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Critical Response

II

The Cunning of Recognition: A Reply to John Frow and Meaghan Morris

Elizabeth A. Povinelli

John Frow and Meaghan Morris offer two major criticisms of my approach to Australian multiculturalism as outlined in my essay "The State of Shame: Australian Multiculturalism and the Crisis of Indigenous Citizenship" (*Critical Inquiry* 24 [Winter 1998]: 575–610). They critique what they see as an assumption on my part that the state can or should be viewed as a "singular, unified, and intelligent agent" and that the juridical branch shares "an intentionality with the government" (John Frow and Meaghan Morris, "Two Laws: Response to Elizabeth Povinelli," *Critical Inquiry* 25 [Spring 1999]: 627). And they critique how I write off the multicultural project—or at least the "certainty" with which I supposedly do so (p. 627).

Frow, Morris, and I could expend much critical energy arguing which institutions of liberal democratic nations are part of the state and which are not. For their part, Morris and Frow draw a recognizable liberal distinction between the functions and discourses of parliamentary and juridical institutions ("the High Court is a judicial, not a political (let alone a 'critical') institution" [p. 628]). As should be apparent from "The State of Shame," I do not share this perspective, nor its critical social or analytical implications. In "The State of Shame," as in other related essays, I presume that Australian citizens, inside and outside governments and courts, rely on and invoke a shared commonsense ground of meaning from which agreements and disagreements are made possible and sensible, in which juridical, governmental, and public (or private) debates

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are legible as innovative or stale; passions are engaged or diverted; attention fascinated or repelled.[1]

Mindful attention to the discursive commonalities and transformations of juridical, governmental, and public discourse is not a search for a mysterious singular unified (state) agency or for the fifth branch of government. Nor does it locate the social and political force of these discourses and their affective entailments in some superordinate structure floating "out there." Nor, finally, does it ignore the genre-specific features of various social fields. Rather, it tracks how real live persons like Morris, Frow, myself, members of the High Court, of the Belyuen community, or of the Australian parliament guarantee the continuing social effectivity of these taken-for-granted beliefs in the appellate court of public opinion through institutionally and noninstitutionally located, thus structured, struggles—in the formally generic conditions of courts, countrysides, dreams, political parties and ideas, and personal fantasies, worries, and fears.

But this mindfulness does focus critical attention on the ways in which discourses and desires instrumentalize agents and regiment and guide intentionality and feeling. And, I think, Frow and Morris are right to be bothered by such a perspective. Within a liberal framework a certain horror, even shame, results when we view any social project retrospectively—when we discover *yet again* how deeply our projects were saturated by the agentless will of hegemonic discourses, that we are on record as having spoken and felt our times (lines) in ways and domains we never would have imagined. And this, too, interests "The State of Shame": the political and social implications of the ordinary liberal desire to escape as individuals or as the authors and proponents of social projects the unconditional of the future perfect *we will have been generic.*

With these assumptions in mind, "The State of Shame" seeks to understand forms and practices of liberal citizenship emerging from the political and juridical texts that practioners of law and government are currently writing in settler nations such as Australia. These texts and practices suggest to me the emergence of a new form of late liberal power. Frantz Fanon and the school of subaltern studies have helped us under-

1. See, for instance, Elizabeth A. Povinelli, "Settler Modernity and the Quest for Indigenous Traditions," *Public Culture* (forthcoming) and "The Cunning of Recognition: Mutant Messages Down Under," *The Australian Feminist Law Journal* 11 (1998): 1–28.

