CAN RIGHTS UNDERMINE TRUST? HOW INSTITUTIONS WORK AND WHY THEY FAIL*

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A collective life in society is characterized by two constituent elements - rights and trust. In analysing these two elements, it is important to examine the balance existing between them. Despite their contrasting roles in society, the dialectical relationship between rights and trust is best understood when they are viewed as complementary to one another. While a framework of rights is necessary to instil a sense of deserved entitlement in people, what is instrumental for the effective realization of rights is the recognition of such entitlement within groups of individuals; such recognition being factored in by the mutual respect forged by trust. Through the course of this paper, the author seeks to locate this dialectical relationship within societal institutions, examining how the interface between rights and trust serves as a determining factor for the failure or success of these institutions. The paper commences with viewing the importance of rights in the social scenario, highlighting the shift in the paradigm of the language of rights. It then looks at the relevance of the fiduciary component, establishing that trust, unlike rights, is not a legal mandate but rather a moral one which is implicit and not codified, and it is this moral mandate that regulates various social transactions that take place in the absence of rights. The paper culminates with analysing the interface between rights and trust within the framework of institutions such as family and academic institutions, in order to illustrate that how we understand the importance of the balance between the two, is what determines the success or failure of such institutions.†

I. INTRODUCTION

I would like to discuss first the importance of rights in social life, and then the social significance of trust. My argument will be that rights and trust are both indispensable constituents of collective life. No society can function without an acknowledged distribution of rights among its constituent

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members. But a component of trust, or a fiduciary component as one might call it, is no less important for the well-being of collective life.

An excessive emphasis on trust may lead to the rights of some members of society being ignored and hence repeatedly violated. Today this is a common predicament of women entrapped within the traditional family; examples may be found from other areas of social life. At the same time, the continuous assertion of rights by the members of society, either individually or collectively, undermines the fiduciary basis of society. This is a common feature of public life in contemporary India, and the example that comes to my mind first and foremost is the Indian university today. The erosion of trust makes it difficult for individuals to contribute fruitfully to the collective endeavour.

The fiduciary component operates at every level of society and in every kind of social arrangement from domestic institutions to financial markets. But where there is trust, there is also a potential for malfeasance or breach of trust, which cannot be resolved without recourse to rights. We have recently had dramatic reminders of the consequences of the failure of trust in financial markets in the United States and elsewhere. At a different level, there are daily reminders of the same phenomenon that come from the divorce courts.

It is a truism for the sociologist that no society can be sustained without rights and without trust. A major task of social analysis is to examine the balance that exists between the two. The importance of this balance tends to be overlooked by those who are preoccupied with only one of the two, to the neglect of the other.

The balance between rights and trust is a complex matter, and it is rarely a completely stable one, particularly in a changing society such as ours is today. It would be a mistake to presume that rights and trust always reinforce each other; nor, of course, can we argue that they always act against each other. The balance between the two is never the same in every society, or for all time. It varies from one society to another and even from one domain to another within the same society. How this balance operates in a changing society is a subject of some importance that has not received its due attention from students of society and politics in India.

The concept of rights is a difficult one, and the concept of trust both difficult and elusive. One can of course examine the contrasting roles of rights and trust in society as a whole, or in one or more of its various domains. My view is that we will get a better sense of each of the two by viewing it not in isolation but in its dialectical relationship with the other.

My emphasis will be on institutions, which are social arrangements of a particular kind.[1] An institution, as I understand it, is an enduring arrangement of roles and relationships with a more or less distinct identity, and with boundaries that mark it off from its environment and from other institutions of its own kind or some other kind. Institutions are of various kinds. Some are quite small and others are very large. The family is an institution; a school, a university, a hospital, a laboratory, a court of law, and a bank are all examples of institutions as well. Anyone who is interested in institutions must ask how they endure and what enables them to outlive the individuals who are their members at any particular time.

It is a truism that the roles and relationships that define a family, a college, or even a political party cannot operate outside of a certain framework of rights that define, support, and limit the activities of its members. But can the family, the college, or the party survive and endure as an institution in the absence of mutual trust among its members, or when that trust undergoes steady and irreversible decline?

II. SIGNIFICANCE OF RIGHTS IN SOCIETAL DYNAMICS

The language of rights has acquired a general and almost irresistible appeal in our time, while the language of trust has taken a back seat. This has had more to do with new developments in politics than in law. This, in my view, was not always the case. Gandhi, who was a trained lawyer and as such fully conversant with the language of rights, was inclined to use the language of trust extensively, particularly when it came to the reconstitution of Indian society.[2] The language of rights has increasingly acquired a radical colour whereas a conservative, not to say reactionary, colour has been assigned to the language of trust. The developments in political and intellectual life since independence that have led to this outcome are too complex to be discussed on this occasion. Suffice it to say that these developments have had a worldwide reach, and have not all originated within the country. International agencies now play an active part in promoting the language of rights, particularly in what they call the less developed countries.

