

Contextualising Multiculturalism in Indian Democracy: Problems and Prospects

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I. INTRODUCTION

Multiculturalism is a body of thought in political philosophy about the proper way to respond to cultural and religious diversity. Multiculturalism or Cultural Pluralism is a policy, ideal or reality that emphasizes the unique characteristics of different cultures in the world, especially as they relate to one another in immigrant receiving nations.

Cultural pluralism is not a modern phenomenon. History provides many examples of different communities and cultures living side by side within the same society, co-existing peacefully and sometimes, even amicably. The ancient empires of Persia, Egypt and Rome were culturally diverse. In India, similarly, people of diverse religions and languages have lived together for several centuries. In some pre- modern societies, differences of religion were even legally recognized and accommodated.

The co-presence of different communities within the same polity is, therefore, not a new occurrence. Cultural plurality has been a hallmark of many societies for a very long time. However, the existence of plurality at the societal level does not imply that multiculturalism as a value prevailed in these societies. The simultaneous presence of many cultures and communities within the same social points to a plural social fabric, but it does betoken the presence of multiculturalism. The latter entails something more than the mere presence of different communities or the attitude of tolerance in society. Multiculturalism is concerned with the issue of equality: it asks whether the different communities, living peacefully together, co-exist as equals in the public arena.

It is this emphasis on equality that distinguishes multiculturalism from pluralism. Within the framework of plurality, the major concern is peaceful co-existence and amity. Pluralism, in other words, indicates the presence of differences and marks a departure from policies aimed at annihilating the other. It remains silent about the public status of these communities. Indeed, in most pre-modern societies, pluralism prevailed against the backdrop of a widely accepted hierarchy of cultures and communities. In plural societies, dominance is frequently expressed in political and symbolic terms. It is by capturing and gaining exclusive control over public spaces that structures of inequality are put in place.

Contemporary discourses on multiculturalism have brought the reality that inequalities of this kind may prevail even after some basic degree of political and civil rights are granted to all. It is hardly a coincidence that multiculturalism surfaces within the framework of democracy. Democracy, values the principle of non discrimination. It aims to ensure that socially ascribed identities, such as those of caste, race, religion or gender, are not a source of discrimination and disadvantage in the public domain. Multiculturalism, as a political theory, extends this democratic concern. It probes areas of cultural discrimination that may exist even after legal equality has been established. Reflecting upon what constitutes fair and equal treatment for minority cultures and communities within the nation- state, multiculturalism explains why people committed to enhancing democratic citizenship should be concerned about the fact of other cultures in our society.

The focus of contemporary multiculturalism is, therefore, radically different from earlier notions of pluralism and cultural differences. Unlike pluralism, which points to the amicable co-existence of different cultures, multiculturalism makes a value statement. It asserts that the many cultural communities that are present in our society must live as equals in the public domain. As such, multiculturalism is not just an ascertain of tolerance; nor is it, for that matter, a celebration of eclecticism of tastes. Multiculturalism speaks of equality of cultures and argues that in a democracy, all cultural communities must be entitled to equal status in the public domain. That is, fair treatment as an equal citizen is a matter of right; it is not - and must not be dependent upon the largesse of benevolence of the majority community. Indeed, it is what all individuals, as citizens and members of different communities, might legitimately expect and receive in a democracy.

Multiculturalism thus speaks of issues that are central to democracy. On the one hand, it extends democratic sensibilities, and on the other, it is itself an expression of the democratic urge. The current engagement with multiculturalism and the attention that this theory has received in the recent past can best be appreciated against this wider backdrop of democracy. Since multicultural political theory has revealed patterns of cultural discrimination engendered by the nation-state, it has raised questions that no democratic polity can

ignore. At the same time, by successfully articulating the sentiments of the subordinated and marginalized minority communities the world over, it has become a synonym for the assertion of their difference.

Multiculturalism as a coherent political theory, with its distinct conception of democracy and citizenship, has emerged only in the recent past. Perhaps the most distinguishing mark of these recent enunciations is that they question the idea of universal citizenship and speak instead of “differentiated citizenship” with group – differentiated rights. The view that people must be incorporated not merely as citizens but also as members of discrete communities possessing multiple loyalties, has challenged the most cherished norms of liberal democracy. It has, at the same time, provided a framework within which special rights for minorities may be discussed and debated. Collectively, these elements have outlined a new vision of democracy: one in which cultural community identities are not only treasured but also sought to be protected and made secure.

