

Recognising Indigenous Rights in Land Use Planning Governance

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Introduction

Indigenous peoples around the world are claiming, and in many cases achieving, recognition of customary land rights and interests through a variety of legal and institutional mechanisms. While its forms and applications are diverse, this usually entails explicitly recognising both specific rights in title and customary use as well as broader political and cultural recognition of Indigenous nations as sovereign, governing entities of their own territories. Article 25 of the UN Declaration on the Rights of Indigenous Peoples, ratified in 2007, specifically recognises Indigenous peoples right to:

maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources, and to uphold their responsibilities to future generations in this regard.

Such a demand places a very specific onus upon planning systems, one that is not yet widely discussed in planning research and theory (see Hibbard et al 2008), despite its growing importance for planning practice in many countries. How should we understand both the nature of this demand and the politics of recognition it gives rise to.

Our focus in this paper is on the nature of recognition in the context of British settler states, and we will specifically focus on a case from Canada. In these states, numerous court cases are being waged; new legislation has come into force; treaties are being signed; and negotiated agreements are being developed – all in an attempt to address the recognition of Indigenous peoples' unique form of land title. Indigenous title is communally held, inalienable and derived from ancient and oral law systems. As such it represents substantially different ontological and epistemological philosophies of human-environment relationships when compared to non-Indigenous property-based systems. The recognition of these land interests, rights and title highlights an essential tension in the governance of settler-states: the struggle between nation-states' attempts to accommodate these rights and interests within existing institutional and legal arrangements and Indigenous peoples' frequent desire for a more fundamental reconfiguration of their political and spatial relationships (Dyck 1985: 2).

A key contested site for that struggle is in land use planning, where the central assumptions and methods of planning are coming under challenge from a different set of assumptions about human-environment relationships. Our paper is not a presentation of findings, but instead is a theoretical exploration of these challenges for planning in postcolonial settings. We use illustrative examples drawn from an ongoing research project investigating apparently innovative moments of Indigenous recognition in planning in British Columbia, Canada. The wider research programme also includes cases (both urban and environmental) from Queensland,

Australia, but we limit our illustrations to BC for this paper. Our goal is to demonstrate how the insights, observations and normative principles contained in three specific bodies of theory challenge existing conceptualisations of what is happening between Indigenous peoples and planning systems in settler states, and contribute to the development of a more robust and critical conceptual frame for exploring Indigenous recognition within planning. Those three (previously disparate) bodies of theory we want to weave together are:

1. political theory's discussion of the principles of a just relationship with indigenous peoples (Tully 1995; 2004);
2. cultural and literary theorist, Mary Louise Pratt's work on the "contact zone" (1991); and
- 3 institutional ethnography's attention to "textually-mediated ruling relations" (Smith 2005; 2001).

In the next section, we flesh out why these three areas, read together, can provide a critical and robust framing of Indigenous-planning relations in contemporary settler states and how this speaks to, and challenges, current planning theory and practice. We then explore some deeper thinking about modes of recognition and how we might theorise recognition of Indigenous peoples in planning systems in a section that closely analyses the work of James Tully in relation to planning theory. Our third substantive section engages with Pratt's notion of the 'contact zone' and what this offers both conceptually and methodologically to planning research. To discuss the importance of textual mediation, we provide an application of Smith's Institutional Ethnography approach to a key text structuring the contact zone between First Nations and land use planners in British Columbia, Canada.

Positioning

Urban, regional and environmental planning systems in settler-states are developing alternate planning procedures and regulatory tools, in an effort to 'deal with' the rights and land interests of Indigenous peoples. These efforts are particularly pronounced in environmental and natural resource planning, where the recognition of Indigenous land rights and interests has tended to result in the expansion of conventional planning tools and spatial ordering practices. Land use zones and buffers are frequently used to protect areas of cultural and spiritual significance, and Indigenous place names are increasingly appearing in written planning documents. These spatial forms of recognition are occurring within the context of increasing recognition of Indigenous self-determination and government. Such political recognition demands significant changes to established planning systems. It requires recognition that Indigenous peoples are more than "just another stakeholder" (Porter 2006); they are a self-determining form of government. Joint planning and management arrangements are being developed for protected areas. Specific requirements for consultation with a recognised Indigenous governance structure are increasingly required for development decisions. In a more advanced form, planning processes are also being conducted on a nation-to-nation (or government-to-government) basis, in which Indigenous peoples and the State mutually recognize each other's governance authority and agree to share land use planning responsibilities (Barry 2011).

Such spatial and political forms of recognition are undoubtedly a major step forward. Yet their ability to support a just and meaningful planning relationship with Indigenous peoples may be limited. As several authors note, Indigenous peoples have an uneven and contradictory relationship with urban, regional and natural

resources planning. Planning has been described as a positive site for the exercise of indigenous self-determination (Lane & Hibbard 2005; Zaferatos 2004); cross-cultural learning about the legacies of colonialism; and the improvement of community relations (Dale 1999). It has also been interpreted as an avenue for deeply-embedded, exclusionary and oppressive discourses, policy frames and power relations (Lane & Cowell 2001; Nadasdy 2003; Porter 2010; Yiftachel & Fenster 1997). Increased attention needs to be paid to the underlying discourses, governance practices and spatial forms that might both facilitate and impede a respectful planning relationship with Indigenous peoples.

