Not So Naked After All: A Review Essay of *Disrobing the Aboriginal Industry: The Deception Behind Indigenous Cultural Preservation* by Frances Widdowson & Albert Howard (Montreal & Kingston, McGill-Queens University Press, 2008. Pp. 336)

F.C. DECOSTE* & HADLEY FRIEDLAND†

The reviewers challenge and condemn the major premise and the proposal put forward by Widdowson and Howard in their unhappily widely received *Disrobing the Aboriginal Industry: The Deception Behind Indigenous Cultural Preservation*. The authors challenge the premise that the "root cause" of the past and present circumstances of Aboriginal peoples in Canada is their "neolithic" culture and traditions (the perpetuation of which the authors lay at the feet of what they style as a parasitic and self-serving Aboriginal Industry of lawyers and consultants). The authors condemn the proposal that redemption for Aboriginal peoples resides in government instigated and managed wholesale abandonment of Aboriginal culture and traditions. The reviewers criticize Widdowson's and Howard's scholarship and their proposal, offer in their stead an account that accords with the real history of Aboriginal peoples in Canada and that is informed by a theory of just rectification, and by a survey of the literature on the meaning and significance of tradition.

Les auteurs remettent en question et réfutent les principales prémisse et proposition mises de l'avant par Widdowson etHoward dans leur *publication largement décriée intitulée Disrobing the Aboriginal Industry: The Deception Behind Indigenous Cultural Preservation*. Les auteurs remettent en question la prémisse selon laquelle la « cause première » expliquant les circonstances passées et présentes caractéristiques des peoples autochtones au Canada serait leurs culture et traditions « néolithiques » (soit la perpétuation de ce que les auteurs affirment être une « industrie autochtone » parasitaire et égocentrique d'avocats et de consultants). Les auteurs réfutent la proposition voulant que la rédemption des peoples autochtones passe par la décision du gouvernement à entamer et administrer la renonciation complète de la culture et des traditions autochtones. Les auteurs chargés de cette critique désavouent les travaux de recherche et la proposition de Widdowson et Howard et offrent à la place un compte rendu qui s'accorde avec l'histoire authentique des peoples autochtones au Canada, qui est guidé par une théorie du juste redressement et par une analyse approfondie de la littérature relative à la signification et à l'importance de la tradition.

* Professor of Law, University of Alberta.

† Ph.D. Candidate, Faculty of Law, University of Alberta.

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As recently as 2004, the United Nations Commission on Human Rights slammed Canada's treatment of its First Nations population.[1] The social, economic and cultural conditions that gave rise to that judgment—disproportionally and depressingly high rates of "[p]overty, infant mortality, unemployment, morbidity, suicide, criminal detention, children on welfare, women victims of abuse, [and] child prostitution"[2] among Aboriginal peoples in Canada—continue, however, to elude the national imagination, and international disgrace has occasioned neither national shame nor national resolve. There may, of course, be many reasons for this obdurate moral delinquency, but ignorance, especially among the population at large, will surely figure prominently among them. Knowledge, and then responsibility and action, can come only in our answering, correctly, three questions. The first question addresses the past (whence do the present circumstances of First Nations people and communities "arise" or "come" or "derive"?), the second, the present (what is wrong with present policies and strategies?), and the third, the future (what must now be done, as a matter of national honour and duty, to rectify the situation?).

In *Disrobing the Aboriginal Industry: The Deception Behind Indigenous Cultural Preservation*,[3] Frances Widdowson and Albert Howard—she, a faculty member of the

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1. UNCHR, *Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People*, E/CN.4/2005/88/Add.3, (2004), online: UN <http://daccessdds.un.org/doc/UNDOC/GEN/G05/100/26/PDF/G0510026.pdf?OpenElement>.
2. *Ibid.* at 2.
3. Frances Widdowson & Albert Howard, *Disrobing the Aboriginal Industry: The Deception behind Indigenous Cultural Preservation* (Montreal: McGill-Queen's University Press, 2008) [*Disrobing*].

Department of Policy Studies, Mount Royal College, Calgary, and he, a former instructor at Kennedy College of Technology, Toronto, and now residing in Calgary—offer answers to all of these questions. Though they proceed from what is no doubt a sincere acknowledgement of "the terrible social conditions in aboriginal communities,"[4] their answers are, unhappily, wrong, and in the final analysis, pointless. We shall dwell briefly on each of their answers before proceeding to a detailed analysis of their major argument regarding "root causes"[5] and then to the matter of the future and the requirements of rectification. By way of situating our criticism, we should indicate straightaway that though this book appears under the imprint of a university press, it is not, in our view, a work of scholarship.[6] It sounds rather in the political and takes shape as a polemic that occasionally flirts with diatribe and screed. Recognizing this is important not because polemic is undeserving of a university press (indeed, McGill-Queen's University Press is to be lauded for publishing trade titles, like this one, that seek to join and influence the public debate) or because of the topic at hand (where pieties of identity and difference so often hold sway). Rather, it is important because the authors adopt a scholarly pose throughout in order, it appears to us, to immunize themselves from anticipated criticism.[7] Such a move *is* undeserving polemic which, by its very nature, should stand unabashedly ready to take as well as to give.

