WHATEVER HAPPENED TO EQUALITY?

Marion Maddox

Two vignettes:

I.

In the lead-up to the 1996 election, the Liberal candidate for Oxley sends a letter to the editor headed 'Equal Justice for All', decrying special 'money, facilities and opportunities' for Aborigines and demanding 'equality'. Thereafter, she, the political party she forms after her disendorsement, and her 'equal rights' catch-cry are seldom far from the national consciousness. In the wake of new electoral successes in Queensland and Western Australian, she tells the *Woman's Weekly* how politics has changed her life. Some things, though, have not changed: 'If you want to know what I am all about, if you want to know what motivates me, then you don't have to look any further than what is in that letter. The woman who wrote that letter in 1996 is the same woman standing here today' (Sheather, 2001: 40-5).

II.

In 2000, I move to New Zealand. My new head of school invites me to a meeting. I find a complex of offices, research and reception area. The Head of School's office has one entire wall of plate-glass, dividing it from – but, even more, bringing it into – the rest of the complex. By her door, just inside the plate-glass, a spare, black canvas addresses visitors and passers-by without discrimination. In the middle of the canvas is a white swastika. Under the swastika, white capitals announce: 'PAKEHA HAVE RIGHTS TOO'.

Equality – left and right

A funny thing has been happening to the language of equal rights. Once radical, it has become the language of rightwing reaction. The distinction is commonly explained as 'equal treatment' versus 'equality of outcomes'. Right-wing equality wants everyone treated identically, regardless of where they start out in the distributional hierarchy; left-wing equality wants everyone to finish with roughly

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equal allocations (of whatever social goods are under discussion).

Another key difference is between the ways in which left and right understand identity. For the right, those seeking equality are simply individuals, each standing in an identical relation to the state. For the left, group-related identities (such as those related to sex, race, sexual preference and so on) are significant components of individuals; the fact that some groups (for example, women) are structurally disadvantaged vis-à-vis others (for example, men) is an essential factor in analysing, and then addressing, inequality.

The interest in groups as crucial for understanding the nature of inequality has led some theorists of the left to develop theories of group rights. One of the most influential is Will Kymlicka's case for reworking liberal theory to include a 'consociational' model of citizenship, in which members of minority cultural groups are understood as relating to the state via their cultural group, rather than directly as individuals, as 'universal' citizenship proposes. Such attempts have proved successful in finding ways of accommodating the concerns of the particular group in question – in the case of Kymlicka, national minorities in colonised territories (Kymlicka, 1989: 136-7). Similarly, advocates of affirmative action for women in the workplace try to accommodate the idea of recognition for groups – in the context of Australian affirmative action law, primarily women (Maddox, 2000).

However, each set of arguments runs into difficulties when it comes to accommodating various different 'groups', with their different needs. For example, Kymlicka's consociational citizenship model, linking group membership to geography, is of limited use to women facing discrimination in the workforce. Conversely, affirmative action theories, emphasising the need for group members to be able to operate on equal terms in organisations with a dominant ideology, are of little use to national minorities trying to resist assimilation into the majority culture.

Worse, as right-wing backlash threatens existing achievements in both affirmative action and indigenous rights, the various arguments used in

defence of those gains seem to make the critics' task easier. Rethinking the theory which supports those arguments is both philosophically helpful and strategically necessary if those gains are to be adequately understood, defended and extended.

Liberal attempts to accommodate group rights founder on an insufficiently thorough-going conception of group membership. I propose an alternative way of accommodating group-related identities. Each of the above vignettes raises questions about the relationship between equality and power. Each also raises questions about what it is to be part of a social group. A group-based understanding of citizenship shows a way to move beyond such ghettoisation.

