPI, and it had an advising body, the *Unión de Ejidos Pueblos Tojolabales*.

Later for a variety of reasons, partly because Margarito went to Mexico [City] as a Congressional representative, and in that Congress, above all in 1987, 1988, there was an impulse toward legal reforms for the recognition of indigenous rights. This was very early, and in addition it was an era in which we had very little sympathy for legal reforms, because we all had Marxist

<sup>31</sup> Interview with Margarito Ruiz, June 2002.

backgrounds and we believed that the bourgeois state was reproduced through the chamber of deputies, the congress, the laws, and so these were viewed as instruments of oppression. But then we began, very much under the influence of the Central Americans, and we realized that there was a particular structure to the production of indigenous politics, and the recognition of Indian rights had to pass through the structure of the state and had to be regulated through political norms.

Well, so at that time we came into contact with other groups who were thinking the same thing we were, groups like our comrades from Oaxaca, some from the D.F., and we began something we called the National Campaign for the Literacy of Indigenous Rights. We dedicated ourselves to that for over six years, organizing workshops at the national level, from the Yaqui tribe [in the north] to Quintana Roo [in the southeast], to plant the seed of interest in indigenous rights. At any rate, when 1992 arrived, and I place it in 1992 because that year was a very important detonator . . . it was like concentric circles that started out very small, and grew, but really expanded in 1992, as many groups started to articulate not the commemoration of 500 years, but the commemoration of resistance.<sup>32</sup>

Activists agree that the commemoration of the 500-year anniversary of Columbus's arrival in the Americas thrust the matter of the colonial conquest of Mexico's indigenous population squarely into the public and political arenas. Ironically, the Mexican government played an important role in politicizing indigenous opposition to the anniversary by formally protesting the Spanish use of the word "discovery" to describe the expedition. Mexico, which makes much of its mixed national heritage, suggested instead that Columbus's voyage be called "The Encounter Between Two Worlds." The indigenous movement named the anniversary "Five Hundred Years of Resistance to Oppression."

<sup>32</sup> Interview with Araceli Burguete, August 2000.

Throughout Latin America, the year 1992 was therefore characterized by heightened levels of mobilization and political activism that were, for the first time, framed in specifically indigenous terms. As former ANIPA President Margarita Gutiérrez explained, "The indigenous people wanted to fix their position, politically, and to stake the claim that this was not a celebration for us, but rather an invasion. We were contesting what exactly the celebration was about. And this was very interesting, and it formed the antecedents of the movement." Gutiérrez continues, "After 1992, in 1993, we had a continental encounter in the ceremonial center of the Otomí peoples in the state of Mexico. We had representatives from Argentina, Canada, Alaska, and there were buffalo heads and leadership batons, and that type of spiritual thing, but this is where we also began with the political. In other words, to claim what is ours, to demand education, to evaluate the behavior of the governments, evaluate the laws that exist for the protection of the Indians, of which of course there are none. . . ." On reflection, she found humor in the aspirations this agenda implied and laughed wistfully at the limits of indigenous political leverage.<sup>33</sup>

In March 1992, hundreds of indigenous people marched from Chiapas to the capital in Mexico City in protest against oppression, corruption, and the reform of Article 27. Xi'Nich, the March of the Ants, covered over 1,000 kilometers in the space of six weeks and attracted the attention and sympathy of a significant portion of Mexican society. As Xi'Nich organizer Jerónimo Hernández described in a letter published in the bulletin of the Catholic Church diocese of San Cristóbal, "Thanks to you we broke the silence of the centuries, and our voice was transformed into the shout of ants that was able to trespass the walls of impunity. We return to our communities with the small demands granted. They have responded to our petitions. But the centuries still weigh heavily upon us; our work is long; our mission is enormous. Today a path of hope has opened. Let us walk it together. Let us not walk alone" (*Encuentros*, 1992: 39).

<sup>33</sup> Interview with Margarita Gutiérrez, May 2001.

On October 12, 1992, thousands of Indians converged on the central square of San Cristóbal de las Casas and pulled down the statue of Diego de Mazarriegos, a sixteenth-century Spanish *conquistador* and the founder of the city. In retrospect, observers would identify this moment as an important precursor to the Zapatista uprising and possibly even an indicator that the Indians of Chiapas were better organized and coordinated than had previously been imagined. Indeed, important indigenous mobilizations, protests, and uprisings took place in most Latin American countries in October 1992, heralding the rise of the indigenous rights movement that would play such an important role in Latin American politics in the 1990s and into the next century.

Burguete agrees with Gutiérrez that 1992 was a crucial turning point:

In 1992, for the first time, Mexican society turns its gaze on the Indians. That is to say if 1994 had happened in 1990, Mexican society would not have responded the same way to the Zapatista uprising. Those four years made an enormous difference. Between 1990 and 1992 the idea of indigenous visibility was beginning to be cemented.

But, she further admits, "At this point perhaps it was still the folkloric gaze."<sup>34</sup> Institutional changes such as ILO 169, Article 4, and the government's *nuevo indigenismo* policy had begun to open a space for the production of indigenous claims. Quincentenary protests raised the profile of the potential political demands of indigenous people. And a small group of indigenous rights activists were working hard to mobilize an indigenous political agenda in Mexico. Nevertheless, "indigenous" had yet to develop political resonance, continuing to occupy a cultural space in the Mexican national psyche, lodged comfortably in anthropological museums and pre-colonial history. The formation of an identity from which political claims can

<sup>34</sup> Interview with Araceli Burguete, August 2000.

be credibly legitimated, and from which an individual can operate as a political actor, is a first step toward claim making and one that was still underway at the start of the Zapatista uprising in January 1994.

The Zapatistas themselves were not initially part of the indigenous project. The movement was embedded in the organizational and ideological history of 20 years of peasant struggles in Chiapas, in the Marxist analytical constructs of the 1970s, in Liberation Theology, and in the revolutionary politics of Central American uprisings. At the level of local politics in Chiapas, political orientations were divided along strategic lines, between those who continued to work through the system to achieve their goals and those who chose armed struggle. Yet at the wider domestic and international levels, "indigenous" had begun to replace "peasant" and "worker" as the relevant category of rural political organization. All of these paradigms operated simultaneously on the political location of the Zapatista uprising.

The first statements of the EZLN identified the movement as a national uprising (of an unspecified social base) with primarily redistributive demands. The First Declaration from the Lacandón Jungle, issued on January 2, 1994, opens with the statement, "We are the product of 500 years of struggle." Yet the struggle is defined broadly against not only Spanish colonizers and their descendants but also against North American imperialism, the French Empire, and the nineteenth-century dictatorship of Porfirio Díaz. It invokes the memory of Villa and Zapata as "poor men just like us" and identifies the Zapatistas simply as "the dispossessed," without identifying the root of dispossession – as peasants, indigenous people, or some other social category. The EZLN drew heavily on the symbols of Mexican nationalism, positioning itself as the heir of the Mexican Revolution and of the progressive and nationalist political projects of such Mexican heroes as Hidalgo, Morelos, and Vicente Guerrero. In contrast to the global identity they would later project, the Zapatistas were initially most anxious to establish their credentials as Mexican political actors, whose list of eleven demands – for work, land, housing, food, health care,

education, independence, freedom, democracy, justice, and peace – were directed exclusively at the Mexican state.

Yvon Le Bot, whose authoritative book on the Zapatista uprising is based on interviews with Marcos himself, argues that the EZLN further inscribed itself in the tradition of Ché Guevara and in the socialist revolutionary experiments of Nicaragua and El Salvador. He argues that the Central American influence can be read through the Army's use of the colors red and black – a symbol of "our working people on strike," according to Marcos – through the name "National Liberation Army" and through the use of the language of socialism, class conflict, and dictatorship of the proletariat that initially framed Zapatista discourse. As late as October 1994, Marcos defended the conceptual value of historical materialism and theoretical Leninism (Le Bot, 1996: 69–70), and he continued to describe the conditions of the uprising in those terms: "For us Mexico was a neo-colonial state, under the imperial domination of the United States, and the transition through democracy to socialism could only be achieved through national liberation" (1997: 128).

Within this conceptual framework, politics was built on a class analysis, and the revolution was predicated on an uprising of the peasant and working classes. In the first week of the conflict, one Zapatista commander explained that the Army had been named for Zapata "because he was a peasant leader. He was the one who wanted to give us land. But he was later killed by the bourgeoisie" (*Excelsior*, January 16, 10A). Marcos complained that the Zapatista leadership had: made a mistake in failing to establish links with the working classes (Salazar Devereaux, 1994).

The EZLN was nevertheless partially ambivalent in its self-description, moving easily between indigenous and peasant identities that shared a common space of poverty and marginalization. On January 6, the EZLN issued a communiqué explaining, "Since the 1st of January our Zapatista troops began a series of political military actions whose primary objective is to alert the Mexican people and the rest of the world to the miserable conditions in which millions



of Mexicans live and die, especially we indigenous people" (Comunicado del EZLN, January 6, 1994). The communiqué went on to name "democracy and liberty as the necessary components of the improvement of the social and economic conditions of the dispossessed" (*ibid.*, no page numbers).

Even when the EZLN invoked an indigenous identity, however, the leadership did not initially adopt an indigenous rights framework for analyzing the structural forces of marginalization and oppression that liberation would need to overcome. Marcos appeared instead to use the terms "peasant" and "indigenous" interchangeably, as different referents for a single group of people notable for their poverty and oppression, not primarily for a distinctive cultural or linguistic tradition. Marcos's discourse occasionally inserted "indigenous people" into the analytic space occupied in Marxist analysis by "the vanguard of the proletariat" or for Maoists by "the peasant," as the engine of revolution. As he explained, "Now today there are many theories in crisis. Who would have thought it would have been the indigenous people who would have provoked all of this? Not even in the Leninist conception of the weakest link was it thought that it might be the indigenous people, right?" (Le Bot, 1997). The EZLN did not anticipate the potential of a specifically indigenous challenge to the Mexican state; it did not register the different political strategies that an indigenous identity afforded; and it did not engage an identity-based analysis of oppression.

The Zapatistas were strongly influenced from the outset, however, by both international and domestic indigenous rights activists who saw in the EZLN a way of raising the profile of indigenous claims and of forging a link to their own struggles. On January 17, 1994, Rigoberta Menchú sent an open letter to the EZLN titled "Indigenous Initiative for Peace in Chiapas." The letter reported on the results of two meetings that had already been held by "distinguished voices of the indigenous rights movement" to promote an indigenous initiative for peace in Chiapas, in defense of the rights of indigenous people. The letter was signed by indigenous rights activists and leaders

from New Zealand, Philippines, Canada, Norway, Alaska, Guatemala, Nicaragua, Chile, and Mexico.<sup>35</sup> A number of the other international non-governmental organizations that were quick to denounce human rights abuses in Chiapas also identified the vulnerability of Mexico's indigenous population as their primary concern (*La Jornada*, January 9 and 12, 1994).

Many (though not all) domestic figures and news articles similarly emphasized the Indian character of the rebels. On January 15, the Mexican newspaper *La Jornada* published a statement issued by a network of 120 civil society groups in Chiapas, calling for a new relationship between the Indian population and the state (*La Jornada*, January 15, 1994). *La Jornada* also reported (mistakenly, as it turned out) that the indigenous army chose January 1 as the date for the uprising because it marked the transition between traditional leaders according to the indigenous *cargo* system.<sup>36</sup> The EZLN itself, however, insisted that its struggle was against neo-liberalism and NAFTA.

Notwithstanding the shaky indigenous credentials of the uprising, indigenous rights activists acted quickly to establish links to the movement and to shape the politics of the rebellion. As Burguete explains, "In 1994, when the Zapatistas emerged, we came back. My husband and I had been living in Mexico City, and on the second of January, Margarito took the first flight after he heard about the uprising. Everyone was fleeing the state, and he was struggling to get in! So,

<sup>35</sup> Letter from Rigoberta Menchú, January 17, 1994.

<sup>36</sup> Although the *cargo* system remains at the center of communal life in many parts of Chiapas, it has never really operated in the Lacandón Jungle, at the heart of the uprising (Leyva-Solano, 1999: 70). Indeed, it is notable that in the Lacandón, where the Zapatistas have their strongest base of support, traditionally homogeneous and intact societal cultures, with persistently operating cultural networks and systems of meaning, have never existed. Over the last 50 years, the Lacandón has been colonized by a wide variety of linguistic, religious, and ethnic groups who live intermingled in the same communities, speaking a mixture of languages, including Spanish. Anthropologists have shown that these communities maintain almost none of the indigenous traditions of their ancestral communities and rarely retain ties to their villages of origin (Leyva-Solano, 1999). See chapter three for further elaboration of this.

he came first, and then I followed him."<sup>37</sup> Margarito Ruiz immediately became involved in the creation of the State Advisory of Indigenous and Peasant Organizations (CEOIC), a government-backed council of mainly independent peasant, worker, and indigenous social groups in Chiapas. The government hoped that, through CEOIC, it would be able to isolate the EZLN and to undermine its claim to represent civil society in Chiapas. At its height, CEOIC included 285 Chiapan political organizations of various political persuasions in a network that was intended to behave as the privileged government interlocutor in the search for solutions to the crisis.

CEOIC soon slipped away from government control, however, and took up the demands of the Zapatistas. When President Salinas met with a room packed full of CEOIC representatives at the end of January, he was detained for hours listening to haranguing complaints as his aides tried to end the meeting. CEOIC demanded, among other things, the removal of 21 fraudulently elected PRI municipal presidents in the conflict zone (Pérez Ruiz, 2000: 139). Because a number of CEOIC members were linked to organizations with national reach, they were able, against the efforts of the PRI to contain the scope of the conflict regionally, to link local-level struggles to nationally salient political demands. The central agenda that emerged from CEOIC revolved around land claims, control of the means of production, and control over local government, but demands for indigenous rights gained currency over time (*ibid.*).

In the beginning of February, CEOIC leaders wrote a letter to the EZLN expressing an interest in open communication and a possible alliance between the two. The influence of the indigenous rights activists is evident in the CEOIC letter, which recommends the creation of an indigenous council to share power with the governor of Chiapas, the substitution of municipal government with indigenous general assemblies, the modification of Articles 4 and 115

<sup>37</sup> Interview with Araceli Burguete, August 2000.

of the Constitution to guarantee autonomy to indigenous peoples, and the creation of an Indigenous Parliament within the National Congress.<sup>38</sup>

The government's willful failure to respond to the concerns of both the Zapatistas and CEOIC over displaced people, land grabs, and the increasing militarization of the state of Chiapas radicalized CEOIC even further, leading it to call for the creation of indigenous councils for the support of the EZLN throughout the country (Pérez Ruiz, 2000: 141).<sup>39</sup> Government negotiations with CEOIC nevertheless divided the opposition, as the EZLN accused CEOIC of cooperating with the government and of usurping a political space and legitimacy that rightly belonged to the Zapatistas.<sup>40</sup>

In March, an ad hoc national council of indigenous and peasant groups met in San Cristóbal de las Casas, Chiapas, with 500 participants from over 80 organizations nationwide. One of the important discussions to emerge from this meeting was a self-conscious recognition that indigenous and peasant political activists – *indianistas y campesinistas* – oriented two separate strands of political organization that did not necessarily occupy the same political space, even if they both claimed to speak for the rural poor. At this meeting, the question of reconciling the demands of peasants for land, credit, and commercialization with indigenous rights was placed squarely on the table, and peasant and indigenous activists agreed to form a broad alliance intended to strengthen each other's political base (Pérez Ruiz, 2000: 144–46).

Despite serious and ongoing tensions between the Chiapas indigenous rights groups and the EZLN, the movement's investment in an indigenous rights agenda was solidified at the Zapatista National

<sup>38</sup> Copy of the letter given to the author by Margarito Ruiz. Also described in Pérez Ruiz, 2000: 139–40.

<sup>39</sup> At one point, various observers estimated that one-half to two-thirds of the Mexican Army was deployed in Chiapas, and even in 2004 one-third allegedly remained there, in part to guard the border with Guatemala against illegal immigrants traversing Mexico on their way to the United States.

<sup>40</sup> Interview with Araceli Burguete, August 2000.

Democratic Convention (CND) in August 1995.<sup>41</sup> One of the CND working groups presented a document titled "The Indian Peoples: Toward democracy and peace in the future. Six principles, six proposals." This document was formally adopted by the EZLN at the convention, deepening its own political program, glossing its democratic agenda with an ethnic tint, and establishing a set of concrete proposals to resolve the structural subordination of the rural poor, as indigenous peoples, within the nation (Pérez Ruiz, 2000: 155). This position formed the nucleus of the EZLN platform the following year in negotiations with the government at Table One of the San Andrés Accords on "The Rights of Indigenous Peoples."

#### CONCLUSION

The third wave of democratization has been shaped in part by its close ties to neo-liberal economic reform and decentralization and to the ways such reforms have transformed domestic political cleavages in nascent democratic systems. In particular, in the post-colonial world neo-liberal democratization has undercut the economic and political leverage of the rural peasantry, as subsistence agriculture comes under increasing pressure from external competition. The fall of communism has also limited the resonance of the class-based political paradigm. At the same time, the language of democratization has increased the purchase of demands for rights, and the claims of cultural minorities have often been framed in terms of deepening democratic citizenship and representation.

For the most part, the indigenous rights movement has moved from the top down: from the international, to the domestic, to the local level. The international human rights framework expanded to include a wide array of protections for cultural minorities in the 1990s, and, even though the statutes are weak and unenforceable, indigenous minorities have received greatest protection through international

<sup>41</sup> These groups vied for visibility, control of the ideological and strategic agenda, and access to government interlocutors, even as they attempted to forge a common front.

covenants and conventions. International donor agencies also began to insist on community participation as a condition of aid, with the effect of opening some space for civil society in general, and indigenous politics in particular, at the communal level.

Some governments have responded to the new discourse of minority rights by legislating protections or guaranteed representation for underrepresented groups. The Mexican government made such a move toward so-called cultural respect starting in the 1970s in response to the censure of the critical anthropologists. In the early 1990s, the government went further still, changing the Constitution to recognize the multicultural character of the Mexican nation. In so doing, it responded in part to pressures coming from the international level.

Within Mexico, the early wave of indigenous rights activists was instrumental in reorienting the politics of the Zapatista movement toward indigenous issues. The Zapatistas in turn played an important role in shaping the boundaries of the indigenous and in closely linking indigenous politics to the struggle against neo-liberalism and globalization. The peasant-based origins of the indigenous struggle are still discernible in the orientation and alliances of the movement as it reaches beyond culture to establish a more deeply political, and oppositional, character. In so doing, it has challenged the liberal account of a single *mestizo* Mexican national identity and forced acknowledgment of the deep exclusions through which *mestizaje* has been consolidated.

## 5 The politics of indigenous rights

A number of people in “traditional dress” stand in line to get through security at the United Nations headquarters in New York City. Two African men wear pointed straw hats decorated with cowrie shells, their bodies draped in red shin-length fabric. One woman has long black hair and wears a necklace of leaves that reaches to her knees. An older man is wearing a headdress of white feathers and a beaded deerskin shirt. A young man is wearing a Ché T-shirt, but his face is marked with red and yellow paint, and feathers are woven into his long braids. As he nears the security gate, he takes a feathered headband out of a plastic shopping bag and adjusts it around his forehead.

As we snake our way through the security tent that has stood well outside the door of the UN building since September 2001, they start to nod familiarly to one another. Once inside, their numbers swell, and as we approach the assembly hall where the meetings of the second session of the United Nations Permanent Forum for Indigenous Issues are taking place, we pass some invisible tipping point. Although there are never more people in indigenous dress than there are in “Western” dress, the indigenous is gradually normalized and the Western is out of place. Whether this space has been ceded or co-opted is at the heart of indigenous politics.

At the start of the twenty-first century, indigenous peoples occupy a familiar political location with worldwide visibility. The concept of indigeneity is broadly understood in relation to a history of colonialism and invasion that continues to shape the economic and social location of aboriginal populations. Although it is mainly indigenous people in the Americas, Australia, and New Zealand who qualify as indigenous according to this strict definition, oppressed minorities

everywhere have tried to position themselves as indigenous peoples in order to access the rights and political spaces accorded to them by international human rights law. Indigenous identity and the political platform of the indigenous rights movement are constituted through an international dialogue that takes place in the halls and meeting rooms of the United Nations, the World Bank, the International Labor Organization, and the World Social Forum.

The right to self-determination has emerged as a core component of the indigenous political agenda (Falk, 2000: xiv). Though the demand for self-determination is justified in terms of ancient territorial claims, the politics of autonomy is radically modern, formulated in relation to a set of terms and frameworks that is particular to politics in the post-Cold War period. Indigenous rights activists situate their demands with reference to democracy and democratization, citizenship, representation, and anti-globalization in alliance with feminists and environmentalists. The politics of indigenous rights is an expressly contemporary form of political organization and expression, operating through international networks and alliances and situating its demands in prevailing political frameworks. The indigenous rights movement invokes tradition and culture to insert itself into the politics of the present.

Notwithstanding its global reference points, indigenous politics takes different forms in different contexts, depending on the particular history of exclusion that constitutes an indigenous political presence. Indigenous politics revolves around four different types of claims: participation and representation; access to resources; autonomy and self-government; and the protection of language and culture. In Mexico, all four of these strands coexist in some tension. The Mexican Zapatistas, who represent one branch of the Mexican indigenous rights movement, have been concerned primarily with anti-globalization and social justice, though they also made demands for autonomy and democratization in the context of calling for an end to PRI party rule. Another branch of the movement, which has roots in Chiapas and



is present today mainly in the form of ANIPA and FIPI, is primarily concerned with representation and access to resources. Though they oppose many of the provisions of NAFTA, they do so mainly as old Communists and not necessarily from an indigenous perspective. Yet another strand of the movement, and arguably the one that has had the most success, is based in Oaxaca, and it is mainly concerned with the protection of traditional practices and customs through local-level self-government.

In this chapter, I explore some of the political spaces and issues through which the politics of indigenous rights works in Mexico. As I showed in Chapter [four](#), much of the work on indigenous rights is conducted at the international level and involves drafting such documents as the United Nations Declaration on the Rights of Indigenous Peoples, making recommendations to ECOSOC for development and humanitarian intervention on behalf of indigenous peoples, and pressing member states of the United Nations to sign on to the various conventions and treaties that exist to protect indigenous populations. The effect of this work has, so far, been fairly limited in Mexico, but indigenous rights activists do bring international conventions and monitoring committees to bear on Mexico's indigenous policy. During the 1999 presidential campaign, some activists attempted to use an electoral strategy and were rewarded with posts in government. During the first few years of the Fox administration, they tried to use these positions to influence legislation. Unlike peasants, indigenous rights activists also use the courts to press their political agenda. Though none of these strategies has had real success so far, they have hardly been exhausted, and they could bear fruit in future.

The visibility and traction of the indigenous rights movement depend also on the movement's ability to insert itself into a variety of issue areas. Indigenous identity has challenged and expanded the parameters of the Mexican left, extending the indigenous idiom to include such issues as social justice and redistribution as well as

cultural protection. As the prominent intellectual Carlos Monsivais joked morosely at a talk in New York City in 2001, “Zapatismo is the Mexican left; it occupies the first place, and there is nothing more.”<sup>1</sup> This statement reflects the disappointment of many over the failure of the Party of the Democratic Revolution (PRD) to capitalize on the momentum it seized in the 1980s to beat the Institutional Revolutionary Party (PRI) in 1994 or the National Action Party (PAN) in 2000. Internal splits seriously threaten the coherence of the contemporary Mexican left, which is all the more poignant in the shadow of the long and venerable tradition of socialist and communist politics in Mexico (Castañeda, 1993).

Conversely, however, Zapatismo appears to dominate the left pole of the political spectrum precisely because the claims of indigenous identity are so broad and not because the left has grown so narrow. Indigenous politics has been instrumental in forcing a democratic opening, anchoring a new discourse of rights and culture in Mexican politics, and establishing linkages to a number of international forums and movements. Indigenous identity has been inserted into a wide array of political dialogues, including, most prominently, democracy, autonomy, cultural protection, globalization, and feminism, demonstrating the potential reach of a single political identity. By making common cause with feminists and the women’s rights movement, they have identified themselves as part of a progressive political alliance of marginalized populations, explicitly eschewing a political stance rooted in hidebound traditionalism.

The indigenous has so captured the popular imagination that causes also recruit indigenous people to their side as a way of legitimating their position. Environmental activists, bio-piracy activists, and anti-WTO activists, for example, have all tailored their arguments to include the claims that environmental degradation, biological exploration of the medicinal benefits of plants, and international

<sup>1</sup> New School University, Orozco Room, 2000.

trade agreements are particularly harmful to indigenous peoples.<sup>2</sup> By staking a claim in a wide array of issue areas, indigenous activists have tried to develop a broadly relevant political agenda that expands their potential strategies, alliances, and leverage.

Nevertheless, whether indigenous political organization and mobilization will develop the capacity for genuinely transformative politics remains an open question. Indigenous political mobilization faces limitations and, as with other identities that have attempted to challenge the boundaries of the political, risks co-optation. Indigenous politics is particularly at risk of being limited to the sphere of culture, to the extent that the state succeeds in backing activists into demands for cultural autonomy and language preservation. Indigenous identity is in something of a strategic bind in the sense that it calls on historical continuity and distinctive cultural practices to establish a political voice that is in fact neither backward-looking nor local. A common history of discrimination and exclusion from full rights in citizenship, which they also call on, does a better job of anchoring a political agenda that is global, political, contemporary, and broad.