I. Their Answers

According to Widdowson and Howard, First Nations are "an oppressed people."[8] It turns out, however, that in their view, First Nations people are themselves the final cause of their own oppression. This *must* be so because they identify Aboriginal culture and tradition as the originating cause of the post-contact circumstances, both past and present, of First Nations people and communities. Though they state the matter variously and endlessly throughout the piece, the nuts and bolts reside in the following four claims: first, that "at the time of contact aboriginal peoples in what is now Canada were in an earlier stage of cultural development in comparison to Europeans who were making the transition from feudalism to capitalism;"[9] second,

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4. *Ibid.* at 8.
5. *Ibid.* at 15.
6. We shall support this view when we examine in detail their "root cause" argument.
7. From the very beginning of the piece, Widdowson and Howard anticipate that they might be charged with racism, *Disrobing*, *supra* note 3 at 10–11. Their response is, to put a twist on a lawyer's phrase, rejection and avoidance. That is, rather than confess that their intention is polemical and so manage the criticism they fear, they seek to avoid the charge entirely by draping themselves in scholarly truth. This strategy has the unhappy consequence of fundamentally compromising their endeavour, both as polemic (poor it is) and as scholarship (failed it is).
8. *Ibid.* at 29.
9. *Ibid.* at 11.

that this earlier cultural stage is properly identified as either "paleolithic or neolithic;"[10] third, that this original "gap in cultural evolution . . . led to the marginalization of aboriginal peoples;"[11] and fourth, that "the persistence of obsolete cultural features has maintained the developmental gap, preventing the integration of many aboriginal peoples into the Canadian social dynamic."[12] The last claim permits Widdowson and Howard to itemize the features of cultural obsolescence and then inquire why the obsolescence persists. This inquiry frames their answer to our second question concerning present policy, which we will come to in a moment. First, however, it is important to cite chapter and verse, their take on the obsolete survivals of Aboriginal culture, bred initially of the cultural gap and subsequently by continuing marginalization. They put the matter thus:

> Isolation from economic processes has meant that a number of neolithic cultural features, including undisciplined work habits, tribal forms of political identification, animistic beliefs, and difficulties in developing abstract reasoning, persist despite hundreds of years of contact.[13]

Important too, since the whole of their book depends upon this root cause argument, is the precision as to its structure. Widdowson and Howard are in fact making two claims, one concerning the *content* of Aboriginal cultures and traditions and the other concerning their status as the *cause* of the social and economic conditions that beset First Nations communities and individuals. Both claims will draw our criticism shortly, and harsh it will be.

Widdowson and Howard condemn present policies—which they properly identify as land claims and self-government—on grounds both of efficacy and of origin. So far as efficacy is concerned, their logic is simple. Neither land claims nor self-government will do because each fails first to acknowledge and then to address the "evolutionary gap between aboriginal culture and the modern world."[14] From this descends their view of reserves, however much they may be augmented by land claims settlements, as incubators of continuing cultural obsolescence. As put by them:

> Dependency and social dysfunction are the norm in aboriginal communities because these areas were developed to warehouse people who lacked the requirements to engage in the developing economy. . . . The reserves exist because aboriginal people who retain neolithic cultural characteristics are *unable* to participate in the wider society.[15]

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10. *Ibid.*
11. *Ibid.* at 12.
12. *Ibid.* at 13.
13. *Ibid.* See also *ibid.* at 255, where another of Widdowson and Howard's takes on First Nations culture offers the following list: "the retention of pre-literate languages, traditional quackery, animistic superstitions, tribalism, and unviable subsistence."
14. *Ibid.* at 46.
15. *Ibid.* at 105 [emphasis in original].

Their view of self-government restates this genealogy and diagnosis. "Proposals for self-government," they declare, "do not attempt to bridge the developmental gap; instead, they devolve responsibility to aboriginal organizations to hide it."[16] Not only that, the result here too is "to keep aboriginals isolated from Canadian society, entrenching the tribal character of aboriginal culture, preventing the native population from acquiring the attitudes, skills, and values needed to work . . . in a national political system."[17] Based as it must be on "religious mythology and romanticism,"[18] and with that, suffused with "racist tendencies,"[19] self-government, they conclude, "is not consistent with the objective interests of native people."[20] The wealth of the remainder of the book—Chapters 5 through 9, which account for half of the book's ten chapters—is devoted to assailing the performance of self-government on several policy sites,[21] and it is here that the text too often bleeds into diatribe and screed.[22] But no matter: since their efficacy argument stands or falls in both respects on their claim regarding "root causes," we will restrict our riposte to our argument against that foundation.

Their argument regarding the origins of present policies resides solely on accusation. According to Widdowson and Howard, there exists a "clandestine"[23] influence[24] that they dub the "Aboriginal Industry," which is responsible for the articulation, defence, continuation and growth of present policies. Early into the book, they put the matter thus:

> [L]and claims and demands for self-government did not originate within the aboriginal population and are not being formulated and implemented by aboriginal peoples themselves. Rather, they are the result of a long historical process in which an ever-expanding, parasitical Aboriginal Industry . . . have used the plight of aboriginal peoples to justify a self-serving agenda. . . . [The Aboriginal Industry] would continue to keep natives isolated and dependent, thus perpetuating existing social pathologies and, not incidentally, justifying demands for more funding and programs for the Aboriginal Industry.[25]

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16. *Ibid.*
17. *Ibid.* at 128.
18. *Ibid.* at 113.
19. *Ibid.* at 108.
20. *Ibid.* at 118.
21. Namely: justice ("Chapter 5: Justice: Rewarding Friends and Punishing Enemies"); child welfare ("Chapter 6: Child Welfare: Strengthening the Abusive Circle"); health care ("Chapter 7: Health Care: A Superstitious Alternative"); education ("Chapter 8: Education: Honouring the Ignorance of Our Ancestors"); and the environment ("Chapter 9: Environmental Management: The Spiritual Sell-Out of 'Mother Earth'").
22. The above-noted Chapter titles are just the beginning of the haemorrhage.
23. *Disrobing*, *supra* note 3 at 13.
24. An "influence" because according to the authors, the industry does not constitute a "conspiracy," *ibid.* at 21.
25. *Ibid.* at 9.

