Introduction: Resurgence of the People

Two Canoes

Two contrasting artworks indicate the rich diversity of Canadian life, and the vastly different interpretations available of the same political experience. In 1995, in the middle of Canadian debates around multiculturalism, Quebec nationalism, and Indigenous sovereignty, James Tully's book on modern constitutionalism, *Strange Multiplicity*, drew inspiration from Haida artist Bill Reid's sculpture, *The Spirit of Haida Gwaii*. The sculpture depicts a crew of diverse beings drawn from Haida culture and the European encounter paddling a canoe, "squabbling and vying for recognition" (Tully, 1995, 24). Tully makes Reid's crowded canoe a "symbol of the age of cultural diversity" (24) and a metaphor for the pluralistic society of that Tully considers a "genuinely post-imperial age" (17) following the collapse of the Soviet Union and the apparent triumph of liberal-democratic constitutionalism.

The passengers in Reid's canoe are gathered around a central figure, "holding the speaker's staff in his hand… the chief or exemplar, whose identity… is uncertain" (18). For Tully, the chief's position is one of mediation or reconciliation, just as liberal philosophy has been, since Locke, one of tolerance, pluralism, and the peaceful mediation of competing interests. However, in the twenty-five years since Tully's book was written, the pacific horizons of liberal constitutionalism have become increasingly fraught. The continuation of settler-colonial violence, not least in the Murdered and Missing Indigenous Women and Girls (MMIWG) crisis in Canada, as well as the resurgence of right-wing fundamentalism, populist governments, the reinstatement of intolerance and oppression baed on race, gender, class, and disability - all in the context of social and economic crisis - all serve challenge Tully's interpretation of Reid's sculpture. In a world of Donald Trump, Boris, Johnson, Jair Bolsonaro, and others, it is hard for us now to take Tully's description of the chief seriously: "listen[ing] attentively to each [passenger], hoping to guide them to reach an agreement, without imposing a metalanguage or allowing any speaker to set the terms of the discussion" (24).

In the face of the ongoing crises of civil society, it is tempting to reject Tully's liberal conception of sovereignty and opt instead for a Hobbesian model of intersubjective war limited only by the power of Leviathan. But this choice is a false one, as Hardt and Negri suggest at the beginning of *Empire*, published five years after *Strange Multiplicity* in the wake of the 1999 anti-globalization protests. There is a third constitutional option, one which is often dismissed out of hand because, as we will see, it relies upon an immanent, unruly creativity, a self-directed activity that does not rely on the calm wisdom of a leader, and therefore poses a challenge both to the Lockean and Hobbesan constitutional orders. This third option can be seen in a contemporary artwork that echoes and challenges *The Spirit of Haida Gwaii* in many ways.

Kent Monkman is a two-spirit Cree artist born in Ontario and raised in

Winnipeg, Manitoba. Monkman's paintings have struck a chord with their provocative "reconfigurations" of classical European forms, motifs, and images in the service of challenging the settler-colonial artistic heritage on which today's settler-colonialism relies (Elston, 2012). Echoing Tully's understanding of "hidden constitutionalism" surviving within dominating, hegemonic institutions, Monkman's work recognizes the continuation of Indigenous identity and politics within an artistic tradition that has tended to erase Indigeneity in favour of settler-colonial triumph.

Monkman's 2019 painting, *Resurgence of the People*, depicts, like Reid's sculpture, a crowded canoe; only in this instance, Monman appears to reject Tully's conciliatory understanding of the politics of recognition in favour of a self-affirmation of the multitude in all its diversity. In Monkman's canoe, while there is still a visually central figure, the "passengers" (the term seems inappropriate here) are not gathered around pressing their case for recognition. Rather, the canoe is filled with people of colour of various ages and genders, all looking after one another, not in a struggle for recognition, but in decentered, mutual support and care, opening up a conception of politics broader than the democratic constitutionalism which is Tully's focus.

