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Ambivalence About Human Rights

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Australia... trumpets at home and abroad, its egalitarianism and democracy as well as its stances on related issues such as human rights and corruption, judging non-Western countries in the region unfavourably by these criteria, while Australia's own record on important fronts is disgraceful.

—D’Cruz and Steele, *Australia’s Ambivalence Towards Asia*, p 19.

I

1. In *Australia’s Ambivalence Towards Asia* JV D’Cruz and William Steele set out a critique of the way in which Australia and Australians think about and behave towards Asia. In particular, D’Cruz and Steele focus on the gap between the liberal democratic egalitarianism which stands as Australia’s purported national credo, and the actual practice of political, economic and cultural ties between Australia and Asia.

2. The opening claim of *Ambivalence* is that the principle of egalitarianism, the rhetorical centre piece of Western political morality, has been denied by Australia’s conduct towards Asia, and towards its own minority groups. The uncompromising message of this book is that when it comes to Australia’s attempts to set the moral tone of our region – be it by trying to provide leadership on regional cooperation and security, economic development and liberalisation, the encouragement of democratic governance and accountability or a specific concern with human rights standards and violations – that on all these counts, both in the present and historically, Australia has at best an ambivalent record, and at worst is regularly and systematically hypocritical. Indeed, the very assumption that Australia has a role to play in ‘setting the moral tone’, is at the core of the problem.

3. The theory may be egalitarianism, but in practice – to use a phrase from one of D’Cruz and Steele’s chapter titles - the ‘superiority of being us’ is so deeply ingrained, that the suggestion that ‘our’ ideas about and plans for Asia as a region would not be automatically agreed to by any clear thinking and insightful resident of the region is met by incomprehension from our political elites. Our way of viewing the world is after all the best way. Liberal democracy – the side we were always on - has won the battle of ideologies and is now recognised as the best form of political association (Fukuyama, 1992); the future lies in helping Asia realise this in its own context.

4. The hypocrisy that D’Cruz and Steele wish to highlight functions against this background on two levels. The first of these is quite straightforward. Australia does not practice what it preaches. It claims to be an egalitarian liberal democratic society. But, it is consistently and systematically selective about who gets to enjoy the privileges of such a polity, even within its own ranks. The way in which indigenous peoples have been and continue to be treated is the primary referent here, but other ethnic minorities also experience exclusion from Australia’s egalitarianism:

Thus pluralism was corralled within an Australian racism determined by the strategic ‘democratic’ / majority ruled exclusionary manoeuvres of an elite that represented powerful Anglo-ethnic individuals and groups in Australian society at the beginning of the 20th century....Not only did the Anglo-ethnic elites who led Australia [at Federation] not represent people of the ‘wrong’ colour (Aborigines, Asians or Pacific Islanders), but they also did not represent people of the right colour but wrong class (that is, poor whites), wrong ethnicity and/or hue (such as Southern Europeans), wrong gender (women),

wrong sexuality (lesbians and gay men), or wrong religion (non-Christians, more specifically non-Protestants) (43).

II

5. The second level of hypocrisy for which the authors argue applies to Australia's doctrines of egalitarianism and human rights themselves. Here, what is at stake is not just that we fail to practice what we preach. The question is about what we preach itself. From where do we get our liberal democratic egalitarianism and why do we think we have a licence to preach it at gun point (sometimes quite literally) to others? (See Burke, 2001). As I noted above, why is it that 'we Australians' assume the mantle of responsibility for the moral tenor of our region, and further assume that this means that others should become like us?

6. The assumptions which D'Cruz and Steele critique are those which suggest that the established Western expressions of liberal democratic egalitarianism are the only ones which fall within the bounds of respectability; it is these which Australia and other Western agents have the responsibility to see founded and flourishing in Asia (and elsewhere). 'In stunning unawareness, Western elites stalk the globe oblivious to the unexamined, and therefore fundamentalist, nature of the idiosyncratic and solipsistic construction of their particular 'sacred and inviolate' brands of 'democracy', 'freedom', or 'human rights'(42).

