

Limits of Justice in a Welfare State: The Curious case of Bengali Muslims

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Introduction: A note on Justice

How would we define Justice? Philosophers of every age have tried to negotiate with the definition of justice. It has been discussed in every platform of philosophy, political, ethical, moral and legal. Aristotle in *Nicomachean Ethics*, Book V has spoken of justice as ‘virtue as a whole’, relating justice to the notion of morality; Hume in his *A Treatise of Human Nature* understands justice as some set of rules assigned to us; Utilitarians think of justice according to the best usages of objects and

maximum happiness principle; Libertarians might think of justice in accordance to private property; Egalitarians think of justice as equality; and the contractarians would think of justice based on some social contract to enjoy common goods by the citizen. These schools of philosophers, mostly political philosophers, have addressed the issue of justice while taking into consideration their contemporary political, economic and social injustices and inequality. A conflict of interest between an individual and the group has always remained. While earlier, justice was more reckoned to be economic justice and liberty-equality quandary, gradually the ideas of justice have been trying to grasp social justice in its plural form. With the changes in our society both in terms of economic developments, and coming out of different individual groups, the formula of justice has to renew itself. The consequences of identity politics, which gained its prominence during the second half of the previous century, led the political philosophers of justice to think of new ideas of justice that would address the identity politics, economic inequality, injustices, cultural violence, free-market and its effect on minority groups and gender issues. Cultural and racial violence in the developing states have been eye opener to the philosophers and theorists to contextualize justice in accordance with empirical evidence, bringing it back from the metaphysical realm. With the independence of the colonial states and imperialism and blooming global market, the patterns of injustices take new forms, which have been influencing

the lives of individual subjects like never before. On the other hand, the once colonised country has the burden of running its democratic state. The case of India and its pattern of injustices has become more specific in the present political-economic developments, and deeply affecting and regulating the social lives of individual-subjects. Philosophies and theories of justice, which have now become “a master concept” (Freeden 2013, 18)¹, are mostly produced by the developed countries specifically for their immediate contexts. The paper will try to negotiate with those discourses of justice in the context of Bengali Muslims, and explore various possibilities and approaches that might be helpful for a better understanding of discrimination and inequality experienced by them. The paper follows Iris Marion Young arguments on not offering a theory of justice as its methodological framework. In the introduction of *Justice and the Politics of Difference* Young has shown why she prefers to offer a social critique above a theory of justice. Social critique allows the author to engage with the society she is presenting, it does not demand distance from the social problems which are the objective of discussion. On

1 India, too has formulated philosophies of justice and democracy, as pointed out by Amartya Sen in his *Idea of Justice*, in its historical time but how much these are practiced and appreciated in the present times would be a matter of enquiry. Although, the references to those events, not replicating them as both time and space have changed since the rule of Ashoka or Akbar, might help us in a better tackling of contemporary injustices.

the other hand, a theory of justice demands a position of universality and impartiality, and considers the given norms as necessary. It does not listen to the actual social context of the subjects of justice and mostly relies on the “impartiality” of the bureaucrats. The following discussion in this paper does not offer any ultimate resolution of justice for the Bengali Muslims, but it attempts to foreground the problems of the said social group, the differences they inhabit, and the effect of just ideals and norms on them.

The Bengali-Muslim Oxymoron(?):

The subject of this paper, the Bengali Muslims, are native to West Bengal, who speak Bengali language and practice Islam. The friction in the former sentence is, in general, the fact that Muslims speaking Bengali is not considered as an independent category. The grand argument on this dispute is that they belong to Bangladesh, the country of Bengali Muslim citizen-subjects. In West Bengal, although they speak a form² of Bengali language, their religion derails them from being accepted in mainstream culture. It gets more critical owing to the fact that the language Bengali has become synonymous with

2 The language spoken by Bengali Muslims is not considered authentic, and charged with the claim that it is a hybrid form combining both Bengali and Urdu lexicon. It is different from the Sanskritized language of Hindu Bengali.

