

“A democracy that does not provide the conditions for full inclusion, and thereby full citizenship, will necessarily be a fragile construct” – Niraja Gopal Jayal

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In December **Niraja Gopal Jayal**, Professor at the Centre for the Study of Law and Governance at the Jawaharlal Nehru University, gave a talk at LSE about the “[three worlds](#)” of Indian citizenship.

During her visit, she spoke to Sonali Campion about democracy, the political uses of technology and the barriers to citizenship in India.



You talk about the liberal ideal versus differentiated rights. Do you think the liberal ideal prevents a more nuanced engagement with how different groups interpret and exercise citizenship?

Liberalism is essentially incompatible with exclusion. That's the bottom line. Liberalism can accommodate cultural diversity, and group differentiated strategies are ones in fact employed by liberal societies in the last couple of decades. So liberalism and group differentiated citizenship are compatible, it's just that the older liberal model, which was devised for culturally, racially homogeneous societies was a universalistic model, rather than one that envisaged differentiation. In recent times even broadly liberal democratic polities like the UK or Canada have in fact devised mechanisms for group-differentiated citizenship.

I think the basic differences actually lie between a culturally diverse society and a culturally homogeneous society. In a culturally homogeneous society, a universalistic notion of liberal citizenship is fine; liberal neutrality is fine because there are no majorities, no minorities and nobody is excluded, in theory. But in a culturally plural society you need group-based rights and entitlements, and today political theorists recognise that liberal political theory does have the resources to accommodate such claims, through strategies of group differentiated citizenship.

But is there a challenge that comes from demarcating groups, that in the process of labelling them you cause unintentional exclusion?

Well labelling in the Indian context, including labelling done by the colonial state, was meant to advance the project of inclusion. To give representation, to give people a voice, groups that were marginalised would get a voice and so on. It doesn't always work that way, simply because even as they are given voice, or given representation, the groups get marked in particular ways. So it tends to entrench that difference, rather than paper over the difference, and what is actually meant to be a strategy for creating a level playing field or equalising opportunity often ends up marking people or groups out as different from each other. That can sometimes be a problem. Certainly in terms of the idea of the civic community, i.e. a political community that is composed of citizens, because it is expected to be a community where there are bonds of citizenship apart from the differences that particular groups have.

So what is the threat to democracy of excluding groups with claims to citizenship?

In my view, full inclusion is a necessary condition of citizenship and of democracy. A democracy that does not provide the conditions for full inclusion, and thereby full citizenship, will necessarily be a fragile construct. It will be vulnerable to discontent, to violence, even to break up and secession, as we have seen in recent decades. So unless you have some basic minimum that unites and binds people in a political community, unless you have voice and representation for marginalised groups in a democracy, that democracy is hard to sustain or consolidate. Permanent majorities and permanent minorities are at odds with democracy.

You touch upon the intersection between citizenship and technology several times, e.g. social media support for the Anna Hazare campaign and the rolling out of Aadhaar. Is technology changing the citizenship debate, for better or for worse?

Technology per se is neutral. It is the political project to which it is harnessed that makes it good or bad. So when states employ technology for surveillance over citizens it has implications for citizenship which we tend to regard as negative. When you have people like Assange or Snowden blowing the whistle on those sort of state practices, that too has implications for citizenship which some may regard as positive.

You also spoke about social media – it is true that social media were used a great deal in the anti-corruption campaign, they got the message out: Facebook and Twitter were completely awash with this anti-corruption movement. Similarly, in the case of the mobilisation around sexual violence, legal reform and so on, social media has been used. But what interests me is that do the people who click on the mouse, or tweet about these issues, do they actually go out and vote? Do they actually practice gender equality in their personal relationships and their social relationships? Do they actually worry about deprivation and inequality in their society? I don't know the answer to that. But it seems to me those are the more important questions, rather than the number of 'likes' or whatever else you register on these social media sites. The real question is : for what political purpose is technology being harnessed?

What do you see as the threats and opportunities in terms of citizenship under the current BJP-led government?

I think what you are hinting at is the question of inclusion and exclusion, in cultural terms. If that is so, I think so far we have seen that electoral compulsions make it necessary for a government, which is otherwise committed to an agenda of cultural nationalism, to adopt positions that would obtain wider and greater acceptance for it. So at least in the short run, it might play by the set rules, but in the medium to longer run may seek to change the rules of the game.

It's too early to say, but up until now, there have been conflicting signals. The ministerial rhetoric has been more mainstream, and avoiding any sorts of commitment to nationalist ideas. Other members of the Sangh Parivar outside of the government have been vocal in expressing their views, whether it's the Dinanath Batras of the world, or other organisations which have a cultural educational pedagogical agenda of their own. But there have been incidents of [ministers in the government making inflammatory statements](#), which they have then been made to retract and apologise for. So it's hard to say. There seems to be an attempt at least to maintain a balance, but one doesn't know what the longer term holds.

On a more general level, you describe citizenship as “enveloped in a glow of moral virtue”. Is it an aspirational concept, like democracy? Robert Dahl talks about redefining democracy as polyarchy to make it more accessible and practical. Can, or should, citizenship be made more practical for policymakers, academics and others?

The glow of moral virtue idea is linked a particular normative political theory, which has chosen to see citizenship in that way. So of course there are republican conceptions of citizenship which are normatively cast in that mould. But when we speak about citizenship in an empirical sense, we do recognise that there are challenges to citizenship, both in terms of how institutions are structured, in terms of how constitutions include or exclude groups of people, in terms of how a society mobilises its social, economic and political resources to design itself in a way that is conducive to a particular ideal of citizenship.

Having said that, we also recognise that in a democracy there will be expressions of "insurgent citizenship" – resistance by citizen groups, for example on social issues, and these forms of resistance are themselves practices. States shape citizenship, they constrain citizenship, they enhance and facilitate citizenship, but citizenship practices often escape the mould of the state and interrogate it and question it. So citizenship is in performance all the time.

As far as practical policy implications are concerned – well that's to do with the design of society, it's to do with whether a society chooses to be a social democracy, to redistribute resources so that the conditions of social citizenship are upheld. It can choose to be a multicultural society in which diverse groups can subsist on equal terms. So those are the challenges the policymakers face every day. When policymakers decide to take a particular position on, let's say immigration, or on redistribution, they are talking about citizenship and they are expressing interpretations of citizenship.

You talk quite a lot in your book about the constitution and how that phase of constitution-making was very much a product of the moment. Is there an argument for attempting to change it or update it, or is the flexibility with which it's been applied actually its strength?

The flexibility is its strength. Some constitutional amendments – and ours is probably the most amended constitution in the world, so they say – the flexibility does seem to be built into the constitution. My worry is less about flexibility and more about the assumption that once something is written into the constitution, it's there in reality. That's not often the case and the gap between what's in the constitution and reality on the ground, that's the worrying thing. So for instance the constitution in 1950 abolished the practice of untouchability, yet a huge survey that was reported in December, of 45,000 households across the length and breadth of India, shows that [27% of Indians practice untouchability](#) in one form or another. It's unconstitutional but it remains a social practice. There are laws to check the overt practices, but some of the ways in which people practice it are so concealed or veiled, or differently justified not in terms of caste but in terms of hygiene and so on – which is what the survey shows. And it's hard to punish, because it doesn't fall within statutes, such as the Prevention of Atrocities Act (1989).

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