

Multiculturalism in a Global Society: Minority Rights and Justice

Chanchal Kumar*

Department of Political Science, Janki Devi Memorial College, University of Delhi, India

*Email- drchanchal17@yahoo.co.in

Abstract

Multiculturalism ensures that all citizens can keep their identities, can take pride in their ancestry and have a sense of belonging. Multiculturalism is a social doctrine that distinguishes itself as a positive alternative for policies of assimilation, connoting a politics of recognition of the citizenship rights and cultural identities of ethnic minority groups and an affirmation of the value of cultural diversity. The extent of culture maintenance by ethnic minority groups and their adaptation to majority group culture are two issues central to everyday thinking about multiculturalism. Much of the recent debate about multiculturalism and minority rights in western political theory has conceptualized the issues in terms of two alternatives – states could either adopt procedural liberalism and equal rights or a politics of difference. In every society the state plays a vital role in fostering a sense of justice and common belonging.

Key Words

Multiculturalism, Minority Rights, Justice, Global Society

1. Introduction

Multiculturalism is a leftist political ideology that sees all cultures, their mores and institutions, as essentially equal. No culture is considered superior or inferior to any other; it is merely different. Multiculturalism represents a new kind of universalism – one where integration of individuals into the state is not predicated on a total disengagement from particularistic community ties. Rather, people are included into the nation state as members of diverse but equal ethnic groups. And the state recognizes that the dignity of individuals is linked to the collective dignity of the community to which they belong. Criticism of other cultures especially non-western minority cultures is labeled “insensitive” or “bigoted” (Schmidt 1997) a multicultural society needs a broadly shared culture to sustain it. Since it involves several cultures, the shared culture can only grow out of their interaction and could both respect and nurture their diversity and unite them around a common way of life. For those accustomed to thinking of culture as a more or less homogeneous and coherent whole, the idea of a multiculturally constituted culture might appear incoherent or bizarre. In fact such a culture is a fairly common phenomenon in every culturally diverse society (Appiah 1994, 1996).

Multiculturalism, as distinct from the adjective multicultural (“of or pertaining to a society consisting of varied cultural groups”), first came into wide circulation in the 1970s in Canada and Australia as the name for a key plank of government policy to assist in the management of ethnic pluralism within the national polity. In this context, the emergence of the term is strongly associated with a growing realization of the unintended social and cultural consequences of large-scale immigration. Coined by a Canadian Royal Commission in 1965, this governmental use of “multiculturalism” is widely supported and endorsed by its proponents as both a progressive political imperative and an official article of faith – a term associated in principle with the values of equality, tolerance, and inclusiveness toward migrants of ethnically different backgrounds. “Canadian multiculturalism is fundamental to our belief that all citizens are equal. Multiculturalism ensures that all citizens can keep their identities, can take pride in their ancestry and have a sense of belonging” (Government of Canada 2001). Typically, multiculturalism here is a social doctrine that distinguishes itself as a positive alternative for policies of assimilation, connoting a politics of recognition of

the citizenship rights and cultural identities of ethnic minority groups (Kymlicka 1995; C. Taylor 1992) and, more generally, an affirmation of the value of cultural diversity.

For some multiculturalism stands for cultural isolationism or ghettoization, based on the relativist view that every cultural community is self-contained and self-authenticating and has a right to live by its norms. Outsiders cannot judge or criticize it and should respect its autonomy. Multiculturalism in this sense clearly undermines any kind of shared life. More importantly, it also militates against the multicultural society itself. The latter arises because different cultures do not passively coexist but interact and influence each other, something that multiculturalism defined in this way disallows. Champions of multicultural society therefore see multiculturalism as their enemy, and wage an open or subdued war against it. We might call this the static, isolationist or relativist view of multiculturalism (Parekh 2006).

When multiculturalists use the word ‘multicultural’ they fail to define what they mean by ‘culture’. They ignore long standing definitions of culture presented by anthropologists and sociologists. Culture consists of a society’s established and institutionalized values, beliefs, knowledge and practices that are learned through human interaction. Culture is the property of a society or a nation, an aggregate of people within given geographic boundaries. But multiculturalists apply the word ‘culture’ to almost any group that has some behavioral variations from that of another. Multiculturalists talk about the culture of minority groups as though they were entities separate from their country’s culture at large (Schmidt 1999).

2. Multiculturalism in a Global Society

In recent years, the words ‘multiculturalism’ and globalization’ have captured the imagination of scholars and the public alike. These two commonly used and frequently misunderstood, terms are increasingly employed as people attempt to make sense of some of the most fundamental and dramatic changes that have reconfigured economic arrangements, challenged political systems and recast issues related to cultural identities during the past half- century (Kivisto 2001). From a multiculturalists perspective the good society cherishes the diversity of and encourages a creative dialogue between its different cultures and their moral visions. Such a society not only respects its members’ rights to their culture and increases their range of choices but also cultivates their powers of self-criticism, self-determination, imagination, intellectual and moral sympathy, and contributes to their development and well-being.