Pauline Hanson's original letter took up the new right's carefully-cultivated cry of 'special privileges' to the undeserving, fostered (for example) through a long campaign of think-tank publicity (Morgan, 1984, 1991) and, in the lead-up to the 1996 federal election, through Liberal State government Royal Commissions, pushed by John Howard, targeting 'privileged' groups such as Indigenous people and women (South Australia's Hindmarsh Island Bridge Royal Commission and Western Australia's pursuit of Carmen Lawrence). Falling in with that tradition, reinterpreted the language of 'discrimination', usually applied to members of disadvantaged groups (as, for example, in Australia's *Sex Discrimination Act 1984* and *Race Discrimination Act 1975*). In her lexicon, 'discrimination' was more likely to describe actions directed against her as an individual, as when a retail clothing chain directs its staff to try to avoid selling clothes to her (*The Dominion* (NZ), 21 April, 2001: 5). Drawing on the new right's rhetoric of formal equality, she divested 'discrimination' and 'inequality' of any sense of unequal power or collective disadvantage.

The swastika proclaiming 'Pakeha have rights too' raises related issues. The claim to 'have rights' declares the existence of a right in theory, with the implied demand that those rights be brought into existence in practice. But, in New Zealand, Pakeha (non-indigenous New Zealanders) are economically, educationally and politically better off than non-Pakeha. The painting offers no clues as to which rights Pakeha need to have realised (while the stark affront of a white swastika on black background negates any suspicion of irony in the words).

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Rightwing 'equal rights' language assumes that there is a neutral starting point from which all participants in the political sphere are to be measured. By representing all players in charges of discrimination as equal – equally vulnerable, equally powerful, equally vilified, equally free to respond – it produces an asymmetric picture in which it is possible to theorise disadvantage without having to theorise advantage. Suffering results from a disruption to a generally fair status quo, rather than because the advantage of some groups produces the disadvantage of others. In fact, those who are not victims of discrimination are not conceived in group terms at all. Instead, in liberal accounts, group identity is created by the fact of a group being discriminated against. Consequently, the relative advantage of some cannot be understood as a 'group benefit' causally related to the 'group disadvantage' of discrimination's targets. It thus becomes possible to say (for example) that 'Maori are disadvantaged', without having to say that 'Pakeha are advantaged'. Maori and men, unlike 'Pakeha' and 'women', have no collective identity in the initial state of affairs in which groups such as women and blacks are disadvantaged, and therefore cannot be regarded as undeserving beneficiaries of anything. But efforts to redress inequality, by making the advantaged lose some of their privilege, would target them as a group. For the first time, they would be given a collective identity, 'Pakeha', 'white Australian', 'men'. And, in a philosophical framework which presupposes that equality means a world of desituated individuals, the existence of group identity is an indication of injustice.

Left liberal moves to accommodate group rights in certain circumstances shares with the rightwing backlash a tendency to make the recognition of group rights a 'special case', which stands out against the background of supposedly impartial individualism and universal citizenship. The system in general is working well, such arguments imply; but just in *this* instance, because of their special 'neediness' (Bacchi, 1996, 1999), or idiosyncratic culture, or history of marginalisation, *these* people need to be seen by the state not only in their capacity as individual, universal citizens but also, collectively, as partakers in some form of group rights.

This liberal commonplace paints a picture of a harmonious background, against which instances of discrimination, dispossession and disadvantage stand out as aberrations, the result of momentary bad luck, mismanagement or individual deviance. As such, it allows an asymmetric analysis in which one can theorise disadvantage without being obliged to theorise advantage: if some are losing, it is not because others are winning at their expense, but because the generally just mechanisms of the liberal state have sprung a temporary leak, which a slight adjustment to the damaged part, a one-off recognition of group rights in respect of the 'needy', will be able to fix.

What kind of communities?

One difficulty for liberal theories of collective rights has been to develop a theory which is sufficiently flexible to take account of more than one kind of community. My solution is to extend the concept of group membership away from being merely an exceptional feature of the lives of some – the needy, marginalised or exotic. Doing so, we recognise that no one has just one group-related identity. Individuals live in, and are shaped and constituted as persons by, all kinds of communities. Communities consist of, and are shaped by, many individuals. Societies consist of, and are shaped by, many communities, coexisting, competing, conflicting or overlapping.

