INDIGENOUS LAND CLAIMS:

REMAPPING THE GEOPOLITICS OF RESOURCE TENURE

CONTENTS

I. INTRODUCTION

*"Cultural freedom, unlike individual freedom, is a collective freedom. It refers to the **right** of a group of people to follow a way of life of its choice [...] It protects not only the group, but also the **rights** of every individual within it.*

UNESCO 1995:15(Emphasis added)

__Rights__ employed in service of difference, with little concern for solidarity or fraternity may generate "otherness" on both sides of the divide inherited from the past.

Cairns 2000:160(Emphasis added)

The above two quotes only begin to describe the extent to which, as Sen puts it,

"The rhetoric of rights is omnipresent in contemporary political debates" (1999:211).

These quotes also provide a glimpse at the scope and potential implications of what

Fraser calls a "post-socialist shift in the grammar of political claims-making" from claims

based on the criteria of social equity to those of group difference (1997:2). This language

of rights has come to incorporate many of the ideological features of socialism, for

example: economic and social rights to work, health care, education, etc. And in response

to the demands of ethnic minorities and indigenous peoples, human rights now include specific collective rights to 'culture' as well (Merry 2001:41).

The use of culture in contemporary human rights discourses is often presented as a necessary corrective to the persistent economic exclusion and the lack of broad-based participation in political decision-making that characterize many situations where liberal democratic forms of ostensibly neutral justice and formal/procedural equality prevail. Furthermore, claimants seeking improved access to social goods (i.e. land, work, education, freedom of belief, recognition of distinctive group identity) through the language of human rights, are increasingly becoming involved in legal and political processes that transcend nation-state boundaries (Cowan et al. 2001:1-16). But whether the reference is to institutionally sanctioned rights that have judicial force, or to the prescriptive force of normative rights that can precede legal empowerment (Sen:211), rights must be recognized as important constitutive elements of the very cultures and associated identities they are being called upon to protect. The implication is that recognition of such seemingly emancipatory rights can have contradictory consequences (Cowan et al.:11); for as I show in this essay, rights discourses are neither ethically unambiguous nor politically neutral.

The latter part of the 20th century was also notable as a time of expanding markets and regional integration, increasing presence of international organizations in the traditional policy-making and implementation domains of the nation-state (i.e. environment, human rights, trade, etc.), and the emergence and consolidation of a broad range of civil society groups and transnational advocacy networks. These historic developments are shifting the cultural meanings of entitlements in local social systems,

and challenging the international standards underlying rights practices (Merry 2001:31-40). Perhaps not coincidentally, local socio-cultural mediation of these ongoing national and international restructuring processes is occurring at a time when many policy-makers involved in resource tenure[1] issues are increasingly aware of the limits of legal and state actions, more participatory and accountable in their methods, and more accepting and respectful of diversity (Bruce 2000: 17).

This essay looks at how changes in the legal and institutional frameworks for adjudicating rights are affecting indigenous peoples'[2] attempts to secure greater control over land and resource use. Indigenous peoples are among the poorest and most excluded populations in the world.[3] They have almost universally suffered injustices and discrimination in terms of their basic rights to life, property, languages, culture and citizenship. Many continue to be denied access to essential services such as health care and education, and the material conditions for living a satisfying life (Davis and Partridge; 1994).

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[1] Following an International Development Research Centre Resource Kit on this topic, I employ the concept of 'resource tenure' which, in addition to the formal property rights recognized by governments, also includes the many unwritten, informal means by which people gain legitimate access to natural resources for the purposes of management, extraction, use and disposal (IDRC: 2001).

[2] What exactly defines a population or person as "Indigenous" is a highly contentious and divisive subject. The definition accepted in this essay corresponds to that adopted by the United Nations (Martinez-Cobo 1994) as those communities, peoples and nations with following broad characteristics:
1. Historic continuity with pre-invasion and pre-colonial societies that developed on their territories.
2. Self-identified as distinct from other sectors of societies now prevailing in those territories.
3. Non-dominant relative to other sectors of society.
4. Determined to preserve, develop and transmit to future generations their ancestral territories, and ethnic identity as basis of continued existence as peoples, in accordance with own cultural patterns, social institutions and legal systems.

[3] For comparative and historical perspectives on the state of the world's indigenous peoples see Bodley 1999, Brysk 2000, Burger 1987 and 1990, Howitt 1996, Lee 1988, Maybury-Lewis 2002 Van Cott 1994 and Wilmer 1993.

Of all the critical issues confronting the approximately 200 to 300 million

members of indigenous communities in some 70 countries worldwide[4], the question of

land rights is frequently seen to be crucial (Wilmer 1993:112). In contexts as different as

Australia, Bosnia, Colombia, Canada, Côte d'Ivoire, Japan, Kenya, Laos, New Zealand –

Aotearoa, the Philippines, Turkey and the United States, land claims processes and

negotiations over associated natural resources have played a major role in politicizing

representations of indigenous culture and ethnicity. Through grassroots associations and

alliances with transnational advocacy groups, numerous indigenous peoples and other

ethnic minorities have pressed for and won demarcation and registration of their lands

and resource ownership.[5] As I show in this essay, several of these movements have also

obtained significant legal and institutional reforms at the local, national and international

levels. For some indigenous peoples these changes may be too minor or have come too

late to bring about important improvements in the conditions of their communities.[6] And

yet for the successful ones, engaging in the processes of securing greater control over

land and resources was often the catalyst for becoming real autonomous political forces

and changing entire regional power structures.

The evidence from these latter cases is especially encouraging about the outlook

for indigenous peoples' increased access to land and control over the management of

associated natural resources. This evidence points towards a convergence of factors that

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[4] The United Nations Development Program quotes a figure of 300 million indigenous peoples (UNDP 1999), while the World Bank puts their numbers at closer to 200 million (World Bank 2003). The fact that such wide discrepancies exist in the official estimates of these organizations attests to the difficulties not only in applying the slightly different operational definitions of each, but also to the lack of accurate census data, particularly for rural areas of the countries where many indigenous peoples live.

[5] See for example aboriginal Australians from the Kimberly region in Davies and Young 1996, Inuit from Northern Canada in Bellier and Legros 2001, Ashaninka from the Amazon region of Peru in Hvalkof 1998 and 2002, and the Enxet from the Chaco region of Paraguay in Kidd 1995.