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stand how colonial domination worked by inspiring in colonized subjects a desire to identify with their colonizers. Multicultural postcolonial power seems to work, in contrast, by inspiring subaltern subjects to identify with the impossible object of an authentic self-identity—in the case of indigenous Australians, a domesticated, nonconflictual, "traditional" form of subjectivity. It would be hard to overestimate the impossible demand placed on indigenous subjects within this discursive and performative regime. As the nation stretches out its hands to ancient Aboriginal laws *(as long as they are not repellant),* indigenous subjects are called upon to perform an authentic difference in exchange for the good feelings of the nation and the reparative legislation of the state. But this call does not simply produce good theater; rather, it inspires impossible desires: *to be* this impossible object and to transport its ancient, prenational meanings and practices to the present in *whatever* language and moral framework prevails *at the time of enunciation.*

It is true, then. My project is primarily a critical engagement with the particular form Australian multiculturalism has taken.[2] I want to understand: how real hopes and optimisms invested in a form of national association seduce analysis away from an understanding of the ways in which a multicultural imaginary adjusts, rather than transforms, core state institutions and narratives to new discursive, capital, and state conditions; how the object of the adjustment is the preservation and promotion of dominant liberal forms of sociality; how and why this advancement of dominant liberal forms of sociality is couched as a recognition of the worth of subaltern ways of life; and, finally, how recognition shifts the burden and responsibility of maintaining a fantasy of national social harmony from dominant to subaltern and minority members. But my interests do not end with the discursive and affective formalisms of late liberal citizenship. Instead, "The State of Shame" outlines how an emergent calculus of citizenship based on competing values of equality and difference is intercalated with assessments of individual and group claims for material compensation and redistribution, social welfare and benefits, health, housing, life.

Morris and Frow's focus on the state in their reading of "The State of Shame" may be due in part to a confusion about my use of the concept of a *limit;* that is, about my interest in the limits of liberal recognition and how these limits temporarily cohere "a national collective will" from fragmented and contested fields of national public, juridical, and governmental discourse (p. 578; see pp. 577–79). There is a significant, if at first glance seemingly slight, difference between a claim that there is a limit which lies *beyond* or *outside* any particular idea, practice, or social group

2. These interests have been critically shaped by discussions with Lauren Berlant. See, for instance, her *The Queen of America Goes to Washington City: Essays on Sex and Citizenship* (Durham, N.C., 1997).

and a claim that every limit is the explanation, name, or phenomenon produced by the contradictions and anxieties of any given discursive field—the limit in this latter sense is nothing more or less than an indexical extension of its generative conditions.[3]

Dominant national multicultural discourses usually draw on the first understanding of a limit. This understanding appears in such rhetorical claims as "we have a point past which we will not go" and "such-and-such idea or practice is beyond human decency." It relies on assumptions like these: "we" predate our limits as do "they" and their repugnant and intolerable practices; the intolerable exists outside us, or at least against our best intentions; the intolerable and repugnant are knowable. I am using *limit(s),* however, in the second sense—how "we" is constituted as a site of affectively and discursively conditioned inclusions and exclusions, the decent and indecent, the civil, barbaric, and human; how forms of national cohesion, monoculturalism, pluralism, and multiculturalism are generated out of the anxieties of ordinary and extraordinary citizens about the limits of their tolerance and understanding in the face of another society's values about the radical undecidability of the proper context for liberal forms of tolerance and intolerance. "The State of Shame" tracks the fact that well-intentioned people continually rediscover that other well-intentioned people produced, usually in the past, the very abhorrent and uncouth domains they protested—even as these same people sketch out a new line in the sand of civil society.[4] This was the point to the essay's dual opening—"I know I have hurt you . . ." and "The Tip of the Clitoris" (p. 575).

Thus, while Frow and Morris and I disagree about something, I do not think it centers on a hoary argument about the state.[5] It goes much

3. Here I am moving from Hegel through Althusser and Žižek, though elsewhere I argue that the structural assumptions of the latter two scholars must be rethought in relation to contemporary models of pragmatics and metapragmatics. See, for instance, Louis Althusser, "Contradiction and Overdetermination," *For Marx,* trans. Ben Brewster (London, 1996), pp. 89–128, and Slavoj Žižek, *Tarrying with the Negative: Kant, Hegel, and the Critique of Ideology* (Durham, N.C., 1993).

4.

