

INDIVIDUAL RIGHTS AND COLLECTIVE GOOD: A HISTORICAL PERSPECTIVE

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to Fundamental Rights, Directive Principles and Fundamental Duties

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In an article published recently in the *Times of India*, author Rohini Nilekani expresses her concern, rather persuasively, about the gradual shift away from “primacy of the individual” to a world where surveillance and privacy infringement for the collective good of the society are becoming more acceptable. The turn away from individualism, she argues, was largely caused by developments such as the 9/11 terror attacks and 2008 economic meltdown that have necessitated the broadening of the state’s role aided by technology tools, which ironically had given wings to the netizens in the first place.¹

The writer rightly, albeit briefly, differentiates between the modern Western-style of individualism and the inherently traditional notions of individualism in India. However, alternative explanations of the concept of individualism in the Indian context could plausibly point to different conclusions than the ones arrived at in the above-mentioned article.

Historically, India’s traditional political and social organisations have centred on the notion of ‘village self-government’ or ‘village republics’. The society was characterised by interdependence and displayed mutual obligations, supremely predicated on the concept of *dharma*. The ‘reflexive consciousness’ has been to think in terms of ‘we’ rather than ‘I’. The Western society, in contrast, shifted to individualism starting with the Enlightenment and believed in a rights-based view rather than a dharmic one.

A large part of the modern Indian political thought is reflective of its encounter with Western ideas. The colonial period has had a substantial impact on how Indians envision the political framework. This assimilation of Western ideas into a body politic with qualitatively distinct roots has had its pros and cons. Swami Vivekananda had rightly cautioned: “The Westerners should be seen through their eyes; to see them through our eyes, and for them to see us with theirs – both these are mistakes”.²

The distinctiveness of the idea of individualism lies in an individual’s relationship with the state or the social group. It advocates the superiority of the interest of the individual over the state. In this context, it would be worthwhile to delve a little deeper into history to figure out the basis of the ancient Indian state and how its relationship with the people was conceived.

Eminent texts of the ancient Hindu political thought such as *Mahabharata*, *Manu Samhita* and *Shukra Niti* are united in their exposition of the ‘state of nature’ being reflective of *matsya-nyaya* (Law of the Fish). This anarchical political environment got transformed into an orderly state through the doctrine of *danda* (punishment, restraint or sanction). It is through the state’s coercive actions that *matsya-nyaya* was curbed and *dharma* was upheld. This primary conceptualisation of state in ancient India is well expounded in Kautilya’s *Arthashastra*.

One may ask what is the rationale of *danda* and why should states have the monopoly over the use of force. The answer lies in the ‘original nature of man’. Men are selfishly predisposed and it

is only through the fear of punishment that individuals are made to perform their respective duties or *svadharma*. The king is the *danda dhara* – the bearer of the torch of sovereignty, and he embodies the state.

How then are the ruler and the people looped in? What are the terms of the contract? On one end, the ruler through the administration of *danda* saves the state from reversion to the logic of fish. He is bound by *rajadharma* (duties of the ruler) to serve as the 'first servant' of the state, and is the embodiment of sovereignty ensuring *raksha* (security) and *palana* (welfare) of his subjects. The maladministration of *danda*, however, causes his fall – a logical check on possible absolutism.

At the other end, it is the people who provide legitimacy to the state's authority. This legitimacy is contingent on the state's actions being harmonious with the interests of the populace. Consequently, if the state's interests (manifest in the state's actions) diverge from those of the people, political stability and order are compromised.

The theory of *dharma* (as duty), therefore, has a strong bearing on the state. The ruler resuscitates the people from disorderliness and establishes the legal order through the doctrine of *danda*. The *praja* (people), in turn, is bound by *svadharma* (one's own duty) to recognise and accept the order. The 'laws' of the state are recognised as 'duties' by its members.

This delicate bond between the ruler and the ruled sits firmly on two seemingly opposed pillars – rational-prudent and abstract-ideal. The endeavour of the Kautilyan State to enhance the state's capacities is intrinsically linked to the welfare of its people; political rationality is concomitant with normativity. In a sense, then, the individual is part of a collective whose happiness is of prime importance to the running of a state.

Culturally, the people of India have maintained the proclivity for the collective. This is reflected in the preference for the family system even though there is a gravitating trend among the educated urban Indians towards the Western concept of individualism. By and large, the Indian identity remains anchored in the family system that is linked closely to religion, caste, ethnicity, language and geography et al.

Politically, the founding fathers tended to privilege the individual even as they grappled with the notion of protecting the collective. A 'social revolution' experiment was hardcoded in the Constitution,³ given that inequities had crept into the society. It visualised that the job of the state – an all-powerful yet benevolent entity – was to rescue the individual from the ills of the collective. At the same time, certain individual rights could be superseded for the collective good, for instance, to ensure 'law and order', 'public order' and 'state security'. However, several archaic laws, propounded earlier by the British, that still find a place in India's statutes, creating a dichotomy of sorts, need to be reviewed and addressed.

To conclude, any dichotomy between the individual rights of the people and the powers of the state has to be dealt with through a nuanced approach. Neither can have an absolute approach. The challenge is not so much about adopting a position on individualism versus the collective represented by the state. Instead, it is about righteously balancing both, depending on the context.

Views expressed are of the author and do not necessarily reflect the views of the Manohar Parrikar IDSA or of the Government of India.

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