the Hindu religion and culture³. The Bengali Muslims are discriminated against and by both the Hindu Bengalis and elite *Asbrafs*. Under the current Central Government of the nation, Muslims have gradually become infiltrators. The Bengali Muslims would be labelled as infiltrators, similar to the North-eastern Muslims. Bengali Muslims, who belong mostly to the working class, do not form a homogenous class, they are scattered in different parts of the state. The few sprinkles of educated-public workers are disintegrated among themselves, always contending to assimilate with the majoritarian hegemonic culture, and they are nowhere in the business class⁴. The economic and cultural factors of a group have significant effects on the status of the subjects in the citizenship policy. The poor would become illegitimate children of the state as failing to contribute in the

3 To the Hindu Bengalis, their 'Bengali' culture is interchangeable with their nationality. In the rest of the India Bengalis are seen as different from other socio-cultural communities. The possible reason could be the political ideologies and unending pride of the Bengalis in their great liberal culture. This differentiation got recently reflected during the Amphan cyclone, when the national media and central government were accused of not being supportive enough.

4 See "Indian Muslims and the Radical Democratic Project" an essay by Maidul Islam. Here he has discussed about Muslim businessman of India. The essay points out that only 2.2% of Indian Muslims belong to the "high income category" and only 1% belongs to the corporate executives. None of the 2.2% and 1% is from the Bengali Muslim group. They are mostly from South India.

economic market they would be considered to be a burden upon the state. Along with this, islamophobia and the compulsion to decimate them can bring catastrophic holocaust upon the poor Bengali Muslims. Violence revolving around religion is not unfamiliar in India. But even after the progressive repeating slogans of assertion of democratic, secular, liberal ethos of the country and implementation of free market, neo-liberal policies, privatization, and reformations, the spectre of religion and caste hierarchy still lingers. This has been producing patterned injustices not just in the forum of larger politics, but in their social and economic spheres too.

Bengali Muslims do not form a coherent group of citizens. They at best can be referred to as political subjects⁵. Niraj Gopal Jayal in his article “Reconfiguring Citizenship in Contemporary India” (2019) discusses the various forms of injustices and patterned violence that the Muslims and Dalits are experiencing in the wake of CAA-NRC upheaval. Muslims all over India are addressed as ‘termites’, ‘infiltrators’ in the political speeches by the ruling party. Jayal referring to National Crimes Record Bureau shows in the article that a ninety percent surge is noticed in ‘cow related hate-crimes’, the targets of which are Muslims and Dalits (Jayal 2019, 7). The Dalits and Muslims are becoming targets of

5 “Individuals are always already subjects”, says Althusser. But the Bengali Muslims’ process of subjection is intrigued with debates and conflicts.

intersectional injustices and inequality. The relief policies and funds that are made to address the inequality among the poor also need specific documents. “. . . the citizen was rendered a user or consumer of services than a right-bearing citizen”, says Jayal (2019, 9). They are in a contractarian relationship with the state, where they have to tackle all the abrupt changes related to documentary, only after which they can have the opportunity of having rights. Referring to Hannah Arendt, Jayal distinguishes between “stateless” and “right-less” in which Arendt defines “right-less” as “the right to have rights”. In this category, the minorities in India have been striving to find their rights⁶ .

The Welfare State of India (or a utopia?):

The Part IV of the Indian Constitution considers India as a welfare state which follows ‘Directive principles of State policy’. A welfare state follows the principle of equality of opportunity, equal distribution of wealth, protection of economic and social well-being of citizens so that they can enjoy rights of equality. The government under the welfare state has the responsibility to look after the well-being of those who do not have the minimal sustenance. Under the banner of Fundamental rights and constitutions of liberal democracies, every

⁶ In recent times, the discontinuation of Maulana Azad National Fellowship and ‘Padho Pardesh’ for minority students are the two latest examples of such discrimination.

citizen will have equal equality before law, basic rights and civil liberties. Along with this the government also would take care of the social and economic democracy of the citizens. As a welfare state then the nation-state should take care of the minority and backward classes so that they can prosper in an egalitarian society. Jayal in his article notes that other than the time of Emergency, the citizens have not been deprived of their civil and political rights. These rights were legally available if not always had the same value, but then Jayal notes, “today, regrettably, that is no longer true, and civil and political rights, as much as social and economic rights, stand imperilled.” (Jayal 2019, 8) With the privatization of everything, the state is providing welfare to one section of people while leaving others to take care of themselves. The welfare slogans boast for equality of every citizen, but these come with certain limitations. To avail the opportunities subjects, one has to belong to some designated groups, BPL, OBC, SC, ST, retired public workers, disabled category and others. For example, the Jan Dhan scheme requires the pensioners to deposit money in their Jan Dhan accounts otherwise the system would automatically debit money from the accounts and if they fail to “contribute”, their accounts will cease (Jayal 2019, 11). The schemes are for those who can earn and most importantly contribute to the economy. Maidul Islam in his essay shows, “84.5% of Muslim households spend no more than Rs. 20 per day and Rs. 609 per month” (Islam 2005, 71). Muslim representations in landed class