A multicultural society cannot be stable and last long without developing a common sense of belonging among its citizens. The sense of belonging cannot be ethnic and based on shared cultural, ethnic and other characteristics, for a multicultural society is too diverse for that, but must be political and based on a shared commitment to the political community. Its members do not directly belong to each other as in an ethnic group but through their mediating membership of a shared community, and they are committed to each other because they are all in their own different ways committed to a common historical community. They do and should matter to each other because they are bonded together by the ties of common interest and attachment. This is why, although they might personally loathe some of their fellow-members or find their lifestyles, views and values unacceptable, their mutual commitment and concern as members of a shared community remain unaffected.¹

The concept of multiculturalism has been discussed in western societies with relation to the problem of incorporating diverse minorities on terms of equality into a nation state in which there is already a reasonable degree of consensus regarding basic liberal values and national identity. But even in such societies concepts like multiculturalism embody diverse possibilities. Multiculturalism promises a deeper understanding of equality and self-determination on the one hand to that which had earlier prevailed in liberal theory. But on the other, it opens up the possibility for conservative interpretations of ascriptive identities and identitarian politics.

For example, in Britain a Commission on the Future of Multi-Ethnic Britain, set up in 1998 by the Runnymede Trust, was “devoted to the cause of promoting racial justice” and to proposing ways of “making Britain a confident and vibrant multicultural society at ease with its rich diversity.” The Commission’s report, *The future of multi-ethnic Britain* (Runnymede Trust Commission on the Future of

Multi-Ethnic Britain 2000), also known as the Parekh Report after the Commission's chairperson, Bhikhu Parekh, stated famously that "Britain is both a community of citizens and a community of communities, both a liberal and a multicultural society, and needs to reconcile their sometimes conflicting requirements". This statement illustrates the unresolved, complex, and ambiguous relationship between multiculturalism and the political philosophy of liberalism, although the phrase liberal multiculturalism is also used descriptively by academic analysts to refer precisely to the diversity management policies of governments. Very similar controversies have raged in other countries as well. In the UK, the Parekh Report, particularly its multiculturalist notion of Britain as a "community of communities," was widely criticized by conservatives as a recipe for the balkanization of society.

In the USA, multiculturalism was similarly attacked for promoting national division, as reflected in the title of Arthur J. Schlesinger's best-selling book, the disuniting of America. Invoking the US's motto *E pluribus Unum*, Schlesinger argues that multiculturalism, especially in its radical version, is based on a "cult of ethnicity" and an "obsession with difference," unsettling "the balance between *Unum* and *pluribus*" (Schlesinger 1992). All these critics stress the need for a "common culture" if a nation is to function peacefully. One effect of the fallout of the terrorist attacks on the USA on September 11, 2001, has been a heightened concern with the possibility of a global "clash of civilizations" (Huntington 1993), specifically between Islam and "the West," with grave implications for the place of the millions of Muslims now living in liberal-democratic societies. As they are now in danger of being positioned as "the enemy within," and their culture and religion dismissed as backward or inferior by some extremist right-wing politicians, especially in Western Europe (including the Italian prime minister, Silvio Berlusconi), the multiculturalist credo of valuing and protecting cultural diversity is increasingly countered by a renewed call for assimilation or for a halt on immigration altogether – unrealistic desires in the complex realities of the globalize, postmodern world.

Multiculturalism is not just a statement of fact, it is also a value. It cherishes cultural diversity and envisions a society in which different communities forge a common identity while retaining their cultural provenance. When modern democratic societies embrace multiculturalism they demonstrate a deeper and more profound egalitarian impulse within them than the mere presence of plural cultures. Multiculturalism acknowledges the existence of diverse communities, but what is more important is that it accords positive value to the collective identities of all ethnic communities. It pictures a society which is characterized not by multiple cultural solitudes or endemic cultural strife, but by communities living together and participating as equal partners in national political life.

3. Minority Rights and Justice

The idea of multiculturalism and minority rights has been 'internationalized' in two distinct ways. First, a discourse of multiculturalism is circulating amongst elites who participate in international networks of activists, scholars and policy-makers. Through these networks, diversity is being diffused around the world, premised on principles of tolerance and ideals of justice.² Second, formal international standards of minority rights are being adopted by international organizations such as the United Nations (UN), the World Bank, and the International Labour Organization (ILO). These organizations have attempted to codify minimum standards for the behavior of states in relation to their minorities, and to establish mechanism to monitor state compliance with them.

It is increasingly recognized that this is an unhelpful way to conceptualize most minority rights claims in Western democracies. Assumptions about the 'striking parallel between the communitarian attack of philosophical liberalism and the notion of minority rights' have been increasingly questioned³. In reality, most ethno cultural groups within Western democracies do not want to be protected from the force of modernity in modern liberal societies. On the contrary, they want to be full and equal participants in modern liberal societies. Most immigrant groups, which seek inclusion and full participation in the mainstream of liberal-democratic societies, with access to its education, technology, literacy, mass communications, etc.

Minority rights are a heterogeneous category. Minority rights have become an umbrella term. There are different types of minority rights. All minority rights share two important features: (Ray 2007)

- They go beyond the familiar set of common civil and political rights of individual citizenship which are protected in all liberal democracies;
- They are adopted with the intention of recognizing accommodating the distinctive identities and needs of ethno cultural groups.