7. It is not that the authors do not like democracy, freedom or human rights – on the contrary, the logic of their book is that they wish for more of them. What they don't like, is the fundamentalism which is associated with the particular historically dominant versions of these which have served the rich and powerful states, and which are being forced by those same states on others, regardless of local conditions, traditions, ethical systems and other pertinent circumstances (See also Langlois, 2001). As they argue elsewhere, it is not that these democratic notions are not valuable, but that their present, historically developed, institutionally entrenched and Western oriented form is considered non-negotiable (45). Indeed, following on from 'the superiority of being us', it is assumed that these Western traditions should as a matter of course supplant the pre-existing social and political milieu. Thus, the familiar outcomes of fundamentalisms of all types is encountered: that the standard proclaimed is used to enact its other – in this case, on the global scene, the liberalism purportedly embodied in our global institutional architecture proves to be illiberal, undemocratic and the very embodiment of inequality.

III

8. Of particular support to D'Cruz and Steele in this argument is the set of issues – again, difficult and central issues within political theory – associated with the universal nature of the claims of Western liberalism. As they express it:

One recalls the persistent assumption that only the 'West' is capable of a globally inclusive moral framework, and the pervasive neo-Hegelian imperative which requires that the 'East', lacking desire, invite, even solicit, outright subjugation or absorption into a 'higher' and indeed purportedly universal/Western synthesis in ideologies such as a particular form of 'democracy' or a particular perspective of 'universal human rights,' or into value-laden, potentially or effectively globalising structures such as APEC, the IMF or the WTO (38).

9. Two strategies were taken here, the authors argue, in the Western traditions. The first was to construct morality along the lines of a universal rationality and then to deny to non-Westerners the capacity for such rationality. This quickly led to a denial of membership in that class, 'humanity'. Consequently, people such as the Australian indigenous population did not count as persons, and did not need to be treated according to the tenets of the erstwhile 'globally inclusive moral framework' (See also Brown 2002, esp. ch. 6).

10. A second strategy was to deny the particularist, historical, local, and dynamic nature of the Western intellectual framework itself, the so called 'Enlightenment Project' (Gray, 1995, chapter 10).

D’Cruz and Steele argue that there is an ongoing research programme that should be pursued, which considers the ways in which the ‘Western local became the worldwide universal (107).’ This development, which many frame in terms of globalisation, has a great number of dimensions: economic, social, cultural, political, intellectual, sociological, religious, all of which operate together in multiple ways (Held and McGrew, 2002). For some theorists, the advancing pace of globalisation is a boon, because it forces us to come to grips with our common humanity, our common rootedness on this planet, and our need to get on with each other if we are to continue with life at all (Pogge, 2002:33). D’Cruz and Steele are quite comfortable with such concerns – going so far as to say that concerns about our common humanity are valid and well accommodated by the family of liberal philosophies (166).

11. However, their criticism is that our commonalities are not the only things that matter. Our differences are also important, ‘especially for ethnic groups, which volubly proclaim their distinctions and separateness, and are routinely criticised by unforgiving liberals for contradicting an ideal of non-extra-group-encumbered-presence-as-citizens’ (166; 140; see also Kenny, 2004 and Gregg, 2003). Individuals do not exist just as individuals anywhere. Their very construction as ‘citizens’ is itself a substantive and tradition dependent identity, one central to the various intellectual traditions of the West (See Taylor, 1989). But D’Cruz and Steele would argue that in the Asian region there are other identities of various sorts which are as fundamental to the societies in question as citizenship is in the West (Langlois, 2001). These should not be excised and cut out from consideration prejudicially; nor simply because those liberties taken for granted by the Western elites, who now number Asia as one of their favourite playgrounds, have become such automatic reflexes that no other way of responding to the political epiphenomena of the human condition seems creditable.

12. The stress on the idea that these non-Western identities should not be excluded prejudicially is of greatest importance. I mean by this, not that we cannot judge certain behaviours as unacceptable, but rather, that any such judgements should be reflective, considered, and – given the constraints of the human condition – defensible on non-arbitrary grounds. Such judgements as these are indeed what motivate D’Cruz and Steele to write as they do about Australia; they lie behind the work of many who are human rights activists, political advocates, journalists, academics and the like. Such judgements also ground the views of many who, on reflection, see certain ways of being that exist in Asia which they argue need to be changed – certain fundamentalist religious or authoritarian governmental practices, for example. D’Cruz and Steele’s own implicit liberalism – indicated by their commitment to egalitarianism - leads me to think that they would support such a view strongly. However, as they say, they are not writing a book about the behaviour of Asian states, but about the behaviour of Australia toward Asia. Their whole argument, after all, is predicated on the inconsistency and hypocrisy of Australia and ‘the West’ in general, not on the fundamental wrong-headedness of egalitarian values. They do not mount an argument against egalitarianism (although at times their railing against liberalism may be taken as such); rather, they argue that egalitarianism has not been adequately practiced. Their argument supports the further elaboration of egalitarianism, and judges behaviour that does not meet egalitarian standards, be the breaches by agents in or representing Australia (the book’s focus), Asia or anywhere else. (In this sense they support a kind of postcolonial liberalism (Iverson, 2002).