At least in India, the increasing use of the language of rights in public discussion and debate is giving the word 'right' a more capacious and flexible meaning than is ordinarily given to it by the Constitution and the law.[3] Its use is becoming more a matter of politics than of law, a subject more of

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[1] André Béteille, Antinomies Of Society (2000).
[2] N.K. Bose, Studies In Gandhism (1962).
[3] Ronald Dworkin, Taking Rights Seriously (1984).

political contest than for legal resolution. If our judges take their cue from the politicians—as some of them seem inclined to do—there will be long-term consequences for the operation of the legal system.

Whereas in the past those seeking to promote a particular pro-gramme might ask for the adoption of a new policy, they are more likely now to call for the creation of a new right.[4] The demand for a new right seems to infuse a greater sense of urgency than the call for a new policy. Advocacy groups have outdone the political parties in these matters. There are many more such groups now than there were in the early decades of independence, and some of them, unlike political parties in general, have an international reach, which adds greatly to their resources and their ability to pursue their agenda.

The Constitution that was adopted in 1950 in the wake of inde-pendence provided the architecture of a republican state. It was designed to be different from an imperial or a colonial state. Under colonial rule, Indians were not citizens but subjects: as Nirad C. Chaudhuri (1951) memorably observed in the Dedication of his Autobiography, the British Empire conferred subjecthood but withheld citizenship.[5] The republican constitution adopted on independ-ence sought to transform a nation of subjects into one of citizens. The creation of citizenship is a long and arduous process that cannot be accomplished in a day or a decade by the provisions of a constitution, no matter how ample and extensive.[6] But those provisions nevertheless play a significant part in changing the attitudes and orientations of people.

Citizenship cannot be effective or meaningful without the provi-sion of rights for the citizen. Part-II of the Constitution is entitled 'Citizenship' and Part-III is devoted to 'Fundamental Rights'. The fundamental rights were extensive to begin with and additions have been made to them by amendment of the Constitution. These rights of citizenship give to each and every Indian a legal standing that is very different from what he or she had in the past. At the same time, it is important to remember that a person's legal standing is only a part, and often a very small part, of his general social standing.

The rights of citizenship are important, first and foremost, as a shield against the arbitrary use of power by the State and its functionaries. The modern state has many powers and it is always hungry for more power. Its functionaries are not notable for using those powers justly or in moderation. The citizen needs some protection from the misuse of state power. The rights of citizenship may not provide a great deal of protection to the ordinary Indian, but how important they are may be appreciated by a comparison with China or

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[4]   André Béteille, *Matters of Right and of Policy* , Seminar 17-21 (June 4, 2005).
[5]   Nirad C. Chaudhari, The Autobiography Of An Unknown Indian (1951).
[6]   T.H. Marshall, Class, Citizenship And Social Development (1977); André Béteille, Antinomies Of Society (2000).

the erstwhile Soviet Union where such rights are or were rarely acknowledged or respected.

In any society that adopts a new constitution and a new framework of relations between citizens and State, it is not enough to create extensive rights for the citizens. What is equally, if not more, important is to create a consciousness among citizens so that they are aware of their rights and the ways in which they can exercise them. Creating new rights for citizens and giving them an awareness of their rights are two different things, and the gap between them was particularly large when the Constitution was first adopted. The majority of Indians were unlettered; large numbers of them lived in small and isolated villages; and even in the larger cities many were unaware of what the rights of citizenship meant for them. Things have changed somewhat in the last sixty years, but awareness of the rights of citizenship is still very uneven in the population of the country.

Nobody can gainsay the importance of making people aware of their rights and the ways to exercise them, or the difficulty of the task in a large and somewhat disorderly society, which is both, deeply divided and highly stratified. These tasks cannot be left entirely to the constituted authorities of the State such as the legislature or the judiciary. Education for citizenship is an important requirement. It is an arduous and protracted process, and many institutions and agencies in addition to the State contribute to it.

A large number of social movements have emerged in the course of the last few decades, partly in response to the disenchantment with the State and its institutions. Some are now inclined to equate these movements with what they call 'civil society'. Their leaders say that instead of being protectors of the people and their rights, the State has become their oppressor. The Emergency of 1975–7 was a kind of watershed in the life of these movements,[7] although their growth in recent times has been a worldwide phenomenon. Because they seek to secure the rights of the common people, many refer to them as grassroots movements'. They have played no small part in bringing the language of rights to the forefront.