[6] See for example the Maasai of Kenya in Galaty 2002, the Penan of Malaysia in Arentz 1996, the Mayangna of Nicaragua in Howard 1998.

are providing important leverage for indigenous peoples in support of their traditional

land and resource rights. I contend that these changes are creating new opportunities for

achieving the demands of indigenous peoples from around the world for juridical

recognition of their ownership rights and de facto tenure security. Foremost among these

factors are:

1.   Developments in international and national law favoring the emergence of rights-

based discourses that articulate the idea of indigenous territories with the notions of self-

determination and identity (Assies, 2000).

2.   Growing acceptance of the complexity of the links between the economic and

environmental dimensions of underdevelopment has increased support for alliances with

indigenous peoples that combine conservation and development objectives (Wells and

Brandon 1995).

        These contemporary developments raise important political and ethical dilemmas

about how claims to culture and territorial rights are articulated in local, national and

global debates about justice. For example, do the legal and political criteria for

adjudicating claims to cultural rights encourage static or even counterproductive

reifications of cultural differences? How can governments and transnational institutions

be held accountable for recognizing the flexible and complicated realities of mixed

identities within their borders or project areas? And concerning the shift among

indigenous peoples to base land claims on ethnic / cultural features instead of social class

or economic ones, is a formally recognized collective land base necessary to consolidate

indigenous peoples' social organizations and resource management strategies? And

finally, what significance do such arguments tying cultural survival and identity

persistence to collective land ownership over specific locations have for the development

of alternative indigenous identities and cultural continuities appropriate to more urban

and multiethnic settings?

This essay asks such questions of a number of cases where indigenous peoples

have sought recognition of their territorial rights. My goal is to come up with a set of

general principles and verifiable assumptions for systematic testing in future research

designed to evaluate the relevance and the implications of the various factors involved in

particular land claims by specific indigenous peoples. Given the range of political, ethical,

and legal complexities involved in claiming cultural rights to land or associated resources,

a broad analytical framework is needed to recognize the multiple scales at which these

issues need to be considered simultaneously. Section Two of this essay outlines such a

multidisciplinary framework for understanding the geopolitical[7] forces shaping

indigenous property rights and resource tenure systems. This section draws from

anthropology, economics, environmental studies, geography, law, political science, and

public policy to demonstrate the value of conceiving of the relations within and between

the various cultural and jurisdictional domains of relevance to questions of indigenous

resource tenure in geopolitical terms.[8]

The questions raised in the essay are also relevant to current debates within

expanding ethnographic and historical literatures that emphasize "…the participation of

"subalterns" in both resisting and creating nation-states" (Appelbaum, 2003:15). Section

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[7] By geopolitics I mean a combination of geographic and political factors involved in the control of land and ethnic identity, the fundamental elements of which are: territoriality, identity and power (Howitt et al. 1996:2).
[8] For particularly effective examples of the relevance of geopolitical factors to indigenous rights, especially land rights, see Appelbaum 2003, Conklin and Graham 1995, Howitt et al. 1996, Radcliffe 1996, Ribot 2000, Warren and Jackson 2002, Usher et al. 1992, Wilmer 1993, Zerner 2000.

Three of this essay outlines the origins and key contributions of a constructivist approach to the study of identity, territory and culture – seen as variable social constructs that both manifest and reinforce relations of power. Section Four applies insights gained from the constructivist approach to the geopolitical relations of resource tenure to explain recent evidence from ongoing efforts by indigenous peoples to secure greater control over resource use. The final section concludes with a brief summary of the main points to my arguments and suggests key issues for further research.

II. PROPERTY AND DEVELOPMENT: A MULTIDISCIPLINARY FRAMEWORK

The subject of indigenous peoples' territorial rights has been approached from a wide variety of disciplines and perspectives. From anthropology to law, and from to botany to geography, studies of topics ranging from the most mundane to the metaphysical have cited connections to the issue of indigenous land rights. Examples of the former have included descriptions of indigenous taxonomies, subsistence patterns and spatial boundaries, legal accounts of the status of indigenous territories in national property registry systems, titling and registration procedures, etc.[9] The more cognitively oriented have emphasized indigenous cultural conceptions of space and land ownership, including accounts of the spiritual power of sacred places and the ritual practices for mediating between humans, ancestors, spirits and other phenomena like rain, winds, etc.[10]

The concerns of this essay cluster somewhat uneasily in the vast conceptual middle ground stretching between these two research poles. This emphasis is closely aligned

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[9] See Brookfield 1963, Inter-American Development Bank 2003, Mohamed and Ventura 2000.
[10] See Abramson 2000, Burger 1990, Ingold 1996, W. Davis 1998, Myers 1991.

with the 'property and development' framework which studies the impacts of changes in property relations on land use and the well-being of rural communities.[11] Prompted by interests in these and related issues, an innovative and multidisciplinary literature has developed to assess the nature and implications of ongoing political and institutional changes on the status and territorial rights of indigenous peoples. A recurrent theme in much of this literature is that 'property' rights are social conventions for governing people's behaviour (rights and responsibilities) concerning the use and disposition of things. This theme highlights the dynamic and interdependent nature of the socio-cultural, economic and political processes whereby claims to property rights are continuously asserted, contested, negotiated and validated.

For comparative purposes, contributions to this literature can be grouped on the following basis: i) theoretical explorations of indigenous rights and the meanings of citizenship, ii) empirical, contextual studies of indigenous rights processes, and iii) explicit attempts to engage at both levels of analysis simultaneously. Individual scholars from each of the broad range of academic traditions mentioned above have, on occasion, contributed to each of these three categories of studies. Nonetheless, it remains important to note the disciplinary advocates and the theoretical and methodological advantages and limitations inherent in each of these approaches.

Economists, political theorists, legal scholars, and historians of public policy in particular appear to favour theoretical approaches to questions of indigenous property rights. Among the anthropologists in this first category I would include edited volumes

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[11] For an up to date review of the broad implications of land rights for economic growth and poverty reduction see Deininger 2003. For complementary views on these questions see also De Soto 2000, De Janvry et al. 2001, Feder and Nishio 1999, Toulmin and Quan 2000. For alternative views see Galaty 2003, Scott 1998, Unruh 2002, Zoomers and Haar 2000.

by Cowan et al. (2001), Hann (1998) and Abramson and Theododdopoulos (2000). While

primarily concerned with the changing notions of 'rights' and 'property' in anthropology

and the social sciences, these editors' introductory chapters provide valuable insights for

understanding the embeddedness of property rights – be they indigenous, state,

communal or private rights - within broader historic relations of economic production,

spiritual being and political and ideological power (Hann:47-48, Abramson:1-7).