> The incidents of particular native title relating to inheritance, the transmission or acquisition of rights and interests on death or marriage, the transfer of rights and interests in land and the grouping of persons to possess rights and interests in land are matters to be determined by the laws and customs of the indigenous inhabitants, provided those laws and customs are not so repugnant to natural justice, equity and good conscience that judicial sanctions under the new regime must be withheld. [*Mabo and Others* v. *The State of Queensland,* in *The Mabo Decision,* ed. Richard H. Bartlett (Sydney, 1993), p. 44]

5. An aside: While Morris, Frow, and I disagree about the critical theoretical and methodological frameworks necessary to understand the problem of material and social discrimination in liberal national formations, I am sorry to see them resort to stereotypes of the American Left. Maybe Morris and Frow should simply name names—who among the American Left or its "libertarian traditions" views the state as a "monolithic and repressive force" (p. 629)?

deeper: to the objects and priorities of analysis and practice; to the values of differing forms and tactics of critical engagement; to the syncopated rhythms of political and legal practice, of theoretical critique. What do we take at face value? Where do we put our intellectual energies, and when? When should we lose or fortify our faith and muster our optimism about the form of a social struggle, especially in the face of an always foreboding backlash? How do we act politically when we know *we will have been wrong*? This much I am suggesting, and with some certainty: before we can develop a "critical theory of recognition" we need to understand better the cunning of recognition.[6] We need to puzzle over a simple question: What is the nation recognizing and the courts trying to save from the breach of history? If Charles Taylor's politics of recognition takes inspiration from Herderian and post-Hegelian notions of recognition, an analysis of the cunning of recognition draws inspiration from Hegel's dark account of reason found in *The Philosophy of History.* In Hegel's hands the cunning of reason was revealed at the same time its brutality was exposed. In this spirit, "The State of Shame" asks how late liberal ideology works through the passions of recognition and tries to develop its worth without subjecting itself to the throes of contestation and opposition. It asks how national pageants of shameful repentance and celebrations of a new recognition of subaltern worth remain inflected by the conditional (as long as they are not repugnant; that is, as long as they are not, at heart, not-us). "Writing off multiculturalism" would be much easier than what "The State of Shame" proposes, namely, to foreground what remains in the background of multicultural liberalism, untouched and uninjured.

My motivations for centering this specific essay in legal discourses come from long involvement in land claim politics in the north of Australia and queer studies and institutional politics in the U.S. "The State of Shame" focuses on juridical discourses and practices for specific reasons, then. On the one hand, the nationally publicized and debated High Court decisions, *Mabo and Others* v. *The State of Queensland* (1992) and *The Wik Peoples* v. *The State of Queensland* (1996), present in particularly clear and condensed terms a significant strand of the emergent contours of multicultural citizenship and its intercalation with material distribution. In these two decisions, the Australian High Court ruled that native title still existed where the state had not explicitly extinguished it and where Aboriginal communities still maintained its foundation, the "real acknowledgement of traditional law and real observance of traditional customs"[7]—"provided those laws and customs are not so repugnant to

6. For a "*critical* theory of recognition," see Nancy Fraser, "From Redistribution to Recognition? Dilemmas of Justice in a 'Post-Socialist' Age," *New Left Review,* no. 212 (July–Aug. 1995): 69.

7. *The Wik Peoples* v. *The State of Queensland, ALR* 129 (1996): 231.

natural justice, equity and good conscience that judicial sanctions under the new regime must be withheld."[8] In the end, neither *Mabo* nor *Wik* are about Aboriginal traditions, nor, importantly, do the majority of the High Court pretend that they are. As various members of the court have put it, the *Wik* and *Mabo* decisions are about protecting and advancing Australian common-law principles. And this, in the end, is also what the liberal court asks Aboriginal subjects to do. On the other hand, legal and government institutions remain the primary mechanism through which a politics of recognition develops its disciplinary side as it works the hopes, pride, optimism, and shame of indigenous and other minority subjects, diverting local languages into juridical languages, atrophying imaginations of alternative forms of collective action. I have argued in detail elsewhere that an all-too-clear calculus coordinates the material stakes of an Aboriginal person's or group's claim to be traditional and the determinate content and passionate attachment that they must legally produce to support their claim. When capital resources are only indirectly at stake the content of the so-called ancient order often remains vaguely defined. But when the material stakes increase, particular indigenous persons and groups are called upon to provide precise accounts of local social structures and cultural beliefs which necessarily have a more-or-less relationship to the ideal referent of *traditional customs and laws* and to anything actually occurring in their day-to-day lives. At some to-be-announced boundary, the "less" becomes "too little" and the special rights granted to indigenous persons give way to the equal rights granted all groups in the multicultural nation, an equality that can be translated into the unintended, though ongoing, structural material inequities of indigenous life—third world health and housing conditions, dreadfully high infant mortality rates, and truncated life spans.