Contemporary multiculturalism is, therefore, more than a theory of minority rights. It is a conception of democracy in which diverse cultures are represented as equals in the public domain. The idea that different individuals and communities should be treated as equals within the nation-state is steadily gaining wider acceptance. Multiculturalism has raised issues that democracies everywhere need to address.

India was among the first few democracies to embark on the multicultural path. While designing a multicultural structure, the framers of the Indian constitution designed a structure that protected cultural diversity but in giving content to this idea they differentiated between four kinds of communities – communities based on religion, language, caste and tribe.

India is an outstanding case for the study of multiculturalism. It is home to policies of legal pluralism in religious family law (Hindu, Muslim, Christian, Parsi), territorial autonomy for several linguistic and tribal groups, as well as quotas in legislatures, government jobs and educational institutions for caste and tribal minorities. Scholars have hailed the Indian Constitution of 1950 as a prescient model of multicultural accommodation for its recognition of a range of group-differentiated rights within a broadly liberal democratic framework. [Bajpai]

The multicultural framework that was initially devised protected diversity by giving communities the right to govern themselves in some respects. Religious communities received rights to govern their religious and associated social and cultural practices. All communities received equal rights to ‘profess, propagate and practice’ their religion. Additionally, they had rights to establish and manage their own separate institutions - charitable trusts as well as educational institutions. The latter could receive financial and other kinds of assistance from the state; they could also provide religious education for their members, albeit on a voluntary basis. The constitution, furthermore, gave official recognition to the personal laws of four identified communities-Hindus, Muslims, Christians and Parsees. This meant that in all matters concerning family (eg. Marriage, divorce, inheritance, alimony, custody of children), individuals were to be governed by the personal laws of their respective communities. Thus, the distinctive ways of life of different religious communities were publicly recognized. Protection of diversity in their case translated into group cultural autonomy [Mahajan 1998 40-114].

Autonomy for religious groups in cultural matters almost always results in the subordination of women. Since most communities are patriarchal in structure, they invariably endorse laws that are biased against women. The situation in India was no different. Here too, endorsing community personal laws meant accepting a framework in which women were not treated as equals. This has led some to argue that religious communities should have received rights in the ‘public’/ political domain, perhaps in the form of separate representation, rather than rights in the ‘private’ sphere that protected the regime of in egalitarian personal laws [Ali 2000].

It is a moot point whether cultural autonomy could have been interchanged for separate representation. However, if separate representation for minorities had been accepted the parliament would probably have had to take up the task of reforming their personal laws. At present, constitutionally sanctioned cultural autonomy along with the absence of separate minority representation have created a situation in which the state can justify non intervention in the personal laws of the community. The minorities can also claim that the state or the central parliament can as a representative of the majority community legislate on the practices and personal laws of that community, but not for the minorities as they are inadequately represented in it. Today, the responsibility of altering and reforming personal laws of minority communities rests with these communities and, by and large the state has refrained from intervening in them [Mahajan, 2005].

In India the emphasis on granting cultural rights to minorities opens up possibilities of regressive interpretation of identity politics and stresses the fact that multiculturalism trumps feminist concerns. “Feminism and multiculturalism might find themselves as allies in academic politics; but as political vision in the larger world they are very apart.” “While multi-culturalism demands respect for all cultural traditions, feminism interrogates and questions all cultures.” The issue of personal laws in India is one of such major aspects where multi-culturalism overlooks feminist concerns.

Issues of personal law in India have been raised by feminists to show how multiculturalism harms women. Personal Laws (PL) in India are one of the most complicated issues and bring out the tension between multiculturalism and feminism. Independent India opted for a model of separate personal laws for each of its religious communities. As per this model, the religious community in India governs a broad range of family law issues including marriage, divorce, maintenance, guardianship, adoption and succession. Under such a model each community is given autonomous powers to demarcate its membership boundaries and preserve its cultural distinctiveness. After independence, some scholars and many indigenous political leaders believed that a system of separate personal laws for religious minorities could be an important source of cultural autonomy in divided societies, contributing to ethnic stability and facilitating the preservation of minority cultures. On the whole this was the model to accommodate multiculturalism and cultural diversity in India.