A new category of persons, often described as 'rights activists', has become increasingly prominent on the national and even the international scene. Rights activists typically operate through non- governmental organizations or NGOs, which are now widely described as civil society organizations. Many public-spirited persons in the media, in universities, and some even in the government appear to place more trust in NGOs than in the State for the regeneration of Indian society. And in India, the NGOs receive funds not only from international agencies but from various departments of the government

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[7]   André Béteille, *Anarchy and the Abuse of Power,* 35(10) EPW 779–783 (2000).

itself. While civil society institutions have an important role in the regeneration of society, the role of the State should not be ignored or minimized.

To the student of civil rights, the co-existence of governmental and non-governmental organizations is a prominent feature of contemporary India. This is not simply a matter of funding but also a matter of personnel. I have known senior bureaucrats to take premature retirement in order to move into the NGO sector, and many able and experienced functionaries of the State become associated with NGOs after retirement. The irony should not be lost that some of the very persons who are suspected and accused of wilfully violating the rights of citizens while in office, become champions of those rights after demitting office.

Not all governments are equally well disposed towards NGOs. The situation in China is strikingly different from our situation. It is in India, and not in China, that the doctrine of 'let a hundred flowers blossom' corresponds to the reality. It was the same in the Soviet Union as it is now in China, although NGOs have proliferated in many East European countries since the demise of communism. My impression is that the Left Front government in West Bengal has been decidedly less friendly to NGOs than most other state governments in the country. This is because Communist parties are so constituted that they do not welcome organizations that might emerge as parallel agencies for mobilizing popular support.

There can be little doubt that rights activists, advocacy groups, civil society associations, and NGOs have contributed much to the spread of awareness about rights among the people in the last few decades. But they have not all spoken in the same voice or pursued a single agenda. It is a truism that rights do not signify the same thing in every social situation or to every section of society. A greater awareness of rights may lead to acute conflict between different sections of society, say, different religious or linguistic groups, or different groups of castes, who do not view their respective rights in the same light. The language of rights can then serve as a sword in the conflict between groups of citizens and not just as a shield to protect them from the State.

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Here it is important to make a distinction between civil rights—or the rights of the individual as a citizen—and the rights claimed by or on behalf of particular sections of the population such as the minorities, the backward castes, and women. Needless to say, the claims made on behalf of the individual as a citizen are not identical to the claims made on behalf of particular castes or communities; indeed, the two kinds of claims may come into conflict with each other. At least in India, the language of rights is now used increasingly to assert

the claims of socially and economically disadvantaged communities rather than those of individuals viewed without consideration of caste, creed, or gender.

The special position of the minorities and the backward castes was acknowledged and even emphasized by the colonial administration in India before independence. Many of the colonial civil servants were keen observers of Indian society and they often took the view that India was a society of castes and communities rather than a nation of citizens. They felt obliged, in the interest of fairness as well as prudence, to adopt special measures to protect and promote the interests of subordinate groups. But the colonial administration viewed these measures as matters of policy rather than right. It is only in the last few decades that the language of rights has come to be increasingly used for advancing the claims of various castes and communities.

In a classic work on the subject, the sociologist T.H. Marshall (1977) traced the development of citizenship in Britain from the eighteenth century to the twentieth. He saw this development as the progressive expansion of rights. The bearers of these rights, in Marshall's view, were individuals and not classes and communities. In fact, he contrasted the divergent tendencies in the development of the rights of citizenship and the divisions of class, which, according to him, acted dialectically on each other.

The rights of workers as a class have of course been advanced by trade unions in the advanced industrial countries, particularly in the early stages of the development of capitalism. They are advanced in many countries at the present time as well. But scholars such as Marshall might argue that it was necessary to advance those rights in the early stages of capitalism precisely because workers did not enjoy all the rights of citizenship. Once those rights became available to them, any special case for the rights of the working class became weak.

A class, defined in terms of income, occupation, and employment status, is radically different from a community where membership is acquired by birth. A caste is a classic example of a community of birth. A group defined by mother tongue is another example. For all practical purposes, a religious community may also be viewed as a community of birth even though an individual may renounce the religion of his ancestors and adopt a new one. The movement by an individual from one religion to another is far less common than the movement from one class to another, which is in fact a common feature of advanced industrial societies.[8] The rights of citizenship facilitate the mobility of individuals from one class to another but leave unaltered the individual's membership of the community into which he is born. It is for this reason that

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[8]   R. Erikson & J.H. Goldthorpe, The Constant Flux (1992).

policies for improving the conditions of industrial or agricultural workers do not conflict with the rights of citizenship.