Several authors like Young, Parekh, Tully, Taylor, Harrow and Spinner took up this task, attempting to defend the justice of certain kinds of multicultural accommodations or groups-specific rights. These authors used a verity of arguments to make their case, most of which can be seen as resting on a common strategy. They all claim that while difference-blind institutions purport to be neutral amongst towards the needs interests, and identities of the majority groups; exclusions for members of minority groups. The adoption of certain minorities' rights, it is argued, helps to remedy the disadvantages the minorities suffer within difference-blind institutions, and in doing so promotes fairness. Minority rights do not constitute unfair privileges or invidious forms of discrimination, but rather compensate for unfair disadvantages and so are consistent with and may indeed be required by justice.

A variety of issues has been gathered under the rubric of the 'politics of multiculturalism'. The way in which cultural and ethnic differentiation may be accommodated in social, political and economic arrangements. 'Multiculturalism' has notably been invoked in controversies over education: how may culture be transmitted when it is thought to have been defined so as to exclude the interests, needs, beliefs, perhaps even the existence of a cross-cutting array of social collectivities, including women, formerly colonized peoples, minority ethnic, racial and religious groups and gays and lesbians?(Sullivan 2000)

In a multicultural society different communities have different needs, and some might be structurally disadvantaged or lack the skill and the confidence to participate in the mainstream society and avail of its opportunities. Both justice and the need to foster a common sense of belonging then require such measures as group-differentiated rights, culturally differentiated applications of laws and policies, state support for minority institutions, and a judicious programme of affirmative action. Kymlicka's liberal theory of minority rights upon the principle that respect for minorities cultures enhances individual freedom and autonomy by providing their members a context that gives them access to meaningful choice in way of life, in both public and private spheres (Kymlicka & Marin 1999).

In a multicultural society different communities have different needs, and some might be structurally disadvantaged or lack the skill and the confidence to participate in the mainstream society and avail of its opportunities. Both justice and the need to foster a common sense of belonging then require such measures as group-differentiated rights, culturally differentiated applications of laws and policies, state support for minority institutions, and a judicious programme of affirmative action. Although equal citizenship is essential to fostering a common sense of belonging, it is not enough. Citizenship is about status and rights; belonging is about acceptance, feeling welcome, a sense of identification. The two do not necessarily coincide. One might enjoy all the rights of citizenship but feel that one does not quite belong to the community and is a relative outsider, as do some groups of African-Americans in the United States, Afro-Caribbeans and Asians in Britain, Arabs in France and Israel, and Muslims and, until recently, Sikhs in India.⁴ The treatment of sub- state/minority nationalisms, such as the Québécois in Canada, the Scots and Welsh in Britain, the Catalans and Basques in Spain, the Flemish in Belgium, the German-speaking minority in South Tyrol in Italy, and Puerto Rico in the United States. In all of these cases, we find a regionally-concentrated group that conceives of itself has a nation within a larger state, and mobilizes behind nationalist political parties to achieve recognition of its nationhood, either in the form of an independent state or through territorial autonomy within the larger state. In the past, all of these countries have attempted to suppress these forms of sub state nationalism. To have a regional group with a sense of distinct nationhood was seen as a threat to the state. Various efforts were made to erode this sense of distinct nationhood, including restricting minority language rights, abolishing traditional forms of regional self-government, and encouraging members of the dominant group to settle in the minority group's

traditional territory so that the minority becomes outnumbered even in its traditional territory.

The treatment of indigenous peoples, such as the Indians and Inuit in Canada, the Aboriginal peoples of Australia, the Maori of New Zealand, the Sami of Scandinavia, the Inuit of Greenland, and Indian tribes in the United States. In the past, all of these countries had the same goal and expectation that indigenous peoples would eventually disappear as distinct communities, as a result of dying out, or intermarriage, or assimilation (Kymlicka 2002). Various policies were adopted to speed up this process, such as stripping indigenous peoples of their lands, restricting the practice of their traditional culture, language and religion, and undermining their institutions of self-government.

However, there has been a dramatic reversal in these policies, starting in the early 1970s. Today, all of the countries at least in principle, the idea that indigenous peoples will exist into the indefinite future as distinct societies within the larger country, and that they must have the land claims, cultural rights (including recognition of customary law) and self-government rights needed to sustain themselves as distinct societies. We see this pattern in all of the Western democracies. Consider the constitutional affirmation of Aboriginal rights in the 1982 Canadian constitution, along with the land claims commission and the signing of new treaties; the revival of treaty rights through the Treaty of Waitangi in New Zealand; the recognition of land rights for Aboriginal Australians in the Mabo decision; the creation of the Sami Parliament in Scandinavia, the evolution of 'Home Rule' for the Inuit of Greenland; and the laws and court cases upholding self-determination rights for American Indian tribes (not to mention the flood of legal and constitutional changes recognizing indigenous rights in Latin America). In all of these countries there is a gradual but real process of decolonization taking place, as indigenous peoples regain their lands, customary law and self government. This is the second main shift in ethno cultural relations throughout the Western democracies. In all of these contexts as well, we see shifts away from historic policies of assimilation or exclusion towards a more 'multicultural' approach that recognizes and accommodates diversity. Today, virtually all Western states that contain indigenous peoples and sub state national groups have become 'multination' states, recognizing the existence of 'peoples' and 'nations' within the boundaries of the state. This recognition is manifested in a range of minority rights that includes regional autonomy and official language status for national minorities, and customary law, land claims, and self-government for indigenous (Kymlicka 2002) By contrast, only very modest minority rights, such as mother-tongue primary education, have been recognized in the case of sub state national groups. No international document has affirmed any principle of territorial autonomy or official language status for sub state national groups. In this case; international law lags far behind the emerging practices of Western democracies in terms of the rights accorded to sub state national groups. To oversimplify, we might say that while international law is attempting to codify 'best practices' in the case of indigenous peoples, it is only codifying the most 'minimal standards' or 'lowest common denominator' in the case of sub state national groups.⁵

