



Negotiating Differences within Liberalism – Epistemic Diversity and Cultural Uniformity

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Abstract: The negotiation of differences with liberalism in India primarily revolves around reconciling individual rights with deeply entrenched group identities (caste and religion), managing the tensions between economic growth and social justice and addressing the perceived cultural alienation caused by elite driven secularism. Key areas of negotiation include group rights vs. individual rights – a central challenge to classical liberalism in India is the constitutional and political emphasis on group-differentiated rights to address historical inequalities. Affirmative actions (reservations) engage in debates surrounding quotas for Scheduled Castes and Tribes and Other Backward Castes highlight a conflict between the liberal ideal of individual equality of opportunity and the pursuit of social justice for historically disadvantaged groups which are essential for national unity – slightly a deviation from individual centric approach. In liberal democratic context individual and group rights are contradictory to each other and liberalism in India often faces a “cultural deficit” where its principles are perceived as an elite idiom detached from the lived experiences and cultural symbols of the majority. A negotiation involves finding a way for liberalism to engage empathetically with majority culture, distinguishing between everyday cultural practices and majoritarian politics without lapsing into moral paternalism or majoritarianism.

Index Terms - Liberalism, Negotiating, Difference, Diversity, Cultural, Community, Rights.

I. Introduction

Liberalism is best at dealing with individual differences. However, what it lacks is a principle by which cultural differences can be represented in the public arena. In fact, even today most liberals are unsympathetic to the idea that the public realm should reflect diverse cultural values and ways of life. At least in part, this response is shaped by the historical context in which this ideology evolved in Europe. Confronted with a situation where religious differences were the source of conflict between states and the religious convictions of the sovereign a cause of persecution of dissenters, theorists of the liberal persuasion associated differences in the public realm with discrimination. In other words, liberals linked existing religious conflicts with the fact that state policies expressed the value system of a particular community. To put an end to such confrontations, they suggested that the state must not embody the values of any religious community. It must remain neutral between different conceptions of good life.

II. Uniformity in Multi-Cultural Society

To reinforce the need of neutrality in the public arena, liberal theorists advocated a procedural republic. The state, they argued, must not be a moral community (or a shared enterprise) engaged in the pursuit of a common substantive purpose. Instead, it must rest upon the formal bond of law or rules that stipulate the ‘conditions of conduct’ (Oakeshott 1975:127). Since rules are not ‘injunctions’ or ‘definitive principles of conduct,’ it is assumed that they will not prohibit the pursuit of any substantive end. Therefore, the procedural republic will allow individuals to define their own ambitions, desires, and goals.

The procedural republic is neutral as it is not committed to the pursuit of any given purpose. Further, the absence of common ends in the public realm is favoured by liberals because It allows individuals the freedom to pursue their diverse ambitions and goals. To put it another way, agreeing on procedures rather than common pursuits or values ensures the autonomy of the individual. It gives to each subject the freedom to live in accordance with his own beliefs and norms. Thus, seen from the liberal perspective, outlook, and taste. Most of all, it respects and shelters epistemic differences among the individuals.

Within liberalism, the neutrality of the procedural republic rest on the assumption that rules and laws are value free, entail no moral commitment and apply equally to all citizens of the polity. This belief that laws are value-neutral and allow individuals to make their own choices eclipses the presence of cultural differences in society. It hides the ways in which law privileges some groups and their way of life. Although a system of rules appears to be nothing more than 'authoritative assertions'(ibid:125), what needs to be recognized is that the laws of the state are not, and cannot be, 'morally neutral', Even the liberal state must consider whether it should allow slavery, polygamy, polyandry, incest, public hanging, euthanasia, suicide, capital punishment , abortion, violent sports including animals, marriages between cousins, coerced marriages, divorce on demand, unconventional sexual practices, lesbian and homosexual marriages, rights of illegitimate children to inherit 'parental' property, and so on? If it does not legislate on these matters, it indicates that it does not consider them sufficiently important to the moral well-being of the community to require a collective, uniform, and compulsory mode of behaviour. If it legislates, it takes a specific stand. In either case it presupposes a specific view of good life. A morally neutral state, making no moral demands on its citizens and equally hospitable to all human choices, is logically impossible (Parekh 1993:207)

What is perhaps equally important is that in a multi-cultural society, laws of the state may embody values which contradict practices of some communities, while being closer to the practices of other communities. Consequently, laws may be perceived differently by members of different communities; and these laws are likely to affect the life of different communities in different ways. The obligations to report a crime to the police may, for instance, come into conflict with the value system of the Quaker community. While the purpose of the state law is to identify and punish the offender, a Quaker is expected to forgive others, even those who sin against him. Here, what appears to some as a neutral law necessary for peace and order, incorporates a way of thinking that is alien to another community. Moreover, ignoring differences in value systems and imposing uniform practices places the members of the Quaker community at a disadvantage so that when, in this instance, they act in accordance with their own beliefs, they run the risk of being prosecuted for not cooperating with the police in the administration of justice.