Sometimes the collective claims of a class may be presented in such a way as to become conflated with the claims of a religious or other community, and thus become a threat to the claims of the individual as a citizen. This may be illustrated from the experience of the Somali activist and writer, Ayaan Hirsi Ali. When she entered the political arena in the Netherlands, she was naturally drawn to the Labour Party because of its socialist tradition. But she gradually found that the same socialist tradition, with its collectivist bias, stood in her way when she sought to promote the claims of battered and persecuted Muslim women. Her party felt that she should not challenge the authority of the Muslim leadership which regarded the individual rights of those women as less important than the customs and values of the Muslim community. As she saw it, "social democracy is grounded in the rights of groups of people, not individuals".[9]

The divisions of class continue to be very important in Indian society although not exactly in the same way as those divisions are represented in the trade-union movement or in classical socialist theory. The most important class division in the context of citizenship is not the one between management and labour, or between capitalists and workers, or even between manual and non-manual employees; it is the division between workers in the organized and the unorganized sectors. In India, 90 percent of manual workers are engaged in work in the unorganized sector, and their conditions of work and life are radically different from those of manual workers in the organized sector, whether in public or in private undertakings.

There has been a sea change in the economic, political, and social conditions of the industrial working class to the extent that it has secured a place in the organized sector. The market situation, work situation, and status situation of its members have improved steadily. Many factors have contributed to this development, including changes in technology, advances in literacy and education, and their own part in organized politics. That section of the working class has in effect become a part of the middle class at least as far as the rights of citizenship go. In the political domain, factory workers act in the same way as, and often in concert with, office workers, school teachers, and others who clearly belong to the middle class. Manual workers in even the lowest-ranked occupations, such as sweepers, enjoy security of employment and livelihood provided they are in the organized sector. Their counterparts in the unorganized sector have been left behind in the process, which has led to this convergence. While the former are able to exercise their rights of citizenship, at least to some extent, those rights are in effect beyond the reach of the latter.

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9   AYAAN HIRSI ALI, INFIDEL (2007).

It is not at all my argument that industrial workers have acquired full citizenship in both principle and practice, but only that it is easier to harmonize the claims made on behalf of such workers, whether in the organized or the unorganized sector, with the claims of citizenship. It is not at all clear that the rights of citizenship can be harmonized equally well with the rights claimed on behalf of communities of birth whether based on language, religion, or caste. Increasingly, it is rights of the latter kind that have come to dominate public discourse in recent years. This has been associated with the ascendancy of identity politics over the politics of class.

The ascendancy of identity politics has given a new focus and a new force to the language of rights. It is not as if identity politics was a new phenomenon that came out of the blue in independent India. The politics of caste and community was very much a part of the Indian political scene before independence and was in some ways encouraged by the country's colonial rulers. It did not then have the same scope or the same legitimacy that it has now come to acquire. The British encouraged the religious minorities and the backward castes mainly as a matter of policy. Today their claims are promoted increasingly as matters of right.

I have spoken of the increasing use of the language of rights in the period since independence, and particularly in the aftermath of the Emergency. Its use, however, is not directed mainly to the creation of full citizenship for the truly disadvantaged, the hundreds of millions who labour in the unorganized sector under the most onerous and insecure conditions of life. It is used to a much larger extent in the political contest between the various castes and communities that has come to dominate the political arena today.

Leaders of all political parties have come to realize that it is easier to mobilize electoral support on the basis of caste and community than on the basis of class. In Indian society the fault lines between castes and communities are clearer and deeper than those between classes, which are more vague and permeable and allow more or less easy passage across them to individuals and households. Moreover, those who speak for the rights of disadvantaged classes rarely belong to those classes themselves, whereas the leaders who demand more rights for the disadvantaged communities are often members of those communities. They are able to bring greater passion into their demands.

The demand, as a matter of right, for better representation in public life for the disadvantaged castes and communities has led to some changes in the social composition of the middle class. But it has also led to the deepening of the fault lines between castes and communities. Identity politics has no doubt led to a greater awareness of rights, but it has also led to the deepening of mistrust in public life.

III. SOCIAL SIGNIFICANCE OF TRUST

The subject of trust is more difficult to deal with in a systematic way than that of rights, only because trust is often implicit whereas rights tend to be encoded in rules. When a right has been violated, one can always move the courts. But when trust has been abused, to whom should one turn?