While the cultural diversity model maintains the autonomy and sovereignty of different minority cultures, it is problematic in terms of women's rights, particularly when the jurisdiction it extends to groups goes beyond pure status issues to include matters of property relations between spouses. These relations can be structured so as to disadvantage or even exploit women. In so doing, they put at risk women's rights to fair and equal treatment and may interfere with their capacities to make and pursue significant life-choices.

While in India women are guaranteed on paper full and equal citizenship rights by the state law, in practice their basic rights may be circumscribed with impunity by their group's family law traditions.

In India, it was the consensus on granting special cultural rights that marked the initial compact. There is an anxiety that the norms of the uniform civil code may be set by the cultural code and imagination of the majority Hindu community. The challenge that confronts India today is how to ensure justice for all while simultaneously retaining its multicultural identity. And it is this concern that has prompted many, even in the women's movement, to argue for gender-just personal laws rather than a uniform civil code.

The Indian Constitution protected diversity by protecting the religious liberty of all communities. All communities – the majority as well as the minorities – enjoyed freedom to live in accordance with their own religious and cultural practices, the state could intervene to minimize and eradicate the practice of untouchability, and with it, of forced segregation and exclusion, was motivated by the concern for equality.

Affirmation of cultural diversity took a somewhat different form in the case of linguistic communities. Here, diversity was recognized at the same time, it was believed that to reinforce the unity of the country, which is inhabited by people of diverse religions, there was need for a shared language. Thus, even as the presence of different languages and linguistic communities was acknowledged, it was felt that the nation –state required a single language for communication.

Diversity has prevailed further through the linguistic reorganization of regional states. The constitution had given linguistic minorities the right to establish separate educational institutions to protect and promote their language and culture, and they could receive assistance from the state. Over the years the Supreme Court has argued that educational institutions established by linguistic minorities are not restricted to teaching only their language and culture; they can provide comprehensive education in every field of knowledge in their language, [Kymlicka,2005].

The principle that minorities within a region must receive the same rights as any other minority within the nation – state is often readily accepted but actual practices on the ground usually tell a different story. In India, many minority languages within the region do not have second –language status and in some cases this status has been withdrawn from previously recognized minority languages. This may seem to be a practical problem involving the failure to implement policies that have been agreed upon, but they hint at the political construction of diversity. Political rights of governance to linguistically defined communities have sustained diversity, and provided opportunities and options to the speakers of that language even outside the home state. All this has enriched and deepened democracy within the nation- state, with more and more people coming into the political process and regional parties, in addition to national parties, articulating their interests [Kymlicka-P.302].

Another set of communities that received attention within the multicultural structure in India was the tribal communities. During the period of colonization, the British had followed the policy of protective segregation. From time to time the government through a notification would prescribe a line that was called 'the Inner Line..... To protect any subject living outside the area from living or moving therein. [Baruah 1989]. Within the area designated by the Line, tribal communities were allowed to manage their own affairs 'with only such interference on the part of frontier officers in their political capacity as may be considered advisable with a view to establishing a personal influence for good among the chiefs and the tribes .

When India became independent this 'exclusionary' policy was followed to some extent. Since it was feared that segregation might deprive tribal communities of opportunities for development, a policy of 'integration' as distinct from 'assimilation' was formally endorsed [Heimendorf 1982]. Within it, the distinctiveness of the tribal ways of life was acknowledged and diversity of cultural forms was protected. Certain areas were accordingly identified as 'excluded' or 'partially excluded regions'. Here, something akin to

the idea of Inner Line prevailed; that is, within the 'excluded areas' free movement and passage of outsiders was curtailed, and within the identified region, tribal communities were given special rights to govern themselves in accordance with their customary law and distinct social and religious practices. [Mahajan,2005].