and private sectors are also very miniscule. The state in order to include these subjects in their welfare schemes is also marking or labelling them as distinguished, vulnerable classes of subjects that need aid, unlike the “un-marked” first-class-citizens who are already equal.

In the last few years, young and middle-aged men alike from parts of Murshidabad and Malda have been going to the Gulf States to work as menial labourers. The young boys are mostly educated but for lack of employment and any form of symbolic capital they have to opt to become labourers. The families generally sell some land to get the required money for visas and agents who would connect them with foreign companies. While the remittance is reasonable to keep the family going, this comes at a cost. The labourers work there for at least five years to save, so that they can start a business when they return. The state too enjoys its own share from the remittance, but in times of crisis the state does not always positively respond. For example, during the COVID-19 pandemic the migrant labourers of India in Gulf States were severely affected, many companies had refused to pay them any allowance and the threat of sending them back has always been lurking. Jayal rightly says, India practices “productivist welfare capitalism”, in which the state acknowledges productive works that can contribute in the economic development (also who can donate in political campaigns) (2019, 90) rather than the classical welfare schemes of well-being for all ⁷.

⁷ This note on migrant laborers to Gulf States from these two districts are based on my knowledge of the process, observed

Critique of Welfare State:

John Rawls, the renowned political philosopher of liberal tradition has criticised welfare state policy in his *Theory of Justice* (1971). He examines that in the welfare state “while some effort is made to secure fair equality of opportunity it is either insufficient or else ineffective given the disparities of wealth and the political influence they permit.” (Rawls 1971, xv) He offers his theory of liberal socialist regime which would conceive both the classical libertarian principle of “property-owning democracy” and the subjects in this society would be in a fair system of cooperation. Denying utilitarian and Locke’s contractarian theory, Rawls proposes his “Difference Principle”. In a position of ‘veil of ignorance’ where no one would know about themselves, their origin or desires or needs, or even their position in the actual society, in this hypothetical situation the subjects would form principles of justice in fair terms. Since no one knows about their present positions, Rawls thinks, there would be no partiality. The subjects are to be believed as moral, equal, rational and free individuals and must agree on the benefit of society as a whole. He offers two basic principles to be followed by the subjects. The first principle is about basic liberties: political liberty, freedom of speech, liberty of conscience, thought, individual liberty, personal property and other basic rights. The second

around my place in Murshidabad over the years. This has not been documented as of now. Although, the migration literature from Kerala-Gulf might help us understanding the overall conditions of the minority labourers.

principle includes distribution of justice, where Rawls writes, “while the distribution of the wealth and income need not be equal, it must be to everyone’s advantage . . . positions of authority and responsibility must be accessible to all” (Rawls 1971, 53). Rawls in his theory of ‘justice as fairness’ allows inequality, he adds, as long as it is for the benefit of the least well-off. He believes that since the subjects in the first principles have agreed upon equal liberty, the well-off would ultimately help the worst-off to fight inequality. Philosophers and theorists of most schools of Justice have criticised Rawls. But if we try to think of this ‘justice as fairness’ concept, what would be the consequences? Rawls asks to create a ‘veil of ignorance’ or a hypothetical position where everyone is equal. That might not be possible here, but what if we imagine the Indian constitution as the moment of “justice as fairness”. The constitution has indeed much emphasis on democratic liberal society. But even after independence an elite-nationalist rule pervades in India. Although everyone is considered equal then how come India is struggling with injustices and inequalities because of religion, caste, gender? How come minorities, in this case the Muslims, are treated as second-class citizens, always in fear, and discriminated against for practicing “illiberal”⁸ religion?

8 See the works of the religious anthropologist Talal Asad for a better approach to the question on why with the coming of modernity, Islam had been categorized as an illiberal religion.