Communities can be communities of affection and shared material life, like families; they can be communities of interest, like political lobby groups; they can be communities of shared commitment or history, such as religious or ethnic groups. Some (perhaps all) communities function in more than one way. The phrase 'the gay community' suggests a notional entity which may at times function on all of these layers, from a political lobby (or coalition of lobbies) to a determinant of family and affective relationships. 'The Aboriginal community' is another term of identity which often functions on these multifarious levels, while also containing numerous local and descent-based communities within it. The functions may vary over time: workers who usually take little active role in their trade union may, in times of industrial struggle, develop affective ties to one another and to 'the union' which add several dimensions to its place in their identities.

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Conservative communitarian visions notwithstanding, communities exist within a wider society. Neither the state nor the wider society in general can exist without such 'lower-level' communities. Whereas Hobbes saw individuals locked in natural struggle until they mutually contract to form the institutions of the state, in reality the wider society is more than the institutions of the state and the state is more than the sum of the *individuals* who make it up.

This is a point for which contractarian theorists are often criticised by feminists, from Mary Wollstonecraft's attacks on Rousseau (Wollstonecraft, [1792], 1975) to Susan Moller Okin's criticisms of Rawls (Okin, 1979). The vision of mutually-contracting individuals is easier to maintain if one particular kind of lower-level association is quarantined from the political – namely, the family. The contracting individuals may theoretically be sexless; but, feminists have pointed out, the contractarians have tended to assume, in practice, male citizens who are freed to participate in the social contract by the patriarchal family, sustained by women and to which women are confined (see, for example, Pateman, 1989: 33-57). In other words, families, although recognised by contractarian theories, form an assumed natural base for the political. The political, in turn, assumes the free activity of the male citizens; activity which is at once made possible by families and implies the family's exclusion from the male citizen's sphere of public activity.

If, on the other hand, families are understood not as the silent backdrop to the public sphere but as one of the kinds of community which make it up, then it becomes easier to see other kinds of intermediate associations as well[2]. As theorists of civil society point out (for example, Putnam, 1993), a well-functioning society needs various kinds of association within which people develop the skills for effective citizenship. But such various levels of association are necessary not only to democratic society, but to any society: the statement that society needs various kinds of association between individuals and the whole is true not only normatively, but descriptively.

Not all communities are fixed: at times, people move, or find that they have been moved, beyond the affective or organisational ties of a community to which they once belonged, and to which they may still feel a kind of (changed) belonging. When a partner files for divorce, when a child runs away

from home, when a believer leaves a church, they step or are forced beyond the boundaries of a community which once in part formed their individual identity, and which may still continue to do so in a variety of positive or negative ways. Not all shifts have an air of crisis: some occur gradually and some, like the shift from adult status to the (in western society) more marginalised state of old age, are both gradual and inevitable.

Moreover, the picture needs to include not only intersections or conflicts between communities at the same level, but also among or between higher- and lower-level communities, from the family to the state and at all levels in between. At times, people appeal to the institutions of the wider society to intervene to protect them from the communities to which they have once belonged (and may still belong) (Schachar, 1988: 285-305). When one family member takes out a restraining order against another, when a parishioner charges a church official with sexual abuse, or when a child claims the protection of the state against violent or neglectful parents, then the individual is staking their status as a member of the wider society against the ties of some particular community.

These instances do not exhaust the range of ways in which a person fits into the webs of state, society and community. As communities of resistance demonstrate repeatedly, people often rely on ties – affective, organisational or more loosely associative – to protect them against the efforts of the wider society to impose itself upon them. One example is the mid-1990s mobilisation of the Australian 'gay community' against the anti-gay laws of one State, Tasmania; the solidarity of Aboriginal communities against deaths in custody is another. The ties in such cases can be formal (as in the Aboriginal Deaths in Custody Watch Committees formed during the 1980s) or informal (as for example were often maintained by draft dodgers during Australia's involvement in the Vietnam war). When individuals engage in collective protest action or solo acts of resistance which are supported by webs of association, they assert their membership in particular communities against the wider society. It is not hard to suppose that some societies elicit more of one kind of behaviour than another from their members: for example, a repressive state might create greater need for collective action against it, while making individuals less inclined to call on it in their own support.