Even while acknowledging fully the great importance of rights, it should be obvious that the legal or even the political machinery of the State cannot alone ensure that people are able to go about their daily tasks unhindered and unharmed. Most social transactions take place without any rights being invoked because people can take each other on trust, at least to some extent, even when they belong to diverse classes and communities, and indeed, even when they are relative strangers to each other. It is difficult to exaggerate the importance of this kind of implicit trust in the operation of collective life. We are reminded of its importance from time to time when trust breaks down, and people have to take recourse to the law, or to politics, or to violence.

No institution can be sustained for long unless some of its members are prepared to act beyond the call of duty, at least some of the time. To do so is a moral rather than a legal obligation. Examples of such conduct can be found from the family, the school, or the hospital. Such conduct can be explained only on the assumption that people are able to take each other on trust. It is not that the person who acts beyond the call of duty is unable to exercise his rights. But he is willing to keep those rights in abeyance, trusting that others too will someday act beyond the call of duty in the larger interest.

IV. EXAMINING THE INTERFACE BETWEEN TRUST AND RIGHTS WITHIN THE FRAMEWORK OF PARTICULAR INSTITUTIONS

A. DOMESTIC INSTITUTIONS

It is easiest to examine the social significance of trust and its interface with rights in the framework of particular institutions. I would like to begin with the study of the family, which offers certain distinctive advantages for the purpose of this kind of enquiry. Besides, it is one of the oldest of social institutions, if not the oldest, and one that is present, in one form or another, in every human society.

The family may be found in many different forms in different societies and, even, in the same society. The nuclear family, with its simple structure of parents and unmarried children, is only one of the forms of the

family. In India it co-exists with various other forms of it based on the extension, both lateral and vertical, of ties between close kin. The Indian family, whether simple or extended, operates within a broader universe in which relatives by both blood and marriage occupy different positions bearing different rights and obligations, even when they do not live in the same household. What distinguishes the Indian from the western system of kinship is the care with which relatives through the mother and the father are differentiated from each other, and each assigned a different function and a corresponding kinship term.

Within the domain of kinship, relatives are governed by what Meyer Fortes (1969: 219–49), the leading authority on the subject, has called 'the axiom of amity'.[10] No doubt the axiom of amity does not operate with the same force between near and distant relatives. But it is expected to prevail between relatives who live in the same household or in adjacent ones. Within the family, whether in the narrow or the extended sense, relations are expected to be governed by reciprocity and, above all, trust. This does not mean that domestic life is simply a bed of roses. The same family, which is expected to be governed by reciprocity and trust, is also a hotbed of jealousy, suspicion, and mistrust.

Mutuality, reciprocity, and trust may be the bedrock of the family, but the family, like any other institution, cannot endure in the absence of a structure of rights. The simple point is that one does not have to invoke those rights at every turn in order to remain aware that one can fall back on them when there is a crisis. No institution can expect to endure without ever facing any crisis. But there is all the difference between coping with a crisis when it comes and inviting a crisis. Demanding the satisfaction of rights, in season and out of season, may be one way of inviting a crisis in an institution.

Anthropologists who have studied domestic institutions have pointed to the joint operation of legal and moral factors in their sustenance. Rights and obligations are as important as the axiom of amity, and they are no less important in simple tribal communities than in complex industrial societies. Rights may be defined by custom rather than statute. They are not only acknowledged but subject to adjudication even in communities with few material resources, which subsist by hunting and gathering rather than agriculture or animal herding.

The traditional Hindu joint family was a legal entity.[11] The distribution of rights within it was defined in part by law, but mainly by custom, which often departed widely from the written code. Disputes arose about the use and disposal of joint family property. The coparceners who were parties to the dispute might be brothers living together, or sons of co-resident brothers, or

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[10]   Meyer Fortes, Kinship And The Social Order 219-249 (1969).
[11]   A.M. Shah, The Family In India (1998).

even a son and his father. A normal practice was to attribute responsibility for the disputes to the wives who were members of the household not by birth but by marriage. When disputes over who had the right over what reached a point of crisis, the joint family might be partitioned. There were established procedures to protect the rights of all the parties concerned at the time of partition.[12]

The law, with its inevitable attention to rights, comes into play not only at the dissolution of the family but also at its creation. Its presence in the background as a guarantor of the rights of its members is not only desirable but also indispensable. How frequently and how actively it comes into the foreground is a question that must engage the attention of all serious students of domestic institutions, and of social institutions more generally.

Institutions change over time, partly in response to changes in their environment. This means that the distribution of rights within them as well as the balance between rights and trust also changes. If we look at the family in contemporary India, particularly the middle class family, we will find that there has been a continuous process of the adjustment and readjustment of rights and responsibilities among its members. The family today is not what it was a hundred years ago, or even fifty years ago; yet it remains the basic workshop, so to say, of social reproduction.

