
SAFEGUARDS FOR MINORITIES VERSUS SOVEREIGNTY OF NATIONS

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Tyranny in modern history has not been a monopoly of either arrogant majorities or brutish minorities. Whether a normative sense of political justice calls for the defense of minority rights or majority rule depends on who the tyrant is. Rights can and have been denied to collectivities whose demographic status has ranged from microscopic minority to overwhelming majority. In fact, the issue of minority rights as we understand it today assumes salience within the context of formal political democracies with institutionalized norms of regular elections that validate rule by democratically chosen majorities.

Nothing illustrates this general observation better than a moment's reflection on the recent history of political disenfranchisement in the United States of America and the Republic of South Africa. The potential danger of the "tyranny of the majority" has long been a concern of political philosophers, constitutional lawyers and theorists of democracy in the United States. A sophisticated version of federalism was offered as an early check to counteract any such tendency. In more recent decades, a whole corpus of law embodying "civil rights" has been designed to buttress democracy against majoritarian fiat. The intent has been to ensure that a historically disadvantaged minority is not denied the substance of democracy through continued racial discrimination. Yet proposals to modify rules of the electoral game to give a fairer chance of representation to minorities tend to be denounced by winning majorities as anti-democratic, rather than as a further enrichment of democratic values and practice.¹ Bolder, but also feebler in the face of the hegemony of the American state over the concept of the nation, are exhortations to galvanize the African-American "nation," variously defined, to seize their sovereign rights. Rights of minorities, in the main, continue to be seen in the context of the individual rights protected by the U.S. Constitution and Bill of Rights.

The paramount political problem facing South Africa until its recent "transition to democracy" was obviously not one of discrimination against a minority,

1. See Lani Guinier, *Tyranny of the Majority* (New York: Free Press, 1993), as well as the interview with her on pp. 99-108 of this issue.

but systematic denial of the most basic rights to the black majority.² One of the devices used by the apartheid regime to preserve white minority rule was to manipulate the differences that might divide the phalanx of the black majority. While many of the "tribal" and "ethnic" identities in South Africa are, at best, recent re-inventions of tradition, the new democratic state of South Africa will nevertheless have to rise to the challenge of safeguarding minority rights and perhaps of honoring national rights of various component social groups. The longer-term balance between the center and the nine provinces also awaits clarification. The ideal of a multiracial nation-state coexists uneasily in 1994 with such claims as the sovereignty of the Zulu "nation."

The historical experience of much of the post-colonial world of Asia and Africa on the question of minority rights bears some comparison with South Africa, even though South Africa was by no means a typical colonial case. The immediate political objective of the anti-colonial struggles in Asia and Africa during the first half of the twentieth century was to end European minority rule. Capture of state power at the triumphal moment of formal decolonization by forces representing singular nationalism brought with it, however, minority problems of its own in socially and culturally heterogeneous ex-colonies. The new owners of the stately mansions built during the colonial era may have, at last, laid their hands on the switchboards of the electrical mains; but they soon discovered the short circuits in many of the smaller rooms that easily blew most of the worn fuses.³ In the absence of effective circuit breakers, whole mansions could easily be plunged into darkness.

To push this metaphor even further, these mansions were not just edifices of brick and mortar, but contained libraries with weighty books. The extent to which anti-colonial nationalist thought was derivative of colonial knowledge is currently a matter of scholarly debate. Drawing an analytical distinction between the claims and justificatory structures of nationalist thought, Partha Chatterjee had argued that it constituted a "different" but "dominated" discourse.⁴ More recently, he has contested the implications of Anderson's argument that anti-colonial nationalisms merely "pirated" modular forms of the nation manufactured in the West. Pointing to the inner, spiritual "domain of sovereignty" created by anti-colonial nationalisms, Chatterjee has refused to accept that the "imaginings" of these nationalists were fully colonized. But he accepts, rather uncritically, that in "the material domain of the state" anti-colonial nationalism had "no option but to choose its forms from the gallery of 'models' offered by European and American nation-states."⁵ Elsewhere, I have

2. See Bronwen Manby, "South Africa: Minority Rights and the Legacy of Minority Rule," on pp. 27-52 of this issue.

3. Here I am extending and complicating Benedict Anderson's now famous metaphor: "Like the complex electrical system in any large mansion when the owner has fled, the state awaits the new owner's hand at the switch to be very much its old brilliant self again." *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1991), 160.

4. Chatterjee, *Nationalist Thought and the Colonial World: A Derivative Discourse?* (London: Zed Press, 1986), 42.

5. Chatterjee, *The Nation and its Fragments* (Princeton: Princeton University Press, 1993), 6, 9.

called into question Chatterjee's sharp dichotomy between the inner, spiritual and outer, material spheres and sought to uncover contested visions of nationhood and alternative models of decolonized states in anti-colonial discourse which, incidentally, have gained heightened relevance today.⁶ The historical specificities of the post-colonial, political transition generally witnessed the smothering of diversity and the inheritance of colonial structures of state and ideologies of sovereignty by mainstream nationalist elites. But there was a promised difference. Colonial subjects, so long denied and divided along lines of religion, language, tribe or ethnicity, were to be treated to the full-blown rights of equal citizens.