Conflicts of this nature exist in almost all multicultural societies showing that the liberal democratic state is not entirely value free or morally neutral. A liberal democracy gives the appearance of being neutral because it formulates norms and an ethic that apply to all citizens equally. In other words, the apparent neutrality of the liberal state stems from the uniformity of its legal codes. However, uniformity of this kind is almost entirely blind to the unequal ways in which communities are affected by the common cultural code developed and imposed by the liberal state.

In addition to being blind to the cultural context of state, law and policies, liberalism has no principle by which it can represent and accommodate cultural differences in the public domain. Since it does not see the overt discrimination perpetuated by its own codes, it makes no serious attempt to ensure that the state reflects and respects the cultural orientation of different communities. Nor does the ideology of liberalism consider the possibility that some communities may be treated unequally or disadvantaged by liberal norms and state laws.

III. From Individual Autonomy to Group Equality: the Liberal Agenda Defined

Among community differences, liberalism is most sensitive to religious differences. However, it deals with religious differences by restricting religion to the private sphere of life by assuming that religious beliefs and commitments are a matter of personal belief. Consequently, it respects the right to individual conscience but remains uncomfortable in its dealings with religious communities and organizations (Gray,1988:76). Till the beginning of the twentieth century, liberals believed that distancing the state from all religious communities would be the best way of ending religious discrimination enhancing tolerance. Accordingly, they favoured dis-establishment of religion (i.e. absence of any state religion) and the policy of 'no-aid' towards religious institutions. However, it was soon evident that such policies, involving distance between the state and religious bodies, placed minority population at a distinct disadvantage, jeopardizing their ability to continue with their own religious institutions. As a result of this realization, liberal democratic states in the West became less dogmatic about the policy of no assistance to any religious community (ibid).

Although liberal policies towards religious institutions and minorities have changed over time, liberals generally believe that protecting individual autonomy would ensure religious tolerance and diversity in society. A similar thinking is applied to the issue of culture diversity. Liberals assume that culture heterogeneity would follow logically from the liberty granted to individuals to pursue their own way of life. Indeed, liberalism rests on the assumption that individual liberty will nourish and translate into diversity of every kind. Consequently, little attention is paid to the ways in which cultural differences can be represented in the public arena. If anything, cultural differences are effaced from the public domain and the effect of state policies on different cultural communities remains unexamined within the liberal framework.

By focussing on the cultural policies of the state and devising ways by which cultural communities receive equal consideration in the public realm, the Indian Constitution deviated from the liberal framework. While it accepted and endorsed the twin ideals of autonomy and non-discrimination, it acted on the assumption that equal treatment to all religious and cultural communities could not be ensured by providing equal political rights or civil liberties to individuals (Parekh,1996:90). Consequently, Indian Constitution devised a two-fold policy. On the one hand it tried to ensure that no community is outrightly excluded or systematically disadvantaged in the public arena, on the other hand, it provided autonomy to each religious community to pursue its own of life.

Liberalism operated with the belief that protecting the autonomy of the individual would be the best way of preserving diversity and dismantling structures of discrimination. Accordingly, it sought to strengthen citizenship rights. The Indian Constitution, by comparison, regarded autonomy of religious communities to be the best guarantor of equal treatment. Thus, even though the ideals of autonomy and equality remained the central concerns of the Indian Constitution, liberal priorities were significantly altered. In particular, the centrality accorded by the liberal framework to individual liberty and a culture-neutral public realm was seriously questioned.

By raising the question of equal treatment and autonomy for communities, the Indian Constitution had distanced itself from the orthodoxies of nineteenth-century liberalism although in retrospect it is evident that it was not entirely out of step with the later incarnations of liberalism. In the second half of the twentieth century, liberalism became more sensitive to community distinctions. It recognized that equality before the law, ensured through citizenship rights, had not translated into equal opportunity for all individuals. Communities which had been the victims of social discrimination in the past continued to be disadvantaged, and were unable to compete on equal terms with the rest of society. To take care of these disadvantages that stemmed from the effects of historical discrimination, liberal ideologues in the twentieth century concerned themselves with the issue of equal opportunity for all communities. Equal opportunity for different communities placed group equality on the agenda of late-twentieth-century liberalism. With these changes in liberal sensibilities the Indian Constitution does not appear to be alien or hostile to the liberal agenda. Once liberalism makes space for the concepts of equal opportunity and group equality, the idea that all religious and cultural communities must be equal in the public domain appears reasonably compatible with the concerns of liberalism (Gray,1988:37).