As such, multiculturalism represents a new kind of universalism – one where integration of individuals into the state is not predicated on a total disengagement from particularistic community ties. Rather, people are included into the nation state as members of diverse but equal ethnic groups. And the state recognizes that the dignity of individuals is linked to the collective dignity of the community to which they belong. Western democracies have privileged the majority's culture and identity through deliberate state policies by assuming that minority cultures would disappear with the process of political modernization and socio-economic progress that would eventually assimilate all the 'backward' minorities into the 'advanced' majority culture. Promoting integration into the culture of the majority has been part of the 'nation-building' project that all liberal democracies have adopted. The idea that liberal democratic states are ethno culturally neutral is therefore 'misguided' (Kymlicka 2000). A theory of minority rights that would accommodate minority groups ethnic identities should not be viewed as a deviation from so-called 'ethno cultural neutrality', but as a response to the majority's nation-building project. As Kymlicka sums up since mainstream institutions privilege the majority's culture and identity in so many ways, and since people's interests in culture and identity are so important, the question we face is not whether to adopt multiculturalism, but rather which kind of multiculturalism to adopt (Kymlicka 2000).

This radical redefinition of a democratic polity makes multiculturalism a normative value that is applicable as much to the modern liberal democracies of the West as it is to modernizing polities like India. Contrary to the general expectation, community identities have not dissolved in market economies or liberal democracies. No society is so completely modern or homogenized that collective group identities cease to be of relevance to its members.

The issue of minority rights and multiculturalism is high on the political agenda of most states today since most states incorporate a variety of ethnic, religious and other diversities. The problem has become exacerbated in recent decades because of the increased influx of immigrants into the advanced capitalist states of the West and the movements of refugees. Therefore, most states face the problem of negotiating with diverse groups and this is reflected in contemporary political theory. Not only have received theories of rights and citizenship and justice come under challenge but new concepts like multiculturalism have also been generated to address these issues.

When concepts like multiculturalism are appropriated by societies like the Indian, the ambiguities in the concept generate a variety of possibilities which need to be examined in relation to our recent political history and aspirations. The question of Indian exceptionalism and the need to evolve purely indigenous solutions to the problems of our society, but the need to critically examine the context in which debates about equality and difference have been conducted in contemporary political theory in the West as also in India. Western liberal democracies to describe themselves as multicultural societies, even though only a few had embraced official policies of multiculturalism. Even nation states which had traditionally been known as fiercely homogeneous, such as Germany and Japan, could no longer avoid acknowledging the ethnic and racial diversification of their populations. As a result of intensifying global migrations, “the world becomes increasingly a place of multi-ethnic states, with up to 30% of the population coming from other societies” (Davidson 1997). “Multicultural” is thus often equated with multiethnic in public discourse, which in turn is conflated with multiracial, indicating the extent to which debates on multiculturalism are concerned predominantly with the presence of non-white migrant communities in white, Western societies. In this context, multiculturalism is variously evoked as a response to the need to address real or potential ethnic tension and racial conflict. For example, in Britain a Commission on the Future of Multi-Ethnic Britain, set up in 1998 by the Runnymede Trust, was “devoted to the cause of promoting racial justice” and to proposing ways of “making Britain a confident and vibrant multicultural society at ease with its rich diversity.” The Commission’s report, *The future of multi-ethnic Britain* (Runnymede Trust Commission on the Future of Multi-Ethnic Britain 2000), also known as the Parekh Report after the Commission’s chairperson, Bhikhu Parekh, stated famously that “Britain is both a community of citizens and a community of communities, both a liberal and a multicultural society, and needs to reconcile their sometimes conflicting requirements”. This statement illustrates the unresolved, complex, and ambiguous relationship between multiculturalism and the political philosophy of liberalism, although the phrase liberal multiculturalism is also used descriptively by academic analysts to refer precisely to the diversity management policies of governments.

Liberalism and liberal theory have provided the framework within which much of the discussion about minority rights and multiculturalism has taken place. Celebration of social and cultural diversity has always been a liberal value although liberalism has been notoriously ambiguous about how to reconcile values like equality and individualism with respect for diversity. Classical liberal theorists like J. S. Mill traced the origins of social diversity to individual differences of interest and talent. Mills’ essay ‘On Liberty’ is a classic humanist statement about the need to protect individual rights of expression for the development of individuals as well as the enrichment of social life.