Much of the work focusing on this relationship and the form it takes in different settings, is in the environmental planning and natural resource management fields. This literature charts the quite significant shifts that have taken place in governance approaches for environmental and natural resource management in the past 20 years concerning Indigenous recognition (see particularly Stevens 1997; Borrini-Feyerabend et al 2004; Howitt et al 1996; Jaireth and Smyth 2003; Jentoft et al 2003; Lane and Williams 2008). Yet this literature, and the changes in planning governance being described, rarely theorises the wider political and epistemological challenge of Indigenous recognition for planning (see Porter 2010 for a fuller discussion of this problem). Drawing principally on theoretical frames from communicative and collaborative planning models, this literature tends to simplify Indigenous recognition to a matter of accommodating greater numbers of Indigenous people (sometimes a majority) in decision-making forums, or allowing certain (often highly circumscribed) 'traditional practices' to continue.

We find this accounting for, and analysis of, Indigenous recognition in environmental planning very useful in highlighting the ways that routines of planning governance and practice have shifted. We also find considerable salience in the realm of deliberative/collaborative models of planning, and interpretive policy analysis (IPA) as they might broadly be conceived. Both point toward the importance of studying the actual moments of practice and decision-making, or the "concrete *manifestations* of policymaking and politics in the era of the network society" (Hajer and Wagenaar 2003:5). Yet we also find them lacking in two key areas: in theoretical and analytical power, and in their appropriateness to the particular constellations of power and historical social relations that constitute the postcolonial realities within which these relationships are actually existing. In this paper, our purpose is to develop a more robust analytical and theoretical frame for the study of Indigenous recognition in the planning systems of settler states through a combined reading of relational recognition (Tully), the notion of the contact zone (Pratt), and the approach of Institutional Ethnography (Smith).

We will argue in this paper, following Tully (1995; 2004) that a more just recognition of Indigenous rights and title in planning must be constituted through a continuing re-negotiation of the relational, multiple and mutual moments of co-existence. This is different from forms of recognition that definitively fix or stabilise the content and scope of Indigenous claims on settler states. Tully (2004) problematises these latter as the 'monological' mode of recognition, where claims are settled in fixed terms within existing structures such as courts and legislation. Recognition in this mode is produced through the 'language of the master' (Tully 1995: 34) and in that sense tends to dilute and accommodate (in the pernicious sense of co-opt) Indigenous claims. Moments of recognition in planning that formalise definitive statements about Indigenous title rights,

customary use, and governance mechanisms might tend toward such a monological mode of recognition. Moreover, as we have shown elsewhere (Porter 2010), those moments of recognition that are being cast as deliberative / collaborative in their intent and process also miss the historically constituted relations of colonial power that render the planning system as the normal mode of ordering and regulating spatial relations. Indeed, the very practices of those deliberative moments of recognition are often operations of power in themselves, actively rendering invisible the colonial histories that are always present. More just forms of recognition would require a decolonisation of those modes and moments of recognition and accommodation. Yet that decolonisation requires significant theoretical and methodological development, particularly in conceptualising the co-existence of Indigenous rights and planning jurisdictions.

Such a co-existence might be usefully theorised as the kind of 'contact zone' that Pratt (1991) theorises. She defines these as: "the social spaces where cultures meet, clash, and grapple with each other, often in contexts of highly asymmetrical relations of power" (1991: 34). One of the powerful aspects of Pratt's argument is that analytical attention must be paid to the rules and norms that structure the 'moment' of contact as well as those that emerge from its ongoing practice. In other words, it asks the analyst to notice and care about the power relations constituting the contact zone and the histories that are present. Moreover, Pratt identifies asymmetries within contact zones and great potential for domination, manipulation and control. These demand carefully crafted skills and strategies: her so-called 'arts of the contact zone' (Pratt 1991) which are intended to facilitate greater intercultural communication and open up new spaces for learning and exchange. Here, we see potential connections with interpretive policy analysis' desire to focus on practices: the actual doing of interventions in the world. Our paper therefore contributes to the body of work that seeks to learn about spatial policy practices from an examination of them and both challenges and extends the methodological and theoretical frames within which those analyses might be constructed.

Yet as Dorothy Smith's work on institutional ethnography and the textual dimensions of social organization suggests, the practice of these 'arts' is highly circumscribed. We contend that particularly in the 'contact zone' for Indigenous peoples and planning systems, those arts and practices arise from particular constellations of historical circumstance and social power relations. They are very specifically structured and positioned in certain ways by the demands and constraints of text such as statute and case law, regulations, and policy. We find, then, Smith's attention to text highly instructive in showing how contact zones and the practices within them are textually produced and mediated. For Smith, texts are positioned as "key devices in hooking people's activities in particular settings and at particular times into the transcending organization of ruling relations" (2001: 165). Texts regulate and authorize institutional and organizational behaviour and, in doing so, mediate the depth and breadth of the contact zone between Indigenous peoples and state-based planning systems. Although many of these concepts resonate with and, in some cases, have already been directly applied to the study of urban and regional planning, the textual dimensions of Indigenous planning – or of collaborative and multicultural planning, more broadly – have been under-theorized.

This, then, constitutes the purpose of our paper: to develop conceptualisations and approaches that help us critically analyse the various moments where Indigenous peoples and planning systems meet. To do that, we

need to pay more attention to each of our theoretical ideas in turn: recognition, the contact zone, and the relationship between text and practice. In the next section, we set out why we need a transformative theory of recognition.

Theorizing Indigenous Recognition

Our departure point in this paper is that planning in settler states is now operating in a context of the *recognition* of Indigenous peoples as distinct peoples with their own land and sea territories, and economic, socio-cultural, political and legal structures and sensibilities. In this way, recognition inextricably links specific rights such as title and customary use rights, to wider forms of political and cultural recognition such as governance structures and processes. Whether or not such recognition is legally codified or formally specified, there is no doubting the shift of governments in settler states to seek 'new relationships' with Indigenous peoples in this context as we have set out briefly above. How then, should we understand this 'recognition'?

