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Human Rights: From an Alternative Viewpoint

Debashish Mitra*

F.C.College,Diamond Harbour,Kolkata, India

Abstract

The historical progression of the idea of ‘Rights’ and ‘Citizenship’ are embedded in a narrative, which postures itself as a Universalist in nature. The role of ‘State’ in such a narrative account cannot be over-stressed. The concept of ‘Rights’ in such a context comes across as an act of dispensation. Dispensation of ‘Justice’, such an account and its discussion problematises the almost universally accepted notions regarding ‘Human Rights’. In order to do so, some of the major epistemological shifts are identified to analyze the ‘accepted’ continuum of human thought and behaviour which are universal in nature. It would be useful here to question the ‘universal’ tenor of this kind of exercise in modern social science theories where nature has been ‘pushed’ in to the periphery. The MDG envisioned, must overcome this academic and practical resistance to identify the crux of international relation.

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1. Introduction

The historical progression of the idea of ‘Rights’ and ‘Citizenship’ are embedded in a narrative that postures itself as Universalist in nature. The role of ‘State’ in such a narrative account cannot be over-stressed. Sometimes it performs as nation, primarily focusing upon identity, and sometimes in other stressing the importance of “deterritorialised discourses of human rights are increasingly coming to prevail in the post-Cold War era”¹ The

* Corresponding author. Tel.: +91-9477242179; fax: +0-000-000-0000 .
E-mail address: dmitra0479@gmail.com

concept of 'Rights' in such a context comes across as an act of dispensation. Dispensation of 'Justice'.ⁱⁱ The birth of modern 'State' in the ferment of Europe that the 18th century was, saw the coming together of this new institution and the notion of 'Justice'. The dispensation followed. Interestingly enough, 17th century onwards was also the period when geographical 'discoveries'ⁱⁱⁱ and explorations made colonies in the Americas, Asia and Africa a part albeit an extension, of Europe. It will not be out of order here to comment on what this entailed in terms of developing ideas about the nature of progress; progress of humanity or the civilization that the humans created. Such an account and its discussion problematises the almost universally accepted notions regarding 'Human Rights'. An essential exercise to say the least, absence of which does not reveal the notion in all its complexity.

2. Discussion

In the previous paragraph, we had referred to 'State' as a new institution arising in Europe during the post-Renaissance period. It would be worthwhile here to introduce the Foucauldian idea of epistemic shifts. Late 18th century saw such a shift with respect to state. Analyzing the nature of power as exemplified by its location, Foucault saw a transformation from the earlier 'sovereign power' to the present 'disciplinary power'.^{iv} The former was located in the person of the absolutist monarch, while the later is located in the state, a modern phenomenon according to Foucault. The question that begs an answer here is what were the elements of power or its application that reflected such a shift. Characteristically the former tended to be brutal, involved torture,^v and physical punishment. It operated intermittently and was ritualized, imbued as it was with huge doses of symbolism. The exercise of such power almost always took place in public view.^{vi} In contrast, 'disciplinary power' was and is associated with technologies of regulation, monitoring, and surveillance. By changing patterns of thought and behaviour through techniques of training it is able to operate continuously. Rationality takes over from ritual symbolism and application of power takes place within the cloistered walls of institutions.^{vii} It is not our contention to accentuate the differences between the above-mentioned Foucauldian categories. Any social observer would recognize that both forms of power operate (and with some legitimacy to say the least) in contemporary times. Hence, the use of the word epistemic shift and not break.^{viii} Shift referring to positional movement within a discursive^{ix} field even if extending the boundaries. Break on the other hand refers to complete disjuncture, a conscious act.

We have been discussing the epistemic shift in the nature of power. 'State' emerged from such a movement as the legitimate (not the only one) repository of power. The act of constitution of the state comes, so to say, with another epistemic shift. We see the concurrent categorical shift from 'subject' to 'citizen'. Without resorting to definitions as suggested by political theorists,^x we would try to find their constitutive elements. 'Subject' refers to a member of a state owing allegiance to its monarch or supreme ruler.^{xi} 'Citizen' on other hand refers to a legally recognized subject or national of a state or commonwealth.^{xii} Even a cursory glance at the above definitions would push the question of agency (of the subject/citizen) to the forefront. While 'owing allegiance' imputes 'agency', 'legally recognized' takes it away. It is in this context that the dispensation of justice was referred to. It goes without saying that one, if not the only, reason for the origin of the state, or structures of earlier times that resembled the modern state, was to deal with the issue of justice.^{xiii} Along with justice comes its handmaiden, the concept of 'rights'. However, before delving into the nature of rights, (specifically human rights), it would not be out of place to briefly discuss about citizenship. Conventional and the generally accepted wisdom views citizenship as an entitlement that fruits of which are optimally utilized within a democratic set-up. Democracies with elections configure citizens as individuals. Individuals who can choose what the state needs to do with regards to her/his needs, expectations, and demands. In such a set-up, not only does a citizen become an (or another) individual but her/his rights also become individual ones. To bring Human Rights at this point into the discussion would be proper. "Human rights are rights held by individuals simply because they are part of the human species. They are rights shared equally by everyone regardless of sex, race, nationality, and economic backgrounds. They are universal in nature."^{xiv} As the definition shows, group or community identities are subsumed within the individual IDENTITY. This subsumption leaves the modern states' with problem that are difficult to steer clear of, as any Indian would surely be aware of. Another problem that one is left with is the hypothesis that rights, or as in our case human rights, are universal in nature. A strange situation where the individual becomes the unit, a condition not bad in itself, but loses his agency to act as such. The whole basis for her/his existence becomes the state, which posits itself as the universal agency of legitimation and storehouse of power.

It would be useful here to question the 'universal' tenor, which we have referred to earlier in the opening section.

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