One of the most significant social changes in our time has been the change in the position of women. This change has not affected all sections of Indian society equally. Its most manifest effect has been on the professional middle class in the metropolitan cities. University education and professional employment have given women a new sense of their rights and responsibilities. Education and employment require women to spend long hours outside the home and also give them a measure of financial independence. Their altered position in society necessarily brings about changes in their position in the household.

The family cannot survive as an institution if the acknowledged rights of some of its members are persistently and wilfully suppressed for the benefit of others. Of course there will be differences as to what those rights are and who is entitled to exactly what under them. The disputes that arise have to be resolved from one day to another, and they do get resolved where there is some minimum of trust within the household. A daily review of the rights of each member and a continuous exposure and analysis of their violation does not add to the well-being of either the family as a whole or its individual members.

When disagreements and disputes reach the point of no return, the family is partitioned or even dissolved. The break-up of the family takes

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[12]   T.N. MADAN, FAMILY AND KINSHIP (1989).

different forms in different societies. In some, disputes over property are pre-eminent, in others disputes over conjugal rights. But one thing should be clear: the partition of an individual family or the dissolution of an individual marriage does not mean the end of domestic institutions, or the end of the rights and the trust on which such institutions must be based.

B. *PUBLIC INSTITUTIONS*

The family is no doubt the extreme example of a social institution for whose well-being the requirement of trust appears self-evident. But if my argument is valid, the same requirement has to be met, though obviously, not in the same way, for the well-being of all institutions. It is not enough to guar-antee that the rights of the members of a public institution such as a college, a hospital, or a bank be upheld; it is important also that trust obtains among those members.

As my second example, I will turn to academic institutions or institutions responsible for teaching and research. These vary greatly in their size of membership and their scale of operation. They include undergraduate colleges at one end and specialized centres for advanced scientific research at the other. Some are engaged mainly in teaching and do little or no research while others engage mainly in research and do little or no teaching. But they are all engaged, in one way or another, with the transmission of existing knowledge and the creation of new knowledge. An academic institution has a more distinct focus of activity than a domestic institution such as the family. Moreover, col-leges, universities, and research institutes of the kind I have in mind are rela-tively new foundations whereas the family as an institution has existed since time immemorial.

My focus here will be not on the quality of work being done by individual scientists or scholars, but on the institutional setting in which that work is undertaken. It is often said that, while we have produced scientists and scholars of the first rank, our academic institutions, with a few exceptions, have failed to live up to the expectations with which they were established. Many of our most talented scientists and scholars are to be found overseas. Some of them say that they have been driven out of the country by the perennial disorder and inefficiency of our own institutions of science and scholarship.

It is a truism in the modern world that no scientist and no scholar can work entirely on his own. He needs support and sustenance from the work of other scientists and scholars. The organization of science and scholarship is undergoing major changes throughout the world. As I have pointed out elsewhere,[13] individual scholars and scientists are turning increasingly to net-

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[13]   André Béteille, *Institutions and Networks*, 97(2) Current Science 148–156 (2009).

works of interpersonal relations as supplements to the institutions in which they are employed. This kind of change is partly a response to the weakening of established institutions such as the universities, and this in turn leads to their further weakening.

The universities and colleges in India are beset with many problems today. There are many more of them than there were at the time of independence, but they have fallen in the public esteem and even in the esteem of their own thoughtful members. The regularity and routine of work is not maintained as before. This is not a failure of any particular individual but of the college or university as an institution.

Those who have to govern the universities complain about the paucity of their material resources. There is no doubt paucity of resources, but there is also wastage. It is true that our universities cannot provide the kind of facilities that the best of our scientists and scholars can command when they go abroad for work. But the problem of material resources is not the only one, nor, in my judgement, the principal one. In the 1920s and 1930s, scientists and scholars, such as C.V. Raman, Satyendra Nath Bose, and Suniti Kumar Chatterji at the University of Calcutta, did outstanding and ground-breaking work. Yet the material resources available to them were meagre. The deeper problem today is an institutional problem, or a problem of human relations.

If we want to hear the use of the language of rights in the full range and variety of its meanings, there is no better place to choose than the Indian university or college. The housewife may feel genuinely aggrieved that her rights are being disregarded or abused, but she can hardly articulate her grievance with the eloquence and emphasis, not to say vehemence, with which university teachers and even students speak about their rights.