## I. THE POLITICAL SPACES OF INDIGENOUS POLITICS

### *International Norms and Domestic Politics*

In the decade following the Zapatista uprising, indigenous politics took up an important role in the Mexican opposition, both morally and strategically. For the first time in Mexican history, indigenous identity was claimed and set forth as an explicitly political category, with widespread popular support and legitimacy. Indigenous identity resonated publicly as a result of the capacity of activists to focus attention on the role of discriminatory government policies in producing the marginalization, exclusion, and poverty that structured

<sup>2</sup> WTO in Cancun: Key Issues and Groups in Mexico, [www.ifg.org](http://www.ifg.org); <http://www.dallaspeacecenter.org/wtocancunissues.htm>.

indigenous life. The cultural distinctiveness of indigenous peoples was long familiar to Mexicans who had staked their national identity on the history and traditions of the indigenous Maya and Aztecs. But Indian political organization and mobilization were something new and, to many Mexicans, inspirational.<sup>3</sup>

The Mexican indigenous rights movement frames its claims in terms set at the international level, and it has been able to exploit the existence of International Labor Organization Convention 169 to legitimate its political position. The fact that the Mexican government signed the Convention and yet has failed to comply with the terms of the accord further strengthens the moral leverage of the indigenous political project. Indigenous rights activists have been able, for example, to call on international organizations to issue reprimands and warnings to the Mexican government for failure to safeguard indigenous rights. Although such reprimands lack serious effect in the sense that punishment is unenforceable, Mexico is sensitive to international opinion and may be reluctant to risk such a negative sanction.

The UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, Rodolfo Stavenhagen, himself a well-known Mexican anthropologist, sent five official communications to the Mexican government between January and August 2003, making urgent appeals on behalf of threatened or detained indigenous activists and their lawyers and defenders. The government issued five responses to the Special Rapporteur in the same period, in each case claiming that investigations had commenced, detainees had been released, or that detainees were receiving legal counsel.<sup>4</sup> Stavenhagen also undertook a mission to Mexico in June 2003. His report

<sup>3</sup> To many others, of course, it was, and still is, threatening to Mexican national identity and to the borders of the state.

<sup>4</sup> "Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen, Addendum: Analysis of country situations and other activities by the Special Rapporteur, E/CN.4/2004/80/Add.1, February 6, 2004.

detailed human rights violations against indigenous people, criticized the 2001 Indigenous Law, and alleged that the extreme poverty of the indigenous population was a result of discrimination. The government itself was instrumental in organizing and planning the visit, and Stavenhagen met with President Fox, the Minister of the Interior Santiago Creel, the Minister of the Environment Víctor Lichtinger, the Minister of Agrarian Reform Florencio Salazar, and Herbert Taylor, the General Coordinator of the Plan Puebla Panamá, among many others.<sup>5</sup>

It is the gap between international norms and conventions and domestic practices that indigenous rights groups in Mexico try to exploit in their struggle for autonomy. At the domestic level, activists are careful to use the same language of self-determination, autonomy, and peoples (*pueblos*) that is guaranteed at the international level, and they are extremely conscious of employing the proper terminology so as to link their demands directly to the language in the Declaration on the Rights of Indigenous Peoples and in ILO 169. Because the Mexican government has signed onto ILO 169, indigenous rights groups use it like a life raft. As Hernández explains, the struggle for the recognition of indigenous rights in Mexico takes off from the Convention and coincides loosely with its ratification by the Mexican government.<sup>6</sup>

Indigenous rights activist Adelfo Regino explains that the movement uses the definitional criteria established at the international level, through ILO 169 and various UN documents related to the rights of indigenous people, to delineate the boundaries of indigenous political identity and concerns at the national level (Regino, 1999: 22). Mexico was censured by the ILO in 1995 for failing to implement Convention 169 and for permitting (not to say committing) grave abuses of human rights against rural indigenous workers. The EZLN has also tried to enlist international organizations to press the Mexican government for compliance with the San Andrés Accords, and it has

<sup>5</sup> "Mission to Mexico," E/CN.4/2004/80/Add.2, December 23, 2003.

<sup>6</sup> Interview with Luis Hernández Cruz, June 2002.

issued a call to Mexican civil society to denounce the government's failure to pass the agreement into law as a violation of Convention 169 (EZLN working table proposals, 1998).

Former ANIPA President Margarita Gutiérrez described the importance of Convention 169 to the Mexican indigenous rights movement more fully:

It's what we hold on to. It is a base from which we can project our demands. The existence of this law gives us the right to go in front of international committees on racism, on women, in short, in front of many bodies of the UN. It gives us the room to go before the ILO to denounce the failure of the Mexican government to comply with the San Andrés Accords. It is a framework for litigation. It is the law, and although it has its deficiencies it is the only thing we have.<sup>7</sup>

In September 2001, ANIPA activists enlisted the help of the Union of Academics of the National Institute of Anthropology and History (SAINAH), the Union of Workers of the Autonomous University of Mexico (STUNAM), the Independent Union Workers of *La Jornada* (SITRAJOR), and the Authentic Workers Front (FAT) to lodge a formal complaint to the ILO against the Mexican government for non-compliance with Convention 169 on the rights of indigenous and tribal peoples. The text of the claim states that "Convention 169 is the only international instrument that protects the particular rights of indigenous people. . . ."<sup>8</sup> The ILO accepted the complaint, and agreed to investigate the issue of Mexican compliance. In 2004, the ILO received the report of the Committee set up to examine the representation, and the Governing Body of the ILO adopted the report by passing resolution GB.289/17/3, which acknowledges the human rights situation of the indigenous peoples of Mexico.<sup>9</sup>

<sup>7</sup> Interview with Margarita Gutiérrez, May 2001.

<sup>8</sup> Transcript of *denuncia* in author's possession.

<sup>9</sup> Interview with Margarito Ruiz, June 2002. Also at <http://www.ilo.org/public/english/standards/relm/gb/refs/rods.htm>, accessed November 14, 2004.

*Electoral Strategies and Government Appointments*

At the same time that they have tried to exert external pressure on the Mexican government to comply with its international treaty obligations, indigenous rights activists have also tried to use electoral strategies and posts within government to press their agenda. Many prominent peasant activists who were staging land takeovers in the 1970s and spent time in jail and in Cuba in the 1980s held government offices in the neo-liberal Fox administration in 2000 and 2001. One might draw the conclusion that the young firebrands of the 1970s were co-opted by the perquisites of office in the face of middle age.

Instead, the move from the barricades to bureaucracy appears to signal a strategic shift that is linked to the move from peasant to indigenous identity. Indigenous identity, and the claims it anchors, suggests to activists a different set of political strategies than peasant demands for land, which were most successfully pressed through direct, and often violent, land occupation.<sup>10</sup> The indigenous claim for autonomy is a demand for government recognition, for constitutionally guaranteed collective rights, and for a redefinition of the relationship between state and society. Indigenous rights activists hope to press the state to reconceive the definition of citizenship in a way that recognizes, supports, and incorporates cultural and linguistic differences. One way they have hoped to do this is by assuming office and changing the system from within.

When Vicente Fox was running for office, he made a campaign promise that he would sign the San Andrés Accords and end the stand off in Chiapas "in fifteen minutes." Indeed, he did present the Accords to Congress for ratification and supported passage of the constitutional amendment.<sup>11</sup> Fox was also the only presidential candidate to meet with indigenous representatives and to hear their proposals

<sup>10</sup> Interview with Araceli Burguete, August 2000.

<sup>11</sup> The fact that the conservative wing of his own party secretly amended the wording of the legislation to severely limit its scope and relevance was widely seen as a signal of the weakness and political naïveté of Fox. Roundtable at University of Guadalajara, June 2001.

for autonomy and for restructuring regional government.<sup>12</sup> Once in office, President Fox also created an office for indigenous affairs within the Office of the Presidency, ostensibly to announce his personal commitment to indigenous claims and concerns. He appointed to this post Xóchitl Gálvez, a prominent businesswoman whose credentials in the area of indigenous politics seem to be limited to founding a charity for alleviating child malnutrition in indigenous areas.

During the 2000 campaign, ANIPA was part of a broad coalition of the non-party left that joined in a “useful vote” (*voto útil*) strategy to unite behind Fox’s candidacy against the PRI, despite serious ideological differences. After taking office, Fox appointed indigenous rights activists to prominent positions in the National Indigenous Institute (INI) and to statewide offices of indigenous affairs.<sup>13</sup> Marcos Matías Alonso, an indigenous leader and lawyer from Guerrero, was appointed director general of the INI in December 2000, and ANIPA activists were also appointed to direct state INI offices in Chiapas and Guerrero. These leaders attempted to use their institutional base to lay the structural and policy groundwork for indigenous self-determination. They claimed to have presidential support for this agenda.<sup>14</sup>

The Party of the Democratic Revolution (PRD), which is the most sympathetic toward the indigenous rights movement, has a number of indigenous activists in elected posts at the levels of both the state and federal government. The PAN and the PRI also have indigenous representatives in Congress and in state government, but PRD politicians are more likely to be politically indigenous, whereas PAN and PRI politicians are more often simply physically indigenous, with no particular political orientation toward indigenous rights.

<sup>12</sup> Interview with Margarito Ruiz, June 2002.

<sup>13</sup> That is, before INI was dissolved in 2003.

<sup>14</sup> Interviews with Margarito Ruiz, June 2002, and Antonio Hernández Cruz, June 2002.



*The Courts*

Activists have also attempted to use the courts, building on the example of the American civil rights movement and taking advantage of Mexico's democratic opening and the way that "rights" have permeated civic rhetoric since the early 1990s. In March 2001, Subcomandante Marcos led an indigenous march from Chiapas to Mexico City. The march anticipated congressional hearings on the COCOPA Law, based on the 1996 San Andrés Accord between the EZLN and the government.<sup>15</sup> The march wound through twelve states in southern Mexico, and Zapatista leaders met with 3,383 indigenous delegates from 41 different ethnic groups in Núrio, Michoacán, before finally reaching Mexico City. Once there, EZLN leaders demanded the right to address Congress in support of the law. Indigenous activists were eventually allowed to speak before Congress, winning an important symbolic victory by speaking from an official platform.

The so-called Indigenous Law (the Law of Indigenous Rights and Culture) passed in July 2001, after ratification by a majority of states. The law, which actually takes the form of reforms to articles 1, 2, 4, 18, and 115 of the Constitution, is a significantly weakened version of the San Andrés Accords, however, recognizing indigenous people "as a matter of public interest" and not as bearers of collective rights, as agreed in the Accords. The reform recognizes the principle of autonomy but grants indigenous people "preferential access," rather than "collective rights," over the use of the natural resources located in the areas where they may exercise autonomy.

Although the law recognized the right to indigenous self-determination, it left actual decisions about how such rights could be exercised, and would be made law, up to state governments. Experts agreed that the conservatism of most state governments would ensure

<sup>15</sup> COCOPA stands for Comisión de Concordia y Pacificación, which was the name given to the talks and agreement reached between the government and the EZLN in 1996 regarding the rights of indigenous peoples.

that the potential space provided by the constitutional amendments would lead primarily to the maintenance of the status quo. Because the reform devolves the definition and implementation of autonomy to the state level, indigenous rights activists also feared that the movement would find it increasingly difficult to develop a coordinated national strategy against the reform.<sup>16</sup> In states like Oaxaca, where officials have been receptive to indigenous autonomy and where most local elections are conducted by traditional custom, the politics of indigenous rights is bound to take a different form than it does in other states, in particular in the north of the country, where politicians maintain a rigid stance against collective rights and self-determination.

The initial effect of the congressional ploy – to pass the law in significantly and secretly amended form – was to sow disarray and disorientation among indigenous rights activists who had not foreseen this potential outcome. Even many congressional delegates who supported indigenous demands voted for the amended bill, seemingly without realizing the language had been changed. Activists who were initially pleased with their victory soon realized the scope of their defeat, but were divided over how to respond. By August, however, the indigenous rights movement had substantially reoriented itself around protesting and denouncing the law, and the law itself provided a new focus for indigenous politics and mobilization.<sup>17</sup> It was in response to the Indigenous Law that Mexican unions joined together to denounce the Mexican government to the International Labor Organization for non-compliance with Convention 169.

Indigenous rights activists also contested the law through domestic legal channels. Arguing that passage of the law violated a constitutional principle that requires that citizens be consulted in advance on legislation that is likely to affect them, 330 municipalities and groups, primarily from the state of Oaxaca, filed constitutional

<sup>16</sup> SIPAZ Report: August 2002, Vol. 7, No. 3, released September 17, 2002 (<http://www.sipaz.org/vol7no3/indexe/htm>, accessed September 24, 2002).

<sup>17</sup> Interviews with Margarita Gutiérrez and Marcos Matías Alonso, May 2003.

challenges to the law in June and July 2001. Mexico's Supreme Court began to review the cases in May 2002. Most of the claims charged that Congress overlooked amendment approval procedures and ignored international treaties, challenging the law on procedural rather than substantive grounds.<sup>18</sup> Mexican constitutional experts commented nevertheless on the innovation of the legal strategy, stating, for example, "This is the first time a sector of society has challenged a constitutional reform through constitutional means." López Bárcenas, an indigenous lawyer who advised several of the appeals, explained, "The constitutional order was broken by both powers, and only the Court can re-establish it. In this sense this legal battle is putting the democratic system in its entirety to the test."<sup>19</sup>

The legal strategy also established a direct line between domestic and international politics. The Otomí, for example, whose constitutional challenge was rejected by the Supreme Court, moved their appeal to the Inter-American Human Rights Commission of the OAS—the first case of its type to be presented before an international body.<sup>20</sup> By invoking the right to autonomy as a justification for their demands, indigenous rights activists were able to establish a legal foothold that they have exploited by presenting cases both domestically and internationally. The development of a legal strategy has been an important step toward forging a political voice and staking out new political ground.

Nevertheless, the attempt to challenge the Indigenous Law through the Supreme Court failed in September 2002, when the court declared itself incompetent to overrule constitutional changes made by the legislature.<sup>21</sup> A majority of eight justices agreed that only Congress has the power to behave as the reforming organ of the Constitution. The minority opinion held that there is no organ of

<sup>18</sup> "Supreme Court Edges Closer to Indigenous Reform Ruling," *The News*, May 7, 2002.

<sup>19</sup> "The Mexican State on Trial," *La Jornada*, May 5, 2002.

<sup>20</sup> *Ibid.*

<sup>21</sup> "Mexican Supreme Court Faces New Scrutiny," AFP, September 17, 2002.

constitutional reform per se, that constitutional reforms are made by groups of legislators whose decisions are subject to legal scrutiny, though only on procedural and not substantive grounds.<sup>22</sup> Indigenous rights activists were disappointed in the failure of the Supreme Court to take a more activist role in protecting indigenous rights.

Many activists still believe, however, that legal strategies are the best option for advancing the indigenous struggle. Expressing disappointment over the Supreme Court decision, former INI Director Matías Alonso said, "All three branches of government have turned their back on the indigenous people. . . ." Nevertheless, he insisted that the courts continued to be the most viable arena of struggle, noting that in the absence of congressional support the executive branch has very little room to maneuver.<sup>23</sup> In this regard, indigenous activists view the courts as an independent arena of politics with the potential power to stand up to the Executive and to the Congress. They think of the courts as a complementary political option or strategy and not as a withdrawal from politics.

ILO Convention 169 and the Indigenous Law act as instruments that have opened space for the contestation of indigenous status through legal and political channels, with some possibility of success. The strategy of mounting constitutional challenges to the Supreme Court against the 2001 Indigenous Rights legislation also exposed a new range of action to the political opposition. The Otomí appeal to the OAS Court represents an additional tactical breakthrough, as does the official ANIPA complaint to the ILO against the Mexican government. Regardless of the eventual success of these strategic maneuvers, it seems evident that opposition activists have employed the indigenous subject position to advantage in carving out new political spaces and expanding the room of the rural poor to maneuver politically. Activists are not mistaken when they treat the courts as an alternative

<sup>22</sup> "Desecha SCJN Reclamo Indígena," Víctor Fuentes, *Reforma*, September 7, 2002.

<sup>23</sup> Cecilia Gómez, "Somos Pueblo sin Estado: Descalifica Matías a Funcionarios," *Reforma*, September 13, 2002.

site of politics rather than as an alternative to politics, as some critics of courts and legal strategies allege (Gabel and Kennedy, 1984; Poole, 1999; Tushnet, 1984).

## II. THE ISSUES THAT ORIENT INDIGENOUS POLITICS

Indigenous identity has not only moved rural Mexican politics from the fields and the streets to Geneva, the Office of the President, and the Supreme Court. Indigenous identity has also given Mexico's rural poor access to a range of issues that carry the movement beyond the limits of redistribution and recognition and have helped situate its distinctly contemporary political position. Indigenous people insert their voices into debates about democracy and democratization, self-determination and citizenship, and globalization and the environment. The alliance between indigenous and women's rights activists has also played a role in locating the indigenous rights movement politically.

### *Democracy*

When indigenous activists call for self-determination and cultural recognition, they most often invoke a right to citizenship rooted in demands for deepening, extending, or fulfilling the promise of democracy. As internal populations with a common history of discrimination and exclusion from full rights in citizenship, indigenous peoples are particularly well placed to highlight the failures of liberal democratic governments, by holding up to scrutiny the boundaries of political membership.

Indigenous demands for self-determination, in Mexico and in most other places as well, rarely anticipate redrawing national boundaries or secession. Instead, they argue that local-level autonomy will grant them democratic control over matters of local governance and resource allocation. They make an argument for decentralization and devolution and for locating democratic decision making at the level closest to those with affected interests. In Mexico, indigenous communities have often been controlled by indigenous *caciques* with

close ties to the ruling PRI, and the call for democracy is also a call for the freedom to elect independent representatives.

Democracy was one of the 11 initial demands made by the EZLN on January 2, 1994. In the context of the uprising and of politics in Chiapas, the call for democracy was made at a number of levels. First, of course, it was a call for the PRI to step down from power after more than 70 years in office. In particular after 1988, when the PRD was widely believed to have been defrauded of its victory in the presidential election, the corrupt and dictatorial character of the PRI grew increasingly visible and controversial to many Mexican voters. At this level, the call for democracy, free and fair elections, and political opening put the EZLN in alliance with the PRD, even though PRD leader Cuauhtémoc Cárdenas was initially reluctant to acknowledge the ideological sympathies between the two for fear the political party would be perceived as an advocate of violence (Sánchez, 1999).

The call for democracy has also been a demand for a voice in Mexican policy making, in particular with regard to globalization. As Comandante Tacho explained to an American journalist in 1995, "The EZLN has demanded the right of Indians to elect their own governments. . . ." But Indians do not stop there. They also want a voice in national decision making. "For example, the changes to Article 27, the privatization of the *ejidos* and state companies, NAFTA, the famous modernization of the farms and the cities – there was no previous discussion with the Indians and the *campesinos*. Why privatization? Who will benefit? The change to Article 27 shows no respect for *campesino* communities. So we say there needs to be real democracy and free dialogue over these issues" (Weinberg, 2000: 143).

In Chiapas, democracy also meant freedom from the PRI-aligned indigenous *caciques* who dominate communal life. In exchange for delivering the vote, *caciques* control access to government patronage. In 1994, the EZLN and CEOIC both called for the removal of a large number of PRI mayors and councilmen who were believed to have stolen elections. In the immediate aftermath of the uprising,

more than 20 PRI local-level officeholders were forcibly deposed and replaced by opposition candidates.<sup>24</sup>

The EZLN also used a discourse of democratic legitimation when it unilaterally declared the existence of autonomous regions of Zapatista base support. One member of the leadership explained, "Our thought is that the people in our own communities can run our own affairs, and be able to elect and recall our own leaders at any time, both locally and nationally" (Weinberg, 2000: 143). Within autonomous regions, traditional hierarchies of age and gender have been contested and renegotiated in light of the Zapatista commitment to democracy, human rights, and women's rights. Democracy has also meant the liberalization of cultural practices, opening local-level decision making to voices that have long been silenced by tradition (Hernandez, 2001: 125). Such EZLN opponents as the Rural Collective Interest Association (ARIC) contest the degree of democracy actually practiced in Zapatista autonomous communities, arguing that the rebels do not tolerate opposition or coexistence with other political groups (Legorreta Díaz, 1998). The EZLN call for democracy has nevertheless acted as a challenge to the status quo, even at the level of indigenous tradition.

Finally, the Zapatistas are often credited, even by those who are not necessarily sympathetic to the movement, with forcing the issue of free and fair elections, which led to the fall of the PRI and the first electoral alternation in Mexico's modern history. In response to pressure from the EZLN and other sectors of civil society, the PRI agreed in 1996 to an electoral reform that ensured the autonomy and independence of the Federal Electoral Institute (IFE), limited overrepresentation of the dominant party to eight points, ensured equal and free media access to all parties, and established public financing and a limit on campaign spending. The PRI also agreed to a primary

<sup>24</sup> Interviews with Araceli Burguete (August 2000) and Margarito Ruiz (June 2002), the latter a founding member of CEOIC.

election for the presidential candidate that would put an end to the traditional practice of allowing the outgoing president to hand-pick his successor: the *dedazo*. The PRI still managed to squeak through the August 1994 election – whose legitimacy was a target of EZLN-mobilizing discourse – with a narrow victory for Ernesto Zedillo, Salinas's chosen successor after the assassination of Luis Donaldo Colosio.

Nevertheless, by the time of the congressional elections in 1997, these reforms helped the opposition to take away the absolute legislative majority of the PRI, and in 2000 the party lost to PAN candidate Vicente Fox. PAN is ironically the party of fiscal and social conservatism in Mexico, further removed ideologically from the EZLN than even the PRI. But in the context of calls for democratization and opposition to the corruption and entrenchment of the ruling PRI, the election of Vicente Fox was perceived as a victory for Mexican civil society and for the EZLN.

Calls for democracy and democratization mark an important departure from the politics of peasant identity. In rural Mexico, economic rights were proffered as a substitute for political rights for much of the twentieth century. Peasant politics were channeled into demands for land and agricultural inputs. By making claims for political rights to representation and citizenship, the indigenous movement has tried to push rural Mexican politics beyond land and agricultural subsidies to transcend “the politics of small things.” Instead of organizing land takeovers, activists stand for public office as members of political parties. From within the system, they insist that they are working toward a fundamental transformation of state–society relations.<sup>25</sup> What they mean is that, though they remain concerned with the allocation of resources, they are no longer content to go hat in hand in search of small concessions on particular issues. They want the power to make allocation decisions themselves and to guarantee government accountability. They hope indigenous identity will afford them such leverage.

<sup>25</sup> Interviews with Margarito Ruiz, June 2002, and José Antonio Vázquez, March 2003.



*Self-Determination and Citizenship*

In one sense, the Mexican indigenous rights movement has had most success with its demands for local-level autonomy and self-determination. In 1995, the State Legislature of Oaxaca reformed its electoral law to allow municipalities to decide for themselves whether they would conduct elections by customary practice or through political party competition. In the first election following the reform, 412 municipalities elected to use *usos y costumbres*, and 152 continued to allow party competition for local leaders. Since 1998, more than 50 municipalities have switched from their initial preference and held subsequent elections by the other method. Some have switched back and forth more than once, as the electoral system itself has become an object of contestation and struggle between groups that stand to do better under one system than another.

Municipalities governed by customary law use the *cargo* system in which religious, civic, and administrative responsibilities are accorded to communal elders who have proved their dedication to the community by serving in the lower ranks, ascending through the system according to the rules of the community. Communities governed by *usos y costumbres* use such collective forms of decision making as the *tequio*, the elders' council, and communitarian assemblies. In communities ruled by customary law, religious and civic responsibilities are intertwined, and office holders must be financially secure, as they are not paid and are in fact expected to contribute their own money to fulfill their obligations. A number of municipalities governed by customary law also exclude some members of the community – like women, newcomers, people who live outside the main municipal village, and people born in the village who no longer live there – from participation.<sup>26</sup>

Beyond allowing indigenous communities full power to elect local authorities, the *usos y costumbres* legislation provides legal

<sup>26</sup> Women do not participate in 18 percent of *usos y costumbres* municipalities, newcomers in 30 percent, and people outside the *cabecera* in 26 percent (Moreno, 2005; Velázquez and Aquino, 1997).

protection to indigenous populations. The law gives indigenous people the right to present legal cases in their native language and to be provided with bilingual translators in any court proceeding. Indigenous defendants also have access to an Indigenous Peoples' Defense Attorney as well as the Federal Attorney's Office. Insofar as it relates to the courts, the electoral reform is intended "to create a set of measures by which indigenous culture does not represent an obstacle for these groups to have access to the state's justice" (Martínez, 2004: 17–18).

In Chiapas, the state with the largest indigenous population after Oaxaca, the EZLN has also insisted on indigenous self-determination and, as with democracy, has most effectively achieved its goal through direct implementation at the local level. Zapatista support bases have declared unilateral autonomy by rejecting government structures, elections, public services, and development assistance.

The claim for autonomy appears to anchor indigenous identity in three different political conversations. First, autonomy is the condition that allows for the protection and preservation of indigenous rights and culture. This meaning of autonomy is rooted in a vision of indigenous people as a distinct cultural and linguistic group and is tied to claims for recognition. Autonomy will allow indigenous people the right to cultural self-determination and the ability to reproduce traditional practices without external interference. The EZLN has also made a point of criticizing many indigenous practices, however, in the name of women's rights, human rights, and democratic voice, chalking a fine line between advocating the rights of minority groups to order their collective lives and the rights of minorities within those groups to rights and freedoms of their own. Marcos seeks both the protection and the reform of indigenous practice, but insists that indigenous people themselves must renegotiate their cultural commitments.