However, these theoretical contributions from anthropologists are not representative of

the discipline as a whole – or even of the edited volumes from which they are drawn for

that matter – for as is discussed below, by far the majority of anthropologists continue to

favour more contextualized accounts of scenarios involving property rights.

Much of the economic research in this first category tends to reflect rational choice

theory. The goal here is to show how individuals or aggregate groups attempt to

maximize their personal or collective well-being within various social or environmental

constraints.[12] These authors see indigenous land rights as "property rights" to land which

happen to be held by or claimed by people who also claim to be indigenous. They are

fundamentally concerned to demonstrate the validity of economic models of predicting

property relations; for instance the means of assigning access rights, the level of demand

for individual property titles and the connections between private property and economic

development.

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[12] See for example: Alston 1999, Anderson and Swimmer 1997, Bethel 1998, De Soto 2000. Sen (1999: 56-61) makes several interesting comments concerning the contributions of property rights to freedom (i.e. "the individual capabilities to do things that a person has reason to value.")

Policy historians represent a diverse group of specialists with various methodological tools, theoretical frameworks and agendas to advocate.[13] A common feature of the policy approach is to take a particular issue (i.e. land, political institutions, indigenous rights, etc.) and to present key aspects of the relevant debates surrounding the topic. For example, on land this involves legislative reforms, issues of implementation, and the policy-making process itself (Toulmin and Quan 2000: 5-7). On political institutions, Cairns (2000) looks at the legislative and policy history of Canadian governments' relations with aboriginal peoples. Wilmer (1993) brings in a historic account of European colonization, indigenous peoples' development goals, and what he calls a discussion of the "moral boundaries of the legal and political community"(ibid:58) into his analysis of indigenous rights.

Legal scholars are justifiably preoccupied with the underlying derivations of property titles and the legitimacy of claims to sovereignty over specific territories. This group has been among the most passionate and proficient supporters of indigenous rights, especially in the formerly-British settler colonies of Australia, Canada, and New Zealand.[14] The work of legal scholars is quite complementary to that of political theorists, in that they both demonstrate abiding concerns for the principles of sovereignty, justice, and governmentality. A notable difference is that whereas the former approach these questions from the standpoint of court rulings and judicial precedents, the latter invoke more sociological sensitivities - akin to those of the policy historians - for recognizing the need to develop adequate principles and norms within specific socio-cultural contexts (see Ivison et al. 2000, Gledhill 1997).

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[13] See Toulmin and Quan 2000, Frazer 1997, Nichols and Rakai 2001, Cairns 2000, Wilmer 1993.
[14] See Asch 2000, Cook and Lindau 2000, McHugh 1996.

The second group of contributions to the indigenous property rights related literature consists mainly of empirical, contextual studies of rights claims and adjudication processes. This approach has been widely adopted by cultural anthropologists, human geographers, political economists, NGO advocacy groups, and environmentalists.[15] These texts tend to be fairly rich case studies exploring the relationships between economic development, nature conservation, legislative reforms and issues like social justice, indigenous territorial rights, and representations of identity, community and culture at specific times and locations. One of the often implicit objectives of generating such context-specific insights is "…to test and refine generalizations that can illuminate ways that the present circumstances diverge from or echo the patterns of the past." (Barlett 1999:2)

The third analytical approach to questions of indigenous rights discernable in the property and development literature is one that explicitly attempts to engage simultaneously at both the theoretical and empirical levels. This strategy has been most successfully pursued by a number of anthropologists, geographers, economists and area-based or cultural studies researchers.[16] Exemplary of this approach is what Wilson identifies as a "comparative anthropology of rights" (1997:23). This approach looks at how transnational discourses and legal institutions are created, resisted and transformed in different contexts (ibid: 23). As an approach to the study of indigenous land rights, I

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[15] For examples of the local, empirical type see Brookfield 1963, CIDP 1990, Davis 1977, Druz 2001, Gray 1998, Hvalkof 1998, Kemf 1993, Kennedy 1996, Kidd 1995, Ribot 2000, and the various chapter contributions to edited volumes by Hann 1998, Locker 1999, Warren and Jackson 2002, and Zerner 2000.

[16] For examples of texts incorporating both theoretical and empirical approaches see Assies 2000, Clifford 1988, Cook and Lindau 2000, Cowan et al. 2001, Conklin and Graham 1995, Godoy 2001, Gross et al. 1979, Harvey 1998, Howitt et al. 1996, Larsen 2003, Ramos 2002, Scott and Mullrennan 1999, Watts 2000 and Wilson 1997. Among the better economic studies using this approach see Deininger 2003, De Janvry et al. 2001, De Soto 1989.

suggest that it is especially appropriate for two main reasons: firstly because local concerns invariably affect how universal categories of rights are interpreted, implemented and transformed; and secondly, because the empirical specificities of any particular claim to rights may prove difficult to grasp through a singular methodological focus on local communities (Cowan et al.:1-2). These types of studies make up the bulk of the works reviewed in the following sections of this essay.

Reading the major proponents of these three strategic approaches to questions about indigenous peoples, rights and resources suggests that the disciplinary and ideological categories of the observers are partially responsible for how particularly salient aspects of complex and mutable social realities are apprehended and arranged. I will now compare specific examples of these dynamics through a brief review of ongoing debates in the social sciences between development economists, political ecologists and cultural anthropologists about the relations between collective identity, resource tenure and political and economic power. The continued relevance and complementarity of these social science approaches can be seen in the roughly historical sequence that follows.

III. REPRESENTING RESOURCES AND THE RIGHTS OF INDIGENOUS PEOPLES

After World War II, justifications for attempts to apply Keynesian principles of macroeconomic management to the development of poor countries became known as the specialized field of 'development economics'.[17] Over the years, the field has become a pragmatic mixture of structuralist, neoclassical and Keynesian positions advocating,

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[17] For development economics perspectives see: Alston 1999, Deininger 2003, De Soto 2000, Feder and Feeney 1991, De Janvry et al. 2001, Kanbur 2002, Prebisch 1972 and Sen 1999.

among others, technological progress in agriculture and labor-intensive industrialization (Peet: 40-46). In 1975, during what was probably the Cold War height of the popularity of these views in the non-communist world, the World Bank released a policy paper on land reform that narrowly associated land tenure security with individual freehold titles (World Bank, 1975).