Yet nowhere does this bald assertion find comfort in demonstration. Indeed, even the membership of this dastardly industry remains illusive.[26] First identified are "consultants, lawyers, and anthropologists,"[27] but that definition of the industry very quickly transmutes into "an amalgamation of lawyers, consultants, anthropologists, linguists, accountants, and other occupations that thrive on aboriginal dependency"[28] before then deflating into the original three with the added qualifier that these are "the lawyers, consultants, and anthropologists working for aboriginal organizations."[29] That "[m]any members of the 'Aboriginal Industry' are not even aware that they are part of it"[30] might explain, but surely does not cure, the mystery of a matter so central to Widdowson and Howard's project. And at the end of the day, clear alone as regards Industry membership are the exclusion of First Nation leaders (who Widdowson and Howard defame as "quislings" and as "a comprador element created by" the "Aboriginal Industry")[31] and the absolution of "bureaucrats and academics"[32] (who in the authors' view "are *not* an element of the Aboriginal Industry" because "they do not have a vested interest in maintaining aboriginal dependency").[33]

Nor is imprecision the only problem. The authors are intent on "disrobing"—by which they must mean, surely, divesting or depriving of status and authority—their self-styled "Aboriginal Industry," and it is their hope, as they at one point state, that their "realistic assessment of the current situation" will provide "all Canadians including aboriginal peoples" with the opportunity to "make informed decisions about the future direction of aboriginal policy."[34] In fact, however, their project proceeds at the expense and on the backs of Aboriginal people. What in the final analysis *is* being disrobed is not the Aboriginal Industry, but Aboriginal people themselves: their past, their cultures, their lives *and* their worth. Indeed, so much is this the case,

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26. And dastardly the industry is indeed, since, according to Widdowson and Howard, among the strategies it uses to protect and pursue its self-interest stand the following: the construction of a racism "taboo" to immunize itself from criticism, *ibid.* at 9–10; "pushing atavism—reverting to the past for solutions to present problems," *ibid.* at 20 and with it, "the romanticization of native culture," *ibid.* at 47; adoption of an "altruistic posture. . . . while pursu[ing] initiatives that ensure the continual need for [its] involvement in aboriginal policy," *ibid.* at 21; the mystification of "native deprivation and marginalization," *ibid.* at 254; and the manipulation of First Nations leaders into "compradors [who] front for the Aboriginal Industry," *ibid.* at 29. Yet, even here, there is ambiguity since the authors also contend—remarkably in our view—that "the actions of the Aboriginal Industry are not necessarily a case of vulgar opportunism," *ibid.* at 21.
27. *Ibid.* at 9.
28. *Ibid.* at 20.
29. *Ibid.* at 21.
30. *Ibid.*
31. *Ibid.* at 10.
32. *Ibid.*
33. *Ibid.* [emphasis in original].
34. *Ibid.* at 255.

that a fair-minded reader, we think, might well take the text as disclosing a rather visceral contempt for First Nations peoples in Canada.[35] We shall set this matter, too, over to our consideration of their root cause argument.

When critical push comes to policy shove, Widdowson and Howard offer little beyond, in our estimation, insult. For it turns out that, in their view, rectification requires massive, state-sponsored therapy on Aboriginal people. What is needed, they say, is "a government strategy for aboriginal cultural development"[36] that shifts policy (and "funding")[37] "from accommodating traditional, tribal culture to assistance in bridging the gap based on a scientific approach to the future."[38] This, they tell us, will require "intensive government programs and services . . . to develop aboriginal cultures."[39] While they tack on "access to the health care, education,[40] and housing,"[41] it is this program of "intensive social services"[42] alone, they claim, that will permit Aboriginal peoples in Canada to "acquire the skills and attitudes to participate in actual economic processes. . . ."[43] All of this will command "widespread social change"[44] that eventually will provide First Nations people with "the confidence and skills to integrate with the wider population at their own pace."[45]

According to Widdowson and Howard, then, justice for Aboriginal people requires them to be that which is acted upon by the state. Until they are finally and gradually redeemed from their harm-causing Neolithic culture and until their communities at last "wither away,"[46] they will stand and serve as an inert mass, the raw

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35. That this is so may well explain Widdowson's post-publication protests to the contrary. See e.g. "Author defends portrayal of aboriginals" *Edmonton Journal* (31 January 2009), A7, where she says, "[I]t's an attack on non-aboriginal people who are running the industry, the lawyers and consultants who work for chiefs and councils." See also her 15 March 2009 post in response to Peter Kulchyski, "The Emperor's Old Clothes," Book Review of *Disrobing the Aboriginal Industry: The Deception behind Indigenous Cultural Preservation* by Frances Widdowson & Albert Howard, online: Canadian Dimension <http://canadiandimension.com/articles/1710>, where she claims that the book's target is the "self-serving group of non-aboriginal lawyers and consultants who benefit from maintaining aboriginal dependency and social dysfunction" and that "[t]he Aboriginal Industry . . . is intent on denying our commonalities so as to keep aboriginal people separate, dependent and, as a consequence, forever in need of its 'help'."
36. *Disrobing*, *supra* note 3 at 47.
37. *Ibid.* at 256.
38. *Ibid.* at 258.
39. *Ibid.* at 253.
40. According to Widdowson and Howard, education has pride of place: "Lack of education is at the heart of aboriginal peoples' cultural underdevelopment and their inability to participate in the Canadian workforce. Improvements in education, therefore, are directly linked to solving other problems that are symptoms of a marginalized existence—poverty, poor health, violence against women, suicides, child abuse, and so on—caused by the gap in cultural development," *ibid.* at 213.
41. *Ibid.* at 172.
42. *Ibid.* at 105.
43. *Ibid.*
44. *Ibid.* at 172.
45. *Ibid.*
46. *Ibid.* at 105 (here borrowing from Friedrich Engels' not-so-accurate prognostication about the future that laid in wait for the state and law).

material, the human fodder, for government strategies that aim (yet again) to make them over and anew. The insult resides in just this so existential denial of agency and autonomy to First Nations peoples in Canada. The rudeness is not redeemed by Widdowson and Howard's *faux* courage to "gladly bear"[47] the charge of arrogance nor by the silly invocation of "a global tribe"[48] with which they end their book.