This alternative perspective, a rejection of both Hobbes' and Locke's conceptions of sovereignty, is made explicit by the central figure of Monkman's painting. Gone is the enigmatic chief who "must act like a mother in caring for the common good if s/he is to secure respect and authority" (Tully, 1995, 25). The need to secure respect and authority is a remnant of the false choice, a holdover of the need for constitutional sovereignty and centralization. In *Resurgence of the People*, Reid's chief has been replaced by Monkman's wild and exuberant alter-ego, Miss Chief Eagle Testickle, "a time-traveling, shape shifting, supernatural being who reverses the colonial gaze to challenge received notions of history and Indigenous peoples" (Monkman, 2020).

While Reid's chief accords or grants recognition to the passengers in the canoe, indicating the accommodation of diverse identities within a hierarchical sovereign constitution, Miss Chief offers her own exuberant affirmation, overflowing the limits of the canoe and suggesting an irrepressible power that does not depend either on recognition, authority, or a constitution. Similarly, the others in the canoe are not looking to Miss Chief for recognition or leadership, but are living their lives, helping each other without concern for constitutional niceties, but all fully aware that they are living in the same boat. While Tully sums up Reid's canoe as "go[ing] on forever anchored in the same place" (Tully, 1995, 33), betraying the desire of liberal politics for an orderly, predictable, and risk-free future, Monkman's canoe is thrusting powerfully forward through choppy and uncertain seas. There is an unbridgeable gulf between the self-determining forward motion of Monkman's canoe and the static rockbound impotence of settler-colonialism. The resurgence of the people is their unruly momentum, produced by the determined paddling of Indigenous men and women, unconstrained by the power of a constitution, a momentum that turns away from the white, patriarchal capitalist state to make its own way in the world.

Miss Chief does not need anyone's recognition; rather, it is the white men stuck on the rock with their weapons who clamour for recognition: of their authority, their power, their capacity for violence. The new politics of identity differs from the older politics of recognition precisely in this insistence on self-affirmation that transcends a universal, egalitarian conception of rights and a procedural, discursive conception of democratic process. It takes seriously the incommensurable, the irreconcilable, and the non-dialectical tensions, antagonisms, and contradictions of contemporary social relations. This insistence challenges hegemonic ideas of the state, of democratic participation, of liberty, and of citizenship, all of which play out in current controversies and debates within Canadian society, including Canadian librarianship.

Kent Monkman, *Resurgence of the People* (2019)

Tully's interpretation of *The Spirit of Haida Gwaii* exemplifies a common way of looking at Canadian politics that is idealistic in both the philosophical and colloquial meanings of the word. The interpretation is shared by Pierre Elliott Trudeau's "just society" (first expressed in his bid for the leadership of the Canadian Liberal Party in 1968) and by Justin Trudeau's promise of "sunny ways" following his election as prime minister in 2015. The Liberals are often seen as "Canada's Natural Governing Party" at least in part because of this idealism: like Reid's chief, they help us navigate the tensions and contradictions of Canadian society better than either the conservatives to the right or the New Democratic Party to the left. They secure respect and authority by caring for the common good in a way the conservatives and the NDP cannot.

But Canadian politics is idealistic also in the philosophical sense, seeing ideas and values as self-generating and constituting the foundation of the social if not the natural world. For some Canadian political philosophers like Charles Taylor, the debt to idealism (particularly the work of Hegel) is explicit (Sibley, 2008; Meynell, 2011). For others, like James Tully, it is less pronounced. However, Tully's practice of public philosophy can be understood in Wittgenstein's terms as an idealistic "struggle against the bewitchment of our understanding by the resources of language" ((Wittgenstein, 2009, 52), (Tully, 2008, 70)).

The goal of public philosophy, for Tully, is to "free ourselves from... the assumption that our way of political life is free and rational only if it is founded on some form of critical reflection" (Tully, 2008, 39) in order to expose the conventionality of traditional political perspectives and open up a wider horizon of political possibility. But while grounding his critical public philosophy in concrete practices (of thought, language, and action), Tully retains an idealistic commitment. Once freed of our reliance on critical reflection as a transcendental or foundational ground of philosophizing, Tully writes, "we are now able to see the enlightening multiplicity of conceptions of critical reflection available to us" and "to use these reflective concepts as their grammar manifestly guides us in innumerable ways to do: not to provide foundations for, but to reflect critically on our well-trodden ways of thought and action, rendering them less indubitably foundational, and thereby disclosing possibilities of thinking and acting differently" (Tully, 2008, 70).