By the year 2003, the World Bank had engaged in a broad review of its earlier land policy positions, leading it to the relax the earlier insistence on private titling in favor of recognizing key benefits of customary tenure systems and group rights. This most recent World Bank Policy Research Report (PRR) notes that in the past indigenous tenure arrangements were often mistakenly identified with collective cultivation and thus thought to be economically inferior to private land ownership (Deininger, 2003). More recent studies of communal and indigenous tenure systems have recognized the multiple functions they perform, leading to a reassessment of their virtues, including the capacity to evolve and respond to change.[18] This important policy shift reflects the insight that, under conditions of low population density and/or high ecological variability, communal tenure arrangements can be a cost-effective way to ensure that land access and secure tenure lead to major equity and efficiency benefits. Instead of aiming to replace these communal systems with more "modern" ones based on individualized private tenure, current best practices suggest that policies should focus on increasing their accountability. The only way to guarantee that men and women will have equal access to land with collective forms of land holding is if the rights of individuals to land are clearly specified and guaranteed within the collectivity (ibid:29-32).

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[18] On economic approaches to customary and indigenous tenure systems see especially: Bromely 1989, Bruce and Migot-Adholla 1993, Bruce 2000, Ostrom 1990.

Today the term 'development economics' continues to apply equally to some of the most radical market skeptics and land reform advocates as well as those whose positions are more classically neo-liberal in orientation. According to one of its leading proponents, Ravi Kanbur, development economics is now simply "…mainstream economics applied to poor countries" (2002:447). Kanbur is among a small but increasingly vocal group of economists who are critical of what they see as the current predominance of economic thinking in the analysis of development phenomena and policy making (see also Hariss 2002, and White 2002). The members of this group are spearheading the charge for recognizing the complementary roles of other disciplines – particularly sociology, anthropology and political science – as equal partners to economics in development policy-making and studies (Kanbur: 477).

By the mid-1960s and especially throughout the 1970s, many researchers had started to attack what they saw as the overly simplistic assumptions about human behaviour implicit in the dominant economic theories of growth and development advocated by mainstream development economists. This line of questioning inspired a series of political economy and cultural ecology critiques emphasizing the role of outsiders and government policies in pushing indigenous peoples to intensify production, degrade land, and participate in market transactions (Godoy 2001: 32). [19] These critics pointed out that it was especially unrealistic to treat individuals as independent entities with inherently utilitarian preferences rather than as socially and culturally situated subjects (Peet 1999: 57-58). Similarly, Scott contends that the economic prescriptions discussed above are key elements of the liberal "development" discourse (1998:322).

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[19] For political ecology perspectives see: (anthropology) Davis 1977, Gross et al. 1979, Painter and Durham 1995; (political science) Harvey 1998, Van Cott 1994, Brysk 2000, Zoomers 2000; (environmental law) Zerner 2000; (geography) Howitt et al. 1996, Unruh 2002.

Ideas that he suggests represent little more than self-serving and destructive attempts to simplify and homogenize social reality for the purpose of what he calls "… the rational design of social order commensurate with the scientific understanding of natural laws." (ibid:4). These critiques of development economics have drawn on neo-Marxist and dependency theoretical frameworks to argue similar conclusions about the exploitative nature of capitalist economic relations of production and civil institutions.[20]

In a 1979 article published in the journal Science, Gross et al. disputed the then prevalent 'culturalist' hypothesis which held that the lure of trade and industrial goods was the primary reason for indigenous peoples' progressive economic integration. Gross et al. argued instead that the reason why commercially produced and tradable goods and services became important to indigenous peoples was that settler encroachment and colonization schemes had constrained and rendered insecure their access to land and other subsistence resources. In addition, these authors presented quantitative evidence showing that environmental degradation and agricultural intensification have often gone hand-in-hand (Gross et al. 1979, cited in Godoy: 24-25).

Godoy attributes to this particular article by Gross et al. much of the credit for setting the tone about the harmful effects of markets on the welfare and the environments of indigenous peoples that lingers in the writings of many anthropologists[21] to this day (2001: 28-29). For example, a recent review of land titling and indigenous peoples in Latin America carried out for the Inter-American Development Bank (IDB) concludes

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[20] For a detailed discussion of neo-Marxist and dependency theories of development see Peet 1999 pp.91-122. Although clearly outside the scope of this paper, it would be potentially quite valuable to consider a comparative study of the synergies and conflicts that have marked the relations between indigenous peoples and various Marxists inspired liberation movements of the 20th century (ex: Guatemala, Nicaragua, Peru, Angola, Ethiopia, Eritrea, Russia, China, Laos, Vietnam, etc.)
[21] On the harmful effects of markets on indigenous peoples see especially Burger 1987 and 1990, Chase 2002, Davis 1977, Escobar 1988, Esteva 2000, Hyndman 1996, and Kennedy 1996.

that the conditions of extreme poverty affecting so many indigenous peoples can often be traced directly to the consequences of governmental actions giving priority to exploiting indigenous peoples' labor and the natural resources located in the areas they occupied (Plant and Hvalkof; 2001: 12).

A number of recent anthropological approaches to analysing the relationships between indigenous peoples, markets, and the environment have emphasized the conscious choices made by indigenous peoples engaged in a series of cultural and political transactions shaped by changes in the legal and policy frameworks and by the surrounding ideological climate of the times.[22] These views represent what can be called a 'constructivist' perspective on identity, territory and culture. Seen from this perspective, cultural categories (ex: tribes, nations, peoples, autonomy, etc.) and practices (ex: agriculture, exchange, tribute, conservation, conflict resolution, etc.) are invented, appropriated, contested, negotiated, redefined and deployed through iterative processes that are often far more complex and dynamic than those typically acknowledged in either the "culturalist" (i.e. development economics) or "post-culturalist" (i.e. political ecology) perspectives on colonization, economic domination, biological mixing and acculturation.

By adopting such a constructivist perspective, anthropologists have been able to argue that external factors need not drive indigenous peoples to trade; trade may also confer particular advantages deliberately sought by indigenous peoples. For instance, Whitehead suggests that the Asante, Iroquois and Caribs recognized and embraced the opportunity presented by the redistribution of European manufactured goods to extend their political authority and dominance over surrounding indigenous peoples (1994:41).

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[22] See for example: Appelbaum 2003, Deere and Leon 2002, Cowan et al. 2001, Conklin and Graham 1995, Clifford 1988, Hvalkof 2002, Godoy 2001, Ramos 2002, Scott and Mullrennan 1999.

In such cases, trade and increased market participation may result in both positive (i.e. better food security and less dependence on forest products for subsistence) and negative (i.e. increased vulnerability to commodity price shifts and use of chemical pesticides) effects on the welfare of indigenous communities and their environments (Godoy 2001: 30-32). This perspective provides a better grasp of how even within a particular indigenous community, many different determinants (wealth, kinship and patronage networks, proximity to roads, personal preferences, etc.) can operate simultaneously to shape individual behavior and collective choices.