If one spends any time in a university department, one is likely to hear from its head that the rights of his department are being disregarded by the vice-chancellor to the advantage of some other department headed, presumably, by a crony. One is likely to hear from junior members of the faculty that their rights in turn are being disregarded by the aggrieved head of department in the allocation of teaching duties or research funds, or both. Finally, no one can outdo the leaders of students' unions in their indignation at the violation of their rights by the authorities. Protests, demonstrations, and rallies by unions of students, teachers, and others provide regular opportunities for expanding and refining the vocabulary of rights.

I do not wish to belittle the importance of rights in the working of a college, or a university department, or of any other institution of teaching and research. Nor do I wish to make light of the need to defend those rights against persistent and wilful violation. Our universities and colleges, which are

designed to be open and secular institutions, operate in a social environment in which the traditional demands of religion, caste, and community are still very strong. Apart from the divergence of interests among members that may be found in all institutions, there are deeper differences among members in the understanding and interpretation of the rights with which they are endowed or believe they are endowed. These differences of perception add substantially to the misunderstanding, mistrust, and suspicion among them.

It should be obvious that in any academic institution, whether a college, a post-graduate department, or a research institute, there has to be trust among individual members if what they undertake together is to achieve fruitful results. When students lose confidence in the capacity of their teachers to act without fear or favour, a great deal is lost on both sides. Effective teaching requires a close, even a personal, relationship between the student and his teacher, and such a relationship cannot be sustained solely through the definition and exercise of rights; it has to rest on mutual trust.

Successful teaching depends not just on technical ability but equally, if not more, on patience and care. It is a slow boring of hard boards. A teacher with only moderate technical ability may win the confidence of his students by imposing not his authority, but his goodwill, by acting in their interest beyond the call of duty. All of this becomes difficult when, for one reason or another, trust begins to falter and break down. It is true that there still remain individual teachers who will persevere even in the face of a deteriorating institutional environment, but sooner or later the deterioration in the environment begins to take its toll on individual effort.

One of the symptoms of the weakness and failure of trust is the reluctance to exercise academic judgement in the evaluation of students and colleagues. Yet academic work cannot advance without continuous scrutiny and review. The work of students needs to be evaluated. This cannot be done effectively and meaningfully by recourse only to 'objective' criteria and without the exercise of academic judgement for fear that if that judgement is adverse, it will be construed as having been made in bad faith. Many examiners are reluctant to turn down a PhD thesis because they do not want their good faith to be put in question; some examiners do, of course, fail students in order to spite the candidate or his supervisor. I sat for many years on a committee to review reports on PhD theses on which the examiners were divided. When it came to an adverse report, the inevitable response of the candidate's supervisor and the head of his department would be that the examiner was known to be a malicious and spiteful person. This left unexplained the fact that the examiner had been chosen, in almost every case, at the initiative of the supervisor and with the concurrence of the head of the department. Stories about malice, spite, and bad faith are told, retold, and embellished in academic institutions of every kind.

Science and scholarship cannot advance without a dependable and trustworthy system of peer review. Such a system has to enjoy the confidence of all concerned because he who is being reviewed today may be the reviewer tomorrow. I cannot judge how well peer review operates in the physical or the biological sciences. It does not operate effectively or meaningfully in the social sciences. Occasionally reviewers act spitefully; more commonly they provide reports that are equivocal, evasive, and vacuous.

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When the first colleges and universities were established in India in the nineteenth century, they brought something new into the country, not just as centres of learning but also as social institutions. They were among the first open and secular institutions that were willing to accommodate members without consideration of caste and creed, and, before very long, also without consideration of gender. By the end of the nineteenth century they had established themselves as models for other public institutions and the nurseries in which they were conceived and designed.

The universities brought together persons from all castes and communities and enabled them to interact with each other on a more or less equal footing. This was a significant departure from the traditional order in which the hierarchical segregation of castes and communities was maintained in both town and village. Where there was closeness and not separation, as in the case of master and servant, or landowner and tenant, or patron and client, the closeness was governed by the rules of hierarchy, and not equality. Women too were admitted although they did not at first come in large numbers, and until the time of independence they were confined largely to colleges only for women.

In the nineteenth century and well into the twentieth, the universities and colleges were relatively small places. Although they were in principle open to all classes and communities, only some came to them, and they were not in any meaningful sense representative of India's vast and varied population. Not surprisingly, they became the preserves of the middle class rather than the working class or the peasantry. But the middle class itself had many gradations, and a gifted and talented student from a disadvantaged social background had the opportunity to make his mark in society if he managed to do well in the university.