This kind of idealism - the replacement of one set of (erroneous) ideas with better ones - is precisely the idealism of the Young Hegelians Marx and Engels critiqued in The German Ideology. For Marx and Engels, the idealistic view that "the relations of men, all their doings, their fetters and their limitations are products of their consciousness", emancipatory or progressive philosophy consists simply of exchanging one consciousness for another (Marx and Engels, 1976, 36). Compare this with Wittgenstein's insistence that "a picture held us captive" (Wittgenstein, 2009, 53). In the Marxist tradition, it is not language or ideas or pictures that hold us captive, but real material relations between human beings that are not contingent but necessary due to the unchangeable nature of history itself.

Indeed, language, ideas, and political philosophy itself, in the Marxist view, are produced by these material and social relations, and this raises the question of Canadian political philosophy to the realities of Canadian politics and history. Can the social philosophy of Taylor and the constitutional theory of Tully be understood in terms not only of responding to particular political challenges (Indigenous and Quebecois sovereignty, for example) - which both Taylor and Tully explicitly recognize - but also as deriving as legitimating the positions and actions taken by the Canadian state?

The political and constitutional problems raised by confederation, and which generations of Liberal politicians have believed could be resolved at the political level, have proven intractable. In September 2020, Sipekne'katik First Nation launched a Mi'kmaq-regulated lobster fishery in Nova Scotia, claiming

a treaty right that goes back to the 1760s (Palmater, 2020). Settler-Canadian members of the commercial fishing industry have threatened to pull Mi'kmaq lobster traps (which they consider "illegal" because they aren't governed by state fishing licenses) leading to confrontations between First Peoples and Settlers, "mediated" by the RCMP. The RCMP are legally obliged to protect the Mi'kmaq treaty right, but rhetorically side with the Settlers. In a video clip played on Canadian news channels, one RCMP officer is heard explaining to a white fisherman, "whether we like it or not, they're allowed to go out and fish". This us vs. them dynamic in Canadian Settler-Colonial society is one of the problems Taylor's and Tully's political philosophy sets out to address. But in the thirty years since Taylor's essay on the politics of recognition appeared, nothing has really changed in terms of relations between the Settler state, Indigenous peoples, and Quebecois nationalists.

The perseverance of these constitutional questions raises a second important question: if Marxism offers an alternative to the idealist philosophy of Canadian liberalism, can historical materialism offer any alternative strategies or proposals which might stand a better chance of achieving something like Trudeau's "just society"? Tully justifies comparing Wittgenstein and Habermas in part by arguing that "we come to understand some complex work best by comparing its similarities and dissimilarities with another closely related work" (Tully, 2008, 71). In this thesis, then, I will explore the questions raised about the connection between Canadian political philosophy and the recent history of Canadian politics by comparing Taylor's and Tully's work with that of Antonio Negri.

Negri is of the same generation as Taylor, and their thought is informed by the social and political changes of the 1960s and the 1970s. Both have written in different ways on the effects of the neoliberal turn (Negri from the perspective of autonomist Marxism; Taylor from the perspective of communitarian liberalism), the question of identity and individualism within larger collective structures, and both engage deeply with an earlier political philosopher, sometimes in novel or anomalous ways (Spinoza for Negri; Hegel for Taylor). Tully, on the other hand, shares with Negri a concern for constitutional questions and imperialism, though their approaches differ in radical ways.

Identity politics is one of the major political issues of the day. It plays a role in right-wing extremism, white nationalism, and authoritarian populism; it plays a role in climate change, where the "anthropocene" or "capitalocene" debate signals a disagreement as to whether responsibility for climate change lies with some people or all people (Moore, 2016); and it plays a role in the pandemic response, as we witness a phenomenon believed to be universal (the virus) in fact having differential effects based on class, gender, and race. The social effects of quarantine and lockdown are felt differently by men and women, white people and people of colour. The BlackLivesMatter protests which returned with a vengeance in the summer of 2020, as well as the intersectionality of the police/prison abolition movement, all indicate that the purported universalism of liberal theory - everyone in the canoe placidly agreeing to go in the same direction - is no longer tenable.