There are three major models of recognition that are potentially helpful and have been especially applied in the Canadian context, from where our own illustrations in this paper are drawn. First, is the adaptation of notions of citizenship to better meet the needs and aspirations of Indigenous peoples (Cairns 2000; Carens 2000). The political enfranchisement and extension of citizenship to Indigenous peoples has long been associated with assimilation and the erasure of cultural difference. The sense of unity supposedly produced through common citizenship is often seen as a fundamental requirement of any political community (Kymlicka as cited in Carens 2000). Yet others argue that such a sense of unity arises not out of shared adherence to the same administrative and governance structures but rather through the quality of our relations with each other. As Carens' argues (2000), the forced imposition of Canadian citizenship onto Aboriginal people has done little to generate the psychological bonds of citizenship. A more productive approach would be to create the necessary institutional spaces for the exercise of self-determination as he describes:

If aboriginal people feel that the communities with which they feel most deeply identify have space for self-determination within Canada and that the representatives whom they regard as legitimate are treated with respect and have an effective voice... then aboriginal people may well develop a sense of identification and attachment to this larger community of which their community is a respected and integral part (Carens 2000: 195).

How then can the citizenship model be tailored to fulfill the normative requirements of self-determination and the development of mechanisms to ensure a peaceful and just coexistence? For some, the answer to this question lies in the notion of differentiated citizenship: the idea that it is possible to create "a distinct set of institutions and arrangements through which aboriginal peoples can govern themselves *within* Canada" (Carens 2000: 177). Differentiated citizenship might be seen as a contemporary reformulation of the political rhetoric of the 1960s where Indigenous peoples were seen to be citizens of both the contemporary settler nation and of their own constituencies (Cairns 2000).

Of course, all of this assumes that Indigenous peoples want to be enveloped by a larger polis and it is this assumption that has come to be fundamentally unsettled by a range of thinkers and activists. One move was a particularly powerful one through the 1960s and 70s: where various forms of Indigenous nationalism were

challenging the legitimacy of settler states, and this is the second model of recognition. Indigenous nationalism critiques the assumption of differentiated or devolved citizenship as an operation of neo-colonial power. Indigenous peoples often describe themselves not as citizens of a recognised western nation, but rather as members of distinct nations that have inextricable, historical ties to the a modern state (Alfred 1999). Some argue that true justice will not be achieved through adherence to the Western political concept of sovereignty, but rather through the re-establishment of more traditional modes of Indigenous governance. Where treaties exist, such as in Canada, some suggest that the ability to achieve that just relationship lies not in securing rights and duties, but in the rediscovery of the “spirit and intent” of the original treaties (Boldt 1993: 43). It is in these treaties that Indigenous peoples were recognized as self-determining nations, a status that contemporary Indigenous political movements often seek to reclaim through the recognition of their sovereignty and inherent right to self-government (Boldt 1993). Where formal treaties do not exist, such as in Australia, treaty has become a key plank of Indigenous politics, based on the understanding that treaties have the ability to recognise sovereignty and the self-governing rights of Indigenous peoples.

As Schouls (2003:57) identifies, there is an “unambiguous assertion of power that apparently flows from a national identity” (both Indigenous and western). At least part of the strategy behind the assertion of Indigenous nationalism has been to unsettle, and therefore open up for re-negotiation, relations between Indigenous peoples and settler states. A significant part of the strategy for settler states to continually assert their sovereign dominance is to contain and limit the impact of this unsettling politics, one that is deeply uncomfortable for most non-Indigenous people in settler states (see Gelder and Jacobs 1998).

Yet allowing both the conceptualisation and practice of recognition to rest on a notion of competition between national identities and constitutions, is highly problematic, and this is where a third and quite different model of recognition offers possibility (Schouls 2003; Tully 2004; Laclau and Mouffe 2001; Young 1990). The fixed constitution of national identities says that beyond the Indigenous nation, Indigenous identity cannot be established and this raises serious problems in contexts (and they are the majority of contexts) where Indigenous peoples’ connections to nation and territory have been severed through the violent and corrosive practices of colonialism. It concludes an ‘either/or’ type of solution about sovereignty where full Indigenous recognition can only be achieved by the absence of the western settler state. It assumes a fixed, final or determinate solution through rigid regimes of recognition, and thereby “freezes” (to borrow Tully’s term 2004:91) Indigenous peoples into a “specific configuration of recognition” (ibid). There is little room for co-existence where the struggle is between two opposing and competing forms and structures of government authority.

An alternative is to instead conceptualise recognition as relational, mutual and multiple rather than fixed, determinate and final: the “multiple constitutions” that Tully (1995) suggests. The question of recognition, then, is not ‘for’ recognition but instead over recognition as both Tully (2004) and Laclau and Mouffe (2001) show. Seen in this way, recognition becomes a transformative possibility, where there is a “freedom of those subject to a norm to have a say over it: to be agents as well as subjects” (Tully 2004:89, original emphasis). The methods and practices, then, for Indigenous recognition and justice lie not in adversarial struggles over

politically and culturally-laden terms such as citizenship, sovereignty and nationhood, but rather in the imagining of new relationships based on respect and coexistence (Alfred 1999).

This focus on relationships is further developed by Schouls (2003), through his examination of the connections between Indigenous identity and pluralist political thought and the development of a theoretical framework that he refers to as relational pluralism. With strong connections to Young's arguments in *Justice and the Politics of Difference* (1990), relational pluralism focuses its attention on the quality of political relationships as opposed to the preservation of cultural difference. Relational pluralism is about securing the right to self-determine the nature of relationships, to establish boundaries and to participate in the exercise of shared jurisdiction, free from all forms of domination, marginalization and oppression (Young 1990). The formation of boundaries is a key concept in Schouls' work in that the security of Indigenous peoples' identity lies in their ability to establish the boundaries of their identity and of their political associations.