Even when the richest investors of India donate for the least well-off, do they (the people of lower strata) become equal or even closer to equal?⁹ Not only economic inequality, but they have been struggling to live with the basic formal respect in their own society. Chantal Mouffe¹⁰ while critiquing Rawls, remarks on the point of rationality. She points out that reason or rationality is itself a hegemonic concept, because this is determined by the ruling elite class. And in Rawls's theory only those who can practice rationality, can understand liberalism. Rawls would agree upon the principles which are reasonable to his political liberalism, and he excludes ill-legitimate demand. Then, if something does not suit the principles of the rich well-off, would those others be excluded. (?) The central government's emphasis on creating a Hindu nation can very well be the result of a "liberal-rational" dream, which does not want to share space with the "illiberal" Islamic religion. This is an inversion of the original position and the constitution, and shows the failure of liberal-socialist regime which does not have space for dissent and complex pluralism.

9 The recent Oxfam International report on Indian economy shows that the richest "10% of Indian population holds 77% of the total national wealth. 73% of the wealth generated in 2017 went to the richest 1%, while 670 million Indians who comprise the poorest half of the population saw only a 1% increase in their wealth." Refer to <https://www.oxfam.org/en/india-extreme-inequality-numbers> for further details.

10 See 'The Limits of John Rawls' Pluralism'. (1997)

Ideologies of the Subjects:

Periyar E V Ramasamy (1879-1973), a Dalit social activist, had criticised Indian nationalism because of its Brahminical attitude. Periyar argues that the Indian state is an articulation of Brahminical *Ramraj*. Karthick Ram Manoharan in his essay “Freedom from God: Periyar and Religion” says that Periyar believed that “an elite class in India stood in the way of the law of equality. The elite class, the Brahmins, used the Hindu religion to ensure their superiority in society and the state was an instrument to cement this.” (Manoharan 2019, 5). The elite class, the rationales among the subjects, chooses religion over morality, ethics and liberty principle. Periyar in response to the rule of Brahmin elites believed that science and rationality can save the subjects from the oppressing rule of elites. He gave much emphasis on ‘rationality’ believing that it would eradicate religion and caste hierarchy. But religious morals overpowered scientific rationality. Interestingly, Periyar was never against the practice of religion and believed that this could give the lower castes and minorities a “resource for organization”. But as it seems religion is also providing feelings of togetherness to the Brahmins in their adventure of subjugating the lower castes, Dalits and impure religion.

But what Periyar observed about the state and Brahmin hegemony decades ago when India was struggling for independence, remains intact and has become more lay-

ered. Althusser observes in his extrapolation of ‘ideology’ that “the whole of the political class struggles revolves around the state” (Althusser 2008, 14). The state is the repressive state apparatus which functions primarily by repression and violence, and then ideology. On the other hand, the ISAs function predominantly by ideology and, in a symbolic way, also function by repression. The state, which is above the law, rules on the ideologies of the bourgeois ruling class. While the ideological state apparatuses belong to the public institutions, these also follow the ideas of the ruling class. Althusser says, “no class can hold state power over a long period without at the same time exercising its hegemony over and, in the State Ideological Apparatuses” (Althusser 2008, 20). To sustain its ruling position this class has to reproduce its ideas in every sphere of a society. Be it school, religious institutions, family, courts, media, arts and others. The ISAs are the space of struggle and contradiction. Althusser notices that earlier religion was the predominant ISA which is now replaced by education¹¹. The recent changes in the syllabus of CBSE board on chapters on secularism, nationalism and others, is an example of the State’s controlling its ideologies, and so has become the National Education Policy. The state is helping the elite, providing them cheap labour. The policies of trade unions have more focus on the business than the well-being of the workers. Under the privatization

11 Although in the case of India, both religion and education are going hand in hand while complementing each other.

regime the state is no more liable to address the crises of workers. This privatization is helping the elites in securing their surplus and capital to themselves only. In this mode of business production, the rich will become richer, and consequently the workers will be eradicated. Maidul Islam notes that 92.6% of Indian corporate board members belong to the “forward castes” (Islam 2005, 73). The state with its ruling class is forcing for a homogenized culture that is based on the principles of Brahminism and relegates other culture to the margin. The state, using media and police, is targeting the Muslim and Dalit youths. These sections of subjects are already discriminated against in educational and employment opportunities. They mostly are self-employed, work as small peasants and as workers at construction sites and small business owners. Lack of cultural and economic capital does not allow them for higher studies. The ISAs are the place where the ruling class with the aid of the State is reproducing the relations of production and exploitations of the workers. These are the sites of class struggles.