II. Root Cause

Everything in *Disrobing* depends upon the authors' contention that Aboriginal cultures and traditions, as dismally portrayed by them, are the cause of the social and economic circumstances of First Nations communities. Their root cause argument, as mentioned previously, has two aspects: it alleges both that Aboriginal cultures and traditions have a certain *content* and that Aboriginal cultures and traditions so understood are the *cause* of the social and economic circumstances. We think both assertions are fatally flawed, the first, because it depends upon a poorly researched and thoroughly inadequate understanding of tradition (Aboriginal traditions not only included) and the second, because it arises from what can only be termed wilful blindness. We will start with the latter.

A. Cause

Understanding the nuance and inadequacy of Widdowson and Howard's causation argument is best approached in light of their just mentioned rectification proposal, namely, government instigated and sponsored abandonment of Aboriginal traditions, cultures and communities. Now whilst with this they do indeed offer a proposal, they fail to ground that proposal in a theory of rectification.[49] Such a theory would be part of a full theory of justice in holdings and would have as its burden defending the transfer of resources from one group or individual to another through specification of the conditions that makes rectification transfers of that sort morally and politically mandatory. Because it is part of a theory of justice, a theory of rectification will seek to identify conditions that signal injustice in the past that warrant rectification transfers in the present. Rectification, that is, like distributional justice more generally, is *historical* in nature.[50]

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47. *Ibid.* at 255.
48. *Ibid.* at 259–64.
49. Here we are deliberately ignoring Widdowson and Howard's occasional references to Marxism, *ibid.* at 12–14, 57, 164, both because the references are lazy and inconsequential and because, in any event, Marxism itself offers no theory of justice.
50. Though he did not develop a full account of rectification of injustice in holdings, Robert Nozick's exploration of the matter in his Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, Inc., 1974) remains especially illuminating.

However, in articulating and defending their rectification proposal, Widdowson and Howard largely ignore the real history of Aboriginal peoples and choose instead to base their proposal on anthropological theories about the stages of cultural history and development *tout court*.[51] Even if the theories the authors favour hold anthropologically,[52] they are not, nor do they purport to be, theories of justice. Indeed, nothing concerning justice follows from them because they have nothing whatsoever to do or to say about justice and injustice. This produces a rather remarkable result: Widdowson and Howard are recommending transfers without the rhyme or reason of justice that alone can save the transfers from being rightly declared themselves unjust. Which is to say, they fail to tell us why anything at all, their proposal and present policies included, *ought* to be done about the social and economic circumstances of First Nations peoples in Canada.

The real history of Aboriginal peoples, however, *does* render just and mandatory the transfer of resources because that real history discloses past injustices that properly and soundly engage rectification. Put otherwise, the root cause of the social and economic circumstances of Aboriginal peoples in Canada is to be found not in anthropological speculation, but in the responsible review of a lived history that reveals wide-ranging and debilitating injustice. The inventory of injustice is, in our view, available to anyone moved morally to look responsibly at past relations between Indigenous peoples and settler Europeans in Canada: colonialism, racism, residential schools, the *Indian Act*, disenfranchisement, Indian agents, violation of rights to property and contract, and so on and on.

That Widdowson and Howard largely ignored and, on occasion, deliberately dismissed[53] this history, is perplexing, and we will not speculate on causation. However, we shall claim that what is on display here is not mere limited perception but instead a wilful blindness of a particularly egregious sort and that, whatever its origin, it serves well neither the credit of these authors nor the Canadian public for whose edification they presumably made the effort to write.

B. Content

It is appropriate to address Widdowson and Howard's claims about the content of Aboriginal cultures and traditions after their root cause argument because their claims about these contents rely on their aforementioned wilful blindness to real his-

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51. *Disrobing*, *supra* note 3 at 52–65.
52. And because we are not anthropologists, we cannot pass judgment on the matter.
53. For Widdowson and Howard's dismissal of colonialism and residential schools as causes, see *Disrobing*, *supra* note 3 at 46, 88, 113, 131, 159, 176 (colonialism) and 24 (residential schools).

tory. It also depends on gross over-generalizations about Aboriginal peoples and a deep misunderstanding about the nature of cultures and traditions more generally.

Time and again throughout the book, Widdowson and Howard argue that tragic or intractable problems in the contemporary situation are actually evidence of the negative content of Aboriginal traditions themselves. Thus, endemic corruption on some reserves is explained as the natural result of "traditional" rather than "legal-rational" authority structures[54] and unethical practices by some Aboriginal leaders are attributed to a supposedly common "tribal . . . outlook"[55] that makes them think nepotism is okay. Similarly, they suggest it is Aboriginal cultural values, beliefs and practices that have "excused and entrenched"[56] the appalling rates of contemporary violence and other criminal behaviour.[57] As traditional ways are the cause of contemporary justice problems (the authors use the word "poison"[58]), these ways cannot help solve them.

In the equally complicated area of child welfare, the authors use the contemporary issues of Fetal Alcohol Spectrum Disorder,[59] actual abuse and neglect necessitating removal of children from their homes[60] and inexcusable tragedies in Aboriginal-run child welfare agencies[61] to dismiss both claims of cultural loss from past government interventions[62] and the need for community control over children's services.[63] They argue that traditional child-rearing practices[64] are either contributing to current dysfunction[65] or useless in contemporary circumstances[66] and that the solution to child welfare issues is to place children above "tribal loyalties."[67] Likewise,