Yet, Schouls' work on relational pluralism is an essentially academic exercise and fails to present a vision for how this relational approach might be achieved. Tully's work adopts a much more normative stance through its search for organizing principles, images, and metaphors for the achievement of Indigenous justice. For, as it has already been argued, transformative practice necessitates that critical analyses and descriptive models, such as Schouls' reinterpretation of Indigenous claims as a call for relational pluralism, need to be augmented with normative visions that help us to imagine how we might negotiate the pragmatic and theoretical complexities of the development of a new relationship with Indigenous peoples.

Much of Tully's work is organized around and inspired by the well-known sculpture by Haida artist, Bill Reid: "The Spirit of Haida Gwaii", which is located outside the Canadian Embassy in Washington (a second cast stands at the entrance to the Vancouver airport's international terminal). Referring to the sculpture as "a symbol of the spirit of a post imperial age" (1995: 17), Tully notes how the thirteen passengers of the sculpture's canoe, most of which are drawn from Haida mythology, all seem to be vying for positions, often facing different directions and sometimes teetering on the edge of the boat, yet "the paddles are somehow in unison and they appear to be heading in some direction" (1995: 28). What we should take from "The Spirit of Haida Gwaii" is that the recognition of difference does not mean the end of political unity, provided we develop appropriate conventions to guide the constitution of a new relationship.

Tully's more recent work on the question of Indigenous justice seeks to establish a set of principles to help guide this negotiation process. His five principles are: mutual recognition; intercultural negotiation; mutual respect; sharing; and mutual responsibility, each of which warrants some additional explanation (Tully 2000a). As we have already seen, mutual recognition refers to the recognition of all parties as self-governing peoples, a status that Tully believes needs to be clearly affirmed across the entire range of state institutions and symbols. Of equal importance is the parties' interdependence and need for coexistence, leading into the second principle of intercultural dialogue. Here, we are urged to enter into a state of negotiation, as consenting equals, committed to finding cultural common ground. Identities are not static and different worldviews are not assumed to be incommensurable, although power differentials need to be recognized as real concerns in need

of concrete attention. Difference is not a deficiency and mutual respect needs to be accorded to other languages, cultures and governance systems. At the same time, we are urged to recognize that like the thirteen passengers of “The Spirit of Haida Gwaii”, we are all in the same canoe and we need to work towards the creation of economic, political and legal relationships based on harmony, balance and sharing and that foster a sense of mutual responsibility to each other and the land that we share (Tully 2000a).

It is in both Tully’s conception of justice as the ongoing recognition and negotiation of difference and Schouls’ notion of relational pluralism as the continuous shifting and converging of the boundaries between Indigenous peoples and settler societies that we can begin to see how planning might fit in to the re-imagining of indigenous-State relations. Both models are concerned with the establishment of processes through which we might make more balanced and just decisions regarding the socio-spatial environments that Indigenous peoples and settler societies collectively share. In this sense, both fit conceptually very well with some of the current theoretical threads and innovations in planning theory. Recognition of multiplicity and specifically of cultural difference has become a widely discussed and theorised concern within planning. Sandercock’s work has progressed the field a long way toward critically unsettling the universalising tendencies of planning (1998a; 2003). Many others are pursuing these kinds of questions in specific areas (see Yiftachel 1998, Fenster 2003, Burayidi 2003, Beebeejaun 2004, Thomas 2000, Harwood 2005, Jackson 1997). The notion of recognition, then, is one already firmly rooted within many threads of planning theory. Second, the normative ideal of intercultural dialogue and building the desire to find common ground through processes of deliberation are key features of much current planning theory (see particularly Forester 1999, Fischer 2003), and therefore considerably shaping contemporary planning research. Such authors would find much that resonates and inspires in Tully’s poetic reading of *The Spirit of Haida Gwaii*: the emphasis on being different but together in the same process space, finding mutual vocabulary (rowing) in order to move forward in the same direction. Thirdly, holding justice as the centrepiece, as Tully’s work does, also resonates deeply with ideas in planning (see Sandercock 1998b, Campbell 2006). There is much common ground already, then, laying the groundwork for more intentionally focusing on recognition as a politics within the planning field.

Yet in the postcolonial contexts that structure the relationships and possibility for recognition between Indigenous peoples and planning, a more critical and historically-oriented conceptual framing is required. A fully just recognition cannot be attained through participation, collaboration or deliberation without sufficient deconstructive attention to the actual material and historical contexts in which such collaboration might take place (Porter 2010). The modes, approaches, productions and outcomes of those collaborative moments (the points and events of recognition) are intimately tied into colonial relations. This is where critical social theory can help, by orienting attention to the ideological formations, ontologies and rationalities that are structuring and mediating actual collaborative instances. Seeing the moments and demands of relational recognition as structured into contact zones (following Pratt 1992) asks us to attend analytically not only to the actual practices within that contact zone, but of the productive and constitutive moments that give rise to and sustain them. In this paper, then, are interested in exploring how this moment of recognition, these contact zones, are actively produced. How is the way they are structured and contested important for the possibility of practice? What produces and mediates these practices of negotiation and re-negotiation? In the next section we look in

more detail at the idea of contact zones and how seeing a relationship between text and practice within contact zones opens up new approaches and possibilities for this field of planning research.