Carl Schmitt in his critique of liberal justice or injustices says that the concept of “humanity” in liberal discourse does not do any help. They can no longer sell the trope of humanity. Citizens need to be seen as “political unity” where the emphasis would be on “demos” and “people”. In the liberal theory, from the very beginning subjects are thought as “equal”, which is not so. This universal at-

titude suppresses the subjective defences of groups and individuals. The process of “cultural plurality” in liberalism makes way for cultural imperialism, where one group of people, generally the elite class’s culture and identities suppress others and at the same time it tends to coerce others to follow the hegemonic culture and rules. This tends to reproduce the forms of hierarchy, which has its effects on the political and social lives of others. This does not help in representing differences which are subsumed by the pressure of consensus. Liberalism stands for pluralism only in the form of diversity of interests and calls for a negotiation among themselves. But this needs to be included in the political constitutions, where it would acknowledge multiple possibilities of identities and practice of those identities. According to Mouffe, we have to think of a form of commonality strong enough to institute a “demos” which is simultaneously compatible with pluralism and recognise the inclusion/exclusion paradigm. Mouffe in her definition of citizenship says, it must be a “system of rights constitutionally guaranteed to all members of a political community, and to affirm that these rights should not only be political but also social”. (Mouffe 1997, 4).

Recognising difference for redistribution:

How should we define ‘politics’ and ‘social’ with respect to the diverse identity politics and their justice? Iris Marion Young in her *Justice and the Politics of Difference* gives

impressive definitions of ‘politics’ and ‘social’. To her, ‘Social’ is process of identification of people by themselves and others, “which lead them to associate with some people more than others, and to treat others as different” (Young 2011, 9) and ‘politics’, concerns with “institutional organization, public action, social practices and habits, and cultural meaning insofar as they are potentially subject to collective evaluation and decision making” (Young 2011, 9). Young stresses that the philosophies of justice have emphasized on political institutions, on distributive policies and most of them are formulated away from empirical experiences. She offers a post-structuralist understanding of the justice theory¹² which emphasises on ‘difference’. This might be an influence of radical feminist movements of 70s and 80s seeking recognition and justice for women, workers, LGBTQs, Blacks, ethnic and racial minorities. Nancy Fraser too gives importance to the politics of recognition. Fraser argues that the dominant narrative of justice is limited to the economic distribution which comes from the liberal tradition. Recognition, on the other hand, comes from the Hegelian philosophy of consciousness, where the subjects are in a reciprocal relationship with each other, and sees the other as equal and at the same time as different. Recognition, under the realm of identity politics, has been seen as different

12 Young prefers ‘theory’ over ‘philosophy’. She believes that theory has a more critical distance and an understanding of objective reality than the philosophy which is often created in abstract forms.

from “class politics”¹³. While Young does not directly insist on the combination of recognition and redistribution, Fraser shows that as long as we do not recognize the social groups in its difference, and respect them for their status, we cannot properly address injustices. A group’s status in a society influences its economic conditions and political unity. Recognition, in the traditional theories of justice, is discredited with the allegation that it belongs to ‘ethic’ and self-realization. But for holistic development of any group, it is important to see recognition and redistribution together. Young says recognition of the differences is not an opposition to the norm, and if we think so we are actually discriminating and stigmatizing those subjects as marginal and outsider.