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54. *Ibid.* at 115–116 [emphasis in original].
55. *Ibid.* at 117. Later, in almost direct contradiction to this frozen cultural trait argument (about which more shortly), Widdowson and Howard dismiss "natural socialism" arguments by claiming "[a]s soon as aboriginal peoples acquired Iron Age technology and participated in a market economy, economic differentiation and 'hierarchies' began to form," *ibid.* at 120.
56. *Ibid.* at 158.
57. *Ibid.* at 146–49 (arguing reparation condones theft and embezzlement).
58. *Ibid.* at 158.
59. *Ibid.* at 162–64.
60. *Ibid.* at 165–66.
61. *Ibid.* at 168–71.
62. *Ibid.* at 161–62.
63. *Ibid.* at 166–71.
64. Widdowson and Howard sum up child-rearing traditions as "a lack of corporal punishment, teaching by example, imparting spiritual mythology through storytelling or ceremony, and instituting various taboos against incest," *ibid.* at 167, but substantively discuss only one child-rearing practice—Rupert Ross's "ethic of non-interference," *ibid.* at 168.
65. Because many Aboriginal families and communities are "in such a dysfunctional state that they are incapable of making responsible decisions about the welfare of their children. . . . the very things prized in 'culturally sensitive' programs—non-interference—will actually maintain the abuse and neglect that is occurring," *ibid.* at 172.
66. *Ibid.* at 167–168
67. *Ibid.* at 172.

low rates of educational achievement among Aboriginal people today[68] are attributed to an "unfamiliarity with the disciplines required for education,"[69] the retention of traditional practices, such as an unstructured lifestyle,[70] the maladaptiveness of strong kinship ties in modern society,[71] and—yes—the "lack of modern concepts"[72] and "abstract terms" in aboriginal languages (and hence cultures)[73] that are required for education adequate for participation in a complex modern society.[74]

Widdowson and Howard's review of history is selective. They consistently refuse to consider the devastating impact of interaction between Aboriginal societies and colonialism, systemic racism, past child welfare practices or residential and other school experiences in their analysis of contemporary governance, justice, child welfare, and education issues. However, they *are* willing to consider bits of history when they think them useful to their general thesis concerning the contemporary worthlessness and negative content of Aboriginal cultures. While they properly identify the pervasive influence of a racialized "primitivist discourse"[75] according to which Aboriginal peoples are either "naturally noble or naturally inferior,"[76] they only bother to cite arguments that refute the naturally noble aspect. At several points throughout the book they offer detailed discussions about European accounts of certain historical incidents that attribute positive characteristics to Aboriginal peoples in order to claim that the accounts are likely questionable, false or exaggerated[77] and so offer no support to claims that traditional knowledge has contemporary worth.[78]

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68. *Ibid.* at 192.
69. *Ibid.* at 196.
70. *Ibid.* at 197 (lack of time-management skills).
71. *Ibid.* at 198 (described as a developmental difference in socialization).
72. *Ibid.* at 209. Widdowson and Howard offer, as evidence of a lack of complexity and modern concepts in Aboriginal languages, a decidedly unscientific translation experiment of their own, as well as poor translation in a court of law.
73. *Ibid.* at 210.
74. *Ibid.* at 211.
75. James Waldram has recently demonstrated the continued pervasiveness of a "primitivist discourse" in mental health literature about Aboriginal people, arguing that the current conflicting and contradictory portraits of Aboriginal peoples as "arcadians" or "barbarians" in the literature do not mesh, and cannot be accurate, "yet their co-existence is easily predictable from the perspective of primitivist discourse." See James B. Waldram, *Revenge of the Windigo: The Construction of the Mind and Mental Health of North American Aboriginal Peoples* (Toronto: University of Toronto Press, 2004) at 300, 305.
76. *Disrobing*, *supra* note 3 at 49.
77. See e.g. *ibid.* at 49–51 (some historians suspect a French aristocrat invented his conversations with a Huron chief named Adario); *ibid.* at 61 (they challenge the idea that wheeled toys and the zero existed in the Americas before contact); *ibid.* at 121–126 (arguing some people doubt the American Constitution was really influenced by principles from the Iroquois Confederacy); *ibid.* at 173–75 (casting doubt on a 1935 autobiographical story by Angus Graham about a knee operation by two Dene women); *ibid.* at 183–86 (venting their suspicions about ethno-botany and claims Aboriginal peoples had "thousands" of pharmaceuticals); *ibid.* at 221–23 (arguing Chief Seattle's famous words about environmental care were written by a non-Aboriginal person, Dr. Henry Smith, who claimed to have taken notes).
78. See e.g. *ibid.* at 126 (where they argue the Iroquois Confederacy was, in fact, "matrilineal and custom based. It had neither the complexity nor the democratic values that are required in a modern society"); *ibid.* at 189 (where they argue there is no practical value in studying traditional medicines today because they were not systemically tested like modern pharmaceuticals). It is revealing that this last argument is made on the heels of their arguing that scientifically testing Aboriginal medicines would likely be a waste of resources, *ibid.* at 187.

Although Widdowson and Howard claim it is essential to "get beyond . . . distortions and develop a more accurate understanding of the history of aboriginal peoples and the roots of their current problems,"[79] there is no evidence they spent any time investigating and challenging historical examples supposedly supportive of the "naturally inferior" side of the primitivist myth. Instead, they simply cite Samuel Hearne's well known report of a historical Chipewyan group's massacre of a sleeping Inuit family, as well as reports of violence and brutality between non-kinship groups in Australia and in the Amazon rainforest[80] and uncritically accept Napoleon Chagnon's assertion that such circumstances "reflect the violent relations that existed between all kinship groups before institutions binding upon the entire population could manage tribally based violence."[81] There is no indication they investigated whether or not Hearne or Chagnon might have been "travel-liar[s]"[82] or were trying to publish and to impress their peers.[83] Instead, they take the matter even further and argue that primitive societies had higher rates of violence, more frequent wars, and higher casualty rates in those wars than in most wars between modern states.[84]

All of which is to say, Widdowson and Howard's descriptions of the content of Aboriginal cultures rely on an extremely selective review of contemporary and historical events, all interpreted to cast Aboriginal cultures in the worst possible light. The only way to refute their arguments on their terms would be to prove the following about Aboriginal Cultures:

1. They have no difficult or complicated contemporary problems.
2. They were never borrowed from or appropriated by other people.
3. They were completely utopian or non-violent prior to colonialization.