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When we take into account the location of individuals and their various communities within a competitive market economy, the picture only grows more complex. As Benjamin Barber points out, cultural, sexual and ethnic identities may be intersected by market and civic identities which pull individuals in a number of different directions (Barber, 1996: 30-1). The variety of communities produces a variety of behaviours. At one time the state may strike me as repressive, intruding unduly into my life and creating hardships which it has no right to create. I may respond by calling on an existing community of like-minded people who are concerned for my wellbeing, to join me in resisting; or by joining such a community if I am not already part of one; or by trying to form one if none exists. At another time, in any of a variety of ways, that community, or any other to which I belong for any reason, may come to pose a threat to my welfare. If simply leaving it does not work, I may have to call on the very institutions of the state which my associates and I once opposed.

Conceiving the state as irreducibly made up of groups (rather than individuals) and seeing these groups as overlapping components of individual identity allows us to move beyond liberal views which, if they recognise group membership at all, regard it as an extraordinary concession to particular individuals' neediness, marginalisation or exoticism.

One advantage of my proposal over Kymlicka's is that moving away from a territorial metaphor allows for a greater variety of ways in which communities may relate to the state, and for greater flexibility for individuals to relate to the state via more than one community, including more than one kind of community. One's needs and commitments as a member of a particular ethnic community may be met under one set of differential arrangements, one's needs as a woman under another. An advantage of my proposal which arises from this difference is its resolution of the apparent contradiction which many (including Kymlicka, 1989: 141-5) see between 'assimilationist' affirmative action and 'separatist' indigenous rights. A second advantage is that the image of everyone's citizenship as mediated through communities makes it harder for some to dismiss the claims of 'noisy minorities' as a grab for 'special privileges'. Moves to redress injustice are less vulnerable to the political rhetoric of rightwing backlash.

This latter difference draws attention to my proposal's significance as it bears on communities at a level still further removed from individuals. One's sense of oneself as a 'woman' or a 'man', as 'straight' or 'gay', as 'employed' or 'unemployed', as 'working-class' or 'ruling-class', may be integral to one's self-understanding without ever requiring one to join an organisation, march on the streets or associate primarily with others in the same category. At this level, the conceptual shift I am proposing makes space for special measures aimed at the marginalised (such as affirmative action for women) which are implemented by government in the form of broad public policy. It also includes a change in the public imaginary, away from a 'liberal background' of formally equal and competing individuals against which the group affiliations of some stand out as exceptional. It offers instead an image of which everybody's identification with numerous lower-level associations (in different ways) helps to structure individuals' relations to the state. This makes it easier to identify the patterns of advantage, as well as of disadvantage, which make up the full picture in an unequal society.

It also makes it easier to identify the ideological, philosophical and theological assumptions which underpin the supposedly 'neutral' liberal state. In place of a spurious aloofness, the state in this model would engage with lower-level communities and with individuals, as they both solicit its support and resist its excesses, perpetually reproducing it in the process.

The various kinds of practical arrangements by which such multi-layered citizenship could operate would require a study of their own. I hope to have indicated here good theoretical and strategic reasons for those concerned with a more equal society to make the attempt.

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Endnotes

1 Carol Bacchi argues that affirmative action programs tend to contain an implied justification of preferential treatment for disadvantaged groups as 'handouts to the needy' – that is, they imply that such programs are needed because of a deficit in the beneficiary group (e.g. women) rather than because of the unfair collective advantage of others.

2 It is, of course, possible to recognise intermediate associations without paying attention to the family. Some political philosophers, particularly in the cultural rights literature, draw attention to intermediate associations such as minority cultures while ignoring the structured asymmetries of family life either within those communities or in the wider society. However, such analyses tend to have difficulty explaining how, for example, the rights of individuals can be protected within families. Taking account of families as another form of lower-level community within the political, rather than as a private realm quarantined from political debate enables such questions to be dealt with. On the other hand, I am suggesting that it is more difficult to accept families as part of the structure of political society while ignoring other kinds of association: as soon as the family is admitted into analysis, the floodgates are opened to all the other ways in which people organise themselves and build affective ties, below the level of the society at large.