The above discussion has shown how decades of research and debates between development economists, political ecologists and cultural anthropologists have produced significant conceptual and methodological insights on the issues affecting indigenous peoples' resource tenure. And yet while these efforts continue to generate considerable amounts of excellent background materials and many good diagnostics of salient research topics, they have not generally succeeded very well at telling elected officials what to do and how to do it in the most fiscally responsible and politically practical ways (Godoy 2001:207). Godoy explicitly identifies land titling as an important policy area where few empirical studies have been carried out to assess the best solutions for indigenous peoples and the wider nations within which they reside (ibid:208). This author maintains that growth in population and income inside indigenous territories will put more pressure on natural resources in the coming years, leading him to speculate that "Curbing indigenous people from mismanaging their natural resources will likely be at the top of tomorrow's policy agenda" (ibid:70).

This critical review of the relevance of the main contributions from three notable academic approaches to the study of the issues affecting indigenous peoples' resource tenure suggests that the crucial elements of a framework for analysing the questions posed in the Introduction to this essay remain as significant today as they are contested. The following Section draws on the theoretical and methodological insights provided in Sections II and III in order to assess the implications of the global expansion of rights-based political values on indigenous peoples' territorial rights.

IV. INDIGENOUS LAND CLAIMS: KEY CHALLENGES FOR THE 21ST CENTURY

At the outset of this essay, I referred to the importance of territorial issues as powerful factors implicated in the politicisation of indigenous culture and self-representations. I also suggested that rights discourses are neither ethically nor politically impartial, and that the recognition of rights based on claims to culture can often entail unforeseen and even contradictory consequences. The current Section reviews a number of cases where indigenous peoples have attempted to effect social changes by invoking particular interpretations of their cultural, social, and political rights as peoples. My goal here is to evaluate the potential benefits and risks for those advocating or adjudicating territorial rights based on claims to culture.

In a survey of indigenous movements from eight Latin American countries, Van Cott reports that land and resource issues were a major motivating force behind these movements' political organizing activities. Only in war torn Guatemala did human rights take precedence over resource issues as the focus of indigenous political mobilization efforts (1994:16). Trigger has similarly shown that, in Australia, land claims and

associated negotiations over natural resources have been "…the principle stimulus and

stage for the recuperation, restoration and rehabilitation of indigenous cultures and

identity." (1997: 95-97, cited in Scott and Mullrennan 1999: 14).

Clifford provides additional evidence of this dynamic from a 1976 court case

involving Cape Cod Indians from Mashpee, Massachusetts. Here an attempt to institute a

land claim could only be successful if the Mashpee Indians could prove to the courts that

they 'were now' and 'had always been' a 'tribe'; the definition of tribe being understood

by the court to include notions of race, territory, community, government and an

authentic culture or multifaceted way of life (1988: 336-337). Clifford describes how

testimony by community members, anthropologists and historians in the Mashpee case

revealed that indigenous community life had been present in the region for well over

three centuries. Since the ability to act collectively as indigenous peoples in the United

States had become intimately related to tribal status, Clifford concluded that despite the

ultimate verdict of the all-white jury to the contrary "…the Indians living at Mashpee and

those who return regularly should be recognized as a 'tribe'" (ibid.:336).

The unsuccessful outcome of this legal action confirms that the Mashpee

Wampanoag Tribal Council, Inc.'s case was clearly compromised by the nature of the

legal system (i.e. a literalist epistemology, rules and protocols concerning testimony,

evidence, etc.), by underlying assumptions about the wholeness and structure of culture,

the inferior status of oral vs. written forms of knowledge, and the narrative continuity of

history and identity. The prevailing common sense at the trial (upheld as it turned out by

attorneys for both sides) had essentially ruled out the possibility of a group existing

intermittently, keeping its' options open, and being both indigenous and "American"

(Clifford: 336-337). Irrespective of the court's final verdict on the non-tribal status of the Mashpee Indians (or of indigenous convictions to the contrary), the question of whether alienated lands should be returned – as requested in the lawsuit filed by the Tribal Council, Inc. – how much, and by what means remained a separate issue equally if not more fraught with ambiguity (ibid:336).

Similar to the Mashpee case reported by Clifford, Scott and Mullrennan have noted that native title claims processes in Australia also depend on a combination of indigenous and anthropological documentation and testimony to formulate jurisprudence on the validity of land claims and cultural continuity (1999:2). Apparently here to, opponents of indigenous rights employ similar legal criteria to equate cultural change with loss of cultural continuity, and hence of native title rights (ibid: 14). Merry also suggests that national laws commonly force indigenous peoples to frame their claims for land, resources, and cultural autonomy in terms of a static and homogeneous version of traditional culture developed by anthropologists early in the 20th century (2001:42-43).

A classic example of the popularity of such essentialist versions of culture among anthropologists can be seen in the 1947 statement of the American Anthropological Association (AAA) to the drafters of the United Nations Universal Declaration of Human Rights. This statement prepared by M. Herskovits invoked the general professional sentiment among anthropologists at the time that culture – understood as the natural property of distinct human groups – was to be the sole legitimate source of moral values. The statement thus takes a relativistic stand against the idea of universal human rights (Hastrup, 2001:7008-7009).

During the 1980's and 90's however, anthropologists have developed more unbounded and contested understandings of culture.[23] Rather than as a static and shared system of practices, beliefs and values, many contemporary anthropologists prefer to see culture as a socially constructed narrative discourse continuously created and transformed through actions and struggles over meanings (Cowan et al.: 14). Culture is no longer seen as fixed in space or time or with respect to particular institutions and practices. Instead, culture is continuously being constituted in direct relation to other structuring discourses (for example: science, history, religion, etc.) and in multiple geographic locations reflecting the movements of people, capital, technologies and symbolic systems (Merry: 45).

The implications of these theoretical developments argue against the cultural relativists' metaphor of a mosaic of bounded and discrete world cultures (Cowan et al.: 13). If culture is seen as an outcome of social interactions – made and remade through alliances, negotiations, and struggles – then the related components of identity and tribe are equally historical inventions, tendentious and changing. For example, Appelbaum has shown how indigenous communities in Colombia have made use of the very institutions of their colonization – cabildos,[24] court documents, reserves, legislation, and even churches – to maintain and revitalize their collective identities (2003: 212). Culture is thus best viewed as a dynamic repertoire of categories and practices created to adapt to changing social and ecological conditions.