In many ways, today's resurgence of the people echoes the explosion of post-colonial demands, new social movements, and worker-student solidarity in 1968. As Boltanski and Chiarello note in *The New Spirit of Capitalism*, the ten years between 1968 and 1978 - the ten years in which neoliberalism learned how to deal with the demands of 1968 - were marked by "a social movement on the offensive, extending significantly beyond the boundaries of the working class" (Boltanski and Chiarello, 2005a, 167). The fact that the revolts of 1968 did not constitute the expected (or feared) worker revolution caused a re-evaluation of both liberal and radical political theory. To understand how Taylor and Tully's political philosophy fits with this dynamic, we must return to the events of 1968.

1968: A New Kind of Revolution

If, as historian Eric Hobsbawm suggests, 1968 never looked like it could or would be the revolution predicted by socialists, it nonetheless constituted a different sort of revolution. Hobsbawm argued that while the student revolts in 1968 and 1969 were virulent, the students alone could never lead a mass movement against capitalism (Hobsbawm, 1994, 298-299). What Hobsbawm missed, however, is that nont only were students allied with workers in the 1968 revolts (Feenberg and Freedman, 2001), but that the worker-student revolt was itself part of a much greater social upheaval, a "resurgence of the people" following the period of capitalist reconstruction after the Second World War. Twenty years of social peace, capitalist development, and individual repression in the name of improved standards of living did not mean, as Hobsbawm claimed, that "revolution was the last thing in the minds of proletarian masses" (Hobsbawm, 1994, 299). Rather, the revolutionary impulse adopted what we would think of today as an intersection approach (Taylor, 2017, 7).

The orthodox Marxist revolution against class exploitation led by Communist Parties and unions had become suspect or been rejected outright after 1956 (Hall, 2017b), in place of which there arose a new revolutionary wave: polyvalent, pluralist, post-colonial, extra-parliamentary, and focused on needs, desires, and civil rights.

Beginning in the mid-1950s, geopolitical and social changes led to the development of a new revolutionary consciousness. The Algerian War of Independence (1954-1962) gave way to the Vietnam War (1955-1975). The Campaign for Nuclear Disarmament (CND) marches began in 1958 (introducing Gerald Holton's "peace sign" to the world). The Selma-to-Montgomery marches of 1965 may stand for the whole American Civil Rights movement. The *Mouvement de libération des femmes* was founded in 1968 by Antoinette Fouque, and in the same year feminists stages a protest against the Miss America pageant: two key events in the development of second-wave feminism. In 1969, the "Stonewall Riots" marked a turning point in what was then called the gay liberation movement, though as historian Susan Stryker points out, the riots were part of a larger struggle over sexual orientation and gender identity:

> Gay, transgender, and gender-variant people had been engaging in violent protest and direct actions against social oppression for at least a decade by that time. Stonewall stands out as the biggest and most consequential example of a kind of event that was becoming increasingly common rather than as a unique occurrence. By 1969, as a result of many years of social upheaval and political agitation, large numbers of people who were socially marginalized because of their sexual orientation or gender identity, especially younger people who were part of the Baby Boom generation, were drawn to the idea of "gay revolution" and were primed for any event that would set such a movement off. The Stonewall Riots provided that very spark, and they inspired the formation of Gay Liberation Front cells in big cities, progressive towns, and college campuses all across the United States. (Stryker, 2017, 82)

Cultural theorist Stuart Hall argued that between 1964 and 1968, the world turned. The Civil Rights movement in the US gave strength to Black struggles in the UK in the context of a broader and deeper challenge to the post-war compromise between capital and labour that relied on assimilation and repression to keep the social peace. Hall saw this period as one in which the "great consensus of the 1950s" was challenged, and when the state and the ruling classes began to understand that what appeared merely as anti-establishment childishness (we can think of the Beatles or Monty Python here), or a fad for "permissiveness" was in fact "something worse than that - something close to an organized and active conspiracy against the social order" (Hall, 2017a, 149-150)

