

# On minorities: cultural rights

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**A**fter the fiftieth anniversary of the Universal Declaration of Human Rights, we still need to ask: what is the human ‘thing itself’? Who is ‘one of us’ in the midst of the jurisdictional unsettlements of migration, minoriti-zation, the clamour of multiculturalism? To whom do we turn in neighbourly embrace or alien embarrassment?

In *The Politics of Recognition*, Charles Taylor proposes a global mode of cultural judgement that has become a landmark of liberal multiculturalism. ‘Merely on the human level,’ he writes, ‘one could argue that – *whole societies* – cultures that have provided the horizon of meaning for large numbers of human beings of diverse characters and temperaments over a long period of time ... are almost certain to have something that deserves our admiration and respect.’ At this point Taylor introduces an evaluative caveat, a qualified disavowal: ‘I have ... excluded partial cultural milieux within a society as well as short phases of a major culture. There is no reason to believe that, for instance, the different art forms of a given culture should all be of equal, or even of considerable, value; and every culture can go through phases of decadence.’ What is the significance of this exclusion of the ‘partial milieux’ in making a case for cultural value on the grounds of ‘whole societies’?

Could it be that in the influential, humane language of communitarian liberalism, ‘whole societies’, however universal their aspirations, are fundamentally imagined to be nationalist cultures? Is there an inability to conceive of societal or ‘cultural options’ outside the national, even nationalist frame? As the Mexican social and legal historian Rodolfo Stavenhagen has aptly reflected in the recent UNESCO publication *Cultural Rights and Wrongs*: ‘the conveniently ambiguous term of “national culture”, leaves open the question of whose nation and what kind of nation is to be developed ... the development of modern states have been more a process of ‘nation-destroying’ than one of nation building, in view of the fact that in the name of the modern nation-state peoples have in fact been destroyed or eliminated.’

### **An excess of ‘identity’?**

The restrictive and prescriptive ‘nationalist’ impulse disguised in the ‘global’ horizon of the ‘merely human’ and its cultural measure, the ‘whole society’, is further borne by Article 27 of the International Covenant on Civil and Political Rights. Article 27 is one of the two main implementing conventions of the Universal Declaration of Human Rights: it protects ‘the right of minorities, in community with the other members of their group, to *enjoy their own culture*, to profess and practice their own religion, or to use their own language’. As such Article 27 is the most significant international instrument for the protection and implementation of ‘cultural rights’. Over the years, various member states have proposed amendments in order to prevent migrants and diasporic

peoples from being considered minorities. These states have held that ‘The very existence of unassimilated minorities would be a threat to national unity; and hence, the provisions relating to the rights of minorities should not be so applied to encourage *the emergence of new minority groups*, or to thwart the process of assimilation and so threaten the unity of the State.’ Spain, Peru, India, Brazil and other representatives have suggested that the ‘rights’ of minorities should only be conceded to those who over ‘long periods of times’ have enhanced the historical stability and the integrity of the ‘whole’ society of the state, all of which adds up to the fact – I quote from the Commission’s working papers – that ‘loyalty [is] an element in the [very] definition of minority’.

A study of these working papers submitted by member-states suggests that the underlying fear here, once again, is the ‘creation of new minorities’. What I have identified as the extrusion of the ‘partial cultural minority’ and the bias towards ‘a large number of persons ... over a long period of time’ should be read in the resonant context of what it means in Article 27 for minorities to ‘enjoy their culture’. The insistence in Article 27 that minorities should ‘preserve’ their cultural identity rather than emerge as new formations of minoritization, or ‘partial cultural milieux’, emphasizes the fact that minorities, amongst others, are regulated and administered into a position of having an excess of ‘identity’, which can then be assimilated and regulated into the state’s conception of ‘the common good’. As Seyla Benhabib has pointed out, ‘historically the strong pursuit of collective goals or “goods,” commonly referred to as nationalism, has usually been at the cost of minorities – sexual, cultural or ethnic.’ Minorities – both national and ‘migrant or diasporic’ – are too frequently imaged as the abject ‘subjects’ of their cultures of origin huddled in the gazebo of group rights, preserving the orthodoxy of their distinctive cultures in the midst of the great storm of Western progress.

Such proscriptions on the creation of new minoritarian subjects ignore the fact that, in our times, ‘partial cultural milieux’ and ‘non-state’ social actors are increasingly relevant, nationally and internationally, in the fight for cultural rights and social justice. ‘The frontlines in the battle for racial justice for African Americans’, Manning Marable recently argued, ‘are increasingly located in prisons, in community-based coalitions struggling against political brutality and in efforts to organize the unemployed and welfare recipients forced into workfare programmes.’ The partial decentralization of the state in the global context opens up the theatre of international law to what Saskia Sassen has described as ‘a space where women ... can come out of the invisibility of aggregate membership in a nation-state ... by partly working through non-state groups and networks [where] the needs and agendas of women are not necessarily defined by state-borders’.