Textually-Mediated Contact Zones

Although references to the 'contact zone' appear to have become commonplace in postcolonial studies, the term is most commonly associated with and has been attributed to the work of Mary Louise Pratt (see: Ashcroft et al. 1998). Pratt, a professor of Latin American languages and literatures, first introduced the term in a 1991 speech to the Modern Language Association. The term later became a key concept in her 1992 book, *Imperial Eyes: Travel Writing and Transculturation*. Contact zones are defined as "the social spaces where cultures meet, clash, and grapple with each other, often in contexts of highly asymmetrical relations of power, such as colonialism, slavery or their aftermaths as they are lived out in many parts of the world today (1991: 34)". Her conception of the dimensions and strategies deployed during this asymmetrical interaction is illustrated and further developed through her study of Guaman Poma's *New Chronicle and Good Government*, a 1200-page letter written by an Andean man to the King of Spain in 1613, a time when the Quechua were assumed to be almost completely illiterate. Described as "a veritable encyclopaedia of Inca and pre-Inca history, customs, laws, social forms, public offices and dynamic leaders" (Pratt 1991: 34-35) and as "a passionate denunciation of Spanish exploitation and abuse" (Pratt 1991: 2), Pratt uses this letter to raise questions about the 'arts of the contact zone': the carefully crafted skills, strategies and cultural hybridizations that occur when "cultures meet, clash, and grapple with each other" (1991: 34). She observes how Poma "constructs his texts by appropriating and adapting pieces of the representation repertoire of the invaders. He does not simply imitate or reproduce it; he selects and adapts it along Andean lines to express...Andean interests and aspirations" (1991: 36). Pratt goes on to suggest that the promise of Poma's attempts to find new spaces for "communication across lines of difference" (Pratt 1991: 6) was never realized; the Inca's history was and continues to be represented through texts that she describes as less threatening to the "colonial hierarchy" (1991: 4) and literary conventions. Poma's text is positioned a telling example of both the promise and the missed opportunities of the contact zone. The contact zone is seen as a potential site for interaction, learning, exchange – a place where alternate ways of being and knowing are negotiated and new relationships are forged. But it is also a place where alternative perspectives are manipulated, dominated or categorically ignored.

Although the work of a postcolonial literary theorist may appear far removed from contemporary planning theory and practice, Pratt's discussion on the strategic and intercultural arts of the contact zone complement and extend the literatures Indigenous and multicultural planning. Similar ideas are found in Sandercock's exploration of both planning theory and practice might be diversified by "listening to the voices from the borderlands" (1998b: 110), which draws inspiration from a range of different authors theorizing and narrating what it means to occupy margins and cross borders. The borderlands being explored by Sandercock are not unlike Pratt's contact zones. Writing specifically about Gloria Anzaldúa's borderlands, Sandercock writes of these as "shaped by cultural collision, forged out of mental and emotional states of perplexity and confusion. The new mestiza copes by developing a tolerance for ambiguity. She has a plural personality." (Sandercock 1998b:113). For Pratt, the contact zone is also a space of collision, structured by difference, resulting in

considerable ambiguity, hybridity, uncertainty and exchange. Sandercock's reading of borderlands acknowledges the wounds and pains being spoken of by the 'voices from the borderlands', and she then uses this "as a potential space of radical openness which nourishes the visions of a more experimental culture, a more tolerant and multifocal one" (1998b: 120) to suggest a new style of planning: one that embraces and not just tolerates difference. This quest for "a postmodern Utopia" (1998b: 163) sometimes erases the vulnerabilities, frequent missed opportunities and fragility of living and working in the borderlands, particularly as her analysis cannot drill down sufficiently to the actual practices of crossing borders. Pratt's work helps bring these dimensions to the fore. The contact zone is where people produce what Pratt describes as 'autoethnographies' – texts that describe themselves in a way that engages with, and responds to, representations others (usually imperially dominant others) have made of them (1991). In this sense, then, the contact zone focuses intentionally on the specific ways in which recognition of identity takes place and is then re-negotiated. It does not assume that the moment of 'recognition' (of another different being within the contact zone) is one necessarily arising with transformative possibility. Instead, Pratt shows with painstaking detail (1992) the minutiae of textual representations and re-negotiations of those representations through the practices of an always asymmetrical intercultural dialogue. Such fraught, contested, painful and contingent contact, however, is also relational. We recognise each other through contact as Tully's work also suggests. The contact zone offers a detailed and critical conceptual vocabulary for seeing the politics of difference and identity at play in planning.

Pratt's initial exploration of the nature and fragility of the contact zones is highly textual, as her reading of Poma's letter highlights the ways in which the political strategies and arts of the contact zone are reflected in written texts. Similarly, Sandercock's reading of a variety of texts that constitute 'voices' from the borderlands is also a highly textual account of the experience of border crossing and negotiation. Both constitute these texts as the moment of potential border-crossing, or as Pratt states: "a marginalized group's point of entry into the dominant circuits of print culture" (1991:2). What is absent from both accounts is the way that such contact zones are already informed, shaped and constrained by existing textual practices that constitute a particular, and highly contingent, field of power relations. Our interest in this paper, then, is to look more carefully at how contact zones themselves come about, how they are produced in the particular postcolonial context of Indigenous peoples and planning.