The distance between the Indian Constitution and liberalism was further bridged in the mid-twentieth century by the change that occurred in the liberal attitude towards religion and religious institutions. Previously, in the effort to curtail the power of the church, liberalism emphasized the separation of religion from politics. However, once the church was no longer a contending source of sovereign authority, liberals stressed the need to strengthen the autonomous institutions of civil society and even began to relate freedom of the individual with strong association in civil society. Consequently, the institution of the church, that was hindrance to democracy and individual freedom, was cast in a new light. It now became part of the autonomous associations which check the power of the state and enhance individual liberty. This shift in representative of the church is significant because it allowed religious institutions the same rights, privileges, and autonomy as any other association in civil society. Early liberal thought was weary of this autonomy; indeed, it sought to regulate the activities of the church by placing it under the supreme jurisdiction of the state. Now autonomy for religious institutions in the public domain became an accepted norm. As a result of this change in liberal perception, the primary concerns of the Indian Constitution conform with new liberal agendas and perspectives. Indeed, equal treatment and autonomy for religious communities in the public domain (ibid) are ideals that echo the post-War liberal concern for equal rights for religious institutions in the public domain.

Although the priority accorded to rights of religious communities and minorities in the Constituent Assembly reflects the concerns of contemporary liberalism, the deliberations of this body were shaped by historical conditions that prevailed in India at the time of Independence. Assertive and contesting communities placed the issue of group equality on the agenda and refused to accept the view that individual autonomy would be the best guarantor of religious and cultural diversity. Consequently, while drafting the Constitution of India, members deliberated on the cultural orientation of the state. They discussed the issue of national language, public funding for educational institutions of minorities, the right to collective worship and the formulation of a uniform civil code. On each of these questions, religious and cultural communities demanded state support for minority institutions but absence of regulation by the state of minority institutions and cultural practices from the state and, on the other, they desired the assistance of the state of minorities. Eventually, a system of cultural community rights (ibid) was devised to take care of these twin concerns of autonomy and assistance.

IV. Contextualizing the Issue of Cultural Rights of Minorities

In 1950, when the Constitution of India was adopted, the provision of cultural community rights, appeared as significant deviation from the liberal commitment to uniformity and formal equality. However, since then liberalism has itself been interrogated and attempts have been made to devise a liberal theory of minority rights (Kymlicka,1991:78). Moreover, liberals have themselves come to accept that their philosophy presupposes a set of values and is rooted in a specific conception of individual and society. While some theorists of liberalism are arguing that liberals are, and must be, concerned about the fate of cultures others are beginning to realize that neglecting cultural differences often results in unequal treatment of individuals. Given the changes that are being introduced in liberal theory and the way in which liberalism is being redefined in some quarters, the framework of democracy in India appears to be less out of step with liberal democracies elsewhere. Indeed, the system of minority rights in India appears to reflect the concern for minorities within liberalism and western liberal democracies.

There remains, however, one significant difference between western liberal democracies and India. In the West, collective community rights have been placed on the agenda after a uniform structure of social and civil laws has been established in society. [The existence of a uniform code is important because it has to some extent, prescribed the limits of permissible cultural diversity. That is, aspects of the liberal ethic have been incorporated into community practices and therefore, in these liberal societies' rights have not frequently conflicted with the principle of gender equality. Although some women's organizations have been apprehensive that autonomy granted to communities might reverse the gains of women's movement, nevertheless, at present, conflict of this kind is quite limited. Instead, collective community rights have tended to curtail the individual's right to deviate from the practices of the group. As such, in western democratic societies, these rights (ibid:82) have raised the issue of individual autonomy and not of group discrimination.

V. Conclusion

In India, by comparison, cultural rights demanded by communities have tended to perpetuate the continued subordination of women as a group. Since minority rights in cultural matters were conceded before gender inequality had been dealt with, preserving cultural autonomy tended to perpetuate group discrimination. Consequently, the same liberal agenda has yielded different results in the Indian contexts. In western democracies collective minorities have challenged the project of cultural homogenization and attempted to rectify the disadvantage faced by minorities in these societies. In India, it has held back the process of democratization within which autonomy can be meaningful. By justifying the continuation of prevailing community laws which place women in a subordinate position in all matters relating to the family, community rights have resulted in the denial of equal rights of citizenship to women. In essence, negotiating differences with liberalism in India involves adapting its core tenets (individual rights, limited government) to a diverse society with deep structural inequalities and powerful group identities moving beyond abstract universalism to a more culturally rooted and socially just framework.

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