It was in this way that cultural difference and diversity represented by the tribal communities was protected by the constitution. In addition to recognizing diversity it was argued that these communities, while pursuing their own way of life, must be integrated as part of the Indian federal polity. For this, separate representation was envisaged for members of the identified Scheduled Tribes. Members participating in the debate maintained that in the absence of special representation these communities might remain isolated and unrepresented in the political system. Hence, an effort was made to bring them into the political process without undermining their cultural distinctiveness. [Kymlicka, 2005].

The Indian polity today faces the questions of ensuring equality for marginalized groups within the country and protecting the diversity represented by internal minorities within a region. Both these serious challenges and the inability to deal with them adequately has been a matter of deep concern.

In India, formation of language- based regional states, has at one level, enhanced diversity. It has provided an environment in which languages, marginalized in the national context, have successfully sustained themselves and grown. At another level it has, by accommodating the felt needs of the people, minimized potential sources of conflict with the nation-state.

Most theories of multiculturalism particularly those that have come from the west are silent about the inclusion of the community as a heterogeneous body. If multiculturalism is to contribute to the health and vigour of democracy, it cannot simply be about inter-group equality. It must also be sensitive to relations within the community. Multiculturalism begins by asserting the value of collective community identities for the individual. It speaks not only of the influence of community membership in structuring experiences, but suggests that recognition and respect for the community is crucial for a life of dignity. It is only when one's cultural community is secure and treated as an equal that one can meaningfully explore choices and options. Hence, it advocates rights to protect communities and to allow them the opportunity to determine their own way of life. It favours a range of special community rights, as distinct from individual rights that are given equally to all persons as citizens. These include rights to promote a collectively valued way of life, to live and be governed by the norms of that culture, and to observe the cultural practices of one's community.

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, equal citizenship and a judicious programme of affirmative action.

The experience of India may well provide some valuable input both for understanding the importance of a multicultural structure and for refining existing theories of multicultural accommodation. The value of multiculturalism being the corner stone of the nation, the constitution contained both cultural and institutional safeguards for the accommodation of diversity. Cultural autonomy is reflected in elaborated categorization of individual and collective rights, rights of minorities, inclusive citizenship as well as separate personal laws of different communities.

The Indian society has been multi-cultural, multi-religious, multi-racial, multi-ethnic and multi-linguistic from time immemorial. However, India has also encountered various kinds of divisiveness. Therefore the biggest challenge before countries like India is to preserve the pluralistic tradition and to bring the various communities into the mainstream society by promoting the spirit of multiculturalism. Concerned citizens in India are worried over the alarming situation of current communal disharmony and there is fear that it might ultimately result in the disintegration of the nation. It is unfortunate that unscrupulous politicians with an eye on vote banks are indirectly supporting the force promoting narrow religious sentiments, and linguistic and regional identity. Building bridges of solidarity among different religious communities in India is essential to preserve the pluralistic and multicultural credentials of the country.

India is a multicultural society. However, in actual practice the idea of multiculturalism has its own limitations in a democratic state like India. Here multiculturalism raises new challenges for defenders of multiculturalism. In a democracy, cultural differences must not be a source of discrimination or marginalization in the public arena. Policies that disallow public expression of differences or compel assimilation have to be challenged because the gains of citizenship should not come at the cost of erasing one's self-identity. Since identity of a person is shaped by community affiliations, citizenship must not imply negation of those memberships and identities. Therefore, the public domain must be open to differences. It must also create room for the expression of cultural differences. It is also necessary to accept that cultural communities are not homogeneous entities; and they are continuously being defined and altered. Eliminating discrimination should not mean that cultural communities hold on to their differences or that they be incorporated in to the political system as a unified group with a congealed common interest of values. Multiculturalism needs, therefore to

explore ways by which the sense of alienation and disadvantage that come with being a minority are visibly diminished, but in a way that does not replace the power of the homogenising state with that of the community. It must, therefore, aspire towards a form of citizenship that is marked neither by a universalism generated by complete homogenization nor by the particularism of self-identical and closed communities. The Indian polity today faces the questions of ensuring equality for marginalized groups within the country and protecting the diversity represented by internal minorities within a region. A multicultural democracy requires for its sustenance not isolated islands and multiple cultural solitudes but communities living together and participating as equal partners in the national political life.

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