## **Just history**

The creation of new minorities reveals a liminal, interstitial public sphere that emerges *in-between* the state and the non-state, *in-between* individual rights and group needs; not in the simpler dialectic between global and local. Subjects of cultural rights occupy an analytic and ethical borderland of ‘hybridization’ in a partial and double identification across minority milieux. In fact, the prevailing school of legal opinion specifically describes minority cultural rights as assigned to ‘hybrid’ subjects who stand somewhere *in-between* individual needs and obligations, and collective claims and choices, in partial cultural milieux. While the law moves uneasily and uncomfortably on these new terrains, the proleptic grace of poetry has the power to align the anxiety of speaking from within the ‘partial cultural milieux’ of minority rights, with the aspirational vision of the formation of ‘new minorities.’

Listen to Adrienne Rich:

Old backswitching road bent toward the ocean's light  
Talking of angles of vision movements a black or a red tulip  
opening  
Times of walking across a street thinking  
not *I have joined the movement* but *I am stepping in this deep current*  
*Part of my life washing behind me terror I couldn't swim with*  
*part of my life waiting for me a part I had no words for*  
*I need to live each day through have them and know*  
*them all*  
*though I can see from here where I'll be standing at the end.*

...  
When does a life bend toward freedom? grasp its direction?  
How do you know you're not circling in pale dreams, nostalgia, stagnation  
but entering that deep current malachite, colorado  
requiring all your strength wherever found  
your patience and your labour  
desire pitted against desire's inversion  
all your mind's fortitude?  
Maybe through a teacher: someone with facts with numbers with poetry  
who wrote on the board: IN EVERY GENERATION ACTION FREES OUR DREAMS  
Maybe a student: one mind unfurling like a redblack peony

...  
And now she turns her face brightly on the new morning in the new classroom  
new in her beauty her skin her lashes her lively body:  
Race, class ... all that ... but isn't all that just history?  
Aren't people bored with it all?

She could be  
myself at nineteen but free of reverence for past ideas  
ignorant of hopes piled on her she's a mermaid  
momentarily precipitated from a solution  
which could stop her heart She could swim or sink  
like a beautiful crystal.

(‘Inscriptions’, *Dark Fields of the Republic: Poems, 1991–95*)

‘Race, class ... all that ... but isn't all that just history?’ This preoccupation with what is ‘just’ history – both historical justice and historical justification – gives the poem a particular relevance for the pedagogy of our times. The ‘subject’ of the poem is, literally, the sphere of the proximity of differences – race, class, gender, generation – as they emerge in a range of intersecting public spheres – the street, the academy, the political party, the private diary – to claim a right to representation. As the nineteen-year-old mermaid turns her back on ‘all that history’ – the poem itself, ‘redblack peony’, moves restlessly back and forth in a double-movement that relives and revises: the sixties in the nineties, mothers-and-daughters; race-within-the-claims of gender and class. Article 27 and its potentially hybrid subject of inter-cultural rights is caught in the colorado of the ‘partial cultural milieu’ of minority identifications and their metonymic representations: ‘*Part of my life washing behind me.../ part of my life waiting for me...*’ The repetition of ‘part of me ... part of me ...’ threads the ambivalent, anxious subject of poetic-psychic affiliation with the hybrid legal subject of cultural rights, often agonistically poised between individual and group: ‘not *I have joined the movement* but *I am stepping in this deep current*/ ... malachite, colorado.’ Can poetry think the problem that legal discourse can only describe?

In embodying the spirit of the hybrid subject of Article 27, Rich suggests that individual and group, singularity and solidarity, need not be opposed or aligned against each other. They are part of the movement of transition or translation that emerges within and between minority milieu. For an international community of rights cannot be based on an abstract inherent ‘value’ of humanness; it requires a process of cultural

translation that, each time, historically and poetically inquires into the conflictual namings of 'humanity'. What is being defended in the name of the individual 'right'? What freedom is denied in the designation of the collective culture of the group? 'While rights are always attributed to individuals, in the last instance, they are achieved and won collectively', Étienne Balibar has argued. The 'human' is identified not with a *given* essence, be it natural or supranatural, but with a *practice*, a task. The property of the human being is the collective or the transindividual construction of her or his individual autonomy; and the value of human agency arises from the fact that no one can be liberated by others, although no one can liberate herself or himself without others.

Rich's insistence on the partial identification of the minoritarian subject – no whole persons or whole societies – makes her aware that individual and group are not the two faces of human rights, but its *chiasmatic doubles*. As in the disjunctive yet proximate temporality of the poem itself, individual and group stand at the hybrid intersectionality of rights; just as the minority stands doubly within and across the national boundary; and the psyche has an agonizing rendezvous with history.

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