The claim for autonomy also intersects with the Zapatista position on local-level democracy. Aside from cultural protection, autonomy entails independence from PRI domination and the ability to

freely choose local representatives. The call for autonomy establishes the ambition to develop a political system whose impulse is bottom-up rather than top-down. The EZLN and indigenous rights activists alike insist that the demand for autonomy is intended to open up a space and a point of leverage for participation in Mexican politics. They are adamant that autonomy does not imply separation or independence from Mexico, as many conservative politicians allege when they denounce the indigenous rights movement.<sup>27</sup>

Marcos has also insisted that political parties are divisive and should not be allowed to compete for votes in indigenous communities. The history of elections in Mexico's rural areas, especially in Chiapas, corroborates the claim that violence has been a common outcome of hotly contested elections in which one party fails to lock up the vote. But in rejecting a role for political parties in the organization of political expression, Marcos appears to support the type of organic democracy often invoked by advocates of indigenous rights, in which consensus is said to arise from extended discussion and participation within the community. This representation of the indigenous community as internally democratic is fairly controversial and out of line with Marcos's insistence elsewhere that indigenous traditions need to be democratized. At the national level, the EZLN is clearly concerned with the fate of parties, establishing its early reputation by calling for the fall of the PRI and speaking out vociferously against the Chiapas state government as recently as 2005. Some of the indigenous rights activists who are skeptical of the role of parties in indigenous areas are sitting in Congress as elected representatives of a political party.<sup>28</sup> Such seeming contradictions are elided in the interest of linking claims for autonomy to democracy and denying

<sup>27</sup> Interviews with Margarita Gutiérrez, Margarito Ruiz, and Luis Hernández Cruz, June 2002. In the world of indigenous politics, Mexican indigenous rights activists are known for articulating a desire for inclusion in the democratic politics of the nation. In other parts of the world, autonomy and control over natural resources have emerged as more central focal points of politics.

<sup>28</sup> Luis Hernández Cruz and Pedro Chulín Jiménez, who were elected to the Chiapas State Congress as representatives of the PRD, both expressed skepticism about allowing parties access to local-level politics in indigenous areas.

the assertion that autonomy will mean indigenous secession from Mexico.

Finally, the demand for self-determination also signals an underlying claim for redistribution. In Chiapas especially, the demand for autonomy is rooted in a demand for land and for control over the mineral, hydroelectric, and agricultural resources located beneath the soil. A number of EZLN advisors and allies point to the wealth that autonomy would afford indigenous people if such resources were not stolen from them by the central government, which, they allege, takes more from Chiapas than it gives back every year. As the director of a Zapatista-aligned human rights monitoring group explained to me, "Autonomy has to be broadly formulated, to include not only control over the administration of local justice and uses and customs, which can be badly manipulated, but also over development. And development implies a discussion of resources, like gas, oil, hydroelectric power, things that are in dispute because the question is who possesses these and who benefits from them? How can it be that, in a state that generates 25 percent of the electricity in Mexico City (and allegedly more than 50 percent nationwide), most communities don't have light?"<sup>29</sup>

On this view, Chiapas is a rich state with enormous reserves of oil, tremendous hydroelectric capacity, some reserves of gas, the wealth of the Lacandón rain forest, and the largest output of coffee in Mexico. Whether Chiapas is rich as a result is hotly contested, however, and has entered the political dialogue because of the way it articulates with the debate over indigenous autonomy. The price of coffee has remained low since 1989. The Lacandón oil fields are not currently being exploited. The Mexican government says they are not commercially viable; it would cost more to extract the oil than it is worth. Autonomy backers insist this is not true. The terms of the San Andrés Accords do not, in any event, guarantee the rights of indigenous peoples to the natural resources located in autonomous

<sup>29</sup> Interview with Marina Patricia Jiménez, August 2000.

territory, which means that activists would have another big battle on their hands even if they were to win compliance with the San Andrés Accords as they have been demanding since 1996. If autonomy does not include access to resources, it could be dangerous. As one prominent Leftist academic who opposes autonomy warns, "What do people think, that the Indians will become rich from casinos, like in America? How will they live?"<sup>30</sup>

Demands for autonomy and self-determination operate on a number of different planes as activists employ a claim to cultural distinctiveness to anchor the social, economic, and political rights of indigenous peoples. Those activists who have taken a more narrowly cultural approach to the politics of indigenous rights have arguably been most successful in protecting indigenous practices and customs through municipal autonomy in Oaxaca. The Zapatistas and other indigenous rights groups appear less concerned with protecting tradition and more interested in using the demand for self-determination to float a raft of demands for social justice that are only loosely connected to indigenous culture.<sup>31</sup>

### *Globalization and the Environment*

Indigenous identity also locates rural Mexicans as international political actors opposing globalization and neo-liberalism.<sup>32</sup> From the outset, the Zapatista uprising was framed as a protest against NAFTA and against the reform of Article 27 of the Mexican Constitution. The demand that the Mexican government pull out of the NAFTA agreement, or renegotiate the agreement with the input of indigenous participants, has been central to the Zapatista platform since 1994

<sup>30</sup> Interview with Juan Pedro Viqueira, August 2000.

<sup>31</sup> Interviews with Margarita Gutiérrez, May 2001, and Araceli Burguete, August 2000. There is in fact a rift between those indigenous rights activists who focus attention on cultural protection, located mainly in Oaxaca, and those who feel that the focus on indigenous practices and customs (*usos y costumbres*) distracts from redistribution and political power.

<sup>32</sup> "WTO Cancun Summit – Zapatista call for 'rebellion and resistance,'" <http://www.indymedia.org.uk/en/2003/08/276142.html>.

(Weinberg, 2000). The EZLN gained much of its internal credibility and international support by describing and publicizing the threat that neo-liberal economic policies of free trade and privatization posed to the capacity of indigenous people to survive and to maintain their cultural distinctiveness.

Other Mexican indigenous rights activists have taken up this space and have emerged at the forefront of mobilization against neo-liberal globalization and the WTO, in alliance with peasants, workers, environmentalists, feminists, and human rights advocates. In June 2003, the International Forum on Globalization (IFG) convened a “week of capacity building” in anticipation of mobilization against the September WTO meetings in Cancún. In collaboration with the Cancún Welcoming Committee, the Mayan Elders, the Mexican Action Network on Free Trade, and the International Indian Treaty Council, IFG used this workshop to identify the main issues facing Mexican communities: food and farming, tourism, water, bio-piracy, land privatization, genetically engineered foods, fisheries, energy, and access to essential medicine. Indigenous communities were identified as particularly vulnerable to many of these threats, and indigenous populations were named as the “key Mexican group” to confront the issues of food and farming, bio-piracy, and land privatization. The issue of genetically engineered food has also been highlighted by indigenous activists in Mexico because Mexico is the origin of the maize genome, and genetically engineered corn from the United States, which has been found in the southern Mexican states of Oaxaca and Puebla, threatens the survival of indigenous corn as a separate seed strain.<sup>33</sup>

During the September 2003 WTO meetings, the Cancún Welcoming Committee and Our World Is Not for Sale organized an alternative summit, called the International Peasant and Indigenous Forum, in opposition to the global summit meetings.<sup>34</sup> An all-day

<sup>33</sup> <http://www.dallaspeacecenter.org/wtocancunissues.htm>.

<sup>34</sup> <http://www.wdm.org.uk/campaign/cancun03/mediainfo2.doc>;  
[http://www.viacampesina.org/imprimer.php3?id\\_article=269](http://www.viacampesina.org/imprimer.php3?id_article=269).

Indigenous People's Forum took place on September 9.<sup>35</sup> The forum was the result of a collaborative effort between the Indigenous Environmental Network, the International Indian Treaty Council, and Global Resistance, and it consisted of a series of panels led by indigenous peoples from around the world to discuss and coordinate strategies around the impact of globalization on indigenous peoples. Their primary local organizing partners were the National Plural Indigenous Assembly for Autonomy (ANIPA) and the Worker-Peasant-Indigenous-Student Coalition of the Istmo-Front for Democracy and Development of Oaxaca (COCEI-FDD). The goal of this forum was to identify and develop indigenous leadership for the anti-globalization movement and to "assert the central role of impacted communities in forging a global movement" to "give ownership of the anti-globalization movement to impacted communities." They planned to continue this development activity beyond the Cancún meeting to the Free Trade Agreement of the Americas (FTAA) meeting in Miami in November 2003 and the World Social Forum in India in January 2004.<sup>36</sup>

Peasant Path (*Vía Campesina*) and the National Union of Autonomous Regional Farming Organizations (UNORCA) additionally established a "Peasant and Indigenous Peoples Encampment" and organized a "peasant and indigenous peoples march and protest" that drew 25,000 people on September 10.<sup>37</sup> The Heinrich Boll Foundation covered five topics in its four-day seminar series on the impact of the WTO agreements: the environment, gender, water, Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), and cultural diversity. Almost all press releases and Internet coverage of the alternative summit focused attention on the role of indigenous people, peasants, and women in forming the backbone of the protests.<sup>38</sup>

<sup>35</sup> [http://www.viacampesina.org/imprimer.php3?id\\_article=245](http://www.viacampesina.org/imprimer.php3?id_article=245).

<sup>36</sup> <http://www.fntg.org/orgs/project.php?op=view&projectid=145>, accessed October 2, 2003.

<sup>37</sup> <http://www.unorca.org.mx/omc/ingles/calltocancun.html>.

<sup>38</sup> [http://www.newfarm.org/news/0903/091003/WTO/peasant\\_voice\\_print.shtml](http://www.newfarm.org/news/0903/091003/WTO/peasant_voice_print.shtml); [http://www.viacampesina.org/imprimer.php3?id\\_article=269](http://www.viacampesina.org/imprimer.php3?id_article=269), accessed October 2, 2003.

From the indigenous perspective, globalization is represented as a threat to the livelihood of indigenous communities, as well as to the preservation of their traditions, beliefs, and ways of life. As people are forced into wage labor and off the land, and as land and such natural resources as rain forests are increasingly exploited by multinational corporations, indigenous communities claim to be in danger of further disintegration. The International Cancún Declaration of Indigenous Peoples, issued after the collapse of the summit on September 14, stated that the development of infrastructure has already destroyed, and continues to threaten, indigenous ceremonial and sacred sites. Trade agreements facilitate "the displacement of indigenous peoples and the appropriation of their lands, waters, resources, and knowledge."<sup>39</sup> Globalization is represented as a dehumanizing international economic phenomenon. Conversely, indigenous communities are said to operate in the cultural sphere, at the local level, through face-to-face interaction. In the imagery of protest politics, the indigenous signifies the antithesis of the global.

These themes were powerfully taken up at the 21st session of the Working Group on Indigenous Populations, in July 2003. The topic of the week-long meeting was "indigenous peoples and globalization." During the general debate, indigenous participants repeatedly called attention to the over-exploitation of natural resources by transnational corporations (TNCs), especially, for example, in the Amazon River Basin and in the Ogoni region of Nigeria. The working group is trying to establish guidelines for TNCs operating in indigenous areas based on the principles of free, prior, and informed consent. In general, globalization was identified analytically as a new form of colonialism, in which heavily indebted developing countries were powerless to prevent exploitation of their natural resources, to insist on favorable

<sup>39</sup> [http://www.eireview.org/eir/eirhome.nsf/\(doclibrary\)/EC2E0481ADA1BCD485256DAA006A4410/\\$FILE/Cancunpercent20declaration](http://www.eireview.org/eir/eirhome.nsf/(doclibrary)/EC2E0481ADA1BCD485256DAA006A4410/$FILE/Cancunpercent20declaration), accessed October 2, 2003.



terms of trade for their export products or to protect the rights of their citizens.<sup>40</sup>

### *Feminism*

Indigenous rights activists have also taken up the cause of women's rights. The issue of the oppression and marginalization of women within indigenous communities has emerged as a staple of indigenous rights activism – in Mexico as well as in the indigenous rights movement more generally. The EZLN describes indigenous women as triply subjugated: by the state, by unequal wages and unfair labor practices, and by indigenous men and traditions that do not respect women's rights.<sup>41</sup> By making common cause with women's rights activists and by prominently including the demands of indigenous women among its concerns, the indigenous rights movement has explicitly denied an essentialist, backward-looking political identity rooted in an unchanging conception of tradition. It is a common theme of indigenous discourse that not all cultural practices are good and that indigenous culture itself should be transformed to respect the rights of women within indigenous groups (Hernández Castillo, 2002).

The indigenous rights movement has essentially made a choice between insisting on maintaining its traditions as they really are and were and entering into a progressive alliance with other marginalized and oppressed groups demanding rights. This choice has located the movement in a particular political space that is contemporary and potentially encompassing, rather than reactionary and exclusive. Its alliance with feminism is part of what has situated it in this political location.

Women have been highly visible in the military ranks of the EZLN and among its leadership, and women's issues have been

<sup>40</sup> "Report of the Working Group on Indigenous Populations on its twenty-first session," E/CN.4/Sub.2/2003/22 11, August 2003.

<sup>41</sup> Comandanta Ester, speech, International Women's Day, March 8, 2002.

highlighted in the communiqués and congresses of the EZLN. The Zapatista Women's Revolutionary Law, made public on the day of the uprising, has developed symbolic importance for the indigenous women's rights movement that has emerged since then. The law contains 10 articles, including the rights to political participation and to hold leadership posts; to freedom from sexual and domestic violence; to choose how many children to have; to a fair wage; to choose a spouse; to education; and to quality health care services (Hernández Castillo, 2002: 3).

The EZLN has also used indigenous women to great public effect, sending them forth alone to represent the Zapatistas in front of national audiences, when Mexican viewers expected either the entire Zapatista leadership committee or Subcomandante Marcos, its most eloquent spokesman. In October 1996, for example, the National Indigenous Congress (CNI) held a forum in Mexico City. After tough negotiations, in which the EZLN won the right to send a ten-person delegation to the meeting, it sent only Comandanta Ramona, who was gravely ill with kidney cancer (Weinberg, 2000: 162). Her address, to a crowd of tens of thousands in the main Zócalo of Mexico City, was a stunning success for indigenous public relations. Similarly, when the EZLN was finally allowed to address Congress in support of the Indigenous Law in 2001, it sent Comandanta Ester, who spoke in defense of indigenous and women's rights, insisting that they were intertwined in the proposed legislation (Hernández and Ortiz, 2003: 13). María de Jesús Patricio, a female representative of the CNI, also spoke.

Women have been particularly important in defending the indigenous demand for autonomy and collective rights against liberal critics who charge that indigenous culture is anti-democratic and repressive. Indigenous women have responded by insisting on the dynamic character of indigenous culture and on the ways it can be transformed from within to reflect the concerns of women. They confront what they call static representations of tradition that have been used to disqualify their practices and customs, by arguing that indigenous normative systems are currently undergoing

transformation with women's participation. They admit that some indigenous customs ought to be changed, but they insist that such change will come through indigenous women's participation in the public life of their communities. When CNI representative María de Jesús Patricio addressed Congress in support of the Indigenous Law, she said, "The indigenous peoples now recognize that there are customs we should combat and others we should support, and this is evident in the active participation of women in communal decision-making" (Hernández and Ortiz, 2003: 13).

Indigenous women living in Zapatista base communities have also testified to improvements in their day-to-day lives. "In the EZLN, women's lives began to change and we are not as oppressed. Women's lives have changed because the men don't drink any more. Before, when the men drank, being abused was part of women's lives, but not any more. Now when women want to participate in a community project they more or less give them permission."<sup>42</sup> Zapatista base communities are required to have an equal number of male and female representatives – four men and four women – which has propelled women into public leadership roles in Zapatista areas. But the continuing existence of oppressive family obligations for women has meant that, in fact, very few women are able to take up such responsibility (Hernández, 2001: 83). Although Zapatista affiliation has not, for the most part, transformed the material conditions of women's lives in Chiapas, it provides a space for women to speak out against the traditions that continue to disempower and discriminate against them.

Feminists in turn have embraced the Zapatista movement and played a role in building the international network of support that the EZLN relies on. International and Mexican women's rights activists have attended the Zapatista National Democratic Conventions (CNDs), have contributed to the Zapatista discourse on indigenous rights, and have helped to explain how indigenous rights are

<sup>42</sup> Interview with Indymedia, March 2002.

linked with women's rights and the way in which the two can be framed as compatible – and not mutually exclusive, as they are often portrayed by those who worry that many traditional practices are discriminatory (Gutiérrez and Palomo, 2000; Okin, 1999). As one indigenous feminist explained, a commitment to autonomy has the capacity to link the two projects. “Fundamental to the concept of autonomy is the power to control our own lives, to be the subject of our history and our destiny. This implies the ability to analyze our current reality, identify what we want to change, and define the future that we want to construct.”<sup>43</sup>

In May 2004, the topic of indigenous women was the special focus of the two-week annual meeting of the UN Permanent Forum on Indigenous Issues. Indigenous groups from around the world were especially encouraged to send female representatives to the meetings, and in the course of deliberations it became evident that “women's issues” are mainly health, reproduction, and sexual violence. Women identified multiple layers of oppression and marginalization by the state, the market, their communities, and their own households. They spoke out against environmental hazards that affect reproduction and cause birth defects in indigenous areas, and they complained that they lacked access to basic medical care for themselves and their children. Others referred to cases where soldiers have raped indigenous women with impunity, especially in areas of conflict. But they also noted that they were vulnerable to their own traditions and to oppression within their own communities. A number of women demanded the right to marry when and whom they wanted and highlighted the vulnerability of women to domestic abuse. Forum leaders gave the impression that the moral legitimacy of the indigenous rights movement rested in part on its willingness to take seriously the particular challenges faced by their weakest members.<sup>44</sup>

<sup>43</sup> Women and Indigenous Autonomy, Indymedia, March 2002.

<sup>44</sup> Author's notes from meetings. In 2003, the special topic of the Permanent Forum was indigenous children.

### III. THE LIMITS OF INDIGENOUS IDENTITY

Notwithstanding the success of the indigenous rights movement in situating indigenous peoples as political actors, in developing a trans-national political agenda, in pioneering new political strategies, and in pushing an indigenous voice into a variety of issue areas, indigenous political identity remains especially vulnerable to marginalization and co-optation. Cultural difference, which is the basis on which indigenous peoples establish their political claims, is also a source of weakness, as neo-liberal governments try to appease indigenous claimants by granting cultural protection, local-level autonomy, and bilingual education, while continuing to deny them socioeconomic support, opportunities for real employment, and full rights in citizenship.

Some activists began to recognize the tenuousness of their political position, growing wary of the willingness of President Fox, former Coca-Cola executive, free-market reformer, and ideological ally of President George W. Bush, to accommodate their demands. Marcos Matías Alonso resigned from his post as INI director after only one year in office, as a result of public disagreements over the policy direction emanating from the Executive Office (*Reforma*, September 13 and December 13, 2002).<sup>45</sup> ANIPA activist Margarito Ruiz, who was appointed director of INI in Chiapas, recognized the anomaly of the way he was received by Fox and admitted in 2002 to sleeping with strange bedfellows. Ruiz is a former Communist who located indigenous rights activism in a similar political location and found it surprising that he should be cooperating with the right-wing PAN.

In 2003, the Fox administration dissolved the National Indigenous Institute and folded its functions into a new National Commission for the Development of Indigenous Peoples (CDI), under the direction of Xóchitl Gálvez, the president's point person on indigenous affairs. The CDI has three branches dealing with governance,

<sup>45</sup> Ivonne Melgar, "Confían en Reformar al INI," *Reforma* December 13, 2002; Cecilia Gonzalez, "Somos Pueblo sin Estado: Descalifica Matias a Funcionarios," September 13, 2002.

administration, and consultation and operates as a decentralized organ of the Ministry of Public Administration, structured in the same way as the Federal Electoral Institute and the National Commission for Human Rights. The CDI is responsible for "orienting, coordinating, promoting, supporting, stimulating, following, and evaluating the programs, projects, strategies, and public policies for the sustainable and organic development of indigenous communities" (*Reforma*, December 16, 2002). The Consultative Council, which seems to be the primary body of the CDI, is comprised of representatives of each of Mexico's 62 distinct ethnic groups, as well as academics, state government representatives, and legislators. Its primary responsibility is to liaise with society and the indigenous population.

Those who believe that the CDI is a positive development in the history of Mexican indigenous policy argue that it spreads responsibility for indigenous well-being to all the branches of government and ends the era in which indigenous affairs were the sole responsibility of an inadequate and marginalized bureaucracy with a tiny budget and no political leverage (*Reforma*, June 2, 2003).<sup>46</sup> Gálvez and others who supported replacing INI with the CDI argued that INI was ineffectual because it was dependent on other ministries, such as education and agriculture, to implement its initiatives. They insisted that because the CDI would have the direct support of the president, it would not be undermined by recalcitrant state governments. Some PAN legislators also supported replacing INI because, they complained, it had grown into an inefficient top-heavy bureaucracy with too many personnel (*Reforma*, November 25, 2002; September 19, 2003).<sup>47</sup> Speaking in front of the Permanent Forum in 2003, Xóchitl Gálvez said that INI had been hindered by the assimilationist thinking of old-style *indigenismo*, which hampered innovative progress (*Reforma*, May 13, 2003).<sup>48</sup>

<sup>46</sup> Eduardo Velasco, "Ayuda Cambio a Indigenas," *Reforma*, June 2, 2003.

<sup>47</sup> Ivonne Melgar, "Entrevista/Xochitl Galvez/Planean Consulta Indigena," September 19, 2003; Leonard Valero, "Promueven Diputados Reformas al INI: Deben Llegar Recursos a las Comunidades," November 25, 2002.

<sup>48</sup> Ivonne Melgar, "Urgen Esquema Indigenista," May 13, 2003.

PRD Congressman Héctor Sánchez nevertheless publicly noted the serious limitations of the reform when Congress debated approval of the law in April 2003. As he explained to fellow deputies, "This Commission that we are approving is not the commission that indigenous peoples themselves want; we wish it had more autonomy, and that through the Commission indigenous peoples could direct policies toward the president, rather than the president directing policy toward the indigenous populations." He went on to add that "we wish it was the indigenous people who had proposed the director [Xóchitl Gálvez], and that she was indigenous, and that she spoke an indigenous language, but sectors of this Congress obstructed [the creation of] a more advanced institution" (*Reforma*, April 25, 2003).<sup>49</sup>

Although bureaucratic decentralization is also in line with World Bank and IMF loan conditions and recommendations for bureaucratic reform, it is not obviously supportive of a strong new initiative on behalf of indigenous people. Between 2002 and 2003, the INI budget was cut by 35 percent. Of this reduced budget, half was earmarked for regional funds and indigenous boarding schools; one-sixth was dedicated to the development of indigenous culture; another sixth to social and economic development, including capacity building among indigenous women; and one-twelfth of the budget was allocated to the protection of indigenous rights (*Reforma*, November 12, 2002).<sup>50</sup>

Publicity surrounding the transformation from INI to CDI focused almost exclusively on the consultative wing of the new body and on the structures it created for indigenous participation and representation. Even before the dissolution of INI, however, a number of scholars have been critical of the "participatory" turn that Mexican indigenous policy has taken since the 1970s, despite its commitment to respect the identity, culture, and organizational autonomy of indigenous communities in the formulation of policy. Héctor Díaz Polanco, an architect of one of the plans for indigenous autonomy that

<sup>49</sup> Claudia Salazar y Luis Alegre, "Avalan la Sustitución del INI," April 23, 2003.

<sup>50</sup> Ivonne Melgar, "Ven Riesgos por Escaso Gasto del INI," November 12, 2002.

has become politically salient since 1994, has attacked the development framework of "participation" because he says it is drawn directly from World Bank policy.

He argues that during the 1980s the World Bank formulated a strategy that divided economic and social policy into two separate spheres. In the first sphere, macroeconomic policy "over-determined by the interests of big capital" was decided by state governments and such international organizations as the World Bank and IMF. In compensation, the second sphere of microeconomic social policy in poor and marginalized areas was opened to the "participation" of NGOs and local interlocutors on the condition that these did not intervene in larger strategic questions about the (neo-liberal) direction of economic policy. "Participation," he argued, "allowed the World Bank and the Salinas government to implement neo-liberal economic policies from above while maintaining the pretense of responding to popular opinion" (Díaz Polanco, 1997: 109). Moreover, he argued, "participation established direct links between the executive and local municipalities, and lent itself to the manipulation of local interests by the central government" (123).

Guillermo de la Peña, a Mexican anthropologist who is more concerned with the implications of invoking indigenous rights and autonomy as the basis for social justice, has made a similar argument against participation from a different perspective. He traces the origins of participatory *indigenismo* to the crisis of state legitimacy that was propelled by the disintegration of the welfare state and of the corporatist ties that sustained social and political relations. He explains that the crisis was the result of structural economic conditions that the state was powerless to affect, such as the closing of the agricultural frontier and the impossibility of renewed agrarian reform, but that it was also caused by the explosion of independent claims that could no longer be met or channeled by the classic co-optive resources of the political system.

The government, he argues, therefore attempted to establish control over popular political expression by generating a new political



discourse and attempting to negotiate new social identities. As the traditional strategies of the CNC were rendered ineffectual by the oppositional voice of the independent and militant peasant organizations, the PRI invested in a new legitimating strategy. The indigenous Supreme Councils, he says, were intended to re-create the vital function of vertical intermediation and control of demands previously performed by *ejido* unions (de la Peña, 2000: 566).

De la Peña tempers this assessment of the pernicious role of the discourse of indigenous participation by adding, "But as always occurs in any process of intermediation and negotiation, it was inevitable that the new discourses would be appropriated by independent actors for their own ends" (ibid.). He nevertheless expresses deep skepticism of the participatory model of development and of the language of indigenous participation and respect for indigenous rights. Though these critics approach the issue from very different locations on the political Left, they have converged on similar critiques of the participatory and ostensibly inclusive turn in Mexican indigenous policy.

The policy of bilingual/bicultural education – an important demand of indigenous rights activists everywhere and a policy that has been substantially in place in much of Mexico since the late 1970s – may also pose a threat to indigenous well-being. The limits of bilingual education have been due in part to a paucity of resources and poor implementation. Critics complain that there have simply never been enough bilingual teachers to go around. Further, many indigenous teachers lack real training and are often barely literate themselves. The Directorate of Indigenous Education never properly standardized an indigenous language teaching and literacy curriculum, leaving teachers to their own devices. Teachers additionally found it difficult to integrate bilingual education with the curricular standards of the rest of the educational system, to which they were also expected to adhere (Acunzo, 1991: 35, 97, 99). All of this stands as a critique of Mexico's particularly poor record of bilingual education, and it is not intrinsic to bilingual education per se, although there are probably

structural reasons that such programs will often hit similar barriers to effective implementation in poor countries.