However, the notion of the autonomous individual as the primary unit of social life has come under attack in recent years. The liberal-communitarian debate in western political theory for instance, raised the issue of whether, and if so to what extent, the individual can be conceptualised in abstraction from his/her social linkages. Contemporary liberal theorists like Will Kymlicka have argued that liberalism is not intrinsically antagonistic to the concept of the individual who is embedded in socio-cultural communities. He argues for state protection for community identities and a concept of justice which would take into consideration individuals as well as the communities with which they might identify. Nevertheless, belief in the importance

of equal rights and individual freedom remains at the core of liberal theory. Multiculturalism is now the preferred term to describe the policies of a nation state in relation to its cultural minorities. The concept of nation state implies that the state is held together not only by sovereignty and common laws and procedures but also by a shared national identity and culture. Attempts to accommodate individual rights as well as recognition of minority communities characterize the multicultural state.

It is generally the case that national political cultures would reflect the values and identity of dominant groups in society and that minorities would be defined in relation to it. A multicultural state would recognize at least limited rights of self determination for minority groups. As such, multicultural policies have been projected as constituting an alternative to the assimilationist goals pursued for long by liberal states. Multiculturalism could also be considered a response to the failure of assimilationist policies.

Much of the recent debate about multiculturalism and minority rights in western political theory has conceptualized the issues in terms of two alternatives – states could either adopt procedural liberalism and equal rights or a politics of difference. The most elegant and influential philosophical discussion of such issues is probably to be found in the work of the Canadian philosopher Charles Taylor, particularly his, ‘Politics of Recognition’ (1992).

Taylor maintains that the politics of recognition in contemporary societies can either take the form of guaranteeing equal rights and equal citizenship to all members or through a politics of difference. Both strategies can be accommodated within liberal theory, he argues, and both would include provision of basic rights to all and would decry discrimination. Taylor associates the politics of equal rights with procedural liberalism which allows individuals to pursue their own vision of the good life within the framework of state laws. Equal dignity would be interpreted here as giving importance to the similarities between individuals and promoting equal citizenship. Only a limited recognition of difference would be possible here. The politics of difference on the other hand is based, he argues, on the belief that each person has a unique nature and potential to which he/she should be true.

The right to education in the mother tongue is, in his opinion, the privilege of the former but not of the latter. This he justifies on grounds of helping French language and culture to reproduce themselves over generations. Since recent immigrants have arrived voluntarily they should be willing to accept the dominant culture. It is this aspect of his theory which has made it attractive to the New Right in France as theorists like Pierre Birnbaum point out (Telos 1994). One could speculate whether it might not also get some endorsement from right-wing forces in India.

The debate about multiculturalism has not, on the whole, paid much attention to the general economically and socially disadvantaged position of minorities in a society. Liberal states have traditionally preferred to treat inequality in society as between individuals rather than groups or classes and to deal with it through equal rights and affirmative action and welfarist policies even though such measures alone have often not been effective in promoting real equality. This tendency is reflected in the debate about multiculturalism which gives importance to the preservation of group cultures and identities without necessarily exploring the possible links between cultural and other forms of deprivation in society.

Multicultural policies, therefore, usually address issues such as language preservation, right to adopt cultural practices like wearing a turban or veil, holidays for minority festivals, and sometimes even quotas for representation in elected bodies or public employment. But it would be difficult to isolate a purely ‘cultural’ identity for a person since a person’s social location and self-identity would normally be over-determined by a complex, structured pattern of identities which tend to reinforce each other. Therefore, measures to grant cultural protection may be only partially successful in ensuring equal dignity and non-discrimination for members of such communities.

In every society the state plays a vital role in fostering a sense of justice and common belonging. Its role is even greater in a multicultural society in which it is one of the few sources of unity, provides a focus to the shared life, and is expected to set an example of how to rise above narrow communal prejudices and points of view. It is therefore of the utmost importance that the institutions of the state should be and be seen to be, impartial in their treatment of the members of different communities. As the sole source of legally secured

justice in society, the state needs to ensure that its citizens enjoy equality of treatment in all significant areas of life such as employment, criminal justice, education and public services. The law should require all public institutions periodically to examine the hidden biases of their rules and procedures and should set up appropriate bodies such as the Commission for Racial Equality in the UK and the Equal Employment Opportunity Agency in the USA to ensure that they do so. Positive Equality requires equality of rights and opportunities. All citizens should enjoy equal rights and these should include not only the usual repertoire of civil, political, economic and other rights but also cultural rights. In every society the majority community generally sets its cultural tone and is effortlessly able to the limits to be discussed later, the same opportunity should be extended to the minority communities as well. By giving them the sense of security they need to express their identity and interact with the wider society, cultural rights also earn their loyalty and good will and facilitate their integration. All citizens should enjoy equal opportunities to acquire the capacities and skills needed to function in society and to pursue their self-chosen goals equally effectively. The concept of equal opportunity requires great sensitivity when applied across cultures. Decentralization of power has a particularly important role to play in ensuring justice in multicultural societies. (Parekh 2000)