IV

13. While D’Cruz’s and Steele’s book is premised on our capacity to judge our political environment in terms of egalitarianism, their theoretical framework for this depends on the view that all we have to work with in our social universe are ‘temporarily negotiated and stipulated meanings for terms’ (125). There are no universals that are beyond dispute, no political conceptions that can escape the historicity of their development, no metaphysical ultimates which can unproblematically ground our claims (Langlois, 2001; 2004). These perspectives (themselves widely debated in theoretical circles) are used in support of the genuine egalitarianism which D’Cruz and Steele would have us work towards from what we have now: an egalitarianism which is open to and equally contributed toward by the various human traditions, rather than being the result of one such tradition as it is foisted upon others.

14. Here it is that the earlier discussion about hypocrisy and human rights takes on an added significance. For it is not just that Western states like Australia have been selective about who they include in their practice of rights; they have also been selective in how they determine what rights are, what they are rights for, how the rights are protected, who does the protecting, and so on. Thus, as noted above, the claim is not just that Western agents have not practiced what they preach, but that when they posit *universal* rights, they are fabricating the history of the idea and institutional development of rights, and using that fabrication as a means to further universalise their own hegemony (Gaete, 1993). Rights themselves are not abstract ultimates, but are also contingent, historical, creations of various political traditions (Brown, 1999). What, then, of human rights universalism?

15. A common response has been to argue that the human rights framework brings together all that is best in the variety of the world's religions and cultures; that human rights represent what it is that we have in common as human beings; that human rights are about our shared humanity. Despite its good intentions, this approach causes the world's religions, philosophical traditions and sacred texts to be submitted to what – in the religious tradition of my childhood – is called 'proof-texting' (See Langlois, 2001, 138). Someone has the view that X is good, and so goes looking in Holy Writ for a set of words that will back up their view. This process of course disregards the text as something that holds its own integrity, ignores complex fields of historical and cultural scholarship, and subjects the text to the ends which the 'someone' in question has already, in advance, determined for it.

16. The attempts to claim that human rights are universal because there are materials in all the human traditions which at times are consonant with the values of human rights fails to take seriously either the realities of the origin and history of human rights, or the nature of the human traditions. These are complex, self- and other- contradictory, dynamic, and often newly re-created or re-imagined (this, after all, is the essence of being a tradition, rather than being a dead historical artefact). The very claim that these traditions all support universal human rights, and are all revered or accepted in an egalitarian way, is belied by the way in which scholars and the dilators of human rights advocacy pick and choose only those aspects of the world's traditions which they can use as proof texts. The many other important aspects of really existing people in really existing communities (Elshtain, 1999) - which simply would not be if all one had was a 'non-extra-group-encumbered-presence-as-citizen' – are ignored.

17. As I have argued elsewhere, the end result of this process is not a pluralist egalitarianism which approaches people and traditions in the first instance with equality and an intention to find out what is there, but a prejudicial approach which has determined in advance that what cannot be reduced to the established language of human rights is at best peripheral and at worst unacceptable (Langlois, 2001). As D'Cruz and Steele put it, 'The problem...is the unstated assumption by most Western commentators and their Asian admirers that only those indigenous traditions homologous to Western ones should be honoured, and only to the extent that they are Western-like' (127). The authors' argument about civil society, for example, is in this vein. They are highly critical of the application of civil society to Asia: 'Our argument is not against the notion of civil society as such.... The problem is that, once again, when something is believed to be appropriate and useful for the West, the Western missionary zeal requires that the rest of the world should adopt it, whatever it may be (133)' (but see Keane, 2003).