David Harvey, in his *Brief History of Neoliberalism* argued that it was the repression of individual and collective needs and desires in the name of post-war reconstruction and prosperity that led to the explosion of new social and political demands. The neoliberal project, based on free-market fundamentalism and individual consumer choice, recuperated the energies release in 1968 and 1969 to further its own political and economic project in the early 1970s (Harvey, 2005, 10). Between 1968 and the end of Bretton Woods in 1973, capital sought to reject outright the new social demands (what Boltanski and Chiarello call the "first exit strategy" from the crisis of 1968), while after 1975 capital figured adopted a new strategy to disarm its critics. On the one hand, the labour-capital relationship was repaired by the granting of some autonomy to workers, autonomy previously restricted to managerial strata of workers. On the other hand, the intellectual demands of marginalized identities had been defused through the granting of similar benefits:

> Many of those who had been voicing [a social] form of criticism at the time of the 1968 crisis had become satisfied with the changes that had taken place in the organization of work and, more broadly, in society. The incorporation of many components of [intellectual] criticism into the new spirit of capitalism had deprived earlier crit-

> ics of the achievements of the so-called liberation movement.(Boltanski and Chiarello, 2005b, 178)

By the end of the 1970s, as Harvey, Hall, and Boltanski & Chiarello agree, the repression of the revolutionary energies liberated by 1968 was complete, and the neoliberal project was free to proceed. For Harvey, the period between 1978 and the elections of Thatcher (1979) and Reagan (1980) was a period in which consent for the new neoliberal order was constructed. For Hall, "the crisis of the late 1960s-1970s was neoliberalism's opportunity and the Thatcher and Reagan regimes grabbed it with both hands" (Hall, 2011, 319-320). Despite neoliberal recuperation, however, the new social, economic, and political demands of 1968 were not *met* or *satisfied*, simply redirected or repressed, and the political consequences of this are still with us today.

The generalized crisis of 1968 set off two particular interlocking processes of interest here. The first was a re-evaluation of both liberal and Marxist political theory; the second was the beginning of an attempt by the Canadian government to deal with the issues raised by the crisis. This attempt was called "the just society" by Canadian politician Pierre Elliot Trudeau in his run for the Liberal Party leadership in 1968. We will deal with both of these processes in turn.

The Crisis of Political Theory

If the invasion of Hungary and the Suez crisis in 1956 fostered the creation of the New Left as a "third political space" between Stalinism and imperialism (Hall, 2017b, 117), the rise of new social movements in the 1960s caused a further disillusionment with traditional Communist approaches to activism and organization. Stuart Hall writes that "the New Left belonged to the same conjuncture as the CND. It was the product of the same decay in the 'relations of representation' between the people, the classes and the parties" that became more pronounced in the 1960s and 1970s (Hall, 2017b, 135).

This decay also produced the autonomist movement among Italian Marxists beginning in the 1950s and reaching its peak in the "hot autumn" of 1969. In his history of Italian autonomous Marxism, Steve Wright notes that early autonomists all agreed that the moderation of left-wing political parties and the unions derived from their indifference to the changes wrought by post-War capitalism (Wright, 2002, 20-21). Distrust of the "traditional" organizations of working-class representation - the Italian Communist Party (PCI) and the unions - led to the formation of a "extra-parliamentary left" and eventually to the Red Brigades, the murder of Aldo Moro in 1978, and the arrest of Antonio Negri in 1979.

The crisis of political representation caused two significant shifts in continental political theory [1]. On the one hand, it provoked a search for radi-

[1] Anglo-American political philosophy in the 1970s was dominated by Rawls' formulation of liberal egalitarianism

cally democratic non-representational forms of politics that could account for difference without resorting to the flattening effects either of postwar liberalism or Stalinism [2]. On the other hand, it challenged the primacy of the Hegelian/Marxist dialectic with its logic of inexorable and teleological progress ending in closure. This challenge spurred a search for a political ontology that was dynamic but remained open rather than closed (or foreclosed) by a predetermined historical goal.