Recent efforts to introduce a more institutional approach to collaborative planning (see for example contributions to Verma 2007) do have some potential for the study of Indigenous-State planning relationships and have already been applied to previous work on government-to-government planning (Barry 2011). These works ask us to consider the ways in which collaborative planning efforts are situated in larger socio-cultural, political, organizational and discursive frameworks. These frameworks shape and constrain the collaborative process by allocating roles and responsibilities; providing material resources; and establishing formal and informal norms, procedures and expectations. These more macro-level factors are also viewed as institutional resources that can be mobilised and transformed through public deliberation, social learning and group strategy development (Healey et al. 2003). Similar ideas have been raised in the growing and related field of Interpretative Policy Analysis, which has a much stronger tradition of studying the specific written texts that

guide administrative and political processes. Written plans and policies are viewed as artefacts of dominant policy frames and modes of political and administrative behaviour (Yanow 2007). It is through the critical interrogation of texts, the policy analysts can ascertain how they norms and conventions are “re-instated and maintained” (Yanow: 207 114). As an interdisciplinary and applied field, Interpretative Policy Analysis has looked to complementary field for guidance on appropriate methodological and analytical tools. For example, Fischer (2003) advocates using elements of Fairclough’s critical discourse analysis (2005; 2003), while Hajer (1995) has developed a more applied form of Foucauldian discourse analysis. Yet, as Hendricks observes, these attempts to develop appropriate analytical tools are far from complete; Interpretative Policy Analysts have been “kept busy defending the relevance and validity of their approaches” (2007: 279) and have not yet paid a great deal of attention to the development of a more precise analytical frame.

In the face of this gap, we look to the literature on Institutional Ethnography: a field that was pioneered by Canadian sociologist, Dorothy Smith. Although Smith’s work is better known and perhaps better promoted as a research methodology (see: Campbell 1998; Campbell and Gregor 2002; Smith 2002), she describes Institutional Ethnography as a sociology: a “paradigm for making a knowledge of the social that is not reified and does not posit the social as existing over and above people” (Smith 2005: 2). Social structures, and the ways they are manifested in texts in particular, are of key interest to Institutional Ethnographers, but so too are the particularities of everyday experience. Institutional ethnography seeks to map institutional relations by exploring the specific textual mechanisms through which local practices are drawn into entire complexes of social relations and how standardized codes of behaviour are created and enforced. Though it remains firmly rooted in an analysis of power, but still maintains a focus on human agency and the potential for both the subversion and the transformation of established social structures. As a result, Institutional Ethnography is seen as particularly well suited for the explored of the ways in which contact zones are shaped and constrained by existing institutional structures and frames; how the practices undertaken in these contact zones are “textually mediated” (Smith 2005: 10).

Texts authorise and regulate everyday institutional practices by standardizing the sequences of steps; naming appropriate courses of actions; and creating different positions, roles and responsibilities. They also ‘appropriate’ (Smith 2001) local practices by assigning them to pre-established processes and categories of institutional behaviour. Texts provide the conceptual framework by the local and the particular is recognized as fulfilling a pre-determined sequence of steps or requirements: how, to use one of Smith’s examples (2001) an informal conversation between a student and teacher over a poor essay grade is recognized to be the first step in a grade appeal process. This textually determined grade appeal process is, in itself, a product of larger set of texts that establish positions, responsibilities and expectations within the broader educational system. Thus, exploring the appropriating role of texts involves considering the relationship amongst texts: their intertextuality. As Smith observes, “intertextuality can be traced in two ways it can be traced through the categories of objects, subjects/agents and forms of actions of the text itself which presuppose and rely on other texts; and it can be traced for its part in a complex co-ordinating the work sequences that produce organizational outcomes” (2001: 187-188).

Institutional ethnographers refer to these textually mediated complexes of institutional processes and outcomes as “ruling relations”. The concept of ruling relations is meant to underscore the translocal character of everyday institutional practices: how “people’s doings in particular local settings are recognized and attended to as participating in relations in which they are active and through which their local doings are coordinated with those others elsewhere” (Smith 2001: 162). Despite the use of the word ‘ruling’, Smith is quick to note that texts do not act in wholly prescriptive or uni-directional manner; texts are activated and interpreted through a phenomenon Institutional Ethnographers refer to as “text-reader conversations”. One side of this conversation is fixed, in the sense that the “materiality” of written documents (Smith 2001: 191) allows the intertextual complexes that define and regulate the production of desired institutional outcomes to remain the same no matter how many times and in what context they are read. The other side is open to the agency of the institutional actors who activate these texts by reading them in different ways and adapting them to their particular local circumstances (Smith 2005). In this way, studying the intertextuality of institutional relations is not simply about understanding the textual origins of specific forms of institutional behaviour, but also how these discursive categories and frames change and are recontextualised (Fairclough 2005) from one setting to another. The recontextualisation of discourse is both an operation and indication of established power relations. For, as Turner’s (2001) institutional ethnography of a municipal planning process shows, not all institutional discourses are open to adaptation. Some intertextual complexes are so tightly knit that they function as an institutional regime; opportunities to pursue alternate course of actions are restricted and ways of identifying and framing planning issues become entrenched into relative stable “speech genres” (Bakhtin 1986 as cited in Turner 2001) – an idea that becomes even more important when Institutional Ethnography’s theoretical and analytical approach is married with Pratt’s work on the contact zone.

Both the recontextualisation of discourse and the text-reader conversation may be strategic, negotiative and potentially transformative, as Pratt imagines in her discussion of the arts of the contact zone. But they can also provide another avenue for domination, manipulation and control. Texts define the conditions and the boundaries of the contact zone between Indigenous people and state-based planning systems. Established planning texts authorize and regulate the contact zone by assigning positions and responsibilities and by formulating appropriate courses of action. They also appropriate practices undertaken in the contact zone by assigning them to pre-existing institutional categories and situating them within established institutional hierarchies and authority structures. This tendency is particularly strong in texts that stabilise and fix those positions, responsibilities and possibilities for future action – the monological modes of recognition that Tully is critiquing in developing his more relational theory of recognition.

We have woven, then, a framework for how we might understand and explain emerging relationships between Indigenous peoples and planning in settler states. In the next and final section of the paper, we illustrate how such a framework can be deployed in the actual analysis of textual practice.