So long as individual members maintain the right to vote and run for office, then human rights principles pose no obstacle to the majority's efforts to gerrymander the boundaries or powers of internal political subunits in such a way as to disempower the national minority.⁶ Not only do human rights doctrines not help prevent this injustice, but they may exacerbate it. Historically, the majority's decisions to ignore the traditional leadership of minority communities, and to destroy their traditional political institutions, have been justified on the grounds that these traditional leaders and institutions were not 'democratic' - i.e. they did not involve political institutions. However, they are swept away by the majority in the name of 'democracy' - that is, the right to vote in electoral process within which minorities had no real influence, conducted in a foreign language and in foreign institutions, and within which they were destined to become a permanent minority. Thus the rhetoric of human rights has provided an excuse and smokescreen for the subjugation of a previously self-governing minority.⁷ To avoid this sort of injustice, national minorities need guaranteed rights to such things as self-government, group-based political representation, veto rights over issues that directly affect their cultural, survival, and so on. These demands are often seen as conflicting with Western individualism, and as proof of the minority's 'collectivism'. But in reality, these demands simply help to redress clear political inequalities. (Kymlicka 2002)

In most democratic states, governments have typically adopted the majority's language as the one 'official language' - i.e. as the language of government, bureaucracy, courts, schools, and so on. This policy is often defended in the name of 'efficiency'; it is also adopted to ensure the event as assimilation of the national minority into the majority group. This can be an obvious source of injustice. Yet here again, principles of human rights do not prevent the injustice. Human rights doctrines do preclude any attempt by the state to suppress the use of a minority language in private, and may even require state toleration of privately funded schools that operate in the minority language. But human rights doctrines say nothing about rights to the use of one's language in government.⁸ But this remains a controversial development.⁹ to redress the injustice created by majority attempts to impose linguistic homogeneity, national minorities may need broad-ranging language policies. We need a conception of justice that integrates fairness between different ethno cultural groups (via minority rights) with the protection of individual rights within majority and minority political communities (via traditional human rights).¹⁰

The situation in India is different in a number of significant ways to the situation in western countries like the United States, Germany or Canada. Indian society incorporates a bewildering number of minorities identified by factors like religion, caste, class or region. Moreover, the boundaries of such groups have always been somewhat fluid and overlapping. So diverse is the society that it might be more difficult to characterize the majority than minorities, the efforts of right-wing nationalist groups notwithstanding. However, the quintessential minority in most people's perception is the religious minority. There is also not the same degree of consensus regarding national political culture and identity as exists in many western societies. In fact, different interpretations of Indian nationalism are competing in the political arena today. The concept of minorities and minority rights is not new to India. During the colonial period the British considered religion

to be the primary marker of difference in Indian society and they evolved an elaborate set of policies towards religious communities. Although over time they introduced some limited democratic institutions and a concept of civil society, community and caste identities were also granted recognition in a number of state institutions like the army, the law and the franchise. The Congress defended the notion of a pluralist society and a neutral state based on equal citizenship. But although it criticized the British for strengthening communal identities and antagonisms through their policies, the Congress also promised recognition and protection for religious communities and non-discriminatory state policies. At the same time it rejected the British view that India was not a nation and articulated a secular and inclusive nationalism in which there would be equal respect, equal opportunities and equal liberty for all, regardless of their religious affiliations or social location.

The Indian Constitution may justifiably be described as secular and multicultural but in a specific way. Difference is recognized but so also are the values of equal citizenship and equal rights. After protracted discussions in the Constituent Assembly, assimilation on terms of equality was offered to caste and class based minorities in the Constitution, but it was felt that to achieve this it would be necessary to recognize caste in the Constitution as a cause of inequalities and as a basis for affirmative action. At the same time, recognition and protection was offered to religious, cultural and linguistic minorities. Equal respect, fairness and non discrimination were to be the guiding principles of state policies towards minorities and no wall of separation was envisaged between state and religious activities. Following British practice, no special privilege was to be granted to any religious community, not even the majority community, although this has subsequently caused some heartburn and charges of pampering the minorities. But the Indian state has been, and continues to be, deeply involved in managing the 'secular' affairs of religious communities being represented on trusts, intervening for social reform, laying down the rules for employment of temple functionaries in some cases, and so on.

The state may not interfere in religious beliefs or practices although the dividing line between what interventions are prohibited and what are permitted is clearly a thin one. At the same time the Constitution guarantees freedom of belief and freedom to profess, practice and propagate religion to individuals. Overall, it could be said that religious minorities have enjoyed a reasonable degree of freedom in India, although there have been exceptions. This was made possible because of a consensus regarding the objectives and provisions of the Constitution for many years. However, in recent years the entire issue of minorities and minority rights has been foregrounded in the public agenda. The point of entry for questioning constitutional objectives has been provided by challenges to the received formulations regarding national identity and political culture. The Nehruvian consensus began to break down by the late '60s and many of the provisions regarding minorities which were included in the Constitution are being questioned today.