The more profound criticism of bilingual education comes from indigenous people themselves.<sup>51</sup> A study of bilingual education in three communities in Oaxaca in 1986 revealed that indigenous parents were often skeptical of bilingual education and lacked confidence in the idea of teaching in the native language (Acunzo, 1991). Acunzo reports, "The parents were not in agreement because they want [their children] to learn Spanish so that they can emigrate." Indeed, because students continued to use Spanish books, parents were generally unaware that their children were being taught in the indigenous language and were often angry when they learned of the new pedagogical initiative. Teachers reported that the principal obstacle to bilingual education came from a "lack of comprehension of the goals of indigenous language instruction" and indigenous mistrust of the education system in general. As he explains, "Although the teachers themselves recognized the value of teaching the indigenous language, as a means of preservation, the community, on the contrary, did not understand its social function" (99). Based on research conducted in the early 1990s, Leyva and Ascencio reported that indigenous parents in Chiapas's Lacandón Jungle similarly insisted that their children be taught in Spanish, because they perceived that Spanish was the language of social mobility (Leyva and Ascencio, 1996: 99).<sup>52</sup>

<sup>51</sup> The issue of whether indigenous people themselves support bilingual education is highly politicized and debated in the extensive literature on bilingual education in Latin America. Some empirical studies show that this is a myth (propagated to undermine indigenous demands for bilingual education), while other studies continue to provide evidence that indigenous people are skeptical of bilingual education (García, 2004). Given the highly charged atmosphere of this debate and what is at stake, it is not likely that any argument, including those presented here, will be viewed as unbiased. It is most likely that indigenous people actually have different opinions about the value of bilingual education based on their experience with it. Those who do not care to advance bilingualism as a political goal probably do so for the reasons enunciated here.

<sup>52</sup> In a study of the implementation of bilingual education policies in Peru, García (2004) also finds that indigenous parents mount significant resistance to bilingual education for their children and note wryly that the non-indigenous promoters of

Acunzo sees the community response as evidence that indigenous parents have learned to denigrate and disrespect their own culture and language, as a result of years of exposure to old-style *indigenismo*, and that they view the new institutional interest in cultural rescue with suspicion (Acunzo, 1991: 99). No doubt he is right that many indigenous people have internalized the disdain accorded their cultural background and have reason to be skeptical of government initiatives. In the wake of the revaluation of indigenous identity in the 1990s, parents may respond differently and may put more value on bilingual education.

Nevertheless, there are also rational reasons that indigenous people might want their children to learn Spanish. They know that regardless of the degree of recognition the state accords indigenous languages, economic opportunity will continue to operate in Spanish and increasingly in English. Indigenous people may resist, as they appear to have done in these cases, being cast as the vessel through which language and tradition are preserved, at the potential expense of their own, and of their children's, life chances. Once the state adopts a bilingual education policy, it generally does not give indigenous people the option of bilingual or Spanish education. Nor has bilingual education meant that non-indigenous children must learn an indigenous language.

In Mexico, the revaluation of indigenous tradition and culture, which started in the 1970s, also had the perverse effect of undermining communal autonomy, signaling another potential danger of political mobilization around indigenous culture. During the 1970s and 1980s, the government began to fund cultural projects aimed at the preservation or recuperation of indigenous traditions, languages, and customs. As a result, state functionaries began to play a much more central role in defining and circumscribing what counted as

bilingual education send their own children to Spanish-speaking language schools. She also points out, however, that bilingual education might have more local support if communities themselves played an active role in defining school policy.

“indigenous” and as “tradition.” Funds continued to be disbursed through PRI-aligned indigenous *caciques*, as in the earlier era, but now *caciques* formally linked themselves to indigenous tradition and culture. What they supported was “traditional;” what they did not support was “undermined indigenous custom.” “Tradition” developed traction as a weapon against internal opposition. By linking cultural preservation directly to the state – through indigenous power brokers with ties to the ruling party and official funding – the PRI transformed itself into the national guardian and arbiter of indigenous custom. As long-time Chiapas resident Andrés Aubry explained, “The myth of the community is where the PRI dictates what is custom, tradition, and culture in order to better preserve its political monopoly.”<sup>53</sup>

The politicization of culture and tradition at the local level has been a direct result of government funding and public recognition since the 1970s. In some parts of Chiapas, norms of group identity have grown more rigid, with important implications for the possibility of internal dissent. Public recognition has had the effect of standardizing a particular cultural norm and imbuing such norms, as well as those who sustain them, with power and status through the allocation of funding. In the wake of *nuevo indigenismo*, indigenous communities have had much less autonomy to determine their own cultural norms, or to live according to a variety of norms, and have been more vulnerable to the norms projected by local PRI power brokers who control access to state patronage and act with impunity against internal opposition.

The discourse of respect for “tradition” and for “traditional leaders” does not simply provide legitimacy to existing traditions that fail to respect the autonomy of their members, as some privatizing liberals and feminists have warned (Macedo, 1999; Okin, 1999). It also provides an environment in which the language of tradition can be used to justify a whole new set of previously unimagined exclusions.

<sup>53</sup> Interview with Andrés Aubry, August 2000.

The recent history of the Tzotzil village of Chamula, in the Chiapas highlands, provides a concrete example of the creation and reification of tradition and of the potentially ill effects of “tradition” on “community.” At the center of the main village (*cabecera*) of Chamula stands an imposing Catholic Church. The church has no altar, pews, or Catholic services, and Chamula religious leaders have a tendentious relationship with the Catholic hierarchy of Chiapas, located in nearby San Cristóbal de las Casas. Nevertheless, the church is locally recognized as a Catholic Church, and it occupies the ritualistic center of Chamula life. It is well tended and always full of people praying and performing the rituals of candle lighting, drinking, and chicken sacrifice that will induce the saints to look on them with favor.

Starting in the 1960s, Evangelicals began to attract a large number of converts in Chiapas, and many people throughout Chiapas converted to Protestantism – a movement driven largely by women who hoped that conversion would end alcoholism. Protestants condemned, while the local practice of Catholicism condoned, heavy drinking. According to the census, 35 percent of the population of Chiapas is non-Catholic – the highest percentage in all of Mexico.<sup>54</sup> Thousands of Chamulas began to convert to Protestantism in the 1960s.

Starting in the 1970s, with the powerful legitimating principle of “cultural protection” behind them, Chamula leaders began to expel Protestant villagers on the grounds that they failed to adhere to traditional beliefs. By invoking a tradition that located Catholicism at its core, leaders were able to justify expelling Protestants because their conversion was a threat to traditional mores. Protestants were prohibited from consuming alcohol, and the Catholic rituals and festivals that mark the traditional Chamula calendar include heavy ritualized drinking. Leaders insist that community participation includes responsibility for *cargos*, but because many of the *cargos*

<sup>54</sup> INEGI. Estados Unidos Mexicanos, *XII Censo General de Población y Vivienda, 2000*, Tabulados Básicos, Aguascalientes, Ags., 2001.

are religious, or include religion as a central component of their proper performance, they cannot be performed by Protestants. Invoking their right to religious freedom, Protestants refused to perform *cargo* services that involved Catholic rituals.

This local power struggle between Catholics and Protestants over the scope and exercise of tradition has been settled decisively in favor of Chamula's Catholic leadership, which is also firmly behind the PRI and regularly delivers Chamula as a solid base of PRI party support. Chamula leaders and their followers have expelled thousands of their Protestant compatriots from the Chamula villages over the last 30 years, expropriating their land, killing men, and raping women. Many of the *expulsados* have lived for years in refugee camps on the outskirts of San Cristóbal de las Casas, the nearest large town (Morquecho, 1994; Rosenbaum, 1993). In their attempt to attract outside support and sympathy, some converted Protestants joined the PAN. Not surprisingly, PRI party support is also invoked as part of the Chamula tradition.<sup>55</sup> The fact that PAN has been in office at both the state and national levels since 2000 has not interrupted local lines of PRI patronage or undermined the political leverage of Chamula's traditional leaders.

The Mexican government has failed to intervene to protect Protestant villagers from expulsion because, as they explain, the struggle between Catholics and Protestants, PRI and PAN, villagers and refugees, is a "cultural" matter, a local-level power struggle, and because the state respects the right of the Chamula leaders to protect their traditional customs. As is often contended in critiques of collective rights regimes, recognition of the collective rights of groups often justifies the failure to protect the individual rights of group members. Sporadic but deadly violence continues between Chamula villagers and refugees trying to reclaim, or gain compensation for, their lands. Hundreds of converts to Protestantism have been killed, and countless more have been deprived of their land and livelihood.

<sup>55</sup> Conversation with Chamula official, March 2003, selling entry tickets for access to the Catholic Church.

The culturalization of indigenous matters is part of a more widespread pattern in Mexico's strategy of dealing with rural unrest and opposition. On December 22, 1997, members of a PRI paramilitary group entered the community of Acteál and, over the course of three hours, shot and killed 45 men, women, and children. The victims were members of a civil society group called *Las Abejas* that is sympathetic to, but not affiliated with, the EZLN. Soldiers posted at the entrance to the village, within clear earshot of rifle fire, made no move to intervene. There was a public outcry against the Acteál massacre, and international and Mexican human rights activists working in Chiapas forced the Mexican government to investigate. After two years, the government released a report that described the shooting as "cultural, not political," the result of a local power struggle among indigenous people, beyond the purview of the government (Regino, 2002: 6).

Fifty-seven people were eventually convicted of complicity in the massacre. The 48 local Tzotzil men who carried out the attack received sentences of 30–35 years in prison on charges of aggravated homicide, aggravated assault, and illegal possession of weapons designated exclusively for military use. Nine ex-public security policemen were accused of aiding and abetting the assault and were sentenced to three years, nine months in prison (Mier in Hernández, 2001: 100–1). Human rights organizations are nevertheless outraged that responsibility for the attack did not reach higher into the Chiapas government, and that, because evidence of criminal conspiracy was never acknowledged, the trials failed to confirm the existence of paramilitary groups operating in Chiapas with government complicity (*ibid.*).

Critics of group rights have predicted that collective identity may clash with individual identity. State recognition of collective rights threatens individual rights unless the communal group is already itself liberally constituted and democratically reproduced. This is not necessarily the case with indigenous groups seeking cultural recognition or autonomy. Moreover, as Mexico's history of protection for indigenous culture attests, once publicly protected and

reproduced, tradition and culture become a site of internal struggle, caught up in a very serious politics of patronage and recognition that itself further threatens those who do not fit the norms of group behavior established by official recognition and reproduction or who simply oppose local leaders.

What has not been anticipated by the critical literature is that policies aimed at protecting cultural autonomy may also threaten collective rights. As the state becomes involved in the protection and reproduction of culture, it has taken on the role of defining what counts as tradition and who counts as a traditional leader. The government has supported the traditional leadership of Chamula in the expulsion and murder of fellow villagers and has validated their particular interpretation of tradition because the Chamula leaders support the PRI. "Recognition" is more than the simple act of acknowledging what is already there. In "recognizing," the state inevitably transforms, because recognition is always partial. By "recognizing" some particular constellation of currently salient group attributes, the state dictates which aspects of a cultural whole are recognized as the public markers of group identity. The recognized markers are in turn transformed, through the act of recognition, into the sole standard of group identity, creating rigid membership criteria that can be used to exclude and delegitimate opposition. The standard imposes homogeneity and stasis on a cultural expression that was more than likely multiple and fluid prior to recognition. Recognition undermines the capacity of the collective group to redefine itself, to adapt, to undergo transformation, and to include variation. The act of public recognition legitimates the one particular manifestation of a group's cultural attributes that is agreed to by the state and by those group representatives who are recognized by the state.

Cultural rights may also imply a trade-off with economic rights or opportunities. In an ideal world, nobody should have to make a choice between learning his native language and improving his life chances. But in reality, many people, and increasingly more people, will have to make exactly that choice. Where the two clash, it is not



clear that choosing economic opportunity over cultural preservation is evidence of false consciousness. The preservation of indigenous or minority languages rides on the backs of those who can least afford it. Such protectionist policies as bilingual education may clash with economic rights and opportunities, and it is those who are both poor and members of minority groups who will pay the price of preserving a cultural tradition.<sup>56</sup> This is one danger of conceiving cultural diversity as part of a global heritage that should be saved in the same way the diversity of plant and animal species should be saved.

In the teeth of the setbacks the indigenous rights movement experienced in its attempt to challenge the Mexican Constitution, some leaders began to promote the concept of unilateral autonomy in 2003.<sup>57</sup> Activists argued that indigenous people did not have to ask for autonomy and should not be compelled to go hat-in-hand to the government to establish their own independence and freedom. Instead, they argued, autonomy was something one could just take; indigenous communities did not need to wait for it to be conferred. Indeed, so committed were the Mexican activists to this line of thinking that, when an indigenous Mongolian attending the 2003 session of the Permanent Forum on Indigenous Issues requested that ECOSOC formally encourage the Mongolian government to grant indigenous autonomy, the Mexican delegates entered into a heated public exchange with their Mongolian counterpart, criticizing his "outdated" conception of autonomy.<sup>58</sup>

Indigenous rights activists are of course correct in their assessment that autonomy is one thing a person or group can substantially,

<sup>56</sup> Some educators argue that bilingual education may help students to learn the second language better than if they enter a single-language learning environment. But for those who demand bilingual education for indigenous children, the goal is cultural preservation, not greater facility with the dominant language. This affects the model of bilingual education that will be chosen.

<sup>57</sup> Francisco López Bárcenas, "El largo camino de las autonomías indígenas," *La Jornada*, August 13, 2003, <http://www.jornada.unam.mx/2003/ago03/030813/019a2pol.php?origen=opi...> (accessed June 9, 2004).

<sup>58</sup> Author's notes on the meeting.

even if not entirely, simply take.<sup>59</sup> What is much less clear is what kind of advantages such autonomy confers on the group that takes it. Refusing public goods and services, which has been the most manifest expression of so-called autonomy in Chiapas, is not an obvious challenge to the state, and it does not automatically confer benefits on those who take such autonomy. Of course they may have more freedom to practice their traditions and customs, and they may be able to choose their own leaders by traditional selection methods. But opting out of the safety and service net ostensibly supplied by the state, however poorly, seems a high price to pay. Although the call to “take” autonomy is rhetorically compelling, it seems strategically limited as a political maneuver.

If neo-liberal government policies succeed in keeping the focus of indigenous rights on unilateral autonomy, cultural protection, and bilingual education, former President Fox, his successor Felipe Calderón, and many of their fellow party members will probably continue to support an indigenous rights agenda. To the extent that the indigenous idiom of political contestation can be limited to cultural claims, it is not likely to challenge the fundamental premise of neo-liberal policy reforms that threaten to further impoverish and politically marginalize poor rural agriculturalists. Indigenous rights activists will find themselves in alliance with free-market ideologues to the extent that they focus on indigenous rights as a matter of cultural protection.

*The Test of Indigenous Politics: Plan Puebla Panamá*

In Mexico, however, most indigenous rights activists, as well as the EZLN, have employed the indigenous subject position to make stronger claims, for political identity and citizenship, for redistribution, and for a fundamental reconceptualization of representation, rights and political access. Their capacity to use the indigenous

<sup>59</sup> This is just what the EZLN has done in Chiapas, for example.

subject position to build these idioms of political contestation will be tested if the government moves forward with the Plan Puebla Panamá.

The Plan Puebla Panamá (PPP) is a *maquiladora*, communication, and transportation corridor that will run from the city of Puebla in Mexico through Central America to the Panama Canal. It may eventually be extended to include Colombia. The corridor will include a rail line; a network of superhighways; electricity and other energy lines; hydroelectric dams; and six "development zones" for *maquiladora* plants and processing facilities. Projects related to agriculture focus on large-scale irrigation, mono-crop tree plantations, and privatization of indigenous and communal lands. The PPP promotes a land use model characterized by large highways connecting newly urbanized industrial zones across tracts of privately controlled agricultural land.

The Plan is funded by multilateral development bank support and private investment. The Inter-American Development Bank (IDB) directs the financial structure of the Plan, with credit and technical assistance from the International Monetary Fund and the World Bank. It is intended to promote free trade and to generate employment and sustainable development, extending NAFTA southward by providing cheap labor and opening markets in the nine states of southeastern Mexico and the eight countries of Central America.<sup>60</sup>

The Plan Puebla Panamá has been targeted by a number of international anti-globalization activists. The Plan is opposed by environmentalists who fear the ecological effects of industry on the Lacandón Jungle and who worry that the exploitation of primary materials and dam construction projects will lead to environmental degradation. Free-trade agreements often exempt foreign companies from national environmental laws, and Mexico's rate of deforestation currently ranks second in the world. The Plan is feared by bio-piracy activists who argue that the location of the corridor gives pharmaceutical and other companies almost complete access to medicinal plants and to

<sup>60</sup> <http://www.iadb.org/ppp/>.

indigenous knowledge about such plants. It is also opposed by Mexican labor activists who argue that the *maquiladora* model of employment allows trans-national corporations to pay unlivable wages by exempting them from national labor laws. Social rights activists worry that all of the social and economic pathologies that have been evident on the *maquiladora* border with the United States will be reproduced and even magnified in the area of the proposed corridor. Feminists oppose *maquiladora* employment because it is particularly exploitative of women, paying unequal wages and enforcing birth control policies that abrogate women's reproductive rights.<sup>61</sup>

Indigenous rights activists argue that the corridor will violate the integrity of indigenous lands and that it is not by chance that the corridor dissects Oaxaca and Chiapas, the two states with the highest concentration of indigenous populations in Mexico, as well as Guatemala and historically indigenous lands on down through Panama. They argue that the proximity of the corridor to indigenous lands will draw off the remaining indigenous population, ringing the death knell of indigenous communal life and culture. *Maquiladora* industries will exploit and extract resources that are rightfully indigenous. Under the auspices of Plan development, the Mexican government is already reviving a scheme to build a new dam on the Guatemalan border that would flood a number of potentially important Mayan archaeological sites, drastically transform the local ecosystem, and inundate thousands of hectares of land currently under subsistence cultivation.<sup>62</sup> Like many other aspects of Plan development, the dam project has already built oppositional alliances among people whose primary concerns are otherwise cultural, environmental, agricultural, or economic.

Although the Plan seemed to languish without much official support after it was announced in 2001, it was reinvigorated with new capital, political commitment, and leadership in mid-2003.<sup>63</sup> In

<sup>61</sup> <http://www.globalexchange.org>, accessed 3/10/2007.

<sup>62</sup> Carlos Mari, "Peligra la Zona Maya," *Reforma*, January 27, 2003.

<sup>63</sup> Jorge Arturo Hidalgo, "Incumplen con el PPP: prometen nueva etapa" *Reforma*, July 18, 2003.

response to vocal and widespread criticism of the Plan, the government has promised to proceed in consultation with a broad array of civil society representatives, although it has refused to negotiate with the Zapatistas.<sup>64</sup> If the Plan Puebla Panamá develops the kind of traction and funding that supporters insist it already has, it will be central to the Mexican government's foreign, domestic, fiscal, trade, and development policies for the foreseeable future. As such, it will have a substantial impact on the orientation of opposition politics, in particular on the types of strategies, alliances, and support the indigenous rights movement is likely to develop.

The capacity of an indigenous rights agenda to affect the direction of neo-liberal development will be tested by the politics surrounding the development of the Plan. There is little question that the corridor genuinely and visibly affects "indigenous" interests, and the politics of the Plan has already been identified as a matter of concern to indigenous communities. The official Mexican government website of the Plan frames the initiative as one of sustainable development, and most of the photos on its home page are of indigenous people in traditional dress.<sup>65</sup> The website describes the Plan as

a regional development plan boosting stronger ties among the Central American nations and among nine states in the south-southeastern region of Mexico. Projects engulfed under the eight initiatives seek to translate comparative advantages into competitive opportunities and will focus on traditionally disadvantaged stakeholders such as low-income farmers, Indian peoples and Afro-Caribbean communities. The Plan will encourage their participation and social inclusion in all programs and especially those which require sound environment management and sustainable use of natural resources in their communities, as well as the strengthening of their local government institutions.<sup>66</sup>

<sup>64</sup> Daniel Millán and David Vicenteno, "Negócián PPP sin Zapatistas" *Reforma*, July 25, 2003.

<sup>65</sup> <http://ppp.presidencia.gob.mx>, accessed March 15, 2007.

<sup>66</sup> <http://ppp.sre.gob.mx>, accessed March 15, 2007.

In March 2007, the front page of the PPP website was dedicated to the activities of an indigenous advisory group consisting of indigenous representatives of all countries included in the Plan. This group, which according to the PPP website has a permanent advisory role, met three times in 2006 – the first two times seemingly to establish and formalize its status and the last time, in July 2006, to convene a “participatory forum for the identification of cultural projects.” The existence of an indigenous network that crosses state borders to include indigenous peoples from all of the countries projected to participate in the Plan at least provides a matched oppositional framework. Nevertheless, it is clear that, despite some rhetoric to the contrary, part of the politics of the Plan already involves limiting indigenous participation to cultural matters.

On an official state visit to Guatemala in March 2004, President Fox insisted that Mexico “would take no action, no decision, that violated the rights of persons or communities, that interfered with tradition or custom, or that is not in agreement with what the community itself decides.”<sup>67</sup> The Plan Puebla Panamá has already been branded as an “indigenous issue.” Whether the indigenous rights movement will be able to shape a political idiom with sufficient traction to unite support against the free-trade corridor or to compel the government to take such concerns as sustainable development, redistribution, and cultural protection seriously in the implementation of the Plan will remain an important test of the relative capacity of indigenous politics to shape the neo-liberal direction of Mexican public policy.

## CONCLUSION

Under conditions of neo-liberal economic policy reform and the decline of the Marxist ideological framework, in which the leverage of peasant identity was severely constrained, rural political activists in Mexico succeeded in forging an indigenous political identity that renewed their access to political voice in the 1990s. The parameters

<sup>67</sup> Sergio Sarmiento, “Jaque Mate/Usos y Costumbres,” *Reforma*, March 25, 2004.

of indigenous identity have been shaped by politics and political institutions at both the national and international levels. In the absence of an indigenous identity, many of the world's most marginalized and dispossessed may have remained constitutively outside of politics, with no resonant or recognizable stance from which to make political claims.

The construction of an indigenous political identity is therefore itself a strategic victory. Indigenous identity has a number of advantages, including the ability to reach beyond the state for alliances and justificatory appeals that act as an additional source of pressure on the state. In the space opened up by democratization, indigenous activists have been able to use electoral and legal strategies, based on their claim to rights, which were beyond the scope of peasant activists in the 1970s and 1980s. The Zapatistas were instrumental in linking an indigenous rights agenda to the worldwide anti-globalization movement, widening the scope of indigenous politics to include a broad array of issues and alliances that extend indigenous identity beyond the limits of cultural protection and locate it in a particularly contemporary political space.

Indigenous identity is nevertheless vulnerable. The appeal to culture, which gives the indigenous its traction, is also risky. Fox's assessment that demands for local-level autonomy and collective rights can be accommodated without danger to a neo-liberal economic structure warns of the dangers of an exclusive focus on cultural protection. Mexico has been providing support for the maintenance and preservation of indigenous cultures, including bilingual education, since the 1970s. Although this policy turn probably laid the groundwork for the revaluation of indigenous identity and for indigenous political mobilization, it also had pernicious effects at the level of communal politics, allowing local power brokers to use culture as a weapon against internal dissent. Indices of rural well-being have not improved in this period. Indigenous activists were briefly appointed to important bureaucratic posts after President Fox entered office in 2000, but most of the representatives from the left-wing alliance that

supported Fox against the PRI had resigned or been removed by 2003. It is too early to tell whether replacing INI with the CDI marks an advance in Mexico's policy toward its indigenous population, but it seems unlikely that a decentralized organization with a reduced budget whose primary function is consultation will be able to carry off a strong new indigenous initiative. Matías may be right that the best tactic for the indigenous movement lies through the court system, but the 2002 Supreme Court decision not to intervene in the area of constitutional reform is a cautionary indicator of the limits of this strategy. Indigenous identity is an important contemporary political resource and location, but it has not yet posed a successful challenge to the structural exclusions that have constituted the presence of indigenous peoples.

Notwithstanding its serious limitations, indigenous identity is an important political achievement. Indigenous identity offers a political voice and visible international presence to a category of people that has been historically constituted through marginalization and oppression. Indigenous peoples challenge the terms of their incorporation, seeking to transform conceptions of citizenship that have excluded them from social, political, and economic participation. They invoke a history of discrimination to establish their contemporary political presence and the legitimacy of their claims. Their very existence highlights the illegitimacy of existing political boundaries. And they call on the promise of rights to issue an immanent challenge to their own states as well as the international legal system that has sustained state sovereignty.



## 6 Critical liberalism

Critical liberalism grows out of a theory of obligation that is rooted in the structural origins of groups rather than in the cultural difference of groups. The normative standing of indigenous peoples, other ethnic minorities, African Americans, women, immigrants, and so on depends not on who they are, or on the extent to which they command human attachment, but on the historical record of exclusion and selective inclusion through which they have been constituted. The responsibility of states lies in the fact that states themselves have forged social groups, and the political identities they anchor, by using such markers as cultural practices, phenotypical traits, biological sex, sexuality, property ownership, and wealth to organize access to power and delimit the boundaries of citizenship.

A structural theory of obligation locates critical liberalism along three normative dimensions, generating a distinctive intervention into debates regarding particular versus universal theories of justice, procedural versus substantive conceptions of the good, and individual versus collective rights. Viewed through the constructivist lens, these debates yield a framework of political claim making, a mechanism of democratic legitimation, and a conception of the subject of rights. Moving from this level of abstraction to the specific, critical liberalism argues for establishing the standing of particular claims through the language of structural injustice rather than cultural difference, contestation over consensus as a source of liberal democratic legitimacy, and the category of membership rights as a conceptual refinement of the proper subject of rights.

These three arguments are linked in the sense that each flows from the logic of a constructivist theory of identity formation that locates the contemporary political claims of indigenous peoples in

a history of marginalization and exclusion built on prior consensus over the proper boundaries of politics and of citizenship. They are also linked to one another in the sense that these commitments imply and reinforce one another. A structural theory of obligation establishes the interlocking character of these three normative dimensions, building a framework that joins the object, the strategies, and the subject of justice in a common transformational project.