These three criteria for evaluating contemporary cultural worth, of course, raise the bar so high that no culture on earth could actually succeed in passing muster. Of course, and this point is crucial, Widdowson and Howard are not subjecting *every* culture to this treatment, only Aboriginal ones. They have manipulated the terms of the debate so that Aboriginal people must either prove a pristine perfection, both in the past and the present, or else concede that the content of their cultures and traditions is worthless or inferior. Rather than moving past the tired old primitivist discourse, they simply replace the vision of a utopian past with the shop-worn accusation of a "savage" past. This manoeuvre, too, is dependent on their wilful blindness to the long

79. *Ibid.* at 51.
80. *Ibid.* at 263.
81. *Ibid.* at 262–63.
82. *Ibid.* at 50 (referring to Baron de Lahontan).
83. *Ibid.* at 175 (referring to Angus Graham and George Mitchell).
84. *Ibid.* at 264. The last claim, of course, boggles the mind, given the number of casualties in the wars of the twentieth century.

history of colonial interaction and oppression and other such inconvenient pieces of reality that do not suit their theory.[85]

It almost goes without saying, but it nonetheless must be said, that all of the above also relies on gross over-generalizations about "Aboriginal culture." Across Canada, there is tremendous diversity among Aboriginal societies, culturally, spiritually, socially and politically, as well as between different communities and bands. For example, there are over fifty Aboriginal languages, from twelve distinct language groups, spoken across the vast geographical regions of Canada.[86] This diversity in language alone makes Widdowson and Howard's conclusions about the lack of abstract or complex concepts in Aboriginal languages and thought (based on their own decidedly unscientific experiment of translating an English document to and from French, Inuit and Dogrib languages) all the more ludicrous.[87] A poor translation of an English phrase into Dogrib does not tell us much about Dogrib language or culture, let alone anything at all about the Cree, Coast Salish or Mi'Kmaq ones. It is simply illogical to draw broad conclusions about all Aboriginal cultures from anecdotal evidence about particular individuals, events or communities. It also makes it difficult or futile—deliberately and conveniently we think—to respond intelligently to their many and various accusations, as the sheer scope of history and literature that would have to be marshalled would produce a riposte many times the length of the book itself. No matter though. In the end, Widdowson and Howard's conclusions about Aboriginal cultures and traditions rely on a misinformed understanding of the nature and relevance of culture and tradition more generally.

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85. For example, although the authors give the Pacific Northwest Aboriginal groups as an example of hunter and gatherer cultures, which, due to environmental abundance, were able to have "denser and more complex forms of social organization," *ibid.* at 57, they never address the obvious challenge this poses to their single cause theory: if the cause of Aboriginal peoples' current social suffering is indeed a cultural developmental gap, then why is there comparable social suffering in Northwest Aboriginal groups? A recent scholarly work by historian John Sutton Lutz compares the experiences of two very different Aboriginal groups in B.C. (the Lekwungen on Vancouver Island and the Tsilhqot'in in the B.C. interior) with very different cultural values and practices. Despite vast cultural and geographical differences, as well as different strategies and levels of participation in the settler economy, both groups face similar social issues today. Lutz concludes that the commonalities lie not in a 'cultural clash' but in the more banal history of racist government and labour policies and practices both groups were subject to: "the high unemployment and social problems widespread in today's aboriginal communities are relatively recent phenomena—the legacy of a history of ordinary events and everyday racism" These two examples, Lutz cautions, "remind us of the complexity and variability of . . . innumerable interactions and the danger of broad-brush theoretical approaches to them." See John Sutton Lutz, *Makuk: A New History of Aboriginal-White Relations* (Vancouver: UBC Press, 2008) at 276, 281.

86. John Borrows, *Recovering Canada: The Resurgence of Indigenous Law* (Toronto: University of Toronto Press, 2002) at 3–4.

87. *Disrobing*, *supra* note 3 at 205–212.

III. The Nature of Culture and Tradition

Widdowson and Howard maintain that the "primitive" content of Aboriginal cultures is the cause of current social ills *and* that there is a "gap in development between aboriginal culture and the modern world."[88] According to their understanding, the former is a consequence of an "artificial retention of an idealized past"[89] and the cure to it is "cultural development."[90] Presumably, this cultural development will rid Aboriginal peoples of the list of cultural traits the authors identify as the root of the problem.[91] But there's the rub: the idea that *any* culture or tradition can be reduced to a list of essentialized traits that remain static through time, for *any* reason, reveals much more about Widdowson and Howard's lack of understanding of what culture and tradition actually *are* than it does about Aboriginal peoples and their cultures. Indeed, in our view, so wrong-headed is this understanding, when all is said and done, it only reveals the authors' ignorance.

First, cultures are too complex to be essentialized into a static set of "cultural values" or "traits."[92] This is partly because the human beings that make up societies[93] are capable of abstract thought and will inevitably have heterogeneous normative commitments, views and interpretations. Aboriginal societies are no exception to this. James Tully points out that in Richard White's study about an *ad hoc* common system of inter-cultural negotiations between Aboriginal Nations and Euro-Americans, which spanned almost two centuries, White was "unable to find one case where the negotiations were between two internally homogenous cultures."[94] The combination of human diversity and reasoning ability means traditions are always "a patchwork of multiple themes and commitments, often united only by agreement about what the terms of debate over these themes and commitments will be."[95] Alasdair MacIntyre captures this reality beautifully: "Traditions, when vital,