The Textual-Mediation of British Columbian Resource Planning

In an effort to better illustrate how the contact zones are textually mediated, this section examines one of the land use planning texts analyzed as part of a larger and ongoing research project on Indigenous recognition in

British Columbia, Canada and Queensland, Australia. This particular text is drawn from the suite of policy documents and guidance notes that inform large-scale environmental planning in British Columbia. Titled *A New Direction for Strategic Land Use Planning in BC* (2006), this policy paper became the basis for a dramatic shift in how regional land and natural resource planning was conceived and enacted, particularly with respect to the rights and title claims that are being advanced by First Nations people throughout the province. It was written a mere two years after the Supreme Court of Canada's decision on the *Haida* case, which one legal analyst describes as having effectively ended any debate about the provincial government's duty to consult Indigenous peoples on decisions that might affect their rights and title, regardless of whether or not those rights had been proven in a court of law (Pearlman 2005). The BC government could no longer afford to take a "business as usual" approach (Mandell 2004: 2); it had to ensure that Aboriginal involvement in regional land use planning upheld the principles developed by the courts. At the same time, the government was beginning to question whether the benefits of strategic land use planning justified the costs. After over ten years of planning, at an estimated cost of \$100 million (ILMB 2006), it was decided that the initiation of new Strategic Land and Resource Plans (SRMP) would now require demonstration of a strong "business case". Planning would only be initiated when there was a statutory imperative; "major emerging land use conflicts or competition among different user groups; a need to identify new economic opportunities; and/or a need to address "FNs' [First Nations'] opportunities, constraints, values and interests in areas where strategic plans have not been completed (ILMB 2006: 10). While much could be said about the ways in which Indigenous recognition has been wrapped up in such corporatist language, our interest in the *New Direction* document (at least for the purposes of this paper) rest less in its substantive content and more in the discursive means through which it regulates, authorizes and appropriates the 'arts of the contact zone'. For although the *New Direction* upholds and builds upon the recent trend towards collaborative, government-to-government planning between First Nations and the BC government (see: Barry 2011), a critical reading of the document reveals that even these innovative arrangements are highly circumscribed.

Beyond the obvious inter-textuality and discursive relationships that are evoked when Indigenous recognition is associated with a neo-liberal desire for "business cases" and economic "certainty", the *New Direction* is revealing of other means through which the particular interests and aspirations of particular First Nations in particular territories are appropriated into a larger institutional agenda. Almost immediately, the very term 'First Nation' is collapsed into bureaucratic shorthand (i.e. FN) and begins to appear alongside other accepted acronyms within the province government: FRPA [Forest and Range Practice Act]; LRMP [Land and Resource Management Plan]; SRMP [Sustainable Resource Management Plan]; OGMA [Old Growth Management Area]. While the use of the FN acronym might generously be interpreted as a simple matter of convenience, we argue that it is highly suggestive of the ways in which First Nations are hooked in (Smith 2005; 2001) to pre-existing institutional discourses and planning frameworks. For not only are First Nations collapsed in the government's resource planning and policy lexicon, but their distinct ancestral homelands are re-defined as one of several potential planning "units" (ILMB 2006: 3). Their involvement in provincial planning processes is also categorized as a beneficial policy outcome and as a driver of future actions, even in the face of rising costs and dwindling support for integrated regional resource planning:

While recent studies show the benefits of strategic land use planning (e.g. improved communication and inter-agency cooperation; increased involvement of FNs; increased land use certainty for industry; and new legislative tools to benefit threatened and endangered species and improve wildlife habitat), there are also high costs and limited resources available. In addition to the cost and resource issues, land use planning is also now being impacted by other emerging business drivers including: New Relationship commitments [the BC's government's primary policy response to the *Haida* decision, which included a commitment to shared decision-making]; effects of major environmental change; increased exploration and development activities; new federal government initiatives; and new legislation and policies (e.g., FRPA). (ILMB 2006: 2)

Failure to address these “emerging business drivers” is framed as a risk that must be mitigated by developing a new direction for strategic land use planning. An entire section was devoted to the proposed direction for involving First Nations in future planning initiatives. These policy directions suggest that the *New Direction* not only serves to appropriate particular First Nations perspectives, interests and aspirations into the provincial planning agenda through the use of bureaucratic naming conventions, categories and policy frames, but it also seeks to regulate and standardize First Nation involvement in strategic land use planning.

Individual First Nations are afforded some opportunity to self or collaboratively design the principles that will guide their planning relationship with the provincial government, but these individual protocol agreements are to be developed in accordance with the sequence of events and conditions identified in the *New Direction*. Both individual First Nations and the First Nations Leadership Council are recognized as legitimate planning actors, though they are assigned very specific positions and responsibilities. The First Nations Leadership Council, composed of representatives from BC's three Aboriginal political associations (Assembly of First Nations BC Region, First Nations Summit and Union of British Columbia Indian Chiefs), is to work with the provincial government to develop a strategic planning “Statement of Intent”, which would provide the “overarching direction” (ILMB 2006: 11) for subsequent strategic planning processes. Planning protocols with individual First Nations would then be developed “where appropriate, based on the principles in the Statement of Intent developed with the Leadership Council”. This hierarchy of protocol development is revealing of an apparent provincial need to work with First Nations in a manner that mirrors their own bureaucratic structures, with the work of local government actors coordinated by a central agency/policy framework.