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[23] See for example Conklin and Graham (1995), Marcus (1992), Minh-ha (1989), Clifford (1988), Ewing (1990).
[24] Cabildos were created by Colombian legislation for administering communal lands and regulating indigenous society (Appelbaum 2003, 83-84).

In line with such more flexible interpretations of culture, a number of indigenous cabildos (municipal governments) in Colombia have attempted to solidify their land claims and authority by taking a broad view of who is indigenous and who has rights to communal membership. These *cabildos* have invited all residents of the *resguardos* (reserves) to become indigenous, to give up their private land titles in exchange for communally issued documents, to join the formal community, and to vote for communal officials. Some new members are admittedly opportunistic in their reasons for doing so. Appelbaum recounts how one blue-eyed descendent of European settlers reported becoming "indigenous" in order to avoid certain real estate taxes and the military draft, and also so as to qualify for targeted scholarships and economic development projects (ibid: 216-217).

Allegories of cultural "survival" and continuity that do not account for such complex historical processes of appropriation, compromise, subversion, masking, invention and revival thus make poor criteria for advocating and adjudicating rights claims. This conclusion is also reflected in the 1998 AAA statement on human rights which, contrary to the AAA's 1947 statement, now focuses on the right to maintain the capacity for culture rather than the protection of any particular culture itself. Ironically though, just as the older concept of unique traditional cultures seems increasingly inappropriate for contemporary society, it is being strategically reappropriated by indigenous peoples in their campaigns for expanded sovereignty and collective territorial rights (Merry: 38-39). What's more, according to Hastrup, this same emphasis on collective rights has the potential to undermine the very foundation of the human rights system itself: their claim to universality (2001:p.7011).

There is no shortage of recent examples of indigenous or ethnic minority

movements claiming rights, especially territorial rights, based on traditional cultures.[25]

One particularly revealing case of this phenomenon is that of the Hawaiian Islander

sovereignty movement. In Hawaii, not unlike the Mashpee, Massachusetts case presented

by Clifford (1988), indigenous sovereignty claims based on traditional culture combine

expanding interests in cultural revitalization with the legal and political constraints of a

society "…willing to recognize claims on the basis of cultural authenticity and tradition,

but not reparations based on acts of conquest and violation in the past." (Merry: 42).

Jackson provides further evidence of the impacts of this authenticity criteria from the

Amazon region of Colombia where, in contrast to the more biologically and ethnically

mixed region of that country studied by Appelbaum, indigenous culture has attained a

quasi-biological status, with a people possessing a culture just as animals have fur;

complete with genetic transmission! (Jackson 1995:18) This attitude represents an

extreme example of a more generalized trend observable especially in Latin America,

where indigenous leaders now show a marked preference for more specific ethnic labels

(Appelbaum:266). Peoples that had never previously thought of themselves as "Ngäbe-

Buglé", "Nahua" or "Embera-Chamí" are increasingly adopting such designations over

the generic term "indigenous".

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[25] For examples from Africa see Watts 2000 on Nigeria, Neumann 2000 on Tanzania, Ribot 2000 on Senegal. See Berry 1993, and Toulmin and Quan 2000 for cross country African comparisons.
For East Asia and the Pacific see Howitt et al. 1996, Scott and Mullrennan 1999, Merry 2001, Gellner 2001, and Rigsby 1999.
From North America see Clifford 1988, Cook and Lindau (2000), Nichols and Rakai (2001) and Rousseau (2001) for Canada, Cal y Mayor (2000) and Harvey (1998) for Mexico.
For Central and South America see CIDP 1990, Kidd 1995, Plant and Hvalkof 2001, Brysk (2000), Van Cott (1994), Warren and Jackson (2002).

This evidence further suggests that the specific nature of indigenous rights claims is shaped by the expectations of the legal and political audiences to which they are addressed. And because indigenous peoples are often poor and prosecuted and/or lack political access in their home countries, many have opted to reach out to the international system for support and protection (Brysk, 2000: 9-10). Indigenous activists have done this by linking the goals of their rights movements to existing mandates and sources of legitimacy in the international arena (Brysk, 1994:43). Examples of these linkages have included cooperation with or opposition to the policies of decolonization, cold war ambitions, civil rights movements, development projects, liberation theology, biodiversity conservation, democratic reforms, and human rights discourses.[26]

Bellier and Legros (2001) have noted that these strategic actions on the part of indigenous activists have frequently been an unacknowledged consequence of participation – both voluntary and forced – in state education programs. These authors argue that the processes leading to the creation of the Canadian territory of Nunavut likely have many parallels in other regions of the world. In Nunavut, young leaders educated in state schools carried their struggles for territorial rights and self-determination to the national and then international levels. Increasing awareness of the social and environmental threats posed by the expansion of global economic exchange networks has also motivated the creation of an indigenous platform that continues to rally indigenous peoples and their allies from around the world (Bellier and Legros 2001:8-9).

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[26] On the issue of relations between international agencies and indigenous peoples organizations see especially Legros and Trudel 2001, Martin 2003, Mato 2000, Native American Council of New York 1994, Noejovich 2001, Recherches amérindiennes au Québec 1996 and 2001, IWGIA 1997 and 1999, and Van Cott 1994.

Although international organizing and activism by indigenous peoples can be traced

back at least as far as the 1920's unsuccessful petition by Iroquois Cayuga Chief

Deskaheh's for an appearance before the League of Nations, it was not until the 1950's

that the first international institution, the International Labor Organization (ILO), took a

paternalistic interest in these campaigns (ILO Convention No. 107 Concerning the

Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in

Independent Countries) (Wilmer 1994:19). Beginning in the 1970's, a series of

international human rights and cultural heritage processes (World Heritage Convention,

International Covenant on Civil and Political Rights) acknowledged indigenous people –

no 's' – as ethnic minorities entitled to protection from discrimination. During one such

U.N. NGO conference in 1977, indigenous organizations criticized ILO Convention

No.107 for its assimilationist policies, leading to its revision in the form of the

particularly significant Convention No.169 on Indigenous and Tribal Peoples completed

and approved by the ILO General Assembly in 1989 (ibid.:19).