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88. *Ibid.* at 14.
89. *Ibid.* at 255.
90. *Ibid.* at 256–59.
91. *Ibid.* at 118–20.
92. Jeremy Webber, *Reimagining Canada: Language, Culture, Community, and the Canadian Constitution* (Montreal: McGill-Queen's University Press, 1994) at 223, 187.
93. Charles Taylor, *Philosophical Arguments* (London: Harvard University Press, 1995) at 130 makes the point that when studying how society works, after examining rules, laws and customs, "you have to realize that all there actually is here is a bunch of human organisms interacting. Take them away and you have nothing left."
94. Richard White, *The middle Ground: Indians, empires and republics in the Great Lakes region 1650–1815* (Cambridge: Cambridge University Press, 1991) cited in James Tully, *Strange multiplicity: Constitutionalism in an age of diversity* (Cambridge: Cambridge University Press, 1995) at 131.
95. Katharine T. Bartlett, "Tradition, Change, and the Idea of Progress in Feminist Legal Thought" [1995] 2 *Wis. L. Rev.* 303 at 330.

embody continuities of conflict."[96] Indeed, he defines tradition as a "historically extended, socially embodied argument, and an argument precisely in part about the goods which constitute that tradition."[97]

Second, and deeply connected to the first point, no tradition can be simply "lifted from a specific time . . . and then frozen."[98] Rather, the history of any tradition is "one of 'continuous change'."[99] Again, this is because the reasoning human beings who make up any culture will have divergent opinions and interpretations of various elements within the broader cultural conversation.[100] It is also because, as these reasoning human beings "receive the tradition interpret it, integrate it into their own experiences, and make it their own,"[101] the tradition changes. Which is to say, the "work and imagination"[102] it takes to understand a tradition changes the tradition. Finally, it is because no matter how "isolated and dependent"[103] particular communities become, all traditions are embedded in an external world and environment that is constantly changing[104] and "cultural borrowing"[105] is a universal historical phenomenon.

The reality is that, for all these reasons, tradition is not distinct from reason or change, but in fact embodies them.[106] This inherent nature of culture and tradition—constantly changing conversations or debates over time—means that they cannot possibly be reduced to a list of maladaptive traits, nor preserved in a jar.[107] To argue otherwise is to deny the agency, diversity and intellectual capacity of the people within all cultures.

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96. Alisdair MacIntyre, *After Virtue: A Study in Moral Theory*, 3d ed. (Indiana: University of Notre Dame Press, 2007) at 222.
97. *Ibid.*
98. Bartlett, *supra* note 95 at 316.
99. Michael Oakeshott, "The Tower of Babel" in *Rationalism in Politics and Other Essays* (Indianapolis: Liberty Fund, 1991) cited in Dean C. Hammer, "Meaning and Tradition" (1992) 24:4 *Polity* 551 at 553.
100. See Frederick L. Will, "Reason and Tradition" (1983) 17:4 Journal of Aesthetic Education 91 at 103; Bartlett, *supra* note 95.
101. Bartlett, *ibid.*
102. *Ibid.*
103. *Disrobing*, *supra* note 3 at 9.
104. Edward Shils, "Tradition" (1971) 13:2 Comparative Studies in Society and History 122 at 142, 151 (arguing that the sources of external change include changes in the environment, demographic changes, military intrusion, emigration, including return of emigrants, trade and technological advances).
105. Kwame Gyekye, "Philosophy, Culture, and Technology in the Postcolonial" in Emmanuel Chukwudi Eze, ed., *Postcolonial African Philosophy: A Critical Reader* (Cambridge, Massachusetts: Blackwell Publishers Inc., 1997) at 25.
106. MacIntyre, *supra* note 96 at 221.
107. *Disrobing*, *supra* note 3 at 49.

IV. The Relevance of Tradition in the Real World

Widdowson and Howard see traditional knowledge as the seat and source of all other Aboriginal claims for cultural preservation.[108] They also ridicule it.[109] Ridiculing traditional ways of knowing is, of course, a poor way to initiate a reasoned discussion, as the authors claim they wish to do.[110] This is so for reasons both self-evident and nuanced. First, no one takes kindly to other people disparaging members of their family. For instance, calling someone's mother insulting names is arguably the archetype of cross-cultural insult. It is not a huge leap from this to suggest no one is likely to embrace willingly, that is without coercion, an outsider's assessment of their parents, their grandparents, and their ancestors' received knowledge and ways of being in the world as having no value. It has been argued cogently that much of the current dysfunction in Aboriginal communities can be linked to the decades of having everything about their lives degraded and dismissed as worthless or useless.[111] Calling people's traditions stupid is not a good conversation starter.[112]

Second, for better or worse, traditions create meaning.[113] Traditions give people a language and "narratives" for understanding their world and for making their experiences comprehensible and communicable to others.[114] In short, our reasoning

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108. *Ibid.* at 231.

109. Liberally throughout the book, but see especially *ibid.* at 231–233 (in the comparison between traditional knowledge research and a parody on postmodern art criticism); *ibid.* at 181, 188 (their dismissal of traditional medicine people as peddling "quackery"); *ibid.* at 214 ("magic tricks to extort gifts" and dismissal of culturally sensitive educational policies as "condescension" and keeping Aboriginal people blissfully ignorant).

110. *Ibid.* at 247.

111. See Royal Commission on Aboriginal People, *Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada* (Canada: Minister of Supply and Services Canada, 1996) at 57; Rupert Ross, *Returning to the Teachings: Exploring Aboriginal Justice* (Toronto: Penguin Group, 1996) at 48. Notably, Widdowson and Howard quote, without profit, Noel Dyck's statement that Aboriginal people "constantly have to listen to the message 'that they are unacceptable as they are'" and that people who "emerge from the sidelines of history . . . who have been demeaned, humiliated and stigmatized inevitably construct arguments and reinterpret the past in ways that enhance their dignity," *ibid.* at 253.