The argument for justifying political claims through an appeal to structural injustice follows directly from a structural account of the origins of social groups. Such groups are actually constituted, as I argue, through structural exclusions that persist over the course of generations, producing identities to the extent that certain markers, such as cultural practices and phenotypical traits, determine life chances. The normative standing of these groups lies in their structural origins, in the political history that has actually forged them as groups not in the extent to which they are culturally distinct. They are best viewed through the lens of structural injustice, not through the lens of cultural difference.

The argument for looking to contestation instead of consensus as a source of democratic legitimacy follows similarly from the constructivist insight that the structural exclusions that produce political identity are maintained through consensus. The demands of excluded “others” – like indigenous peoples – arise to challenge the consensus through which they have been excluded and to renegotiate the terms of their incorporation. Contestation therefore has both signaling and transformative potential. By exposing injustice, it offers a source for comprehending what counts as justice. By challenging the boundaries of inclusion, it has the potential to transform them. It is contestation that lends justice its dynamic character.

Finally, the argument for membership rights follows from an attempt to develop a conception of rights that responds not only to the fact that groups are constructed, but also to the fact that they have been constructed precisely through the unequal allocation of rights, resources, and citizenship. Membership rights are essentially a

category of add-on rights, assigned to individuals whose group membership has operated as a source of exclusion, discrimination, or oppression, designed to redress such structural injustices through a combination of policies that are both difference blind and difference sensitive. Membership rights bundle civil and political, social and economic, and cultural rights. Such rights respond to the strategic reality that group-specific rights can motivate politics and act as a corrective against discriminations and exclusions that are also group specific.

From a political perspective, a structural theory of obligation offers a legitimating framework that allows indigenous politics to break out of the cultural straitjacket that has been imposed on it by a conception of legitimacy that relies on traditional practices and customs. It develops a paradigm for understanding the scope of actually existing indigenous politics, which goes far beyond demands for language and cultural group recognition, and it justifies a broad conception of the political arenas and issue areas in which indigenous activists can intervene. It also lays the groundwork for alliances among groups whose ostensibly distinct points of reference – culture, alleged phenotype, sex – are overshadowed by their analogous structural origins.

Such a framework also exposes the limits of actually existing liberal democratic states and endorses a political conception of liberalism that offers the possibility of immanent critique and legitimation. The fact that states will inevitably set boundaries to politics and citizenship means at least that such boundaries should be contestable. The promise of liberalism lies not in the fact that its scope is actually universal, but that its universal aspirations establish grounds for an immanent critique of liberalism with real emancipatory reach.

#### PARTICULAR OVER UNIVERSAL SOLUTIONS TO ETHNIC DIFFERENCE

The most direct implication of constructivist theories of identity formation for normative frameworks of multiculturalism and

democracy is that universal solutions are inappropriate for adjudicating the claims of cultures and the responsibilities of democratic states. This follows directly from the insight that ethnicity arises as a result of structural configurations that are particular to different societies and historical experiences. Cultural norms and practices generate ethnic boundaries and sentiment, the capacity to bear attachment, and relevance as political identities through the way that such markers as language, tradition, phenotypical traits, and cultural norms have been used by states to mark the boundaries of citizenship. Human beings identify themselves as members of ethnic groups, and they perceive ethnicity as a relevant political category, to the extent that culture has been used to organize society. Ethnicity is the deeply contextualized result of a particular historical experience, not a universal category of human political organization. What ethnic groups are owed by liberal democratic governments depends, therefore, on the historical record – the history that has given rise to particular ethnic groups.

Some theorists have attempted to bypass the significance of constructivism for normative theory by saying “Yes, ethnic groups may be constructed, but regardless of where they come from, or how they change, human beings are fundamentally attached to, and indeed constituted by, the (constructed) cultural groups they are born into.” Indeed this is a reasonable response to the “weak-constructivist” claim that a group’s culture is shifting and subject to reinvention and that traditions are often transformed by such outside influences as colonial and post-colonial governments. It is certainly true, and has been amply shown, that many of the traditions that are portrayed as ancient are in fact new, but this critique issues a feeble challenge to the existing corpus of literature on multiculturalism and democracy. This literature takes no position on where culture comes from, focusing instead on the extent to which human well-being depends on access to one’s own societal culture, regardless of where such culture comes from or how it may change.

The “strong-constructivist” argument I advance in this book is different, however, and offers grounds for a fundamental reconsideration of the line of thinking that has driven the debate over multiculturalism and democracy. The strong-constructivist argument holds that it is the extent of human attachment to ethnic groups itself that is constructed. The likelihood that cultural practices and traditions will rise to the level of “ethnicity,” generating boundaries with social significance and the weight to invest a distinction between “us” and “them” with authority and commonsense meaning, is contingent. The extent to which human beings identify themselves as members of ethnic groups depends on the extent to which ethnic group membership has been vested with public and social significance. Whether individuals perceive their identities to be most fundamentally mediated by ethnicity, or by gender, race, or class, or even by such personal attributes as intelligence, profession, or marital status, reflects structural conditions rather than law-like psychological traits. Like race, class, and gender, culture develops political resonance when it has been used as a marker of selective inclusion and exclusion by states organizing access to power.

One implication of the strong-constructivist argument for liberal democratic theory is that it lodges responsibility for the relative salience of cultural group membership in the state. It draws a direct connection between how groups are formed and what they are owed. Tracing the origins of political salience is relevant not only as an exercise in exposing the way power operates, but also as a way of establishing the historical responsibility of states. Groups that are constituted through exclusion and oppression, that have come to shape political identity because their members have suffered in common, and that occupy a position of structural inferiority, have grounds for redress that lie in their own particular history. The obligation of the state rests in the way it has used cultural markers as a boundary of access and a determinant of life chances. The fact that ethnicity is constructed and that it is a relational rather than a substantive category, means that

the legitimacy and scope of ethnic group claims lie in the structural location of the group, not in differences of tradition and practice nor in the extent of human attachment to such traditions.

The real normative torque of cultural politics is anchored in the position of relative advantage or disadvantage that groups occupy as a result of historical discrimination and exclusion. It is this common structural location that links aboriginal populations in Australia and Latin America as indigenous peoples. Claims made by, and on behalf of, indigenous peoples are coherent to modern states because these states have played a role in organizing the indigenous as a political category. Indigenous people can legitimately make claims on modern states because these states used racial, cultural, and linguistic markers to police the boundaries of citizenship in ways that excluded their native populations. The legitimacy of ethnic claims arises from the particular experience of marginalization and oppression they have endured. As a result, claims should be judged on the basis of the existence of historic and ongoing injustice, not on the degree to which a group is culturally distinct.

To be sure, the literature on historic injustice is fraught with its own dilemmas and politics. Jenna Thompson has pointed out that there are three categories of claims for reparations for historical injustices: the claims of individuals who were themselves victims of past injustice; reparative claims made by members of communities for injustices done to the community as a whole; and claims for compensation for individuals who are the descendants of victims of injustice (Thompson, 2001:114–15). Indigenous peoples mainly make claims of the first and second type. In Canada, for example, the government has recently reached a settlement awarding billions of dollars to individual members of indigenous communities who were sent to boarding school as part of an official campaign to eradicate indigenous culture.<sup>1</sup> Thompson notes that the claims of Aboriginal Australians who were abducted from their families as children also fall into this category.

<sup>1</sup> <http://www.residentialschoolssettlement.ca>.

However, indigenous politics most often revolves around claims of the second type. One of the historic injustices that many indigenous peoples have suffered is the loss of land through colonial conquest or post-colonial encroachment on traditional territories. In some cases, notably in Canada and the United States, many indigenous groups entered into treaty agreements with the government to secure continued access to their land, and such treaties have been broken. In this case, indigenous peoples can make a straightforward claim, most commonly through the courts, on the basis of their legal entitlement (Macklem, 2001). In many other cases, however, no such treaties exist, and indigenous peoples instead make the case that the loss of land traditionally used and inhabited by indigenous communities threatens communal life and modes of production and represents an injustice against the community as a whole. In this case, the victim is a corporate entity – the community – that still exists, even if the injustice was committed in the past. The community demands reparation for a harm perpetrated against the community.

Such demands may be vulnerable, however, to Jeremy Waldron's supersession thesis. Waldron argues that an entitlement that was originally violated centuries ago is not necessarily an entitlement that survives into the present (Waldron, 1992: 15). Some rights, he says, are capable of "fading" in their moral importance with the passage of time. In particular, changes in background social and economic circumstances, like the size of the population or the availability of resources, may transform the requirements of justice (16). A theory of property entitlement, he says, is not immune to changes in background circumstances (20).

For example, indigenous peoples were once the sole inhabitants of the Amazon River Basin. As the Brazilian population has grown, many non-indigenous peoples have moved into the rain forest and try to make a living from the forest's natural resources, including hardwoods. Some indigenous groups argue that they do not want anyone to harvest trees because it is ecologically unsound and destroys an environment that is sacred to them. Others argue that if anyone is

going to cut down trees it is the indigenous people themselves who should be profiting from the extraction of resources that are rightfully theirs.

Imagine, however, that those people who have begun to encroach on the rain forest, and who are trying to subsist on tree felling, are just as poor as the indigenous people who would like to retain control over the area. The indigenous people are demanding the return of land they occupied when Brazil was a much more sparsely populated country. If that land were returned to them today and other Brazilians who currently live and work there were excluded from it, many non-indigenous Brazilians would be affected in potentially life-threatening ways. Among two groups of people who are equally destitute, it is not clear that the claims of indigenous people should trump on the basis of a "We were here first" argument. This, as I understand it, is the logic of Waldron's supersession thesis.

It seems to me that Waldron is right, with regard to this type of claim, on this issue. Indigenous politics are running into exactly this kind of problem in places like Mexico, where the population and the demand for land have far outstripped the country's available resources. The demand for the return of indigenous lands is a non-starter in Mexico, and in many other countries of the world, because land that was once forcibly taken from indigenous peoples has since been put to other uses. Returning it would involve seizing it from someone else, giving exclusive rights to one population at the expense of another. This fact is often ignored by people who focus attention on indigenous rights in Canada and Australia – countries with small populations relative to land mass, where the possibility of returning enormous tracts of land to autochthonous populations would not necessarily be vulnerable to arguments involving a change of circumstance. In these countries, arguably, there has not been much of a change in circumstance of the type that would trigger the supersession thesis. But in most places there has been.

Ultimately, however, the bite of the supersession thesis lies in the theory of property rights it advances. That is, Waldron's argument



is really not one about reparations and historical injustices at all. The logic of the supersession thesis, as he says, rests on a theory of the basis of property entitlements (Waldron, 1992: 20, 25). It is for this reason that he focuses so much attention on the relationship between historical entitlement and present possession and theories regarding justice in acquisition and justice in transfer (19–20). The supersession thesis is about the legitimacy of claims to land, and it shows how such claims can fade over time. The thesis loses its bite when it is expanded beyond claims for land, or beyond the second category of claims.

There are also good strategic reasons for indigenous peoples to expand their struggles beyond claims of the second type and to focus attention on the third category of claims: for compensation for individuals who are the descendants of victims of injustice. Too narrow a focus on claims of the second type limits indigenous politics in two ways. First, it may require claimants to maintain their communities and traditions in pre-contact form, to give substance to the argument that the corporate entity that is today demanding redress is in fact the same as that group to which the harm was originally done. This gives such outsiders as courts, judges, and lawyers an uncomfortable degree of power in determining which traditions are “genuine” and genuinely constitutive of group identity.<sup>2</sup> Second, focusing on claims of the second type has framed indigenous politics too narrowly around the issue of land, which again constrains the choices of indigenous people. Claims for land do not help the many indigenous people who have left the land and moved to urban areas, choosing to pursue life paths that are not tied to land, but are nevertheless constituted in part by the heritage of conquest, exclusion, and racism that marks other indigenous people. Such people have no standing when it comes to claims of the second type.

The category of claims that follows most directly from the logic of critical liberalism – that the obligation of the state lies in redressing

<sup>2</sup> *Mashpee Tribe v. Town of Mashpee*, 1976; *Mashpee Tribe v. New Seabury Corp.*, 1979.

wrongs that exist as a result of actions perpetrated by the state itself – is the third type: claims for compensation for individuals who are the descendants of victims of injustice. On the face of it, such claims seem the least sustainable. All of us, every last one of us, is descended from a victim of injustice. The world order is built on past injustices, and drawing our present obligations from past injustices promises to open a Pandora's box that will never be shut. Common sense calls for a statute of limitations.

From the opposite perspective, Thompson worries, with respect to this last category, that Waldron's logic might imply that such claims for restitution may also recede as time passes. It is not that all of us have grounds for claiming redress, but rather that none of us do. The descendants of people who were wronged historically do not necessarily have grounds for redress in the same way that the victims themselves may have had such grounds. The line of responsibility is attenuated over time as descendants are able to form their lives without the constraints, such as slavery, internment, or indentured servitude, suffered by their ancestors.

She nevertheless goes on to argue against this conception, defending reparative claims for harms caused to descendants by historic injustices. As she says, "If past persecution of their families has put individuals among the least well off then they can reasonably expect to receive a fairer share of social resources according to the principles that Rawls supports" (Janna Thompson, 2001: 133). The historic injustice is not vulnerable to Waldron's temporal concern because in fact the historical injustice is ongoing. It is to the extent that the descendants of indigenous peoples (and many others) are still suffering from the continuing impact of the historical injustices that were perpetrated against their ancestors that they have grounds to make claims for redress.

Jeff Spinner-Halev has called this type of injustice, which has roots in the past but persists to the present day, enduring injustice. Enduring injustice, he says, has both historical and contemporary components (Spinner-Halev, 2007: 3, 7). Spinner-Halev argues that injustices endure because they are beyond the scope of liberal

conceptions of justice – they cannot be remedied through individual rights or a fair system of distributive justice (7). In this vein, he takes issue with Richard Vernon's assertion that "[r]estitutive claims would at least be very much less compelling in a distributively just world" (Vernon, 2003: 552).

From the perspective of critical liberalism, the cause of enduring injustice is instead the same as its normative force, namely, injustices endure not because they are immune to liberal solutions but rather because they have structural, systemic roots. They are woven into the fabric of a society's political institutions and laws, through their norms and mores, and into the very texture of everyday life. On this account, enduring injustice is caused by the failure of actually existing liberal democratic history, rather than the failure of liberal democratic theory, as Spinner-Halev contends. We can call this type of injustice "structural injustice."

Structural injustices are those with systemic roots that persistently, over the course of generations, structure access and power to the disadvantage of some category of people, with the effect of generating a sense of common identity. Structural injustice in the form of systematic exclusion, oppression, and marginalization is what generates the political standing of such social groups as indigenous peoples, women, and African Americans. The scope of injustice that demands redress is wider than that contemplated by contemporary injustice alone, because it is structural injustices that persist across generations, and not merely contemporary instances of unjust actions, that generate the social groups that arise to challenge the terms of their incorporation and political standing. There is a direct line between the origins of such groups, the conceptual apparatus of structural injustice, and reparations that directly address the source of group identity. Often it is the existence of the group itself that does the job of alerting us to the existence of structural injustice.

The existence of the group also does the job of suggesting the scope of claims for reparations and of expanding them beyond financial compensation for past and continuing wrongs, as if, as Spinner-Halev notes, all injustices could be resolved through economic

solutions alone (Spinner-Halev, 2007: 11–12). In the United States, for example, there is a great deal of tension between American Indians and African Americans around the issue of reparations, with African Americans generally coming down in favor of reparations (for slavery) and American Indians resisting the language of reparations (for land) because of a history in which the U.S. government has occasionally tried to settle land claims once and for all by offering compensation (Smith, 2006; Winbush, 2003). This history certainly offers reasons to be wary of the reparations framework, but rejecting this framework altogether is also, I argue, a strategic error. The compensatory justice framework offers grounds for alliances among groups and may have broader potential than has been contemplated by strict attention to financial compensation.

As Cherokee activist Andrea Smith argues, “It is critical that indigenous peoples be part of a global movement for reparations. If we think about reparations less in terms of monetary compensation for social oppression and more in terms of a movement to transform the neo-colonial economic relations between the United States and people of color, indigenous peoples and Global South countries, we see how critical this movement could be to all of us. Activists who frame the movement to cancel Third World debt in reparations terms, for instance, help us to see how this strategy could fundamentally alter these relations” (Andrea Smith, 2006: 42).

A transformative strategy need not be limited, however, to neo-colonial economic relations; it can also be extended to address the political and social hierarchies that persist in shaping relations between indigenous populations and neo-colonial states. Indigenous rights activists in Mexico for example state explicitly that they hope to force the Mexican government to adopt a new model of state–society relations. Reparations, Smith says, “create a strategy that addresses an insidious colonial legacy” (43). But the legacy they address need not be limited to financial compensation alone.

The fact that constructivism forces normative theory to turn for answers to the particular condition of structural injustice (or privilege)

that is the condition of the group's existence has a number of corollary implications. There are four reasons that the claims of ethnic groups are more fruitfully and appropriately legitimated through an appeal for redress of structural injustices than through either the second type of reparative claim, for harms perpetrated against the community, or through the appeal to communal attachment it entails.

First, by resting group claims in particular historical experiences, critical liberalism is able to cut through orthodox group distinctions, offering a theory of multiculturalism and democracy that has something to say about race, gender, and class. It allows normative theorists to use the same standard – the particular set of structural relations that has constituted the group – to contemplate the moral and political standing of all groups. Ethnic groups need not be treated in a category apart from race or class groups.

This is useful because it sidesteps the classificatory reification that confuses our thinking on these questions. Most groups do not fit easily into one category or another. They have cultural, racial, and class dimensions to them. There is a poor fit between actual groups, like indigenous peoples and African Americans, and the categories we use to determine how they should be treated by liberal democratic institutions, like race, class, and ethnicity. We do violence to some dimension of their historical experience when we insist that a group's political standing depends on what category it falls into. Whether a group invokes culture, race, or class to situate its political identity should not determine the kind of legitimacy or guarantees it is afforded.

Leaving aside the issue of cultural difference as a largely irrelevant corollary to the claims of ethnic groups allows us to see beyond ethnicity to the other ways that states organize access and control. Culture, in short, has political coherence for the same reason that class, gender, and race do – because it has been used as a boundary marker, and because there is growing sentiment that its use as a boundary marker is not legitimate, in the same way that class, gender, and race, in that order, were slowly recognized as illegitimate borders

of sovereignty over the course of the twentieth century. It turns out that culture is no better.

As a result, ethnicity has the same grounds as class, gender, and race to contest the existing configurations of power – which means that culture has emancipatory potential. But ethnic groups have no more grounds than these other categories to demand group rights or to police their members – which is where culture hits up against the limit of what it can legitimately demand in the name of social justice.

Second, following the same logic in the other direction, critical liberalism is also able to parse among cultural groups. Insisting that the legitimacy of ethnic group claims rests on structural conditions and historical obligations – and not on cultural difference or attachment – allows critical liberalism to parse similarities and differences among groups in a way that is more satisfying than the recommendations that multiculturalists have been backed into by their commitment to cultural distinctiveness. Part of the reason that theoretical debates over cultural group rights sometimes seem lodged at too high a level of abstraction is that, by locating rights to self-determination and territorial autonomy in cultural difference, multiculturalists give the same grounds to Kurds and other victims of genocide as they do to Serbs or to Afrikaners. All groups that can claim cultural difference have ostensibly the same moral standing.

Yet it somehow does not ring true that all groups that stake a claim to cultural distinctiveness are equally legitimate or should have the same normative standing. This is a point that some multiculturalists have recognized, but the logic of their own arguments gives them very little room to distinguish among cultural groups. Will Kymlicka, for instance, makes a case for according different rights to Canadian First Nations, founding nations, and immigrants, based primarily on the degree to which they maintain intact societal cultures and whether or not they have chosen to live where they are (Kymlicka, 1995).

Yet this argument follows on from his main point, which is that liberal democracies have a responsibility to protect the groups he calls societal cultures because individual freedom and the capacity

to make meaningful choices rely on access to one's own culture. This is a powerful claim, and it is a universal claim. The subsequent distinction Kymlicka draws among cultural groups is counterintuitive against this backdrop. If freedom – which he says is the primary commitment of a liberal democratic society – depends on maintaining cultural group membership, how can such societies accord greater cultural protection to some groups than others? If basic freedom itself is at stake, liberal democracies cannot be governed by pragmatic decisions that protect the individual freedom of First Nations people but not of immigrant minorities.<sup>3</sup>

If, however, claims were to be justified on the basis of the structural location of groups, distinguishing among the three categories Kymlicka lays out would seem a more legitimate, and even intuitive, exercise. That is, we might arrive at the same place as Kymlicka via a different route. As Patrick Macklem has argued, First Nations in Canada would have rights to make claims based on prior sovereignty and treaty arrangements (Macklem, 2001). Indigenous peoples could also make claims intended to redress the injustices to which they were subjected following colonization – including, for example, forcible removal from ancestral lands, forced assimilation, broken treaties, and removal of indigenous children from their families and communities.

At the same time, the third way in which the appeal to structural injustice represents an improvement over an appeal to communal integrity is that it expands the arena of indigenous politics. Indigenous peoples were also subjected to a raft of injustices that cut in the other direction, namely, inadequate integration, racism, exclusion

<sup>3</sup> Kymlicka grounds the distinction in consent – that is, in freedom itself. Immigrants, he says, have freely chosen to subject themselves to the norms and laws of a new country. Most immigrants are hardly unconstrained, however, when they make the difficult decision to leave their homes and move to another country. What does the new country owe them as a result? The structural-injustice perspective dovetails with Kymlicka's. The new country would not owe immigrants the same obligations it owes to indigenous peoples because they have not been responsible for forging such people, but the state should take care to incorporate such groups well and fully to avoid incurring future obligations for present exclusions. It is easy to see how these would take the form of Kymlicka's "external protections."

from full citizenship, insufficient access to health care, welfare, and social service benefits and poor or non-existent educational opportunities. With this litany of structural injustices behind them, indigenous peoples can make claims for redistribution, representation, and restitution – claims that cut toward inclusion and not only toward autonomy.

In fact, the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the United Nations General Assembly in September 2007, makes a number of references to the historic injustices that indigenous peoples have suffered, and it seems to couch many of the rights included in the declaration in terms of obligations based on past injustices. For example, the preamble frames the standing of indigenous peoples in the following terms: “*Concerned* that indigenous peoples have suffered from historic injustices as a result of, *inter alia*, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests, . . .” In Article 11, Section 2, the declaration further states that “[S]tates shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.”

As a result, the declaration includes rights that push toward autonomy on the one hand and toward inclusion on the other, such as those laid out in Article 5: “Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State.” The legitimacy of indigenous demands to maintain a distinctive identity while simultaneously claiming full rights in citizenship resides not in their attachment to particular traditions and ways of life, but in the particular set of injustices they have endured as a colonial legacy.



Furthermore, from the perspective of political organization, cultural groups may make a strategic error when they anchor their political claims in cultural difference. By locating culture at the center of political voice, indigenous peoples and others who would mobilize ethnic difference risk being backed into demands for cultural protection and the preservation of tradition, which do not issue a fundamental challenge to many of the structural relations that are the condition of their disadvantaged position. The claims of culture issue scant challenge to the neo-liberal economic order, for instance, or to the structural location of indigenous populations at the bottom of that order. Some states may even be eager to confer self-government on their indigenous populations, using territorial autonomy to abjure state responsibility for providing development and social services.

Finally, this type of claim centers the issue of the historical recollection of injustice, which is important to people whose identity has been constituted by such injustice. As Jeremy Waldron says, "It is a well known characteristic of great injustice that those who suffer it go to their deaths with the conviction that these things must not be forgotten" (Waldron, 1992: 5). The descendants of those who suffer such injustice are normally just as committed to keeping the memory alive, insisting that the fact that such injustice occurred be publicly acknowledged, made part of the public record.

The political significance of memory should not be underestimated. As I state in Chapter [five](#), it is widely acknowledged that the indigenous rights movement in Latin America was precipitated through mobilization against planned celebrations of the 500-year anniversary of the "Discovery of the Americas" in 1992. Indigenous people throughout Latin America rose up to insist that their own governments and the government of Spain acknowledge the violence and oppression that the so-called discovery had entailed. They defiantly renamed the anniversary "Five Hundred Years of Oppression."

As Waldron goes on to say, "Reparations may symbolize a society's undertaking not to forget or deny that a particular injustice took place, and to respect and help sustain a dignified sense of

identity-in-memory for the people affected" (6). To forget is considered immoral, a sign of disrespect toward those who suffered and died and of contempt toward the present community. A society offers respect to the community by acknowledging, mourning, and seeking to redress the historic injustices that have been perpetrated against it.

Beyond maintaining "identity-in-memory" for those who suffered, the retrieval of injustice establishes the present identity of groups against whom harm was historically perpetrated. In international and domestic forums alike, indigenous peoples establish their existence and political standing through a catalogue of the harms they have suffered. As Melissa Williams argues, "Collective memory may surface as a response to discriminatory treatment, creating a solidarity and group self-consciousness that would not otherwise exist" (Melissa Williams, 1998: 186).

Moreover, as Williams shows, the framework of structural injustice offers "a schema for identifying groups that have a strong claim to recognition within political institutions. . . ." (176). As she says, "The claims of marginalized ascriptive groups to special representation in politics are legitimized by a clear and strong connection between present inequality and the kinds of past discrimination that were sanctioned by dominant social groups and often enforced by the state" (177). There are both objective and subjective criteria by which such claims can be measured. The objective criterion is the historical record, "evidence provided by law, documents, and other generally accepted sources that the discrimination actually occurred." The subjective criterion, however, is provided by memory – "the meaning the past has for members of those groups who were the targets of discrimination and oppression" (*ibid.*).