I want to end on what Frow and Morris might consider a dreary note. For in the end, I do not think Frow and Morris are so much troubled by the model of state I propose, or even the certainty with which I question a form of liberal multiculturalism. Instead, I think they are also justifiably troubled because of the exceptional possibility Australian multiculturalism held out, and still holds out for them and many others, and because of the extraordinary trouble it finds itself in today. The Labor opposition leader, Kim Beazley, put the hopeful aspects of multiculturalism succinctly in a nationally televised address explaining the Labor Party's support of existing native title legislation, namely, that "our better instincts lead us to co-exist effectively with each other in a way in which a torn world finds inspirational."[9] This inspirational form of nationalism was itself dramatically torn by the recent rise and, one hopes, fall of the

8. *Mabo and Others* v. *The State of Queensland,* p. 44.

9. Claire Miller, "Just Society at Risk, Says Fraser," *Age* (Melbourne), 26 Nov. 1997, http://www.theage.com.au

One Nation party. Over the last few years, Australians have had to listen to reactionaries against Asian immigration and Aboriginal rights couch their claims in terms all but identical to dominant multicultural rhetoric. For instance, the Northern Territory candidate of the One Nation party, Ted Hagger, argued that "only people who have undergone traditional Aboriginal initiation rites should be regarded as Aborigines" for the purpose of social welfare and land rights. All others should be viewed as "yellow fellas . . . rorting the (welfare) system."[10] In the darting shadows cast by these statements, an anxious Australian public asks itself: How does a person, a party, a nation know when they are acting for the good, for justice, but not intolerantly? How do a person and a community distinguish between discriminatory prejudice and moral conviction? Between good forms of (in)tolerance and bad forms of (in)tolerance? Between social justice and social discrimination? Is there some essential liberal good, some form of social justice, that neither time nor cultural perspective can defile? How do High Court members distinguish their belief that social rights are tied to cultural forms from a One Nation member who believes there are "real blacks" and "rorters"? Likewise, how do courts and ordinary non-Aboriginal citizens distinguish between indigenous traditions that deepen and strengthen the liberal nation from those that are repugnant to it? Should they? Who are they?

Far from dismissing the optimisms captured in the form of Australian multiculturalism, far from viewing members of the Australian High Court as in silent alliance with the leaders of unruly parliamentary parties, far from casting personal and public crises of identity, tolerance, and material restitution as mere performative maskings, I think we only approach a true understanding of multiculturalism by inching ever nearer to the good intentions liberal subjects have, hold, and cherish. Many Australians truly desire that indigenous subjects be treated considerately, justly, and with respect publicly, juridically, and personally. They are truly sorry when history once again reveals that liberalism's goodwill has been perverted. They truly desire a form of society in which all people can have exactly what they want . . . if they deserve it. They do not feel good when they feel responsible for critical social conflict, pain, or trauma. This is, after all, a fantasy of liberal capitalist society, too simply put: convulsive competition purged of real conflict, social difference without social consequences. No more or less is asked of the Aboriginal subject, the subaltern subject, the minority subject—to provide a sensorium of cultural competition and difference without subjecting the liberal subject to the consuming winds of social conflict.

10. Wayne Howell, "One Nation Defines Aboriginal Identity," *Northern Territory News,* 27 July 1998, p. 2. If Aboriginal persons act in accordance with "traditional" Aboriginal law, they might find themselves subject to the law. See Bob Watt, "Spear Man 'Thought Cop Shot Uncle,'" *Northern Territory News,* 28 Aug. 1998, p. 7.