112. Widdowson and Howard appear entirely immune to this simple moral truth: people who refuse to engage with them on their terms they accuse of stonewalling, *ibid.* at 254, and obfuscating, *ibid.* at 7, or worse, of accusing them of racism or insensitivity *ibid.* at 7–11, or mean-spiritedness, *ibid.* at 215. It apparently never occurred to either author that, in all of this, their wished correspondents might be requesting reciprocity bred of respect. Nor, more generally, do they appear ever to have entertained the prudence of their analysis and prescription. If it is true that "the disappearance of a single culture is the loss of an entire human experience, which at some point could be vitally important to the whole of humanity" (Philippe Nemo, *What is the West?* trans. by Kenneth Casler (Pittsburgh: Duquesne University Press, 2004) at 116), then their shoddy analysis and cavalier proposals offend not just moral truth but clear-sighted prudence as well.

113. Bartlett, *supra* note 95 at 331; Shils, *supra* note 104 at 130.

114. Stefan Krieger, "The Place of Storytelling in Legal Reasoning: Abraham Joshua Heschel's Torah Min Hashamayim" at 4, online: Social Science Research Network <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1010930>.

processes themselves are developed within and are dependent upon the language and narratives traditions provide. They are, to paraphrase Michael Oakeshott, the liquid in which our very processes of thought and judgment are suspended.[115] The value of traditional knowledge does not lie in whether or not similar knowledge can be obtained through other sources,[116] whether it is completely compatible with the scientific-rationalist tradition,[117] or whether it immediately solves the current social dysfunction in many Aboriginal communities.[118] Its value resides, rather, in a commitment to reasoned dialogue over force and fiat. In the case of Aboriginal traditional knowledge, there is a particular reason to make space, namely, that the coercive nature of much of the Aboriginal or non-Aboriginal encounter provides clear and special moral reason for engagement.[119] Nor only that: to the extent that we value reasoned debate, traditional ways of interpreting and communicating meaning and experience are always relevant. It is simply irrational to dismiss some or all of someone's reasoning process and then expect them to engage in a rational debate.[120]

V. Conclusion: Repairing the Past

In our view, then, *Disrobing* is profoundly defective both in its process and in its product. That this is so makes all the more lamentable the public notice that the work has attracted in the national media[121] and among the chattering classes.[122] The easy self-righteousness and other-blaming, there so happily received, threaten to shelter

115. Michael Oakeshott, "Rationalism in politics" in *Rationalism in politics and other essays* (Indianapolis: Liberty Press, 1991) 5 at 41.

116. *Disrobing*, *supra* note 3 at 247.

117. Widdowson and Howard argue that "[s]aying there are other 'ways of knowing' is an encouragement to forego the intellectual development that comes with the understanding of scientific methods and their application," *ibid.* at 248.

118. Dismissing the value of respecting or making space for differences because there is no evidence "reinterpretation of the past contributes to the dignity of aboriginal peoples," Widdowson and Howard argue this leads to "an undignified stereotyping of aboriginal cultures that constrain their development" and, of course, "encourages the retention of those [neolithic] characteristics," *ibid.* at 253–54.

119. Jeremy Webber, "The Grammar of Customary Law" (2009) 54 McGill L.J. 579 at 613.

120. Although irrational, this does appear to be Widdowson and Howard's tactic of choice. See their "defence of 'arrogance'" where they argue that, "even if we are 'arrogant', shouldn't those who are making the accusation still show how we are wrong?" *Disrobing*, *supra* note 3 at 255.

121. The *National Post* ran lengthy excerpts on February 4, 5, and 6, 2009 and has otherwise installed Widdowson as its go-to expert on Aboriginal Affairs. Not to be outdone, the *Globe and Mail* continues to update, as recently as May 15, 2009, web-posted excerpts from the book.

122. Chattering class respectability is surely signalled by *Disrobing* having been named, along with three other works, runner-up in the 2008–2009 Donner Prize For Best Book on Canadian Public Policy. See Donner Canadian Foundation, "2008/2009 Short List" *The Donner Prize* (15 October 2009), online: <http://www.donnerbookprize.com/mdgassociates/en/short_list.htm>.

Canadians and their governments from acknowledging and addressing the national shame that is the history of our relations with First Nations. In a modest attempt to shatter this shelter, we will conclude this review with a brief commentary on what rectifying the past minimally requires.

We could of course simply say that rectification requires the very opposite of what Widdowson and Howard propose. So in the place of dismissal would stand respect, in the place of fiat, dialogue, in the place of blindness, acknowledgement, and so on. But we want to be more precise by addressing the normative foundations on which policies and practices of rectification, whatever they turn out to be, must in our view be based. There are two.

First, the aim of rectification must be justice and not mere amelioration. This foundation is pregnant with moral and historical meaning. Justice means that First Nations peoples in Canada have a right, and Canadians and their governments a duty, to rectify the shameful social and economic circumstances of Aboriginal peoples. That duty and that right arise from acknowledgement of the past injustices by which First Nations have been wounded at the hands of colonizers, old and new. It is for this reason that amelioration will not do: because acknowledgement *is* the taking of responsibility, of owning the shame, the proper end is not salvation by the state, but justice from and through the state. And justice of course sounds not in charity but in duty.

Second, the process of articulating the requirements of rectification—the particular policies and practices—must comport with the demands of justice, with the reciprocity of right and duty. So to do, those processes cannot pay mere lip-service to respect, rather they must take the form of joint parliamentary deliberation and responsibility between Canadian governments and the representatives of First Nations. The Settler State and Aboriginal Nations must, that is, be co-legislators of the requirements of justice, the former commanded by duty and the latter allowed as of right.

Unless and until right and duty guide policy, nothing productive can possibly be done to rectify the suffering of First Nations people and communities. Nor only that: in the absence of that guidance, we may expect others to take up Widdowson and Howard's convenient and abhorrent solution of simply getting rid of "the Indian problem" and with that, of our collective responsibility and shame.