Both of these requirements were met in the rediscovery of Spinoza by philosophers and political theorists in the 1960s [3] In a recent evaluation of his encounter with Spinoza, Negri argues that 1968 marked a moment when both the hegemonic politics of repression and the Communist politics of disciplined revolt gave way to a "'good moment'... of affirming democratic thought and encouraging struggles open to the desire for happiness" (Negri, 2020, vii). This "good moment" resonated in the Spinoza's non-representational, directly democratic conception of the multitude and constituent power (which became the foundation of Negri's own political thought), but also rejected what Negri and others felt to be the totalizing closure of the Hegelian dialectic:

> Materialism, seen through the epistemological and ontological lens of Spinozism, was able to abandon its traditional foundation dialectic and to embark on a project that was simultaneously constitutive and subjective. Thus Spinozism corresponds to a call for insurrection and to the new figure of class struggle that, from 1968 on, was no longer willing to squeeze through metaphysical straits towards teleological destinations. (Negri, 2020, vii-viii)

The effects of 1968, then, resonated throughout the world of radical left political theory, including Marxism, making space for new theoretical and practical strategies appropriate to the neoliberal conjuncture. But liberalism, too, was challenged by the new social movements and the threat to the social order (Forrester, 2019, xiv). We can trace once such a challenge in John Rawls' position on the Vietnam War and his attempt to deal with the issues it raised in his *Theory of Justice* (1971).

If, as Dostoevsky claimed, 19th all 19th century Russian literature emerged from under Gogol's "Overcoat", the liberal theory of the late 20th century derived inescapably from Rawls' *Theory of Justice*. But the *Theory* itself came out of two earlier philosophical positions: the social contract theory of the 17th and 18th centuries and Wittgenstein's conventionalism. Indeed, the liberal-communitarian debate can be framed as a debate between emphasizing the social-contract elements in Rawls' theory, on the one hand, and emphasizing Wittgenstein's sense of the social production of meaning on the other.

[2]Indeed, "difference" became an important signifier at this time: Derrida's "différance" was introduced in 1963 and Deleuze's *Différence et répétition* appeared in 1968

[3]Negri cites Gueroult's two-volume *Spinoza* (1968), Matheron's *Individu et communauté chez Spinoza* (1969), Deleuze's *Spinoza et le problème de l'expression* (1968) and *Spinoza* (1970), as well as Macherey's late *Hegel ou Spinoza* (1977).

From a Marxist perspective, and to perform the contrapuntal reading suggested by Said (Said, 1993), we have to connect the debates within liberalism with actual social and political processes [4]. Thus, despite the often abstract and de-historicized framing of liberal political theory in this period, we have to recognize that work not merely as a response to Rawls, but as a response to the individualistic, consumerist neoliberal culture that was being developed in the 1970s (the "me decade" (Wolfe, 1976)).

Rawls' theory of justice as fairness tried to balance the equal and universal distribution of individual rights with a "failsafe" mechanism in the form of the "difference principle". The difference principle argues that a departure from strict equality is justified if it benefits the least-advantaged members of society. The liberal-communitarian debate hinged on this ambiguity in Rawls' theory. Individualists like Dworkin and libertarians like Ronald Dworkin emphasized the former (individual rights) while communitarians like Charles Taylor and James Tully investigated the ways departures from universal equality could be used to achieve a more just, democratic society.

These two tendencies took the form of two theories of equality in Dworkin's 1978 essay on liberalism. For Dworkin, the individualist/proceduralist form of equality required that states remain agnostic as to any particular conception of the good and guaranteed individual rights through the equal application of neutral or objective procedures. A second form of equality - which Dworkin rejects, but which formed the basis of both Taylor and Tully's politics of recognition - saw states commit to some collective goals or goods and implement policies to achieve those goals (Dworkin, 1978). We can see how - in the wake of the social movements of the 1960s and the process of their recuperation by neoliberalism in the 1970s - the ambiguity of Rawls' position expressed real political tensions and provided a framework for real political debates.