International Labor Organization Convention No.169 was the first international

instrument to attempt to define the population to be recognized as indigenous peoples by

the international system , and to specify their rights within this system (Mato

2000:351).[27] Convention No.169 attempts to recognize indigenous peoples' status and

rights as equal to those of other nationalities, and for this reason it has been referred to as

an instrument of inclusion, not integration (Deere and Leon 2002: 59). This struggle over

indigenous self-representation at the international level – similar to what was seen in the

Mashpee Tribal Council and Australian Aborigine cases – can have important

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[27] The definition developed by the ILO was subsequently adopted by other United Nations agencies, see
footnote no.2 above.

implications for land claims, self-government agreements, and the various policy and institutional reforms sought by indigenous communities. For example, C-169 was the first legally binding agreement to recognize the collective aspects of indigenous peoples' ownership and possession rights over the lands they have traditionally occupied.

ILO Convention No.169 was also the first international instrument to require that governments guarantee effective protection of indigenous peoples' territories, customs and institutions (Noejovich 2001:7). These guarantees constitute important commitments (at least on paper) to provide the necessary political and economic resources required to achieve the rights specified in the Convention, including the right to participate in the benefits derived from resource use, management and conservation, and to receive fair compensation for any damages sustained (Plant and Hvalkof: 38). At the time of writing, C-169 had been ratified by 17 countries (13 in Latin America and the Caribbean, 3 in Europe and Fiji), providing additional grounds for amending environmental, forestry, and mining legislation to comply with the additional safeguards for indigenous peoples now required by law (ibid: 39).

Despite conferring these advantages, ILO C-169 has been criticized on two major accounts. Firstly, indigenous activists have criticized it for excluding the sub-soil and other rights claimed by states (i.e. mineral, gas, timber and water rights) from the effective ownership of the total environment of areas occupied or used by indigenous peoples. In practice this definition has allowed national authorities to permit and undertake programs for the exploration or exploitation of natural resources on indigenous lands. The requirement in C-169 is only that governments must "consult" previously with those likely to be affected before granting such rights to third parties (Noejovich 2001: 7).

The United Nations Working Group's Draft Declaration on Indigenous Populations and the Organization of American States (OAS) American Declaration on the Rights of Indigenous Peoples of the Organization of American States attempt to rectify this by recognizing property rights over traditional territories as a whole (ibid:7-8).

Secondly, in spite of the existence of almost universally adopted previous commitments to eliminate gender discrimination under the 1979 United Nation's Women's Convention, ILO Convention No.169 is silent on the subject of indigenous women's land rights (Deere and Leon 2002: 60). An indigenous rights expert – Jorge Dandler – is quoted as agreeing that the emphasis in C-169 "…on collective rights to land;…based on an advanced conceptualization of peoples and their rights to territories" will do little to change gender-discriminatory traditional practices and customs with respect to indigenous women's land rights (ibid:61). Deere and Leon's own data on land rights in Latin America actually point to a negative correlation between the legal endorsement of indigenous territorial rights and state support for women's land rights. In a comparative study of twelve countries, these authors found that the slimmest gains for women's land rights have occurred in countries with the largest indigenous populations (i.e. Mexico, Guatemala, Peru, Bolivia and Ecuador) (ibid: 53-54).

The 1992 United Nations Conference on Environment and Development (UNCED or the Earth Summit) held in Rio de Janeiro, Brazil was a second defining moment for the incorporation of indigenous peoples' concerns into international policy-making forums. The Rio Summit produced the Convention on Biological Diversity (CBD) and the Convention to Combat Desertification (CCD) that formally established important legal principles regarding the relationship between conservation, sustainable use of resources

and the protection of the rights of local and indigenous communities. In addition, several recent international efforts aim to provide advice for the best way to address indigenous peoples' specific concerns on economic, social and environmental issues, including: the World Intellectual Property Organization (WIPO), World Trade Organization (WTO) Trade-Related Intellectual Property (TRIPS) agreements, World Bank Operational Directive 4.20,[28] UNESCO Management of Social Transformations Program, World Wildlife Fund (WWF) and the World Conservation Union (IUCN) (Noejovich: 4-5).

Through alliances with national and transnational agencies and issue networks indigenous peoples have successfully addressed threats to their communities and resources by helping to reshape state policies and international institutions. Although individuals are not legally liable under international human rights law, states are responsible for failures to meet international obligations and for acts by private persons if they fail to make an effort to eliminate or mitigate the acts (Merry: 35-36). These developments have not only been important symbolic advancements, they have afforded considerable opportunities for indigenous peoples to organize, coordinate and promote their agendas at the national and transnational levels (Mato: 351). By the year 2000, Canada, 16 countries in Latin America and numerous others in Europe and Oceania had amended their constitutions and legislation to take into account the multicultural character of their societies, incorporating provisions to guarantee fundamental rights for indigenous peoples. Some progress had also been made in returning and guaranteeing collective ownership of indigenous lands (Warren and Jackson 2002:13).

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[28] The World Bank recognized the need to protect indigenous peoples and, in September 1991, adopted Operational Directive 4.20 to set out policies and procedures for projects affecting them. The directive provides policy guidance to ensure that indigenous peoples benefit from development projects and to avoid potentially adverse effects on them (World Bank, 2001).

These experiences have demonstrated the possibility of effecting political and social change through negotiations and engagement with rights discourses and institutions. And yet despite these considerable gains for indigenous peoples' controls over resources and autonomy, this pursuit of rights based on culture can be problematic and even self-defeating in several important ways. Firstly, a number of authors have suggested that national and international normative orders can serve both to shape and constrain the representations and organizing strategies of local actors in ways that are potentially beneficial and/or detrimental to their causes.[29]

In an article about the Guatemalan peace process, Sieder and Witchell contend that while indigenous peoples' struggles for cultural rights must be understood in the context of deep-rooted historical legacies, the reductionist orientations of law encourage a strategic essentializing of indigenous culture by both social movements and policy-makers (2001: 214). These authors caution against the dangers of discourses, strategies and legal frameworks that reify an imagined 'traditional' indigenous culture, as they suggest that to do so is to run the risk of further marginalizing indigenous peoples from national processes, potentially even denying access to justice for the most disadvantaged sectors of the population, such as women (ibid: 215-216). This conclusion echoes similar concerns raised by Deere and Leon (2002) about the impacts of ILO Convention 169 on indigenous women's land rights.