Because they were relatively small and compact, the universities of the past give in hindsight an appearance of order and coherence that may in fact be deceptive. The British were certainly aware of the divisions of caste and community among both students and teachers, and they were not above playing on those divisions. But they were also wary of the turmoil that would follow

if politics were given too free a hand. On the other side, the divisions of caste and community were kept in check, at least to some extent, by the demands of unity made by the nationalist movement to whose leadership graduates of the university contributed a substantial part. It was a point of honour within that movement to disregard considerations of caste and community in public life.

It is difficult to say today how far the universities of the past had succeeded in creating a basis of trust between teachers and students across the divisions of caste and community. Women students were few in number and women teachers fewer, except in women's colleges; in mixed institutions, women generally maintained a low profile. The idea that the minorities and the backward castes were not getting their due share in higher education had already begun to grow, but the colonial administration sought to address the problem by devising appropriate policies rather than creating new rights. The British were not in any case lavish in creating rights for their Indian subjects.

Things began to change with the coming of independence. A period of steady growth in the number and size of colleges and universities began and has continued until the present day. The increase in number and size has been accompanied by changes in the social composition and the political temperature of the universities. Indeed, it can be argued that the expansion of higher education in India has been driven more by social and political compulsions than by academic considerations.

There has been unremitting pressure on the colleges and universities to admit more students and appoint more teachers. A university degree is indispensable for employment in middle-class occupations, and that accounts for a great deal of the pressure for admissions. Large and increasing numbers of students enter a college or even a post-graduate department not in search of new knowledge but in order to secure a degree. Perhaps this was the case to a certain extent even before independence, but today acquiring new knowledge and securing a university degree have become de-linked from each other openly and without pretence or embarrassment. For many, perhaps most, of those who seek admission to them, colleges and universities are not so much centres of learning or even social institutions as necessary conduits in the process of career advancement.

Pressures for admission and promotion notwithstanding, attendance in colleges and universities is often thin. Even those who are registered as full-time students often engage in other pursuits outside the college or university. There are not only absentee students but absentee lecturers and professors as well. The close interchange between students and teachers, which provides the basis for the college or the university as an academic institution, is no longer the general pattern. Teachers are obliged to relax their grip over attendance and the other requirements of membership, and they learn easily to take their

own institutional obligations lightly. Students who meet the basic formal requirements of attendance and examination can generally count on getting their degrees because everybody knows that too high a rate of failure will not be politically acceptable.

With the growth in number and size, the social composition of the colleges and universities has changed. Socially, both students and teachers are more diverse, not to say heterogeneous, than they were at the beginning of the twentieth century. They now come from a wider range of castes and communities than before. The middle class has become more differentiated and more stratified over time, and individuals from its various layers and strata may be found in the universities, though not in equal proportions. Many manual workers in the organized sector, particularly in large public sector undertakings, are able to send their children to good secondary schools from where they are able to move easily into colleges and universities, but children of workers in the vast unorganized sector remain largely outside them. My sense is that the social composition of the Indian university has become more mixed in terms of caste and community than in terms of class.

Greater diversity in the social composition of academic institutions would have come about through the natural process of their growth and expansion. But in India a large part in this has been played by active political intervention. This political intervention has been more mindful of the disparities among castes and communities than of those between social classes. The leaders of disadvantaged castes and communities claim better representation in academic institutions for their members as a matter of right, and these claims receive sympathetic attention from legislators and even judges. Heads of premier academic institutions are put on the defensive when they are asked to explain why there are so few members of the backward castes and the minorities in their institutions. They know that this may be because few of them are able to withstand the tough competition for admission, but they are made to feel that they may be violating some important right.

There is no reason to believe that diversity as such must lead to the failure of trust. What is leading to the failure of trust today is not diversity as such but the kind of identity politics that uses that diversity as a prop for claiming special rights for disadvantaged castes and communities. These special rights cannot but come into collision with the equal rights that all individuals feel they can claim as citizens.

The language of rights is used again and again to trump any argument about the need to uphold academic standards in admissions, appointments, and promotions. The determination of the government to make the colleges and universities socially inclusive has had the consequence of making them very uneven in terms of the academic competence of both students and teachers.

Those in them who are seriously committed to science and scholarship complain, with some justification, that academic standards have been lowered.

The lowering of academic standards is not the only matter for concern. What should be a matter of as much concern is the widespread suspicion and mistrust prevalent in academic institutions in the country today. Perhaps the mistrust was always present below the surface. But it is now out in the open and being given new strength and legitimacy by the language of rights.

V. CONCLUSION

Let me repeat in conclusion the fundamental importance of a framework of rights in the operation of any institution. Every member of a university or an institute of advanced study and research has the right to treatment as an equal, if not the right to equal treatment. That right is not negotiable. But that very right comes into jeopardy when trust between members' falls to a low ebb.