Minorities come in many different shapes and sizes. There are 'national' minorities, indigenous peoples, immigrants, refugees, guest workers, colonizing settlers, descendants of slaves or indentured labourers. All of these groups have different needs, aspirations and institutional capacities. This is why international declarations of minority rights tend to waver between trivialities like the 'right to maintain one's culture' and vague generalities like the 'right to self-determination'.¹¹ We must accept that traditional rights are insufficient to ensure ethno cultural justice, and then recognize the need to supplement them within each country with the specific minority rights that are appropriate for that country. Most liberals have assumed that the Supreme Court in each country should have final jurisdiction regarding both human rights and minority rights. American constitutional law protects both certain minority rights for Indian tribes (they are recognized as 'domestic dependent nations' with treaty-based rights of self-government), and also a general set of individual human rights (in the beginnings of an attempt to integrate fairly minority rights and human rights at the domestic level).¹²

The Constitution itself was not unambiguous on some of these issues because of opposing points of view but today there is a strong possibility that anti-liberal forces may gain control over the national agenda. In these circumstances it cannot be taken for granted that the problems of minority protection and multiculturalism can be solved only by following a politics of difference and granting more minority rights. A politics of

difference which is not backed up by a commitment to equal basic rights and citizenship could be used to repress, rather than protect, minorities.

It is unfortunate that the debate about multiculturalism and minority rights has tended to work with a reified notion of cultural communities and a monoculture view of individuals. But societies can be multicultural only if individuals are also multicultural. Proposals to recognize and protect minorities should be assessed by reference to this objective. We have a horrifying contemporary instance in Yugoslavia of what happens to societies when the multicultural sense of identity is allowed to disintegrate.

4. Theorizing recognition

Granting recognition to minority groups without addressing other social and political causes of hostility in society and without emphasizing the need for democratization could possibly increase, rather than reduce, hostility and segmentation in society. Even non-democratic governments could follow such policies though they might be reluctant to grant minorities a place in the national identity or to promote multiculturalism at the individual level. While there can be no easy formula to solve the problems of society, it would seem that states like India would need to pursue simultaneously a range of objectives which would include freedom and equality, as well as respect for the contributions of minorities to a shared national culture. Multiculturalism adds to this awareness by sensitizing us to the dangers of cultural majoritarianism. The central claim of such a politics is that group-differentiated rights, laws and policies are justified on the grounds that membership of groups is an important aspect of person's well-being. The legal recognition of groups comes within the ambit of social justice. The politics of recognitions is represented as making a further claim: that marginalized or disadvantaged groups should be publicly affirmed or esteemed in order to correct their subordinate status and put their members on the same footing as members of mainstream society. We can classify them into five broad types:¹³

- I. Measures which limit the toleration of practices that offend the dignity and hence threaten the public standing of marginal groups. This is exemplified by laws against racist, sexist and homophobic speech, expression and behavior or 'hate-speech'.
- II. Measures which release members of minority groups from the demands of state laws on the grounds that, given the cultural identity, they find them peculiarly burdensome. Example includes exemptions on headwear, dress codes, drug laws, animal slaughter and universal education requirements.
- III. Measures which seek to give members of minorities' special assistance, legal or financial, so as to rectify the social disadvantages they endure. Examples- include bilingual schooling for children of recent immigrants; affirmative action programmes which help under-represented groups such as ethnic minorities gain jobs and university places; and public resources to benefit minority communities, such as building cultural or religious centers.
- IV. Changes to laws or public conventions in order that they no longer discriminate against members of minority communities. This type include the legalization of same sex marriage, as well as revisions to dates and times of public holidays and work practices; changes to the symbolism in flags, currencies, anthems and constitutional declaration; and revision to curricula in schools so that they promote a positive image of minority communities histories and achievements.
- V. The final category encompasses a number of claims centered on the ideas of government or self-determination. It includes measures to give minorities quota places or guaranteed seats in legislatures. More radically, it encompasses claims for devolved power and what Galeotti calls 'collective liberty',¹⁴ the collective right of a group to the non-intervention of the state in its communal life.

In a multicultural society, cultural communities generally demand various kinds of right they think they need to maintain their collective identity. Some of these rights, usually called group, collective or communal rights, are not easy to accommodate within liberal jurisprudence, and raise difficult questions such as whether

the concept of collective rights is logically coherent and what kinds of collectivities may legitimately claim what kinds of rights (Baubock 1994, Kymlicka 1995, Jones 1999).

Brian Barry, in his *Culture and Equality* offers a sophisticated restatement of the liberal impartialist point of view. Barry concedes that laws on headscarves, protective helmets, drug use and the slaughter of animals, for example, place a disproportionate burden on religious groups whose traditional practices run contrary to current law. But special exemptions for Muslims, Sikhs, Jews and Rastafarians¹⁵ are ruled out on the grounds that there is no principle of justice mandating exemptions to generally applicable laws for those who find compliance especially burden some in virtue of their cultural norms or religious beliefs (Barry 2001).