In making the case for the importance of memory in constituting contemporary subjective group identity, Williams uses an example of indigenous memory and points out that "Native American peoples, for example, have a strong oral tradition through which they pass down the history of their life on the land, of the treaties they entered,

and of the betrayal and destruction they suffered at white hands.” She offers the following example: “Indians have a perspective toward modern life which involves their own past deeply. The treaties, which most non-Indians regard trivially, are a sacred part of their life. . . . They had their roots here thousands of years before Europeans arrived. They are acutely aware of the specific ways in which they lost possession of over 98 percent of the land to non-Indians. All of this involves history, and it is living history to Indians – handed down orally in every tribe, a part of their collective bitter experience” (Melissa Williams, 1998: 187, quoting Sam Stanley).

Constructivist theories of identity formation generate the deep normative implication that developing a universal theory of multicultural citizenship is a mistaken enterprise. In every case, how democratic institutions should process the claims of culture is a political matter, rooted in a particular logic and history of political incorporation and exclusion. It is a matter that is therefore more appropriately, and fruitfully, addressed through the framework of compensatory justice than through the framework of communal attachment, identity, and cultural group difference. The concept of structural injustice seeks to transform the future by offering restitution for a past that has actually constituted the social groups that play a principal role in shaping life chances.<sup>4</sup>

The framework of structural injustice does not determine, however, who will get what. What it does instead is to structure a conception of obligation that places a special burden on the state. From the opposite perspective, it offers grounds on which groups can make claims that will have both critical and normative weight. It aims at structuring political discourse in a way that recognizes and resists

<sup>4</sup> In his excellent book *Postcolonial Liberalism*, Duncan Ivison also makes an argument for considering indigenous claims through the prism of historic and ongoing injustice. He comes to this argument from a completely different route, which makes it more likely, I think, that it is a good idea. Melissa Williams also makes an important case for the concept of historic injustice as part of her argument for legislative representation for historically disadvantaged groups (Ivison, 2002; Melissa Williams, 1998).

existing asymmetries of power and shapes the future with an eye to the past, but it does not propose replacing politics with a substantive conception of who is entitled to redress, or what, specifically, restitution would entail.

#### THE SOURCE OF JUSTICE

The quest for a source of justice is perhaps the key animating impulse of liberal democratic theory. As Rawls puts it, given the fact that modern democratic societies display a marked diversity of opposing and irreconcilable, yet perfectly reasonable, religious, philosophical, and moral differences, the central question is how to build a just and stable society of free and equal citizens. How can we derive a conception of justice that will be acceptable to all members of a modern democratic society? What source can we look to? In broad terms, there are substantive and procedural responses to this question. Rawls himself develops a substantive conception of justice based on a thought experiment that aims to fix, *a priori*, what is to count as common ground. In *A Theory of Justice*, Rawls adopts the tools of liberal contract theory to settle, in advance, the principles of justice that will guide the basic structure of a society's social, political, and economic institutions.

Proceduralists start instead from the position that there is no universal or objective standard from which to judge the substantive content of democratically enacted laws and outcomes. Given that we cannot agree on a common conception of the good, all we can do is agree to fair procedures to adjudicate among competing interests. Habermas, among others, has argued that substantive principles of justice cannot be established in advance by political theory (Habermas, 1996). Common ground, he argues, emerges as a result of actual deliberation under fair conditions. The job of political theory is to establish the rules that will make debate fair and equal. If the procedural conditions of deliberation are fair, then the consensus that is reached through such deliberation will also be fair. It will also be open to recalibration.

The logic of prioritizing particular over universal solutions to ethnic difference and of adjudicating cultural claims through the

framework of structural injustice rather than cultural difference already locates critical liberalism on the side of procedural conceptions of justice. Unlike the cultural difference frame, the compensatory justice frame does not offer a guarantee of protection from democratic politics. Instead, it proposes a line of obligation that kicks group claims back into the arena of politics by insisting that the state engage and offer restitution to the groups it has constituted through structural injustice. The injustice frame does not specify precisely what form such restitution will take because it takes as a starting point that specific groups emerge from specific histories of marginalization and oppression and will therefore have predictably different claims and different grounds on which to make such claims. For critical liberalism, a substantive conception of justice such as Rawls's, which purports to offer a conception of justice with universal resonance, that will appeal across societies as well as across groups within societies, is mismatched to the task of responding to the specific historical conditions that have produced particular injustices.

The account of identity formation that drives critical liberalism nevertheless moves beyond a procedural conception of justice that aims at consensus. From the perspective of critical liberalism, consensus is both an unlikely and an undesirable outcome of deliberation. Consensus masks the relations of power and exclusion on which it is built, rendering injustice invisible. The identities it constitutes are muted by the requirement of enlarged mentality. A procedural model of justice should aim instead at creating fair conditions for contestation. Contestation has both signaling and transformative value. By exposing injustice, it offers a source for comprehending what counts as justice. By challenging the boundaries of inclusion, it has the potential to transform them.

Critical liberalism therefore stands in tension with the model of deliberative democracy advanced by Jürgen Habermas. For Habermas, the goal of deliberation is to achieve an impartial standpoint. This is achieved through what he calls "practical discourse" – deliberation that takes place against a background of rules that ensure discursive

equality, freedom, and fair play. Every subject with the competence to speak is allowed to take part; everyone is allowed to question or introduce any assertion; everyone may express his or her attitudes and needs; and nobody can be prevented from exercising these rights. Unlike Rawls, Habermas sets no specific limits on the subject matter that can be discussed by participants in a practical discourse, and he recognizes that the boundary between public and private is shifting and politicized and cannot be established *a priori*.

Habermas does insist, however, that deliberation take a particular form (1996). Communicative action refers to social interaction that is aimed at producing understanding between actors. It therefore presupposes that both interlocutors are motivated to accept the validity of claims raised on the basis of nothing but the force of reason. Communicative action requires critical, rational argumentation. Participants try to reach agreement by contesting each other's arguments in order to establish the strengths and weaknesses of particular lines of reasoning.

In addition, the process of understanding and interpreting the needs of others involves a process of "ideal role taking" that requires that everyone take the perspective of everyone else. The fact that deliberation properly takes the form of public reason-giving entails that citizens adopt a general point of view. As Benhabib explains, "Publicity entails the normative requirement that for a principle, a law, or a course of action to be deemed acceptable, it must be judged to be so from the standpoint of all affected. Participation in the public realm imposes the obligation to reverse perspectives and to be ready to think and reason from the standpoint of concerned others" (Benhabib, 2002: 139). As she argues elsewhere, "Reasoning from the standpoint of all involved not only forces a certain coherence upon one's own views but also forces one to adopt a standpoint that Hannah Arendt, following Kant, called the 'enlarged mentality' (Benhabib, 1996: 72).

Enlarged mentality seems to be a crucial prerequisite of consensus and an important condition of a just consensus. It is this general point of view that makes it possible that deliberation will lead to

consensus rather than disagreement and that the consensus that is reached will be a just reflection of the greater good. Unless people are constrained to reason from the standpoint of everyone else and to adopt an enlarged mentality, there is, as Joshua Cohen has pointed out, “no apparent tendency to convergence generated by the exercise of practical reason; furthermore, we have no *theory* of the operations of practical reason that would lead us to predict convergence on comprehensive moralities. . . .” (in Benhabib 1996: 96). From both normative and pragmatic perspectives, the general point of view appears to be a fundamental precondition of the drive to consensus.

Yet the requirement that participants to deliberation reason from a general point of view and adopt an enlarged mentality biases consensus in four important ways. As Iris Young has argued, the general point of view excludes the particular insights and perspectives of those who are in structurally inferior positions. An enlarged mentality is most likely to assume the worldview of those in structurally superior positions in society (Iris Young, 2000). As a corollary, there is no external standard by which to assess whether the apparent consensus that has been achieved is really in the best interest of all concerned. Third, the drive to consensus merely pushes politics back a step to establishing what counts as a general point of view. Fourth, and most importantly from the perspective of critical liberalism, the requirement to deliberate from the general point of view robs those who are excluded from the public sphere of one important strategy of engagement – namely, a particular political identity. Although adopting a general point of view is probably a precondition of deliberating toward consensus – that is, without it deliberation will probably not lead to consensus – the enlarged mentality also distorts consensus in important ways, rendering it an undesirable outcome of deliberation.

The appeal to an enlarged mentality – the capacity to see beyond one’s own interests to include the interests of all members of society in one’s deliberations – is probably directed at those who have power in society. Though Benhabib does not say so, the case for enlarged mentality and for public reason-giving makes most sense when directed

toward those who are wealthy, those who are in the majority, and those who command the larger share of the goods and resources a society shares. The requirement of public reason-giving forces the powerful to go beyond expressions of self-regarding interest to appeals to justice that can comprehend those who are less well off.

It makes less sense from the perspective of the weak and excluded. The obligation to engage in public reason-giving, and to adopt an enlarged mentality, seems potentially sinister when applied to those who are in a position of structural weakness, with limited capacity to restructure the playing field. Do they also have to engage in public reason-giving and to abandon their particular perspectives? Should indigenous peoples be restricted to advancing claims that can be endorsed by Coca-Cola executives, and should they be required to temper their demands by reviewing them from the perspective of the post-colonial regime? At the very least, it seems that a focus on the groups' differential structural standing in relation to power should prompt a reassessment of whether the drive to enlarged mentality should be demanded equally of everyone.

This is not the same as the argument that is sometimes made that speaking from a universal perspective undervalues some culturally specific style of communication. I am not making the case that such groups as women, or indigenous peoples, are handicapped by the injunction to adopt a general point of view because they are culturally (and possibly genetically) ill equipped to engage in this style of speech. Rather, I am arguing that anchoring "indigenous" as a political identity involves developing a particular voice, discourse, and set of arguments. Abandoning those arguments has political repercussions, not psychological repercussions.

Against the appeal to the general point of view, Iris Marion Young argues that structurally differentiated groups should be allowed access to public debate from their particular standpoints and without relinquishing their own perspectives, because these perspectives and standpoints contribute to a common understanding of how society is structured. As she says, "A democratic public ought to be fully



inclusive of all social groups because the plurality of perspectives they offer to the public helps to disclose the reality and objectivity of the world in which they dwell together" (Young, 2000: 112).

Unlike Habermas and Benhabib, Young seems to make these recommendations from the perspective of the least well off, and she is particularly concerned that those who lack power, who are in structurally inferior positions, be able to communicate their perspectives to those in positions she calls "structurally superior" (116). "Confrontation with different perspectives, interests, and cultural meanings teaches each the partiality of their own and reveals to them their own experience as perspectival" (116). Without the input of those who are in structurally weaker positions, "(t)hose in structurally superior positions not only take their experience, preferences and opinions to be general, uncontroversial, ordinary, and even an expression of disadvantage or suffering, as we all do, but also have the power to represent these as general norms" (ibid.). Including the standpoint of those in less privileged positions can reveal otherwise unnoticed bias and partiality (117).

For Young, the reason to include the particular standpoint of the weak is to "provide experiential and critical resources for democratic communication that aims to promote justice." The inclusion of differentiated groups "motivates participants in public debate to transform their claims from mere expressions of self-regarding interest to appeals to justice" and "to maximize the social knowledge available to a democratic public, such that citizens are more likely to make just and wise decisions" (115). Young wants to include the particular perspectives of the structurally weak in order that democratic deliberations reach a wiser and fairer consensus.

What this highlights, however, is how the drive to consensus merely pushes politics back a step. The hard work of achieving consensus is not accomplished through deliberation among free and equal citizens but instead through the appeal to public reason-giving and the requirement of enlarged mentality. As Melissa Williams has pointed out, establishing the public quality of a reason is where most of the

politics and contestation take place (Williams, 2000: 133–34). This does not mean that the requirement of reason-giving is not neutral because some groups do not communicate through reason and the force of the better argument. Instead, even if we agree that reason-giving is a fair, and indeed reasonable, mode of communication, what count as “reasons” is not neutral. By the time some line of reasoning has been universally accepted and comes to be seen as involving the perspective of all concerned, it is because it has already been the object of intense political wrangling, positioning, and framing.

Benhabib herself uses the example of indigenous peoples to establish the breadth of what would be acceptable from the point of view of deliberative democracy. She says the indigenous advance claims on the basis of reasons that all can identify with: “It is good for all to preserve the ecologically sound use of land, as the Indians have done for centuries and generations, rather than destroy the ecological balance and life-forms of human and other living beings for the sake of profits for timber or oil companies, or fishermen and hunters” (Benhabib, 2002: 141).

It is true that these are the sorts of claims American Indians, Canadian First Nations, and other indigenous peoples around the world often make. But how indigenous peoples grew to be so closely associated with the environment and how they developed the capacity to invoke a special relationship with the earth as their own privileged domain is already the result of a very contentious politics of identity formation that behaves as a condition of access. That is, establishing that this is a public reason and that the indigenous have a particular claim to this public reason is already part of the hard work of political activism. The fact that Professor Benhabib now recognizes this as a public reason that she could endorse, and that she believes counts as evidence of an enlarged mentality (everyone benefits from indigenous stewardship of the earth), is one sign that indigenous peoples have already substantially navigated access to the public sphere.

Forging the legitimacy of a claim is a crucial step toward extending the terms of contestation beyond what previous generations

thought relevant or necessary. Whereas Habermas and Benhabib seem to believe that we can appeal to straightforward rules of language and syntax to establish the rationality and truth of a claim, instead it is politics that establishes the “truth” of a claim, and apparent truth claims are pushed into the public sphere by particular groups like, in this case, indigenous political activists, who have an interest in advancing and entrenching them in popular discourse.

Indigenous peoples have not always been able to make the claim that they are the natural guardians of the earth, nor that their demands for land restitution should be honored because they are in the interest of all mankind. The fact that they are now able to do so is evidence that they have pushed into the public sphere. But they did so not by achieving an enlarged mentality, but by expanding the notion of enlarged mentality to include their argument. The process of establishing that this is a truth claim is where we can locate the politics behind the formation of consensus.

This points to the main reason that critical liberalism advances for maintaining a particular standpoint over the general point of view. Both Habermas and Benhabib start from the stipulation that “all affected [by the policies and laws that result from the deliberative process] take part as participants in the discourse [that leads to the decision to adopt such laws and policies]” (Benhabib, 2002: 140). Every subject with the competence to speak is allowed to take part.

By starting from this point, however, deliberative democrats focus insufficient attention on the power dynamics and politics that limit the ability of people to engage in debate on equal ground and, in particular, they neglect the ways in which the public sphere is configured to exclude and indeed constituted by exclusion (Dean, 1999; Mouffe, 1999). By focusing attention on the deliberative process itself, they have largely left aside the question of how “all affected by policies and laws” get access to the deliberative process to begin with.

This is in part because policies and laws themselves forge groups with opposing interests. Those who are affected by policies and laws are differently affected by them. Not only is it the case that the public

sphere is neither single nor homogeneous, that it is in fact constituted by multiple publics, as sensitive critics, including now Habermas himself, have noted (Calhoun, 1993; Habermas, 1996; Warner, 2005). It is also the case that the public sphere is partial in the sense that it resists the incorporation of voices that are produced by its constitution and operation, namely those voices that rest on the claim that "You have done this to us." The public sphere as currently constituted is the condition of our presence. The structural relationship of "internal colonialism" produces voices whose resonance lies in just such a claim.

One way in which those who have been excluded gain access to debate is by building a political identity that is rooted in a particular standpoint. Political identity is a condition of political agency. Individuals enter the political arena as members of groups that occupy recognizable political locations. They have standing because they are workers, or peasants, or African Americans, or indigenous peoples. A particular political identity offers a point of access that would not be available from another perspective because it invokes a particular historical record, exposes a particular line of structural injustice, and makes demands that address a particular pattern of wrongs. They switch among such categories, invoking a peasant identity in one context and indigenous identity in another, precisely because such particular standpoints afford different degrees and types of leverage at different political moments. The fact that they switch among identities is evidence that different identities offer different standing, and that such standing matters as a strategy of political incorporation. A particular political identity is an important condition, and effect, of voice and access in democratic deliberation.

Against the logic of the general point of view, it may not be readily possible to disaggregate a particular political identity from the partial standpoint that constitutes it. Advancing claims from the perspective of an enlarged mentality is likely to undermine the leverage that comes from a particular political location. Forging an indigenous identity is not only about establishing that indigenous people exist, but also involves constructing a conceptual framework that locates

them as original inhabitants, possessed of a unique relationship to the earth, with ancient and vulnerable cultural heritages, oppressed by colonial conquest, and further marginalized by a continuing experience of structural exclusion from the post-colonial state. It is only from this particular standpoint that they count as indigenous peoples at all. This particular history is the source of their moral leverage, and it is from this partial standpoint that they can make demands for local-level self-government, bilingual education, territorial autonomy, and access to natural resources. This basket of claims is not available, at least not in the same way, to “peasants” or “women.” If indigenous people simply start to make demands and claims using the framework of already existing public reasons, they may abandon much of the potential political leverage they are afforded by indigenous identity.

Once discourse has come to include the particular perspectives of the structurally weak, however, who have genuinely different interests and concerns from the structurally powerful, it is unlikely that deliberation will reach consensus. That is, in the absence of the background condition – enlarged mentality – that makes consensus undesirable, consensus is likely to be impossible. This is a basic extension of the Marxian formulation that no general interest can be found in a society divided into classes. People within societies have objectively different interests that do not overlap or reach a point of convergence. From the perspective of a particular position, people will actually have different conceptions of the truth, and they will speak different truths to one another, even if they are still trying to satisfy the other conditions Habermas lays out – employing reason for the sole purpose of achieving understanding. As a critical theory of identity formation points out, people are in fact constituted by the structural positions they occupy, and such structural positions are constituted in opposition to one another. Groups constituted by difference will not find a way to transcend difference (Appiah, 2005: 139–40).

Political identities are also endogenous to the political process. As Przeworski and Sprague argued in 1986, it is through deliberation that difference is forged and that people come to see that their interests are in conflict with one another. The perspective of Habermas and

Rawls, that so-called value pluralism is prior to politics and can be reconciled through politics, gets the cart before the horse. As Schumpeter argued, "The will of the people is the product not the motive power of the political process" (Schumpeter, 1950: 263). Politics constitutes difference long before it gets around to reconciling difference.

Contestation offers an alternative to consensus as a source of justice. Whereas public-sphere theorists propose that we recognize as just the consensus that emerges as a result of free deliberation among equal participants, critical liberalism highlights some of the ways in which consensus is corrupted by the power relations it masks and insulated by the appeal to an enlarged mentality.

Contestation, on the other hand, exposes the boundaries that constitute the public sphere and brings to light the injustices that consensus renders invisible (Dean, 1999; Mouffe, 1999). Critical liberalism highlights the possibility of "looking to the outside" as a source of conceptualizing justice through close attention to injustice. By clearing ground for the formation of new political identities, critical liberalism takes aim at the consensus that has settled societies on historically particular configurations of power and access. Contestation holds up a mirror to consensus by revealing its constitutive exterior. By alerting the public sphere to exclusion and marginalization, critical liberalism offers the possibility of more closely approximating justice through ongoing efforts to redress injustice.

John Brady has argued that contestation and consensus need not be viewed as binary opposites. There is no fundamental opposition, he says, between a democratic political practice based on contestation and one based on consensus. Instead, he reads Habermas's theory of the public sphere as supportive of "agonistic democracy, both as a theoretical program and as a particular type of political practice" (Brady, 2004: 334). Habermas facilitates contestation, he says, "without offering a judgment regarding the agonistic model's ultimate validity" (ibid.). Patchen Markell has gone further to argue that "Habermas's characterization of discourse as *reflexive* and his *fallibilist* concept of validity make agonistic and contestatory speech not merely permissible but *essential* components of a democratic public sphere"

(Markell, 1997: 388). Markell makes the case that although they have often been read in explicit opposition to one another, there is in fact an affinity between “Habermas, the thinker of consensus, and Arendt, the theorist of the agon” (378). Both Brady and Markell argue that Habermas includes contestation as an important component of the actual practice of politics and a potential route to consensus.

As Habermas himself has pointed out, compromise is also a likely result of democratic deliberation. As he explains in *Between Facts and Norms*,

Under conditions of cultural and societal pluralism, politically relevant goals often embody interests and value orientations that are by no means constitutive of the identity of the community at large, and hence are not constitutive for the whole of an intersubjectively shared form of life. The interests and values that conflict with one another without prospects for consensus must be balanced in a way that cannot be achieved through ethical discourses – even if the results of bargaining are subject to the proviso that they not violate a culture’s consensus on basic values. The required balance of competing interests comes about as a compromise between parties that may rely on power and mutual threats. (Habermas, 1996: 282–83)

Nevertheless, although compromise may be a common, and even salutary (compared to the alternatives), result of democratic practice and deliberation, Habermas is clear that neither compromise nor contestation is a source for conceptualizing justice. Compromise is a balance of competing interests, shot through with power and threat. It is subject to none of the procedural conditions that are supposed to legitimate consensus and that, for Habermas, render consensus just. Like contestation, compromise is a common feature of political participation and democratic deliberation, but not the place to look for justice.

In this sense, contestation (and compromise) do in fact exist in binary opposition with consensus. While they may coexist in practice, only one points the way to a more just society. And from a

constructivist perspective, which focuses attention on the constitution of political identities through exclusion and on the transformation of politics through the attempts of excluded categories of people to gain access to the public sphere, it is contestation, and not consensus, that has the potential to produce justice by revealing the contours of injustice. From the standpoint of critical liberalism, opposition is more central than consensus to the proper functioning and legitimacy of democratic society over time.

Contestation on its own, however, is not sufficiently focused to offer a source of justice. Contestation is almost as likely as consensus to privilege those in positions of power. Groups that occupy structurally superior positions will be able to shape the terms of contestation just as they are able to shape the terms of consensus. They will gain access to the political arena more easily, and they can dominate the terms of debate. They can ensure that contestation operates within boundaries and that the field of what is contestable – the issues that contestation takes up – remains fairly constrained. Contestation is a strategy that is not automatically transformative, and it does not automatically privilege, or even offer voice to, those who have been excluded from the public sphere. Contestation may be bounded in such a way that it buttresses, rather than transgresses, the borders of politics.

In order that it might function as a source of justice, contestation must be animated by conditions that make it more likely that opposition will reveal injustice and live up to its transformative potential. This is the job of rights, as I argue in the [following section](#). But one of the ways in which rights work to determine what and who should be protected by them is through the principle of affected interest.

In his theory of democratic justice, Ian Shapiro employs the principle of affected interest to get around the legitimacy problem at the core of democratic theory – that the boundaries of democracies are constituted in undemocratic ways (Shapiro and Hacker Cordon, 1999: 1). The borders of polities cannot be decided democratically because the scope of the polity – who gets to vote on who will be included in



the polity – has not yet been decided. Democratic politics never really manage to overcome the legitimacy problem that compromises their founding moment, and that continues to play a very important role in limiting the boundaries of politics.

The principle of affected interest, which Shapiro enlists to help resolve this fundamental tension, entails that everyone whose interests are affected by a particular decision or set of policies should have a right to be involved, to have their voice heard, in the decision-making process. This distinguishes his theory of democratic justice from both liberal and communitarian views of participation that regard membership in a political community as the appropriate criterion of political voice (Shapiro, 1999: 38). For Shapiro, the principle of affected interest means that participatory entitlement can reach across borders to people who may be affected by decisions made in another country. It also means that the relevant polity will shift with every decision that is made, carving out transitory constituencies within states instead of returning to the same geographically demarcated population for every decision. The principle of affected interest locates democracy in the link between issues and the people who are affected by them, extending to the sphere of democratic responsibility a legal principle that allows plaintiffs to bring cases in foreign courts.<sup>5</sup>

The principle of affected interest is an important attempt to make democratic theory responsive to the contemporary reality of politics, which crosses national boundaries almost as much as it remains inside national boundaries. Most normative theories of democracy remain wedded to the borders of the nation as the limit of political engagement and responsibility in ways that constrain their capacity to offer meaningful comments on contemporary political reality. What is more, as the indigenous rights movement makes clear,

<sup>5</sup> For example, on November 15, 1999, plaintiffs filed a class action complaint against defendants asserting claims under the Alien Tort Claims Act, 28 U.S.C. § 1350, for alleged human rights violations arising out of the Bhopal gas disaster in India on December 2–3, 1984. See *In re Union Carbide Corp. Gas Plant Disaster*, 634 F. Supp. 842, 844 (1986).

contemporary oppositional politics derive particular leverage from establishing the validity of their claims outside the state, especially with reference to the international human rights framework and by making alliances across borders that may offer alternative voices, strategies, and points of intervention. For Shapiro, the principle of affected interest extends democratic responsibility by offering voice to political actors outside the borders of sovereign states.

In addition, however, it may be harnessed as a strategy of intervention by potential actors who are technically inside the borders of citizenship, but whose concerns and/or persons have been excluded by the operation of power and hierarchies within the state. Although Shapiro's democratic justice relies on opposition to motivate democracy toward greater social justice, he says little about where he expects such opposition to come from or how it is to develop the strength to actually contest the entrenched hierarchies that are the object of his skepticism. Shapiro recognizes this problem himself in his discussion of decision rules. Because dominant groups resist opposition or seek to render it ineffective, he says, "part of the challenge of democratic justice is to institutionalize ways to stop them, and it seems safe to assume that procedural guarantees of the freedom to oppose will not, on their own, secure this goal" (Shapiro, 1999: 40). He goes on to discuss the limits of permissive freedoms, but does not get back to a lengthier discussion of what will empower oppositions.

The principle of affected interest may provide one answer, by offering an important framing tactic that is not limited to geographical boundary crossing alone. The claim to affected interest affords potential oppositions – both internal and external – with grounds to extend the political realm and to insert themselves into it, precisely because it is a dynamic and shifting principle that relies on the capacity of political actors to make good arguments. Affected interest offers potential leverage to excluded others struggling to establish the legitimacy of their standing, rendering the polity more potentially accessible to those who have been excluded by the historical, undemocratic boundaries of deliberation.