Nancy Fraser prefers “two-dimensional social differentiation”¹⁴ that combines both “recognition or status dimension and “redistribution or class like differentiation”¹⁵(Fraser 2003, 21). Exploitation, violence, powerlessness, marginalization, cultural imperialism, the five faces of oppressions¹⁶ need to be addressed to un-

13 Class politics sees the economy as the primary remedy for justice.

14 Fraser discusses this in the sphere of gender inequality and injustices.

15 Her concept of status is derived from Max Weber, which defines people on ‘non-economic’ particles.

16 Marion Young describes these five points to recognize an oppressed class suffering discrimination in political, economic and social life.

derstand the patterned injustices faced by the minority groups who are different from others in terms of their way of life. Bengali Muslims are not a typical Marxist class; they are dispersed as different groups in capitalist society, united by their religion, way of life and their political non-unity. They have become the exception, a category that cannot be a part of universalism. Their cultural and religious differences from the Hindu Bengalis, their status, are affecting their socio-economic life. Their misrecognition in the social sphere does not help them to proliferate in other political and economic spheres. Unless they represent themselves in political institutions and are allowed to make policies, they cannot positively reduce injustice. If the state does not understand the various inequalities and injustices suffered by a specific social group, it cannot possibly throw policies of welfare and well-being from an upper-class vantage point. The process should be a bottom-up approach. For an economic transformation of the different social groups the state has to recognize the cultural attitudes of the working people without stereotyping them as “cultures-of poverty” (Fraser 2003, 24).

The citizen-subjects too have to make themselves recognised. Althusser says that the ISAs are the site of class struggle which also comprises contradictions. The ISAs are the space of possibility. The Bengali Muslims have to utilise these apparatuses as a space of dialogue with the state. He says:

the class (or class alliance) in power cannot lay down the law in the ISAs as easily as it can in the (repressive) state apparatus, not only because the former ruling class are able to retain strong positions there for a long time, but also because the resistance of the exploited classes is able to find means and occasions to express itself there, either by the utilization of their contradictions, or by conquering combat positions in them in struggle. (Althusser 2008, 21)

Although the Bengali Muslims do not form a site of coherent class struggle in the Marxist definition of class, nonetheless to address the exploitation in different social and cultural spheres they need to consider the high road of fighting recognition¹⁷. Chantal Mouffe in her concept of ‘radical democracy’ refers to Michael Walzer’s ‘complex equality’ and Etienne Tassin’s idea of disassociation of citizenship from nationality. Tassin’s idea of the need to break the public policies from the dogmatism of nationalism seems difficult to realize in our current political scenario. While it is always desired that public and private spheres, state and religion, civil law and religious law keep distance between themselves, these necessities of enlightenment and secular modernity have failed to blossom. In Michael Walzer’s ‘complex unity’, equality is

17 The recognition of Bengali Muslims is also becoming more important than ever in the present times of the crisis of citizenship. They need to be recognized not only because of their economic justices but also to withstand the conflict of legal identity.

the central objective which also respects liberty (Mouffe 1997, 7). Success of one group does not allow them to dominate other groups or other parts of cultural life. Walzer adds that distribution should be done in a way that reflects the diversity of the groups and their social meaning.

Recognition of plurality on part of the state becomes crucial for distribution of justices. They have to make way for practices and policies that have a consensus on plurality. This plurality can combine differences of individuals, gender, working class, religion, language, caste and other such things that form the status. While it is not possible to address all of them at a time and get the best result, still initiatives should be taken step by step. The professional of a social group can help in escalating the process. Young shows that the professional middle class gets benefit from the relations of production and exploitation, however moderate it is, because of their certain position in the structure of labour division.

They have the position to exercise power over the powerless, which do not have any autonomy or authority over themselves or any other. The professionals in one way or other are bound with the exploitative terms of capitalism. If they recognise those and stand for a good reason for the inequalities of the oppressed group, it will have a positive effect. Most of the Bengali Muslims, who are associated with any professional-respected job, do

not care much for the lower section and they themselves have no unity. The lower section is belittled because of their working-class identity. The middle-class professionals, rejecting the backward status and label of illiterate group, seek to ascend to the hegemonic culture with the desire to be assimilated. This is a genuine drawback in the Bengali Muslim social group. To emancipate themselves from the clutches of misrecognition and maldistribution the workers have to lead the way. Philosophies of justice or theories of justice should include voices of the subjects who are battling injustices. The question is not 'can the subaltern speak?', it should be 'do we listen to the subalterns?'. Listening in a sense to understand and positively engage with them. Methodologically, the native representing herself is not much celebrated. It is assumed that their representing themselves would not be an objective observation and analysis. But similarly, the outsider representing and assessing the native runs the risk of prejudice. The possible way could be to make space for their agency so that they can actively participate in policy making.

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