In particular, it points to the way in which cultural majoritarianism disadvantages minorities, alienates them, enhances conflicts between communities and limits self-understanding. Remedying minority vcdiscrimination does not involve an act of benevolence on the part of the majority towards the minority. What are needed instead are policies that ensure full and equal membership to all communities within the state. This may, at times, require special consideration or even collective rights for vulnerable minorities who have been the victims of forced assimilation or exclusion. Group rights may also be given to preserve the diverse minority cultures against homogenization by the nation state. They must not therefore be regarded as, or confused with, policies of appeasement and containment of minorities.

References

1. See Gelher (2001) on the diffusion of Western ideas of multiculturalism in Nepal.
2. Parekh Bhikhu (2000), "What is *Multiculturalism*?" <http://www.india-seminar.com>. P.3. *Multiculturalism is best understood neither as a political doctrine with a programmatic content nor a philosophical school with a distinct theory of man's place in the world but as a perspective on or a way of viewing human life.*
3. Galenkamp (1993). The belief in such a 'striking parallel' is partly the result of a linguistic sleight of hand. Because minority rights are claimed by groups, and tend to be group-specific, they are often described as 'collective rights'. The fact that the majority seeks only individual rights while the minority seeks 'collective' rights is then taken as evidence that the minority is somehow more 'collectivist' than the majority. This claim of reasoning contains several non sequiturs. Not all group-specific minority rights are 'collective' rights, and even those which are 'collective' rights in one or other sense of that term are not necessarily evidence of 'collectivism'. See Kymlicka 1995 a; Ch.3 and Ch.4 pp. 20-5.
4. Ibid, pp.5
5. This idea was floated in Recommendation 1201 of the Parliamentary Assembly of the Council of Europe, in (1993), but was quickly dropped in subsequent European declarations, not least due to the vehement opposition of France and Greece.
6. Various attempts have been made to show that existing human rights principle simplicity prohibit this sort of disempowering of minorities (see Wheatley 1997; Lewis-Anthony 1998). These interpretations have not however been widely accepted. One encouraging development is that the recent Framework Convention on the Rights of National Minorities explicitly precludes altering electoral boundaries so as to dilute minority representation. However, this only concerns electoral boundaries, not the division of powers: it does not prevent central governments from eliminating or gutting forms of territorial autonomy.
7. A related example is the law (Boldt 1983) which existed in Canada prior to 1960 which granted Indians the vote only if they renounced their Indian status, and so abandoned any claim to Aboriginal political or cultural rights. In order to gain a vote in the Canadian political process (a process they had no real hope of influencing), they had to relinquish any claims to participate in long-standing Aboriginal processes of self-government. This transparent attempt to undermine Aboriginal political institutions was justified in the name of promoting 'democracy'. And after

- citizenship was finally granted to all Indians in 1960, the Canadian government then challenged attempts by Indians to use UN forums for Indigenous peoples on the grounds that Indians are Canadian citizens. Pp. 48, 83.
8. The view that language rights are not part of human rights was explicitly affirmed by the Canadian Supreme Court in *Mac Donald v City of Montreal* (1986) I.S.C.R. 460; *Societe' des acadiens du Nouveau-Burnswick v Minority Language School Board* no. 50 (1986) I.S.C.R. 549.
 9. For a comprehensive review of the current status of language rights in International human rights law, see de Varennes (1996).
 10. See the analysis in de Sousa Santos (1996). He argues that attention to the claims of indigenous peoples and ethnic minorities can help develop a new 'non hegemonic' conception of human rights which would retain its commitment to protecting the weak and vulnerable without serving as an instrument of Western colonialism (e.g. 353).
 11. For an acute criticism of Existing minority rights declarations, see Horowitz (1997).
 12. It is, at best, an imperfect beginning in large part due to the Plenary Power which congress arbitrarily asserts over Indian Tribes. See Kronowitz et al. (1987); O' Brien (1989).
 13. This list is adapted from A.E. Galeotti (1999) '*Neutrality and Recognition*', in R. Bellamy and M. Hollis, eds. '*Pluralism and Liberal Neutrality*'. London: Frank Cass, pp.44-5.
 14. A.E. Galeotti (2002) '*Toleration as Recognition*', Cambridge: Cambridge University Press, pp. 209,219.
 15. Barry Brian (2001), '*Culture and Equality: An Equalitarian Critique of Multiculturalism*', Cambridge: Polity. P 321.

Chanchal Kumar (AF-01, Ph. D. - 06)

Chanchal Kumar is working as an Assistant Professor (AF) since 2001 in Department of Political Science, Janki Devi Memorial College, University of Delhi, India. She finished her Doctor of Philosophy (Ph.D.) in 2006 on the topic, "Indira Gandhi and Congress Socialism". Her main research interests concern Global Politics, Indian Politic, South Asia, International Terrorism, Human Rights. She has written numerous chapters in books as well as articles in journals such as, "Manu on Social Law", "Role of United Nations in Disarmament and Arms Control", "Asian powers-China and India-Challenges, Issues, Policies in the 21st Century" (Published in IPPC, school of Public Policy, University College London, UK in 2010) "Terrorism: A threat to Regional Security in South Asia"(published in "SAARC-Building Bridges in the South Asian Region", Foundation for Peace and Sustainable Development, New Delhi 2011), United Nations and Collective Security, "UN and Refugee Problem".

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