In fact, the principle of affected interest is already at work in the construction of political identity, through the politics of linking issues and constituencies. Nobody automatically has “affected” interests, and the political scope of particular identities is determined in part by the interests and issues with which it can align. Some such issues exist already, and are taken up by emergent groups, in the way that the indigenous rights movement attached itself to the issue of environmental preservation (Brysk, 1994). The link between indigenous peoples and the environment is neither natural nor automatic, but establishing such a link gives the indigenous a route to political access and leverage that peasants did not have. Although peasants had access to other issue areas that indigenous peoples have not managed to appropriate as their own, part of the relative success of the indigenous movement lies in its ability to co-opt many “peasant” issues, such as those related to land, for instance, expanding their political reach beyond narrowly “cultural” concerns.

This is important because alliances among political actors and the scope of political identities are often determined by the channels that form around issues. Indigenous peoples have become an important component of the anti-globalization movement – indeed, they are often represented as the face of that movement – in part because they have done such a credible job of establishing their affected interests in the issues that anti-globalization activists care about, including labor exploitation, environmental degradation, cultural hegemony, the fair allocation of natural resources, the rights of citizens, alternative models of social organization, and corporate bio-prospecting. These are the issues that give indigenous peoples a place at the table, catapulting them from political marginalization to global visibility. Access to a wide variety of debates, and in particular to debates that intersect with the master frame of anti-globalization, allows indigenous peoples to extend their reach, expand their potential alliances, and build synergy with political arguments and groups that cross issue areas. This is the principle of affected interest at work in the politics of contestation.

Although it does not guarantee that contestation will be consistently transformative, the principle of affected interest shapes contestation in ways that are more likely to empower those who have been excluded by existing contours of power. It makes it more likely that opposition will do the work of alerting us to conditions of injustice by “looking to the outside,” to those who have constituted the boundaries of politics through their exclusion from it. The principle of affected interest joins theory and praxis. It animates the theoretical promise of looking to contestation as a source of justice, by making visible injustice, and it enhances the possibility that contestation might itself prove a route to transformation. The principle of affected interest plays a role in activating the political dimension of rights.

#### MEMBERSHIP RIGHTS

As a weapon against the indiscriminate use of power, rights have come under a great deal of scrutiny in recent years. Starting in the 1970s, scholars associated with the field of Critical Legal Studies (CLS) issued an important critique against the transformative potential of legal rights. CLS took the position that engaging in rights discourse was fundamentally incompatible with a broader strategy of social change. Although the extension of rights may energize struggle and produce apparent victories in the short run, ultimately it legitimates the dominant structure of class, race, and gender inequality. Rights, they argued, reinforce existing social arrangements. Because they are indeterminate, they are subject to interpretation and contextual grounding that most often protect the status quo. According to Mark Tushnet, people lose sight of their real objectives when they abstract concrete experiences of discrimination and injustice into legal rights discourse (Tushnet, 1984). Peter Gabel argues that rights are an illusion that bind people to an imaginary political community of citizens and legitimate state power by appearing to offer grounds for redress (Gabel and Kennedy, 1984).

Embedded as they are in the evolution of liberal theory, rights also play an important role in framing the public sphere as a space of

interaction among free and equal individuals. Human rights law privileges individual civil and political rights over collective social and cultural rights. Rights bearers overwhelmingly are individuals, and their entitlements protect a zone of individual liberty from the exercise of public power. Ross Poole argues that rights isolate claims from public debate (Poole, 1999: 126). Wendy Brown has shown that rights have acted historically “as a mode of securing and naturalizing dominant social powers – class, gender, and so forth” (Brown, 1995: 99).

Critical Race Theorists (CRT), on the other hand, have been more sympathetic to the political use of rights, and they issued a critique against CLS in defense of the strategic use of rights discourse and strategies in the civil rights movement. Kimberlé Crenshaw argued that CLS scholars had disregarded the transformative significance of rights in “mobilizing black Americans and in generating new demands” and ignored “the transformative potential that liberalism offers. Although liberal legal ideology may indeed function to mystify,” she went on, “[i]t remains receptive to some aspirations that are central to black demands” (Crenshaw, in Crenshaw et al., 1995: 110). The existence of rights, she argued, forced a crisis in hegemonic legitimacy when “powerless people force open and politicize a contradiction between the dominant ideology and their reality” (111). “Rather than using the contradiction to suggest that American citizenship was itself illegitimate or false, civil rights protestors proceeded as if American citizenship were real and demanded to exercise the ‘rights’ that citizenship entailed” (ibid.).

Crenshaw insisted in particular that it was the very fact that rights are enshrined in the prevailing ideology that made them useful as an oppositional tool. “Merely critiquing the ideology from without or making demands in language outside the rights discourse,” she argues, “would have accomplished little” (117). Her critique seems especially poignant in the context of neo-liberal political agendas that threaten to erase the role of government altogether, undermining the sovereign power – and obligation – of states to carry out reform or development. As she argues, “Some critics of legal reform movements

seem to overlook the fact that state power has made a significant difference – sometimes between life and death – in the efforts of black people to transform their world. Attempts to harness the power of the state through the appropriate rhetorical and legal incantations should be appreciated as intensely powerful and calculated political acts” (ibid.).

Crenshaw and others simultaneously recognized, however, that the same rights that were used to push reform in the civil rights era were pushing back against the advances of the civil rights movement in the 1980s. “Yet today,” she says, “the same legal reforms play a role in providing an ideological framework that makes present conditions facing underclass blacks appear fair and reasonable” (ibid.). The ostensible race neutrality of the legal system creates the illusion that racial disparities are the result of individual and group merit (ibid.). Despite its emancipatory potential, the use of rights may ultimately limit oppositional politics, offering a degree of formal equality that masks underlying, and persistent, structural injustice. There are dangers, she warns, “both in engaging the dominant discourse and in failing to do so. What subordinated people need is an analysis that can inform them about how the risks can be minimized and how the rocks and the very hard places can be negotiated” (112).

Between them, critical legal scholars and critical race theorists map the possibilities and pitfalls of using rights as a strategy of social transformation. Even as rights have played an important role in protecting vulnerable individuals and minority groups from the indiscriminate use of majority power, so have they entrenched the status quo by substituting formal for real equality. Crenshaw’s diagnosis, that we need to find ways of harnessing the emancipatory potential of rights without falling prey to their limiting logic, precisely renders the challenge facing political activists in the present age.

Both Critical Legal Scholars and Critical Race Theorists are focused mainly on the legal dimension of rights and on the legal guarantees that rights offer to excluded others, in particular to minorities. For these theorists, the discourse of rights is synonymous with a legal

reform strategy. When they write about the possibilities of rights, they are in fact contemplating the reach of legal reform, whether law can be transformed from within, and whether the courts are an appropriate or useful venue for social change. CLS focused attention on the limits of the civil rights movement, whose gains were made mostly through the courts. The line of reasoning that drove the movement and determined its dominant strategy directed attention to the formal illegality of the Jim Crow practices of southern states. Lawyers sympathetic to the cause brought cases against such practices in federal courts, including the U.S. Supreme Court, and succeeded in winning judgments against local and state-level governments that were violating civil rights by segregating schools, preventing Black voter registration, and endorsing widespread political, economic, and social discrimination.<sup>6</sup>

For CLS scholars, one of the inherent limits of this strategy was the appeal to the very legal system that had sustained, or at the very least turned a blind eye to, the oppression and marginalization the civil rights movement was trying to challenge. The insidious risk of the “rights” paradigm is that it encourages transformative faith in a system that actually employs rights to maintain the status quo and to limit its own liability. By removing the political to the binding sphere of the courts, where arguments must follow prescribed rules of reason and where decisions are made on the authority of precedent, rights talk shuts down politics and eviscerates the potentially transformative sphere of the political.

CRT also focused attention on the legal dimension of rights, arguing not only that it is strategically important to use the language of rights because rights are enshrined within the prevailing ideology, but also that it is valuable to use the courts as a domain of contestation precisely because they are officially sanctioned. The legitimacy of the courts and of their decisions affords legitimacy to the civil rights movement itself. The very legality of court victories

<sup>6</sup> *Brown v. Board of Education* (1954).

establishes the authority of the movement, its demands, and its activists and has the potential to disperse a new norm throughout society from the top-down. As Crenshaw argued, contesting the subordination of Black Americans through the courts was a calculated political act that employed “appropriate rhetorical and legal incantations” in an attempt to harness the power of the state. The state, she reminds us, has been a powerful ally in the legal reform movement.

But the law is not the only domain in which rights operate, and the account of identity formation advanced in chapters [one](#) through [five](#) draws out the procedural dimension of rights by reconceptualizing rights as a promise rather than a guarantee. Whereas the transformative potential of rights may be limited from a legal standpoint, rights nevertheless often play an important role in opening up the political space of oppositional politics. Where such rights are enshrined in the Constitution, as they were in the United States during the civil rights movement, and as peasant rights to land were in Mexico’s Revolutionary Constitution, they recast oppositional politics as the duty of a state to fulfill an obligation. As such, rights can structure politics as an immanent critique, harnessing the prevailing *de jure* ideology against the *de facto* inequalities it sustains.

Wendy Brown has identified the existence of “a chasm between the discourse of rights and their concrete operation” (Brown, 1995: 97). She takes this as evidence of the failure of rights and of the poverty of liberal faith in rights. And on one dimension, of course, she is right – incontrovertibly, depressingly right. The rights that are laid out in the international human rights framework, and even rights that are enshrined by governments in their own constitutions, are not fully secured anywhere. Whether they are civil and political rights, social and economic rights, or cultural rights, they are honored mainly in the breach. Although they worked hard to draft the Declaration on the Rights of Indigenous Peoples, indigenous activists are hardly so naïve as to imagine that the declaration – on its own – will fundamentally alter the social, economic, or even political conditions that mediate indigenous life. They recognize that rights offer no guarantee.



It is the propensity to misread rights as a guarantee that is partly responsible for the conviction that rights shut down politics. A demand framed as a right becomes absolute, leaving no room for negotiation, compromise, or half-measures. Politics is literally about establishing the legal responsibility of the state to fulfill a certain obligation. Once established, the rule of law kicks in, and there is no ostensible room left for politics – the state must simply respond. The politics of rights enshrines a culture of entitlement, precluding the development of a vigorous culture of political participation and mobilization. At an extreme, a particularly robust conception of rights as a guarantee can limit the extent of civil society and the domain of political action.

It is important, therefore, to reconceptualize rights as a promise, for three reasons. First, such a conception is truer to the real-life function of rights. As I described above, whatever else they may be, rights are no guarantee. Second, it reconceives the normative standing of rights. To the extent they offer a promise, the normative consequence of rights is a result of the aspiration they enshrine. Rights commit the international community, and states within political communities, to something better than what they already offer, and they supply an important benchmark by which to measure the legitimacy of sovereign states and of the actions they undertake, including military engagements and interventions, trade agreements, and environmental policies that reach across national boundaries, but also including the treatment of their own citizens. Perhaps most importantly, the international human rights framework, no less than the rights enshrined in national constitutions, establishes the priority of human beings. They offer a recurring reminder that the success and authority of international institutions and sovereign states rest in large part on the degree to which they fulfill the promises they have made to the people they are meant to protect.

Third, the “rights-as-promise” framework offers grounds for a more complementary conception of the link between rights and politics. The transformative potential of rights need not be limited to the

law. Whereas the guarantee of rights may shut down the logic of political action, the promise of rights extends political possibility. Constitutions and international treaty obligations that commit governments to respect particular human rights, such as the rights of workers or the rights of indigenous peoples, may also be politically transformative to the extent that they offer grounds for an immanent critique of democratic governance. Rights open a space in which oppositions can constitute themselves and by which they can offer an internally legitimate assessment of government policy. By providing the soil for domestic oppositions to take root, rights may open up, rather than close down, the space of politics. By enshrining rights, constitutions offer a standard by which societies can measure the progress of states toward goals they themselves have set.

The chasm that Brown identifies – the space between the promise of rights and the practically universal failure of governments to secure those rights – is therefore precisely where rights take up the challenge of motivating politics. Rights offer a way into the political realm because they expose the gap between promise and fulfillment, offering a powerful discursive strategy and point of intervention to activists who are seeking to engage the state. Through rights, activists politicize the contradiction between the dominant ideology and their reality (Crenshaw, 1995: 111). Rights have a procedural dimension to the extent that they animate politics without being able to determine the outcome of politics.

One of the ways in which rights extend politics is by forging new political actors. Indigenous peoples are constituted not by common language, customs, and practices but by a common structural location with regard to the post-colonial state and by the concept of indigenous rights enshrined in international legal doctrine. The logic here is best understood from the top-down. What the Nahua and the Tzeltal Indians have in common is a similar history at the hands of the Mexican government. Within Mexico, they are linked by a shared fate. But the history that constitutes indigenous identity in Mexico also links them to other autochthonous peoples who have suffered from

similar exclusions and disadvantages at the hands of colonial and post-colonial governments, not only in the Americas but also, more broadly, in Africa, South Asia, and elsewhere.

The particularly contemporary traction of indigenous identity has less to do with this history, however, than it does with the development of the concept of indigenous rights that slowly worked its way into the international human rights regime over the last 30 years of the twentieth century. The existence of indigenous rights at the international level has constituted indigenous political identity across the globe, even in countries that do not themselves recognize indigenous rights and do not accord any special standing to their aboriginal populations. As I have shown, indigenous peoples mine fresh political seams, make unanticipated alliances, and test novel political strategies. While it is premature to say that the indigenous rights movement has been successful, it has clearly expanded the sphere of the political in many countries, and it has made political actors out of people who were previously constituted precisely through their exclusion from the public sphere. Indigenous rights offer a promise that has given indigenous peoples political standing and legitimacy. Such rights do not guarantee victory for indigenous peoples, but they press beyond the limits that Crenshaw identified by opening up a political strategy to people constituted outside of political agency.

This conception of the political relevance of rights offers a way into debates over collective versus individual rights, making the case for a category of rights I call “membership rights.” Membership rights are best understood as those that accrue only to members of a group without in any way granting the group itself collective rights over its members.<sup>7</sup> They are individual rights, but they are not universal in the sense that they are not afforded to all individuals. They are essentially a category of add-on rights, assigned to individuals whose group

<sup>7</sup> I borrow the term “membership rights” from Anthony Appiah (2005: 72). Appiah uses the term differently, to refer to the historical privileges that membership has conferred and only in passing. He does not develop membership rights as a distinct conceptual category of rights, as I try to do here.

membership has operated as a source of exclusion, discrimination, or oppression and designed to redress such structural injustices, to put individuals on an equal footing with one another in a robust, and not merely formal, sense. They are also designed explicitly to respond to demands for equal treatment that may imply differential treatment.

The argument for membership rights follows from the account of indigenous identity formation I advance in this book. It tries to respond to the question of what kinds of differentiated rights are compatible with the fact that groups are constructed and, more specifically, with the fact that they have been constructed precisely through the unequal allocation of rights, resources, and citizenship. Given the central role they play in determining life chances, the fact that groups are constructed does not imply that they have no social or political character or that they carry no normative weight. States themselves have played a central role in producing the politics they subsequently respond to, and reproduce, by assigning power on the basis of such arbitrary markers as sex, wealth, skin color, and cultural practices. What kinds of rights correspond not only to the fact that groups are constructed but also to the way they have been constructed?

On the flip side, membership rights are sensitive to the fact that collective identities are an important political resource and that rights often play a role in the emergence of such identities. The single most important condition of the global indigenous rights movement is the evolution of the international human rights regime to include indigenous rights. The movement is reconstituted through the struggle to enshrine such rights in international law and to get them adopted by the United Nations General Assembly. Indigenous rights, which have conferred political status on a category of people defined in large part by their exclusion from politics and which accrue to indigenous peoples alone, are an important condition of collective action and identity formation. As a result, such rights – which are not universal – can behave as a condition of the renewal of democratic politics. What conception of rights is responsive to the ways in which group-specific rights can motivate politics and act as a corrective against discriminations and exclusions that are also group specific?

These two questions, and the concerns that animate them, frame the scope of membership rights. Membership rights offer a path between strict conceptions of individual and collective rights that tries to be consistent with the logic of a constructivist theory of identity formation and responsive to the challenges that democratic societies face from groups constituted through structural injustice. Membership rights therefore endorse the distinction Will Kymlicka makes between “external protections” and “internal restrictions,” permitting the former in order to achieve equality among groups, but forbidding the latter as illiberal. Membership rights nevertheless arrive at this formulation by a different route.

The liberal commitment to individual rights is rooted in a universal framework of equal treatment. For many liberals, justice and equality are anchored in a conception of neutrality that requires that every individual be treated equally. As Joseph Carens has pointed out, this is an important ideal, one that

provides grounds for criticizing policies and practices that exclude or marginalize distinct groups of citizens. Many of the injustices that aboriginal people have suffered in Canadian society have come precisely from the fact that they have not been treated as equal citizens, however equal citizenship is defined. The widespread denial of basic rights – to say nothing of equal opportunity – for aboriginal people in education, in health care, in the economy, in the criminal justice system, and in many other spheres has been too well documented to repeat here. If the requirements of equal citizenship were met, even on the terms of the unitary conception, the conditions under which aboriginal people live in Canada would be vastly better than they are. (Carens, 2000: 178)

It is important to remember that rights are designed to protect individuals, in particular individuals who are members of minorities, however defined, from tyranny of the majority. Many, if not most, of the problems liberal democracies currently face arise as a result of the failure to secure, both historically and in the present, a unitary model

of citizenship and the ideal of equality it entails. Doing that alone would indeed solve many of the problems such societies face.

But given the legacy of differentiation and discrimination that structures all contemporary societies, in different ways, equal treatment will not be sufficient to provide all individuals with equal opportunities. Providing identical rights starts from the assumption of a level playing field; it is not a way to achieve a level playing field. The unitary conception of citizenship treats everyone as if they are in fact equal, whereas states themselves have created differences of access, recognition, and prestige, as well as wealth, education, and services, with lasting implications. To be properly egalitarian is not to treat every member of every different group identically, but instead to treat them differently, in a way that is sensitive to the conditions that made them members of different groups occupying distinct structural positions.

Membership rights are sensitive to this differentiated conception of individual rights, which might properly be conceived as individual rights-plus in the sense that they offer all of the normal entitlements of citizenship along with some distinctive entitlements.<sup>8</sup> Membership rights retain the non-negotiable concern of liberalism for the well-being of individuals, but they recognize the fact that individuals are embedded in groups or categories that (a) have affected their life chances; and (b) offer opportunities for political agency.

Note, however, that this conception of differentiated individual rights is not justified on the basis of cultural difference so much as structural difference. Some structural differences have culture as their organizing principle – people suffer discrimination and exclusion because they have different cultural practices – but others suffer because they are Black, or poor, or gay, or women. The principle behind

<sup>8</sup> Carens explains that the concept of “citizen-plus” status was coined in the 1966 Hawthorn-Tremblay Report that sought to reconcile Canadian citizenship with Indian status. As he says, “Clearly the goal here was to achieve some sort of even-handed justice, granting distinctive entitlements out of a sense that this was a fair way to respond to the history and circumstances of Indians in Canada” (2000: 187).

membership rights is that the liberal democratic state owes differentiated rights that are responsive to the demands of members of each of these groups for the same reason: because they have played a central role in ordering society in such a way that people who have the same phenotypical traits, biological sex, sexual orientation, or cultural practices might perceive such markers as binding a political identity. While this logic underscores the value of a differentiated conception of individual rights, it should also make clear why membership rights would not normally include collective rights.

Collective rights are distinct from individual rights in that their object, the entity to which the right accrues, is the collective – and specifically the cultural group – rather than the individual.<sup>9</sup> Collective rights refer specifically to that distinct subset of group-differentiated rights that are not exercised individually. Collective rights are normally justified on two grounds. First, they are often justified, as for example by Joseph Raz, because of the value of the collective to its individual members. As Raz says, “The moral importance of the group’s interest depends on its value to individuals” (Raz, 1986: 87). Kymlicka uses the argument that societal cultures provide a meaningful context of choice for individuals to try to elide the tension between individual and what he calls “group-differentiated rights” (which may or may not be collective rights). Those collective rights he identifies as external protections are, in a sense, individual rights because they respond to the needs of individuals for access to their own societal cultures (1995: 34–36).

From the perspective of critical liberalism, this way of justifying collective rights does not do a good job of distinguishing among the types of groups we assign rights to. Individuals have attachments to, and are constituted by, a variety of groups, only some of which look like ethnic or cultural groups. Surely it could be argued that, for many women, the fact that they are women or mothers is a more meaningful

<sup>9</sup> Kymlicka argues that there are many different ways of defining collective rights, but he agrees that this is the most pervasive definition (Kymlicka, 1995: 45).

context of choice than ethnic background (Carens, 2000: chapter 3). Do African Americans have a societal culture?<sup>10</sup>

Advocates of collective rights for cultural groups sometimes insist that only so-called traditional groups should be entitled to collective rights – those that enjoy intergenerational continuity and that “serve as a major socializing agency, shaping the personalities and values of their members” (Van Dyke, 1995: 180–92). But this further distinction rests on a tautological definitional fiat: Cultural groups are owed collective rights because they allegedly shape the personalities and values of their members and are therefore the primary source of individual attachment. Of course, any group that shapes the personalities and values of its members will provide a meaningful context of choice and attachment for that individual, but it is not true that, by definition, the groups that do that work are always those that are identified by cultural practices and traditions.

The focus on the construction of identity that anchors critical liberalism points instead to the ways in which people’s attachments are potentially fluid, shifting, and, most importantly, socially and politically constituted. It is not that individuals do not have important attachments. It is instead that we cannot assume that such attachments will be to their so-called societal cultures. Instead, they are likely to be to those groups or relationships that have the greatest social and political significance, which play the most salient role in determining their life chances – which will be different in different social and political settings and in different eras. Perhaps we should assign rights to all groups and commitments that individuals are attached to, but this is a different point, one that is not seriously considered by advocates of collective rights.

<sup>10</sup> Raz states that “social classes clearly do not have a right to self-determination,” nor do “the fiction-reading public, or Tottenham Football Club supporters.” But as Peter Jones has pointed out, Raz’s theory actually does not exclude such groups from the right to self-determination because his concept of collective rights implies that “any set of individuals who possess a joint interest in a good can have group rights relating to that good provided that their joint interest is sufficiently significant to create duties for others” (Jones, 1999: 353, 357).



The second way in which collective rights are justified is due to the intrinsic value of collectives. This is “the view that a collective entity can have value independently of its contribution to the well-being of human beings” (Hartney, 1995: 202, 206–7). This view ascribes moral standing to groups in the same way we ascribe moral standing to individuals, as irreducible rights-bearing entities (Jovanovic, 2005: 630). This justification for collective rights takes an even more staunchly essentialist view of the character of cultural groups, pointing to their ascriptive and involuntary nature (Gray, 2000; Margalit and Raz, 1990). The question is whether cultural groups have a moral right to cultural survival and preservation in the same way we might assign such value to the preservation of plant or animal species.

It should be clear why this justification for collective rights is unsustainable from the perspective of critical liberalism. Notably, collectives simply do not constitute any type of organic and irreducible entity. As Nigel Rapport explains, summarizing the dominant position among anthropologists, “‘Culture’ is never static, never coherent, never even consensual, however much fundamentalistic (pathological, totalitarian) efforts may be made to force it to be so or to represent it as such” (Rapport, 2003: 381). Cultures are not the kind of entity to which rights can be ascribed – either legally or morally. As a result, the assignment of collective rights automatically raises a host of questions that are not merely pragmatic or practical, about who in fact exercises the collective rights on behalf of the group. As David Makinson argues, “If a people has, say, a right to nurture its cultural identity, the question remains who or what organism defines the various strands of this culture, distinguishes it from others, and determines what is to be cultivated and what discouraged” (Makinson, 1988: 69, 77). Yael Tamir illustrates the reasons for thinking that this is a moral problem and not merely a practical one. As she says, “Group rights strengthen dominant sub-groups within each culture and privilege conservative interpretations of culture over reformative and innovative ones” (Tamir, 1999: 163). She concludes that if one grants rights

to groups, “then feminists, religious reformers like liberal Jews or Muslims, and social activists like the opponents of the Indian caste system, etc. are deprived of their rights” (162).

Collective rights – meaning explicitly those that are granted to the collective as a whole – are not logically reconcilable with the constructivist theory of identity formation that accounts for the politics of indigenous identity. But neither, as I argued above, is an undifferentiated conception of individual rights that abstracts individuals from the history and circumstances that have constituted them. Membership rights comprise a middle ground of rights that are individual but differentiated, sensitive to the structural conditions that constitute individual human beings and that afford them differential access to most of the things that matter in contemporary societies.

This frame responds to a concern that Anthony Appiah raises with regard to membership rights. As he says, “Those who say they are skeptical of group rights often mean to be challenging membership rights. What they are objecting to is the idea that a state should relate to any citizen in virtue of his or her membership of a group rather than simply as a citizen. It was an objection to the membership rights of whites (and to the membership burdens of blacks) that underlay much of the opposition to American Jim Crow and apartheid” (Appiah, 2005: 72). The scope and target of membership rights properly conceived, however, are justified precisely as a strategy for redressing what Appiah eloquently calls “the membership burdens of the past.”

Membership rights clearly cut in favor of demands for inclusion. They are aimed at leveling the playing field, not at preserving ascriptive differences. They aspire to enable participation, allowing people whose lives and life chances have been distorted through membership in a demeaned category to take a hand in shaping the terms of their incorporation. Membership rights therefore make an implicit appeal to the standard of parity of participation advanced by Nancy Fraser (2000, 2005). Fraser argues that justice requires not only attention to issues of recognition and redistribution, as she has argued persuasively elsewhere (1997, 2003), but also to political participation

and representation. As she says, exclusion from political voice can be a harm in its own right that may not be linked to recognition or redistribution. Duncan Ivison fleshes out this standard in ways that are particularly useful from the perspective of opposition. As he says, “The good of citizenship, whatever else it involves, includes the capacity to participate as effectively as possible in the (re)shaping and interpretation of a community’s political morality and ‘ethos’ as manifested in its social practices and institutions – or at the very least to be able to oppose those dominant discourses” (Ivison, 2002: 96).