18. In the end, D'Cruz and Steele's arguments on this front are not against human rights, liberalism, civil society and so on as such, so much as they are against triumphalist, fundamentalist and narrow institutional interpretations of these. They do not want the cultural traditions of Asia to be merely instrumentalised as means for supporting a human rights regime designed for a Western post-industrial state, for example; but, at the end of the day, the authors support human rights, and support some version of the liberalism behind human rights which in turn is premised on egalitarianism. Indeed, their own pluralism is derived from this egalitarianism. The fundamental question of how this commitment to egalitarianism squares with the commitment to a historicist, non-foundational and antimetaphysical theoretical stance is not explicitly addressed.

V

For Australia to be genuinely democratic, a framework of values, principles and procedures would have to evolve into one that has been arrived at by at least stages of negotiation among the groups in Australia. None of them... should be excluded prior to negotiations, for 'assimilation always implies coming into the game after it has already begun, after the rules have already been set, and having to prove oneself according to those rules and standards'(Young 1990: 164) ...Such a policy would itself need to be negotiated by all the groups inhabiting Australia; nothing should be taken for granted in a genuine democracy. No pre-emptive first strike claim to baseline carrier status by any one group can possibly be the starting point of reconciliation or integration for all in any genuine democracy: in a multicultural society that is genuinely democratic, reconciliation and integration needs to begin from a baseline that is pluralist and negotiated (not from any privileged baseline) (57).

19. This quotation is useful because it crystallises the tension just noted which runs throughout the whole of the analysis provided in this book. This tension in its simplest form is the familiar one between universalism and relativism. The universalism is found in the principle of egalitarianism, upon which the critique in the book is based. The relativism is found in the consequence of applying an egalitarian outlook to the religious, cultural, political and social forms found in Asia.

20. In the above quotation, D'Cruz and Steele argue that for egalitarianism to be satisfied, the principles we use in our (global) political and social organisation have to emerge out of negotiation. Egalitarianism here is seen to demand that all forms of being in the world be given a priori equal status (at least for the purposes of initial negotiation). No pre-negotiation principles are accepted because of the dual problems of exclusion and assimilation, both of which would seem to imply a non-egalitarian approach to the identity and culture of the other in question. And yet this itself presupposes a set of principles – precisely those liberal egalitarian principles which are used to arrive at the conclusion that assimilation and exclusion (as represented by a 'baseline') are problematic.

21. Despite the claim that there should be no privileged baseline from which negotiations take place, such an account of negotiation as is provided above needs liberal egalitarian principles in order to be initially established. Indeed, exclusion and assimilation are viewed as undesirable because they rest on pre-negotiation judgements which assert that some ways of being are better than others. Egalitarianism and democracy too are normative positions that assert that some ways of being are better than others. So it is not actually negotiation which is the panacea, nor having a base-line which is the problem. It is which baseline you have or espouse, it is which judgements you make, which views are excluded from or assimilated to any given way of life. This is the crucial matter. By affirming negotiation in the way they do above, the authors make the mistake of much recent liberal theory – which is to suppose that it is possible to establish our political norms on the basis of purely procedural considerations.

22. In order for the egalitarianism on which much of the book rests to carry the weight of the authors' argument, the cultural negotiations we engage in do in fact need to rest on a privileged baseline, one which endorses and substantiates the wisdom of a liberal egalitarianism (albeit one that is pluralist and tolerant in outlook [See Tan 2000]). It is this baseline which prepares us to approach the other without prejudice in the first instance in order to conduct negotiations. That Australia, and the West in general, has consistently failed to do this despite claiming to be proponents of liberal egalitarianism does not in itself undermine the value of liberal egalitarianism – although such behaviour undoubtedly raises the chances of guilt by association, and thus disaffection.

23. Despite criticising both the theory and practice of Western liberalism, D'Cruz and Steele have not (as it sometimes appears) written a book which refutes liberalism as such. In my view, their book is more accurately characterised as an attempt to try and provoke Australia's liberal egalitarianism to a more consistent realisation of itself. They are undoubtedly critical of what they call *fundamentalist* liberalism: an unreflective, over-exuberant and triumphalist attempt to legislate one form of liberal values for all, globally. What D'Cruz and Steele advocate, by contrast, is a self-reflexive, historicist, pluralist form of liberalism – but nonetheless, a form of liberalism. And this is why they exhibit such a strong sense of outrage at the in-egalitarian treatment of minorities within Australia, and at Australia's ambivalence in its relations with its Asian neighbours.

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