The new occupants of the stately mansions and secretariat buildings busily set about their plans to modernize and streamline traditional and stubbornly complex societies, deliver a measure of redistributive justice to the inhabitants of huts and shacks, and, in the process, iron out the problem of minorities within political systems which upheld the rule of healthy, democratically-elected majorities. Where that failed, modernizing, "neutral," post-colonial militaries could always take matters into their iron hand. Meanwhile, the older legacy of the red sandstone and marble palaces of the pre-colonial empires and their regional successor states lay in the desolate isolation of irrelevance, their libraries looted of their treasures and now enriching Orientalist collections of Western museums of learning. In any case, how could the politics and states of those branded "oriental despots" hold any edifying lessons for post-colonial "democrats"?

It is now emerging from scholarly research that the great Ottoman, Safavid, and Mughal empires, far from being centralized, bureaucratic autocracies, were flexible, nuanced, and overarching suzerainties. Although obviously bereft of modern democratic ideals, these empires and their regional successor states had well-developed political concepts of both individual and communitarian rights as well as political theories of good governance. From the "segmentary state" of Africa to the "galactic polity" of Southeast Asia, sovereignty was defined intelligently and imaginatively.⁷ Non-believing minorities (or indeed majorities, as was the case in India) in the Muslim states of West Asia, South Asia, and North Africa were granted the legal protections of "dhimmi" status, which, of course, also entailed acceptance of a legally inferior position. More importantly, they enjoyed access to the autonomous spaces created by a concept of layered and shared sovereignties. The emperor merely laid claim to the highest manifestation of sovereignty, leaving the balance to be negotiated with regional sultans and local rajas, merchant institutions, and port cities. The amount of power actually vested in the different levels of sovereignty was subject to historical shifts with downward flows and seepages in periods of decentralization and

6. Sugata Bose, "Nation as Mother: Representations and Contestations of India in Bengali Literature and Culture," in Sugata Bose and Ayesha Jalal (eds.), *Nationalism, Democracy and Development: Reappraising South Asian States and Politics* (forthcoming).

7. For a useful review of the literature see Suzanne Rudolph, "State Formation in Asia: Prolegomena to a Comparative Study," *Journal of Asian Studies* (1989).

fragmentation. What was non-existent, even in the heyday of pre-colonial empires, was any notion of absolute sovereignty and its concomitant demand of singular allegiance. The idea of unitary, indivisible sovereignty was a foreign import into Asia and Africa from post-Enlightenment Europe. But there was an embargo on the export of rights of citizens of sovereign states to Europe's colonies. This distortion in the international trade in ideas of sovereignty and citizenship had large implications for the quest to achieve freedom and democracy without riding roughshod over legitimate minority rights. The colonial state claimed to occupy "neutral" ground above indigenous society which, in its view, could do no better than squabble over the sectional interests of its component parts. Through rigid classificatory schemes employed in colonial censuses and maps, the state made it harder to maintain the peaceful coexistence of multiple social identities. Once colonial modernity had redefined "traditional" social affiliations, the way was open for the construction of divisive political categories that might deflect unified challenges of anti-colonial nationalists. These were not just the larger oppositions between Catholic and Protestant in Ireland, Arab and Jew in Palestine, or Hindu and Muslim in India. Colonial powers often preferred to recruit minorities, such as Sikhs in India, Karen Christians in Burma, or Christianized Amboinese in Indonesia, in disproportionate numbers into key state institutions such as the military. The problem of assuring minority rights among the subject population became a convenient excuse for the perpetuation of minority, colonial rule.

Late colonialism also took to constitutional maneuvers aimed at directing political attention towards local and provincial arenas to keep central state authority insulated from nationalist challenge. Such manipulations culminated in projects like "Cochinchina for the Cochinchinese" in French Indochina and plans for as many as sixteen sovereign states in the Dutch East Indies. The more recent fabrication of self-ruling ethnic "homelands" in South Africa by the apartheid regime falls within roughly the same genre of political engineering. Anti-colonial nationalists, thus, became increasingly suspicious of schemes that threatened balkanization at the moment of decolonization. Minorities came to be seen as only pawns in the endgame of colonial empires.

A grievous flaw was embedded in this perception. Aspirations for unity in anti-colonial politics now came to be replaced by assertions of a singular, composite nationalism. The more far-sighted anti-colonial activists and thinkers had always recognized the imperative of assuring rights of religious, linguistic and other minorities and conceding autonomy to diverse regions. Particularist identities, however much they may have been reinvented in the mold of colonial modernity, could not just be wished away but needed to be accommodated within any enlightened view of anti-colonial nationalism. As Rabindranath Tagore had put it, "Where there is genuine difference, it is only by expressing and restraining that difference in its proper place that it is possible to fashion unity. Unity cannot be achieved by issuing legal fiats that everybody is one."⁸

8. Rabindranath Tagore, *Rabindra Rachanabali*, Vol. #, 382; cited in Bose, "Nation as Mother."

By contrast, Jawaharlal Nehru wrote in 1938 that he looked through a telescope to locate a Muslim "minority" problem in India and could not spot it. As late as the 1920s it had been common to forge a common anti-colonial nationalist position through negotiation among diverse religious and linguistic communities. Those who, like Nehru, set their sights on the acquisition of power at the helm of a singular nation-state displayed increasing impatience with articulations of cultural difference and diversity.