Although some attention is paid to the importance of using the individual protocol agreements to address the specific needs and aspirations of particular First Nations, the *New Direction* goes on to impose additional constraints on the kinds of planning relationships that individual First Nations can pursue with the provincial government. These constraints are firmly rooted in the provincial government's political and economic agendas and are often connected to the neo-liberal discourse that imbues the entire document. For example, the planning outcomes contemplated by these agreements need to “reduce and streamline subsequent consultation requirements for specific developments. Planning outcomes must improve resource management and development certainty for investors, the province and FNs” (ILMB 2006: 11). This restricted view of the scope of the government-to-government planning relationship is reinforced by the funding guidelines included in the agreement. Given the limited staffing and financial resources amongst many BC First Nations, capacity development funding is a frequent component of government-to-government planning (Barry 2011). Under the *New Direction*, the provincial government will only consider First Nations' requests for funding when it

complements provincial priorities or is part of a special provincial program of initiative. No funding will be given to create land use plans for individual First Nation's traditional territories; this in spite of the growing popularity and strategic effectiveness of First Nation-led planning.

The document does include a commitment to “[e]nsure that [individual] planning processes are jointly developed, address capacity, decision-making and conflict resolution, and are mutually acceptable”. However, all the caveats and conditions identified above raise serious questions about an individual First Nation's ability to self-determine the nature of its relationship with the provincial government. Thus, in addition to demonstrating the mechanisms through which the contact zone between First Nation and provincial planning agents is textually mediated, the *New Direction* document also give rise to a series of question regarding the degree to which such textually mediated contact zones speak to the principles of Indigenous recognition discussed in the first section.

Conclusion

By weaving together Tully's work on multiple constitutionalism and the principles of a just relationship with Indigenous people; Pratt's writing on the contact zone; and Institution Ethnography's approach to the study of the textual mediation of local practices, this paper offers what we feel is a more robust analytical and theoretical frame for the study of Indigenous recognition in State-based planning systems. It has argued against approaches that freeze or fix Indigenous peoples to defined ways of being and acting in planning systems and close off opportunities for Indigenous peoples to self-define the nature of the political and spatial relationships. Indigenous recognition is positioned as a constant (re)negotiation and, as Pratt's work on the contact zone suggest, it demands carefully crafted skills and strategies both to be heard and to identify possible modes of moving forward. In thinking about the nature of this contact, critical attention needs to be paid to both its potential and its vulnerabilities. For, as the analysis of the *New Direction for Strategic Land Use in BC* shows, Indigenous peoples' relationships to state-based planning systems are highly circumscribed. Established planning texts appoint Indigenous peoples to pre-defined positions and create authority structures that are often grounded in Western legal and political conventions traditions and may not correspond to the governance aspirations or structures of individual Indigenous groups. Texts delineate the boundaries of appropriate institutional behaviour, but they also appropriate Indigenous peoples political and spatial claims by assigning them to established planning categories and systems of meaning in the sense that traditional territories become 'planning areas' and demands for recognition become 'business drivers'. Clearly, these contact zones are not naturally occurring event and are highly structured by established planning statutes, case law, regulation and policy. Smith's approach to study this textual mediation is found to be highly instructive in showing how individual moments of contact are hooked into larger institutional complexes or ruling relations.

Yet, following Smith's call to attend to dynamic nature of the text-reader conservation and the ongoing potential for both the subversion and the transformation of established ruling relations, we stress the importance of not viewing texts such as the *New Direction* in isolation. Texts do not prescribe institutional behaviour; they mediate it. True understanding of this textual mediation cannot arise out of the study of texts alone, but rather through the study of the ways in which these texts are interpreted and applied in particular

practices. We have argued that this interface between text and practice is a key dimension to the contact zones that exists between Indigenous Peoples and state-based planning system; 'contact' is conceived not simply as a meeting of cultures, but is a space where every text stands in "specific historical relationship" (Pratt 1991:5) to all of the people contesting that zone, but that relationship is enormously varied and historically contingent. We argue that it is by studying this 'contact', in all its dimensions, that a clearer picture of the complexities of Indigenous recognition is formed. In terms of our own research programme on Indigenous recognition in urban and environmental planning, this view of textually mediated contact zones requires us to constantly move between text and practice. To understand the ways in which texts shape, constrain, authorize and regulate, we will often need to work 'text-down'. We will also need to work 'practice-up' to explore how monological modes of recognition are contested and reframed in particular places and how multiple constitutionalism, identities and planning practices are negotiated and new relationships are formed. We will be applying and developing this approach in the next phase of our own research programme.

Framing the recognition process as textually mediated contact zones not only extends the literature on Indigenous planning – a literature that is curiously under-developed – but it speaks to other branches of planning theory as well. It develops the literature on planning and difference by focusing analytical attention on the rules and norms that structure the moments of contact, or the definition (and crossing) of borders. It highlights the painful and contingent nature of work and life in the contact zone, and the potential, as our illustration from BC has shown, for manipulation and the reconstitution of ruling relations. It also challenges some emerging normative orthodoxies in contemporary planning theory about the salience of collaborative and deliberative approaches to the recognition of difference in planning. Recognising co-existence of Indigenous rights and peoples in practical terms within planning requires a very substantial shift not only in the ontological and epistemological foundations of the traditional practices of land-use planning, but in the emerging normative theories directing the creation of intercultural, deliberative dialogues in planning. Finally, the approach develops and extends the application of Interpretive Policy Analysis to planning. That diverse body of work significantly opens up attention to the discursive framing of policy problems, stakeholders and solutions. It also calls for greater attention to the actual practice, the material and concrete manifestations, of everyday policy making. Reading the contact zone through the approach of Institutional Ethnography we suggest offers a way of seeing the text and practice of recognition, the discourse and action, with much greater clarity of its relational dimension. Contact zones of recognition and contest have textual moments that mediate other moments of possibility, transcendence and manipulation. The actual processes, potential and vulnerabilities involved in crossing borders and engaging in the contact zone brings our attention right back to practices, the so-called 'arts of the contact zone'. Holding the text-practice relations of contact zones together for study in future research is the key challenge for understanding the politics of recognition and difference in planning.

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