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Book Review of *Identity Captured by Law:
Membership in Canada's Indigenous Peoples and
Linguistic Minorities* by Sébastien Grammond

Patrick Macklem
University of Toronto

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Identity Captured by Law: Membership in Canada's Indigenous Peoples and Linguistic Minorities. By Sébastien Grammond. Montreal: McGill-Queen's University Press, 2009. xv + 252 pp. Notes, bibliography, index. \$95.00 cloth, \$29.95 paper.

In *Identity Captured by Law*, Sébastien Grammond assesses the constitutional and international legality of rules that control membership in Indigenous societies and the official language minorities of Canada. Grammond's main argument is that Indigenous and minority membership rules do not violate legal commitments to equality if there is sufficient correspondence between the legal criteria that determine membership and the actual criteria that group members themselves deploy to define themselves. Membership rules based on a racial conception of ethnic identity are less likely than those based on cultural or relational conceptions of ethnic identity to correspond to actual identities and therefore are more likely to violate equality rights.

This argument requires a substantive as opposed to formal conception of equality, which Grammond develops and defends at some length. Comprehending equality in substantive terms means membership rules are not inherently discriminatory but instead that their constitutional and international legality rests on the extent to which they improve the situation of the group in question as opposed to simply oppressing or stereotyping individual members of the group.

With respect to Indigenous membership rules, Grammond argues that previous rules relying on patri-

lineal descent and marriage violated equality norms, owing to their having been developed by the state in total disregard of the autonomy of Indigenous peoples and were designed with assimilation in mind. Most of these rules have been replaced by a plethora of diverse new approaches, which in general are consistent with equality norms. A few of these approaches, however, invoke suspect criteria. One is the approach that conditions membership on a "two parent" rule, which relies on race instead of culture. Others include those relying on factors other than Indigenous identity, such as a person's behavior or the limited resources of the Indigenous community. With respect to official language minorities, the author focuses on the rules governing minority education rights in Quebec and by extension in other Canadian provinces. He concludes that rules preventing Anglophone immigrants to Quebec from sending their children to English language schools likely violate equality norms.

Identity Captured by Law makes a major contribution to the field. There is a great deal of scholarship emanating from political theory on minority membership rules. This scholarship is dominated by abstract debates about the limits of liberalism, with little attention paid to the actual, specific rules governing membership. One of the strengths of Grammond's work is that it makes the case that these debates need to be resolved at more concrete levels, and must engage specific rules and specific groups before we can judge the legality of laws that distinguish between minorities and majorities. Although its focus is Canadian, it will have appeal in other jurisdictions both because of its impressive engagement with international as well as domestic law and because Indigenous membership and minority language education in Canada are often topics of more general scholarship about liberalism and its limits. **Patrick Macklem**, *William C. Graham Professor of Law, University of Toronto*.