While Taylor rejects Dworkin's first theory of equality, he does not simply adopt the second. Rather, like Rawls, he argues for a set of inalienable individual rights that must be maintained in any democratic society (Taylor adduces "habeas corpus" as an example), while allowing for other communal or collective goals to be supported as long as these do not threaten or undermine the core set of individual rights. Taylor essentially adopts the Rawlsian framework, but replaces the difference principle with what we might call a "principle of recognition". According to this principle, departure from strict equality is not justified by improving the lot of the least advantaged, but by a commitment to particular political or cultural goals (under the rubric of cultural survival and recognition).

This change in emphasis between Rawls and Taylor expresses political differences between the US and Canada. The "melting pot" of the US is reflected in Rawls' "original position" and "veil of ignorance", while the "patchwork quilt" of Canadian politics - the political questions posed by multinationalisma and polyethnicity (see Kymlicka (1996) - requires taking seriously the questions of identity and social position erased by the original position itself. As we will

[4]Here I follow Raymond Geuss' prescription for realism in political theory (Geuss, 2008)

see in our discussion of intellectual freedom in libraries, this difference is precisely expressed in the difference between free speech enshrined in the First Amendment and free expression defined by the Canadian Charter of Rights and Freedoms.

Tully's democratic constitutionalism, as described in *Strange Multiplicity* (1995), constructs a constitutional model in which, again, departs from strict equality in particular ways in order to accommodate the reality of Canadian politics:

> *The Spirit of Haida Gwaii*... depicts in a striking manner a specific concept of equality as equity. All members are equally recognized and accommodated, as far as possible, in terms of their own cultural identity. The result is that the constitutional arrangement is far from uniform. The members make up an association more akin to the irregular arrangement of an ancient, custom-based constitution than to a modern, uniform constitutional association. The overall cultural diversity is a thing of justice and beauty, analogous to ecological diversity and just as important for living and living well on this planet. However, as we shall see, it offends against a powerful norm of uniformity in modern constitutionalism... (Tully, 1995, 26)

Taylor's politics of recognition - like Axel Honneth's (Honneth, 1995) - is based primarily on a Hegelian understanding of identity as socially determined. Tully's democratic constitutionalism is based on Wittgenstein's conventionalist account of a plurality of language-games. Underlying both, however, is an unacknowledged return to the individual of social contract theory. For both Taylor and Tully, individuals pre-exist their social relations, coming to these social relations *a posteriori* and thus only affected by them to a certain extent. This contradiction at the heart of their theories of identity ripples through their political theory: collective goals must not be allowed to undermine some sacrosanct individual rights (Taylor) and cultural recognition is equally applied but only "as far as possible" (Tully). It is this contradiction that I want to explore from the perspective of Negri's theory of identity and constitutionalism.

The problem raised by the limits implied in Taylor and Tully's theory is that those limits correspond to an unacknowledged set of goods that are historically produced, pre-determined, and necessary. Liberals like Rawls and Dworkin are mistaken that liberal states and societies are in any sense agnostic to any form of good. From a Marxist perspective, they are committed to "goods" such as private property, alienation, and the exploitation of labour. Taylor and Tully must limit their politics of recognition to the cultural sphere in order precisely not to challenge or undermine these (unacknowledged) good of late capitalism.

But perhaps more significantly, Taylor's and Tully's limits, like Rawls', is based on an implicit acceptance of social contract theory in terms of individual sovereignty, the guarantee of individual rights, and the post hoc development of social relations. Critique of the social contract and rights has a long tradition

in Marxism, from Marx's own criticism of the social contract (in works like *The Poverty of Philosophy* and the 1857 "Introduction" published as part of the *Grundrisse*) and liberal rights (for example in "On the Jewish Question), through the work of Evgeny Pashukanis, to contemporary work by Ivan Shoikhedbrod and Christoph Menke.

However, my interest here is less around the critique of rights and the social contract, and more around the theory of identity and proposed by Taylor and implicitly taken up by Tully in his constitutional theory. I will argue that both the identity and the constitutional theory are inadequate for the realities of settler-colonialism, multiculturalism, and identity politics under capitalism, and I will look to the Spinozan theory of identity and constituent power developed by Antonio Negri in the same, post-1968, period. (Radical democracy)

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