In socially heterogeneous colonies there was always the potential for the emergence of multiple contenders for nationhood. As the discourse of mainstream nationalism turned more strident in its insistence on singularity, a sense of unease led some dissenting minorities to couch their own demands in the language of nationalism. As one British official found in 1941, safeguards as a minority still relegated Muslims to being "a Cinderella with trade-union rights and a radio in the kitchen, but still below stairs"; national status, on the other hand, "recognizes that the problem is one of sharing power rather [than of] qualifying the terms on which power is exercised by a majority."⁹ Among the proponents of the Indian Muslims' claim to nationhood in the early 1940s, however, there was still little enthusiasm for a partitionist solution. Minority claims to nationhood should not necessarily be equated with calls for secession, which may be an option of the last resort when, as in India, all attempts at negotiating power-sharing arrangements fail.

As was pointed out at the outset, minority rights constitute challenges for established or aspiring formal political democracies. In military-ruled Pakistan, the denial of democracy led East Pakistan's Bengali majority to claim to be a distinct nation. It is arguable that, here too, the initial aim was an equitable share of power, failing which the die was cast in favor of a separate, sovereign state of Bangladesh in 1971. The successful secession of Bangladesh was for quite some time an exceptional occurrence in the history of the post-World War II interstate system. The breakup of several states in the post-Cold War era, especially in the former Soviet Union and Eastern Europe, underlines the shifting character of majorities and minorities, depending on the political unit being considered. The legitimacy of any given political unit or juridical state has increasingly become a key issue in interlinked campaigns for minority rights, national sovereignty, and democracy. A minority denied a voice in decision making within a particular democratic polity may either criticize the quality of such a democracy and seek reforms, or question the founding credentials of the state and seek autonomy or secession.

The failure of post-colonial states to assure a semblance of equal citizenship and to deliver on the promise of redistributive justice has brought these entities into some disrepute. As the general concept of the modern, centralized nation-state has been drawn deeper into a crisis of legitimacy, the problem of minority rights has become central to the battle between state-sponsored and anti-state

9. Note by H.V. Hodson, Reforms Commissioner, December 1941, cited in Jalal, *The Sole Spokesman: Jinnah, the Muslim League and the Demand for Pakistan* (Cambridge: Cambridge University Press, 1985), 70.

nationalisms. Centralized states under siege have resorted to majoritarian ideologies, religiously or ethnically defined, in attempts to prevent their own structures from being undermined. For example, Serb supremacism as pan-Yugoslavism and Sinhala-Buddhist chauvinism as Sri Lankan nationalism are variations on this theme. The Serb project has already hastened the dismemberment of Yugoslavia, while Sinhala-Buddhism is confronting a de facto, though not de jure, Tamil nation-state in the north of the island. This last example is simply one of the more recent, dramatic manifestations of the scaling up of demands from the safeguarding of minority rights to the recognition of national status.¹⁰ The denial of legitimate minority rights by states can contribute to the birth of new nations. The rise of Hindu "nationalism" in India is also tied to the defense of centralized state authority against a variety of regional challenges, even though it has not dislodged the formal secular ideology of the Indian state. The resort to this form of religiously defined majoritarianism is having serious deleterious consequences for minority rights in the state often described as the world's largest secular democracy.

The clash between majoritarian principles and minority rights is taking an increasingly bloody toll as part of the conflict between incipient nations and juridical states. Instead of unbending insistence on the singular loyalty of the citizen to the state, the time is overdue to rethink the relevance of multiple and shifting social identities for the cause of democracy. Such identities by their very nature defy capture within unambiguous, permanent or even durable constructs of majority and minority. If the function of democracy is to unsettle permanent or entrenched majorities and democratic processes are meant to ensure that majority support is earned, then the multiplicity of social identities can only be a boon and not a threat to democratic values and practice. These identities can only flourish within a political and state system based on layered and shared sovereignties. Sovereignty need not be the monolith from the peak of which one flaunts authority and under the weight of which "the other" is crushed. Minorities who have, of late, conceived of themselves as nations are unlikely to give up this expression of their new consciousness. But they may yet be invited to form a part of multinational states of union forged from below through negotiation of terms of sovereignty among constituent peoples and nations.

10. See Sumantra Bose, *States, Nations, Sovereignty: Sri Lanka, India and the Tamil Eelam Movement* (New Delhi, Thousand Oaks, London: Sage Publications, 1994).