Secondly, transnational politics accommodate indigenous peoples' goals only as long as these coincide with the global concerns of the moment. As indigenous groups often lack adequate resources to participate effectively in international fora, they depend

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[29] See especially Conklin and Graham 1995, Eriksen 2001, Jackson 1995, Sieder and Witchell 2001, Warren and Jackson 2002, Mato 2000.

on sympathetic NGOs to acquire the necessary knowledge both to influence decision-makers and to elaborate joint programs with other indigenous peoples (Bellier and Legros: 9). In such cases, increased competition among local actors for international funding can actually hinder the formation of coherent national movements.[30] In a review of cases involving grassroots cultural or ethno-nationalist movements claiming rights based on particular cultures, Cowan et al. noted that the articulation of such claims – while shaped by local political conflicts and generally opposed by nationally dominant groups – was often directly dependent on the international arena for their expression. These authors repeatedly find fault with the global fora for uncritically accepting the rights activists' messages without asking whom they represent (Cowan et al. 2001:149). Assertions about representation and numbers are indeed crucial in legitimizing the claims and policies of all sides in these debates.

And finally, governments and international institutions are increasingly learning to adapt to such pressures for enhanced indigenous property and jurisdiction rights by practicing appeasement and mitigation, rather than accountability.[31] The focus here is on minimizing the political perception of negative impacts – in part through public relations campaigns, symbolic concessions and co-optive agreements with designated interlocutors – rather than on the prevention of those negative impacts in the first place through changes in development projects, implementation policies, power sharing arrangements,

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[30] See Martin 2003 for a detailed discussion of the relative deterioration of the national indigenous movement in Ecuador since the 1980's when the movement's transnational phase of collective action strategies really began.

[31] Accountability here refers to the process of holding actors responsible for their actions. For a discussion of accountability in international institutions see Fox and Brown 1998. For examples of the search for and scope of accountability attained in liberal democratic settler states see Scott and Mullrennan 1999, and for examples from Brazil and Latin America see Carvalho 2000.

etc. (Treakle 1998: 247-250). For example, Scott and Mulrennan have found that several liberal democratic settler states adopted institutional responses to pressures for enhanced indigenous property and jurisdictional rights – for example native title recognition, nation-to-nation treaties, resource co-management regimes, joint venture partnerships – but that these measures usually "…remain partial and co-opting, fettered by the state's refusal of true power sharing." (1999:18). True power sharing, they suggest, requires a principle of indigenous consent.

Thus while the culture of human rights recognizes and even encourages claims based on particular cultures, it also requires that "… only certain ways of representing violations, motives and the subjectivity of victims be adopted by both claimants and their advocates if they are to have any chance at being heard" (Cowan et al.: 13). Built-in to this highly political process of claiming cultural rights is the risk that instead of recognizing a fluid and complex reality of mixed identities, differences may become tightly scripted and forced upon the bearers of particular identities in order to fit legal and political criteria (ibid:18). Relatively independent groups with distinct cultures are thus transformed, with the stroke of a pen (or of a feather for that matter since these agreement are primarily an outcome of symbolic politics) into bureaucratically regulated enclaves of stripped-down authentic otherness. State adjudication of cultural continuity threatens to undermine rather than promote the survival and development of autonomous cultural orders (Scott and Mulrennan: 3). But perhaps most importantly, these legalistic representations, no matter how sympathetic, invariably become liabilities when confronted with the complexities of existing socio-cultural diversity (Conklin and Graham: 1995: 705-706).

V. CONCLUSIONS AND PRIORITIES FOR FUTURE RESEARCH

The main objective of this essay has been to assess how changes in the legal and institutional frameworks for adjudicating rights are affecting indigenous peoples' attempts to secure greater control over land and resource use. The first two Sections developed a constructivist framework for interpreting rights not just as instrumental mechanisms for systematizing institutional practices in various juridical categories and processes; but also as expressions of geopolitical tensions and ongoing controversies over land, resources, governance, and ethnic and cultural identities. This multidisciplinary framework recognizes that the concepts of rights and rights-holders – similar to those of culture and collective identity – are not natural, unchanging and universally accepted; but rather they are culturally constructed, historically shifting ideas, practices and normative visions set in varied and dynamic contexts.

The cases of indigenous land claims reviewed in this essay show how difficult it can be to dissociate specific claims to particular property rights from the normative and institutional contexts governing claims to political, economic and/or cultural rights. These cases also demonstrate the value of the approach developed in Sections II and III for connecting the complexities of local social contexts to macro-structures and global networks. Section IV also described how, largely as a result of indigenous efforts and advocacy, recent times have witnessed significant progress in national and international thinking and action on indigenous issues and rights. This Section detailed how the increased recognition that indigenous rights have received from nation states and

international organizations has provided many communities with favourable new ways of defining their problems and perceiving solutions.

However beneficial these outcomes may turn out to be for specific indigenous communities, I have argued that, due to the essentializing tendencies of law (demand for clearly defined, context-neutral categories) this interaction with human rights discourses and institutions is helping to transform the meanings of indigenous identity in ways that should give pause to both advocates and adjudicators of special rights based on culture. No doubt conscious of these very tensions, some indigenous rights activists have moderated their claims to special status as nations in an attempt to reframe their calls for self-determination as a collective human rights issue (Legros and Trudel, 2001:17). This strategic approach maintains that all special rights proposed by indigenous activists can be accommodated by a generous interpretation of the cultural, social, and political rights of peoples within a unified but plurinational state (Brysk, 2000:294).

While this may be true from a strictly legal perspective, the arguments put forward in this essay give reason to believe that partnerships between states and indigenous peoples based solely on the recognition of rights are likely to falter. Two key recommendation of this essay are thus, firstly, the need to become more skeptical and sophisticated about rights claims based on culture, and especially to examine closely the power relations they sometimes mask and/or seek to establish. Secondly, instead of focusing exclusively on rights and obligations, to attempt to foster opportunities for more collaborative relationships based on mutual respect and dedication to shared objectives.

These propositions about the implications of the global expansion of rights-based political values for indigenous land claims constitute a set of verifiable assumptions for

systematic hypothesis testing in future research aimed at evaluating the relevance and the

meanings of the various factors involved in particular land claims by specific indigenous

peoples. Two additional elements necessary for understanding how indigenous land

claims are changing the geopolitics of resource tenure would involve more detailed

considerations of a) national constitutional guarantees and supporting legislation for

securing indigenous peoples' territorial rights; and b) the specific roles of land titling and

resource tenure systems in the various local contexts where the socioeconomic and

ecological viability of the indigenous communities involved is at stake – for example

quantitative and qualitative analyses of the social and equity impacts of recognizing and

registering indigenous customary tenure. These issues are likely to be increasingly central

to the global political agenda in decades to come; and if so, anthropologists – "no longer

the bearded and greatcoated explorers plying remote waters in search of radical

difference" – may, provided they can be as flexible as the identities they theorize about,

attain a pivotal societal role as political analysts (ERIKSEN 2001: 145).

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