Membership rights are primed to recognize the imbrications among recognition, redistribution, and participation, in line with Fraser’s concern that one dimension of justice not blind us to other dimensions. Membership rights give additional weight to the participatory dimension of justice, however, placing special emphasis on the transformative potential of contestation as a strategic route to challenge not only participatory exclusions, but also inequalities of redistribution and recognition. Parity of participation is one standard by which we could measure the relative moral weight of different claims to membership.

Practically speaking, groups will be able to make demands for such group-specific accommodations as bilingual education, translations of official documents and forms, affirmative action, quotas, court translators, and exemptions from many of the laws and policies that violate their beliefs. But they will need these things only to the point that they are empowered to participate as political equals, not limited by disrespect, poverty, shame, fear, or powerlessness. The state will not be obliged to offer cultural recognition to the point that groups are guaranteed preservation or indefinite future protection for currently dominant norms and practices. Democratic states do not logically have an obligation to preserve the social groups they have generated.

The fact that liberal democracies are not obliged to preserve group difference does not imply, however, that assimilation is critical liberalism’s logical endpoint. Even rights that cut toward participatory

inclusion rather than self-government, as membership rights do, impose obligations that are difference-sensitive as well as obligations that are difference-blind. But the difference-sensitive obligations they imply do not apply to entire social categories. Critical liberalism does not assign difference-blind policies to African Americans while reserving difference-sensitive policies for women or indigenous peoples for example.<sup>11</sup>

Whereas bifurcating rights into collective and individual categories forces a dichotomous conceptualization of the subject of rights – as either the individual or the group – membership rights that move between the two levels open up the space for applying difference-sensitive policies to discrete policy moments rather than to whole categories of people. Empowering indigenous peoples to participate as political equals requires some policies that are difference-blind (equal access to social services, representative electoral institutions, equal spending on education, full rights in citizenship) and some that are difference-sensitive (affirmative action, respect for such cultural practices as the ceremonial use of illegal drugs, access to bilingual education, the possible use of electoral quotas or reservations).<sup>12</sup>

Indeed, what this line of reasoning exposes is the way in which almost all people – not just women and ethnic minorities but also disabled people, old people, African Americans, gay men, lesbians, parents, and many others – are going to require both difference-blind

<sup>11</sup> Iris Marion Young makes this curious slip when she lists three “cases” that require group-specific policies to support social equality: women, Latinos, and American Indians. But these three groups are not actually “cases,” and in fact what she goes on to describe are “pregnancy and birthing rights for workers, bilingual-bicultural rights, and American Indian rights” (1990: 158). Pregnancy and birthing, however, are only one small part of what most women do, and language policy is only one of the many things that will affect the integration of Latinos into American society. American Indians need many rights that are not group-specific.

<sup>12</sup> In this regard, critical liberalism shares commitments with Joseph Carens’s conception of “justice as evenhandedness.” Where the two part ways is that, for Carens, justice as evenhandedness is a way of responding fairly to culture and cultural attachments. For critical liberalism, the combination of difference-blind and difference-sensitive policies responds to the needs of structurally differentiated groups, not culturally differentiated groups.

and difference-sensitive policies in order to participate fully in social and political life. Their reasons for needing them are different – some because they speak a different language, some because they are physically challenged, some because they bear children, some because they care for children or parents, and some because they suffer the lasting effects of discrimination and exclusion. But the different reasons should not distract us from the basic fact that difference-sensitive policies must always combine with difference-blind policies to produce social justice and fair conditions of participation.

To what extent can membership rights accommodate demands that cut in the other direction: away from inclusion toward autonomy, self-government, and even political independence? Although membership rights favor demands for inclusion, not all groups contemplate inclusion, even inclusion on their own terms, as a goal. They want to cut loose.

The logic of critical liberalism does not ultimately prohibit secession or demands for independence. There are two reasons for this. First, from the perspective of constructivism, there is no reason to privilege the state as an inviolable institutional unit. The principle of the general argument entails that the “nations” that coincide with state boundaries have no more automatic claim on legitimacy or membership than other contemporary units of identification. If groups or regions want to secede from the larger unit, the state does not automatically have veto privileges over that type of politics. The state will in turn most likely contest the right of the group to secede, and the group does not automatically have veto privileges over that type of politics either.

The legitimacy of the group’s claim turns, however, on the second reason: the history of the group’s incorporation into the state. It may sometimes be the case that justice demands autonomy. A group of people may have been so oppressed, brutalized, and discriminated against by the dominant society that individual members of the group can only expect to flourish through territorial autonomy and separation from that society. The extent of oppression may be such that it

cannot reasonably be redressed within the existing configuration of membership or through demands for inclusion, representation, and redistribution. Secession is potentially justifiable as a response to structural injustice, and a group may be able to ground a demand for independence in a critique of the structural inequalities that have constituted the group itself. Many indigenous peoples, for example, and perhaps most of them, could rest their political claims on such justifications.

From the perspective of critical liberalism, autonomy and secession are not justifiable, however, as a means of achieving cultural self-determination or ethnic homogeneity, nor can they justify violations of individual rights. There are two reasons that groups cannot legitimate demands for autonomy on the basis of their cultural difference. First, from the point of view of constructivist theories of identity formation, there is no essential cultural unit that forms the natural boundary of a polity. As a result, it is no more legitimate to exclude different ethnic groups from the state than it is to exclude different races or to exclude women. It is simply discriminatory. In addition, because the ostensible cultural group does not form an irreducible unit, members are as likely to split again (and again), reconfiguring themselves in different groups once they have achieved the present goal of independent statehood. Linking statehood to ethnic homogeneity creates perverse incentives for people to mobilize cultural difference in antagonistic and exclusive ways.

Critical liberalism also undercuts the logic of drawing boundaries around ethnic groups by exposing the origins of the present problem in precisely the same structural exclusions. The contemporary political salience of ethnic group membership can be traced to the fact that cultural difference has been used by modern states as a marker of exclusion and selective inclusion. Indigenous peoples have their origins in the colonial encounter and in a continuing experience of marginalization from the post-colonial state, justified on the basis of their cultural and racial differences. Indigenous peoples cannot simultaneously contest the drive to cultural homogeneity that has excluded

them from one polity while demanding their own right to cultural homogeneity in another polity.

Indigenous autonomy and self-government are entirely justifiable, in other words, so long as the normative basis of indigenous authority rests in democracy and individual rights and not in cultural difference alone. Critical liberalism can easily contemplate autonomy as delegation even if it finds no grounds to justify autonomy as recognition. In particular, if one of the historic wrongs that has been perpetrated against indigenous peoples is the failure to recognize their prior autonomy, it should be easy to make a case that the solution is to accord such autonomy. It is not easy to make the case that their different cultural practices release them from obligations to respect individual rights or that the normative basis of indigenous political authority should rest in cultural traditions if such practices violate liberal democratic principles of participation, representation, and respect for human rights.

More fundamentally, membership rights seek to move beyond the controversy over individual versus collective rights that has fixed debates over multiculturalism and democracy. Such debates have narrowed the scope of indigenous and other social group politics. The attempt to reconcile concern for the well-being of individuals with a desire to be responsive to the demands of groups has dominated the normative theoretical agenda. But this controversy has limited our attention to one particular category of rights, namely, third-generation cultural rights obscuring the demands that many groups also make for first- and second-generation rights and crowding out a broader analysis of how such rights work with third-generation rights. The focus on indigenous culture does not do justice to the potential scope of indigenous claims.

Membership rights bundle civil and political, social and economic, and cultural rights, refocusing attention on the premise, which is taken for granted in the field of human rights law, that the three generations of rights are interdependent and mutually supportive (Scott and Macklem, 1992). A focus on collective and cultural rights, to

the exclusion of civil and political and social and economic rights, will actually undermine the possibility of securing a robust cultural framework, further marginalizing people who have been constituted by exclusion and by their inability to shape the terms of their inclusion.

Logically, the proposition that indigenous rights should include first- and second-generation rights, and not only third-generation rights, follows from the account advanced here of the structural foundations of group identity. That is, the blinkered fixation with collective and cultural rights that has focused normative debates on multiculturalism and democracy, as well as many activists who mobilize so-called identity groups, follows logically from the assumption that what relevantly distinguishes such groups is cultural difference.

Reconceiving so-called ethnic groups as structural categories, forged not by essential differences of cultural practice but instead by the tendency of states to use cultural and other markers to draw political boundaries, helps to reframe the scope of identity politics in ways that are responsive to the fact that groups are multiply constituted and that individuals are multiply situated among groups. Indigenous peoples are not only a cultural group. They are also enmeshed in webs of class, race, gender, religion, and language. In Mexico and the rest of Latin America, indigenous was mostly a class category, but recent attention has focused primarily on its cultural dimensions. In the United States, American Indians were generally considered a racial category, but of course there, too, they are also distinguishable by class and culture. African Americans are marked by class, race, and culture, at least, and Jews are a religion, a culture, and possibly, on some accounts, a race (Hattam, 2007). This ambiguity is basically true for all groups, which is why the question of whether such and such is “really” class, or race, or ethnicity arises over and over again, and why an answer that attempts to neatly fit a group into one such category is not only empirically wrong but normatively and politically deficient. A narrow focus on third-generation rights to cultural recognition does



just this in a way that restricts the scope of indigenous politics. The indigenous are still peasants.

As is evident from a review of the United Nations Declaration on the Rights of Indigenous Peoples, indigenous activists are concerned with securing the full range of human rights, not only with protecting indigenous languages and cultural practices. First-generation civil and political rights, along with second-generation economic and social rights, figure prominently in the proposed document. Article 1 states that “[i]ndigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.” Article 2 states that “[i]ndigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.” While Article 3 states that “indigenous peoples have the right to self determination,” Article 4 insists that they have the right to “participate fully, if they so choose, in the political, economic, social, and cultural life of the State.” Article 18, paragraph 1 states, “Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labor law,” and paragraph 3 states that “indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.”

The indigenous activists who drafted the Universal Declaration evidently recognized that rights to political representation, the protection of civil liberties, individual freedoms, protection from discrimination, and social and economic welfare may not be covered by demands for cultural protection and recognition or even by autonomy and self-government. As they see it, the category of rights we call indigenous rights should respond to a range of needs, only some of which involve cultural protection and preservation.

In light of this aspiration, membership rights have three implications of political and strategic significance. First, groups that are constituted through structural injustice will have greater political standing to make claims on the democratic state than those groups constituted by privilege. Membership rights draw on the twin contentions that group membership plays a very important role in the allocation of goods and resources of all kinds and that states themselves have played a critical role in determining the contours of the groups that matter. So-called identity politics arises to protect and contest the positions of relative privilege and exclusion that have constituted such groups. Group members have different degrees of power, access, recognition, and wealth as a result of policies put in place by the state itself. Different groups have different standing because they occupy distinct structural positions.

Second, the concept of membership rights has implications for politics within the group. Membership rights assert the social and political value of the group, but they also give primacy to the rights of individuals. The membership rights framework may therefore have a salutary effect on the internal politics of communities. Whereas the language of collective rights allows ethnic activists to run roughshod over the rights of minorities within the community, and the language of individual rights may ignore the social and political relevance of groups altogether, the language of membership rights offers the possibility of holding both commitments – in some tension, but ultimately simultaneously.

Once indigenous peoples invest in the language of membership rights, they are logically compelled to recognize both the value of the community and of individual members of their communities. As a result, the political and strategic use of membership rights may have the unintended consequence of transforming groups from within in liberal directions. There is some evidence that indigenous support for the international human rights treaties that are the condition of their political presence has already had that effect. The legitimacy and moral suasion of the claims of indigenous peoples have often been

linked, as I showed in chapter [five](#), to honoring the rights of women and other vulnerable members of the group. Activists agree that not all indigenous practices are good and that indigenous communal life should include the possibility of reform.

Third, membership rights have a strategic effect on the scope of opposition politics. Such rights expose groups constituted through structural exclusion to alliances among groups whereas, as many people have argued, some forms of a politics of identity spell the demise of alliances across groups and the twilight of common dreams (Gitlin, 1995). Because they do not derive from cultural specificity, membership rights have a sort of universal logic, notwithstanding the fact that they accord special rights to members of some groups and not others. The grounds of structural injustice on which they tender such rights establish the basis for alliances among all sorts of groups (women, indigenous peoples, African Americans) that have suffered such injustice. Groups that anchor their demands in cultural differences may instead turn inward, lacking grounds to make common cause with potential allies. In particular, they may find themselves in opposition to feminists and other champions of so-called human rights. Politically, this is not a good place to be.

To sum up, membership rights respond to the fact that social groups are constructed through the unequal allocation of rights and resources and that such groups also play an important role in identifying and transforming the injustices through which they have been constituted. By bundling civil and political, social and economic, and cultural rights, membership rights can be responsive to the fact that such social groups as indigenous peoples are constituted through exclusions along lines of race and class and not only culture and that they need more than cultural recognition alone to undo past injustices. Finally, membership rights navigate the dichotomy between individual and collective rights by arguing that undoing past injustices will require a combination of principles that are difference-sensitive and difference-blind, accorded with respect to discrete policy moments rather than categories of people.

## CONCLUSION

Like many other theories that attempt to establish the scope of liberal democracy's normative obligations toward minority groups, critical liberalism rests on a theory of identity. In this book, I have argued the case for reframing indigenous and other social group claims in ways that are logically consistent with the origins and social character of such groups and more responsive to the needs such groups have as a consequence of the ways they have been shaped. These imperatives lead critical liberalism to reorient the political frame from identity, consensus, and collective rights toward structural injustice, contestation, and membership rights.

Critical liberalism is aimed at shaping democratic deliberation by including social groups that have been constituted through exclusion, by showing why demands are more legitimately, and fruitfully, advanced on the basis of structural injustice than cultural difference and by pointing to the strategic promise of membership rights. These framing constraints make some settlements more likely than others, and they will affect the scope of such solutions as self-government. But just which solutions will be negotiated in particular instances is still an explicitly open question, to be determined by the historical context that has shaped the social group and by politics.

Critical liberalism's sharpest edge puts questions on the table that are not contemplated by multiculturalists and yet may be at the center of indigenous politics in many of the countries hardest hit by neo-liberal globalization. In Mexico, for example, what exactly are the present-day political implications of the fact that the aboriginal population was robbed of its land? What if the land has since been depleted and it is no longer possible to make a living from it? What if the government has signed on to neo-liberal economic arrangements that oblige it to buy cheap imported food, making its domestic producers economically redundant? What if contemporary indigenous people see their future tied to immigration and urbanization and not to subsistence agriculture? What if their culture was tied not only to land but to the productive use of land and is thereby compromised regardless of

access? All of these factors may diminish the practical value of access to land and they should lead us to question whether the original sin of land theft obligates the state simply to return land or if, in some cases, it may imply something more or something different.

Critical liberalism tells us something about the form such politics will take and anticipates that this form will have greater transformative potential than the cultural prism that currently structures thinking about such groups. Critical liberalism proposes a reformulation of the paradigm that has guided both normative theorizing and political activism around the issue of ethnic minority rights in general and indigenous rights in particular. If indigenous identity is a political achievement, it is nevertheless at great risk of being marginalized and co-opted by a neo-liberal world order that can easily accommodate demands for local-level self-government and bilingual education.

Whether indigenous identity will be able to transcend such a narrow political formula, to mount a more radical challenge against an exclusionary world order, will depend on its ability to break out of the cultural shackle that limits its political reach. Lodging indigenous politics in culture and identity is not only logically inconsistent but also politically precarious. Indigenous politics has moved beyond demands for bilingual education and cultural group recognition, but the normative framework of indigenous rights is still rooted in cultural difference. Critical liberalism offers a new normative framework that extends the reach of indigenous politics and ends the need for such fraught political tactics as strategic essentialism. Acknowledging the constructedness of identities may be a valuable political tool.



# Appendix: tables – indigenous population

Table 1. *Mexico – Census: Indicators on indigenous language speakers, 1950–2000*

Indicator	1950	1960	1970	1990	2000
Total number of indigenous language speakers five years old or older	2,447, 609	3,030,254	3,111,415	5,282,347	6,044,547
Percentage of indigenous language speakers	11.2	10.4	7.8	7.6	7.2
Percentage of indigenous language speakers who are bilingual	67.5	63.5	72.4	83.5	87.4
Percentage of indigenous language speakers who are monolingual	32.5	36.5	27.6	16.5	16.9

*Sources:*

For 1950: DGE. *VII Censo de Población 1950*. México, 1953.

For 1960: DGE. *VIII Censo de Población 1960*. México, 1962.

For 1970: DGE. *IX Censo de Población 1970*. México, 1972.

For 1990: Instituto Nacional de Estadística Geografía e Informática (INEGI). *XI Censo de Población y Vivienda 1990*. Aguascalientes, Ags., 1992.

For 2000: INEGI. *XII Censo de Población y Vivienda 2000. Tabulados Básicos*, Aguascalientes, Ags., 2001.

Table 2. Mexico – Census: Indigenous language speakers by state, 2000

Federal state	Percentage	Total number
<b>National</b>	<b>7.2</b>	<b>6,044,547</b>
Aguascalientes	0.2	1,244
Baja California	1.9	37,687
Baja California Sur	1.4	5,353
Campeche	15.5	93,765
Coahuila de Zaragoza	0.2	3,032
Colima	0.6	2,932
<b>Chiapas</b>	<b>24.7</b>	<b>809,592</b>
Chihuahua	3.2	84,066
Distrito Federal	1.8	141,710
Durango	2.0	24,934
Guanajuato	0.3	10,689
Guerrero	13.9	367,110
Hidalgo	17.3	339,866
Jalisco	0.7	39,259
Mexico	3.3	361,972
Michoacan de Ocampo	3.5	121,849
Morelos	2.3	30,896
Nayarit	4.6	37,206
Nuevo León	0.5	15,446
Oaxaca	37.2	1,120,312
Puebla	13.1	565,509
Querétaro de Arteaga	2.1	25,269
Quintana Roo	23.1	173,592
San Luis Potosí	11.7	235,253
Sinaloa	2.2	49,744
Sonora	2.9	55,694
Tabasco	3.7	62,027
Tamaulipas	0.7	17,118
Tlaxcala	3.2	26,662
Veracruz de Ignacio de la Llave	10.4	633,372
Yucatán	37.4	549,532
Zacatecas	0.2	1,837

Source: Instituto Nacional de Estadística Geografía e Informática (INEGI), *XII Censo de Población y Vivienda 2000, Tabulados Básicos*, Aguascalientes, Ags., 2001.



Table 3. *Composition and absolute numbers of indigenous people in Latin America*

Country	Ethnic groups	Percentage	Year	Total number indigenous
Argentina	22 <i>pueblos</i>	2	2002	800,000
Belize	4 different Maya groups and <i>garifunas</i>	15	2003	37,000
Bolivia	35 groups	55–70	2001	5,800,000
Brazil	218 <i>pueblos</i>	0.22	2000	347,000
Chile	16 groups	7–13	2000	1,700,000
Colombia	83 ethnic groups	1.5	1997	701,000
Costa Rica	8 indigenous cultures	1.7	2000	63,876
Ecuador	13 nationalities and 14 <i>pueblos</i>	35	2000	4,200,000
El Salvador	3 groups	12	1999	732,000
French Guyana	6 groups	10–12	2000	19,000
Guatemala	23 groups	48.01	1994	4,945,000
Guyana	9 groups	6.8	1991	49,293
Honduras	7 groups	12.8	1999	500,000
<b>Mexico</b>	<b>62 linguistic groups</b>	<b>13</b>	<b>2000</b>	<b>12,700,000</b>
Nicaragua	6 groups	9.5	1999	414,757
Panama	7 groups	10	2000	285,231
Paraguay	17 ethnic groups	2.06	2001	85,674
Peru	70 languages	47	2000	9,300,000
Suriname	6 groups	6	1999	25,000
Uruguay	None	–	–	–
Venezuela	28 groups	1.8	1992	316,000
<b>Total</b>	<b>657 ethno-linguistic groups</b>	<b>Approximately 10% of the total Latin America population</b>		<b>43,021,691</b>

Source: Barié, Cletus Gregor, *Pueblos Indígenas y Derechos Constitucionales en América Latina: Un Panorama*, 2nd edition. México: Instituto Indigenista Interamericano, 2003.

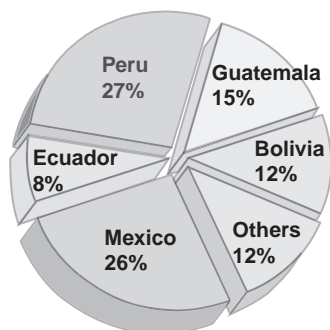
Table 4. *Indigenous peoples in Latin America, 1990 (as a percentage of total population)*

	Country	National population (estimate in millions)	Indigenous population (estimate in millions)	Percentage indigenous population	
More than 40%	1. Bolivia	6.9	4.9	71.00	
	2. Guatemala	8.0	5.3	66.00	
	3. Peru	20.0	9.3	47.00	
	4. Ecuador	9.5	4.1	43.00	
	<b>Total</b>	<b>44.4</b>	<b>23.6</b>	<b>53.00</b>	
From 5% to 20%	5. Belize	0.15	0.029	19.00	
	6. Honduras	4.8	0.70	15.00	
	7. Mexico	<b>85.0</b>	<b>12.00</b>	<b>14.00</b>	
	8. Chile	12.0	1.0	8.00	
	9. El Salvador	5.5	0.4	7.00	
	10. Guayana	0.8	0.045	6.00	
	11. Panama	2.2	0.014	6.00	
	12. Suriname	0.5	0.03	6.00	
	13. Nicaragua	3.5	0.16	5.00	
	<b>Total</b>	<b>114.45</b>	<b>14.504</b>	<b>13.00</b>	
	From 1% to 4%	14. French Guyana	0.10	0.004	4.00
		15. Paraguay	3.50	0.100	3.00
		16. Colombia	30.00	0.60	2.00
17. Venezuela		18.00	0.40	2.00	
18. Jamaica		2.40	0.048	2.00	
19. Puerto Rico		3.60	0.072	2.00	
20. Trind. Tobago		0.010	0.0002	2.00	
21. Dominica		2.70	0.002	2.00	
22. Costa Rica		0.36	0.035	1.00	
23. Guadalupe		0.28	0.004	1.00	
24. Barbados		0.25	0.003	1.00	
25. Bahamas		0.10	0.003	1.00	
26. Martinique		0.0730	0.001	1.00	
27. Ant. and Barb.			0.001	1.00	
28. Argentina			0.350	1.00	
<b>Total</b>	<b>91.46</b>	<b>1.6232</b>	<b>2.00</b>		

	Country	National population (estimate in millions)	Indigenous population (estimate in millions)	Percentage indigenous population
From 0.01% to 0.9%	29. Brazil	140.0	0.3	0.20
	30. Uruguay	2.5	0.004	0.016
	<b>Total</b>	<b>142.5</b>	<b>0.3004</b>	<b>0.21</b>
	31. Canada	25.0	0.350	1.40
	32. U.S.A.	245.0	1.6	0.65
	<b>Total</b>	<b>270.0</b>	<b>1.950</b>	<b>0.70</b>
	<b>General total</b>	<b>662.807.000</b>	<b>41.977.600</b>	<b>6.33</b>

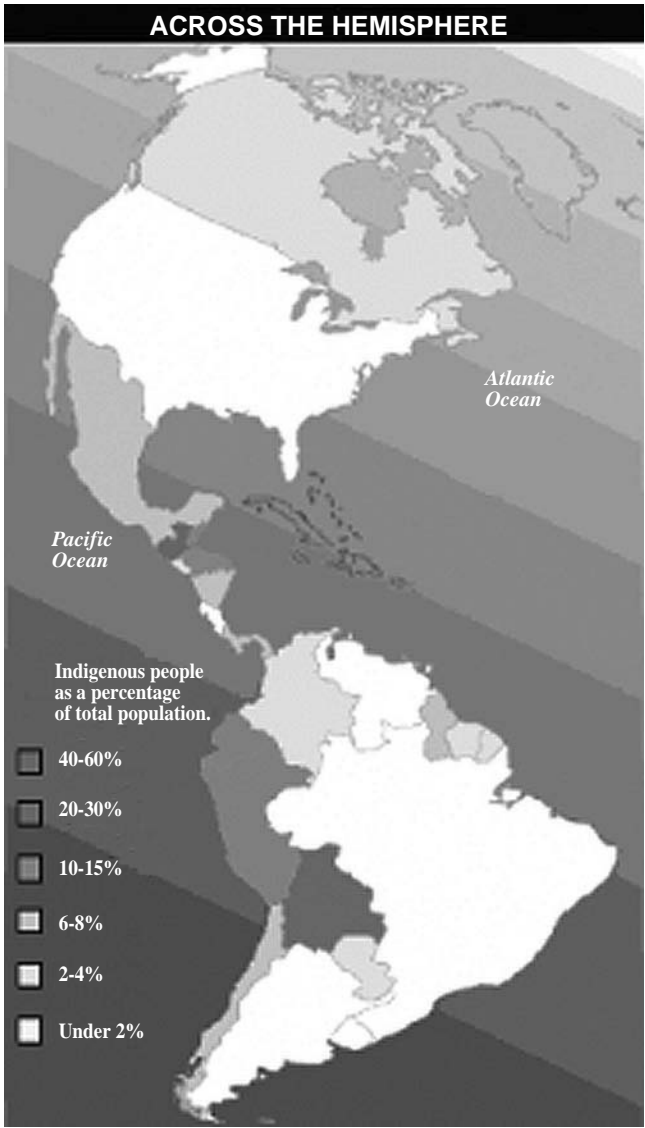
Source: Jordán Pando, Roberto. 1990. *Poblaciones Indígenas de América Latina y el Caribe, Mexico*, Organización de las Naciones Unidas para la Agricultura y la Alimentación.

#### Distribution of indigenous people in Latin America



**Five countries (right) account for nearly 90 percent of Latin America's indigenous people.**

Sources: Instituto Indigenista Interamericano  
Statistics Canada, U.S. Bureau of the Census.



Source: Deruyttere, Anne. "Native Peoples by the Numbers," *IDBAmerica*, September–October 1990.

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