Rethinking Rights Beyond Liberalism: A Radical Democratic Critique of Liberal Rights

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Abstract

The rise of 'illiberal' regimes and their corresponding leaders globally, have brought to the forefront the centrality and importance of the meaning of rights. Given the importance and significance of a rights-based discourse in contemporary political discourse, the aim of the thesis to offer a coherent criticism of the liberal conceptualization of rights by using the framework of radical democratic theories. A fundamental consideration for the thesis while doing this, is to not completely disregard or do away with a rights-based discourse. Instead, the thesis hypothesizes that the liberal understanding of rights has limitations of applicability and that there is a need for a reformulation of rights which does not solely base itself on liberalism. Using the criticism offered against liberal rights by radical democratic theories, the thesis makes a positive argument to reformulate a rights-based discourse in the light of the newer forms of claim-making that are occurring globally.

Keywords: liberalism, rights-based, radical democracy, participation, claim-making, dissensus

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1. Introduction

"One cannot fail to notice the inconsistency of those rejecting human rights: their rejection takes place in the public square created by human rights. It is difficult to reject human rights without using them." -Filip Spagnoli

This quote by Filip Spagnoli sums up the beginning decades of the twenty-first century. Globally, there has been a massive increase in political regimes which have completely disregarded civil liberties and consistently trampled upon the rights of individuals. The rise of these regimes and their corresponding leaders have brought to the forefront the centrality and importance of the meaning of rights. Considering that a lot is at stake in the current scenario, it is in the realm of a rights-based discourse that the thesis seeks to intervene. This thesis aims to offer a new understanding of what constitutes a rights-based discourse, taking it beyond the confines of a liberal reading.

It does so by first providing a criticism of the conceptualization of liberal rights. To engage with liberal conceptualizations and its normative foundations, the thesis will make use of a group of theorists within a tradition of political thought commonly known as radical democratic theories. Liberalism, as a distinct political theoretical framework has survived for over four to five centuries and has had a towering role in the envisioning of the modern world in moral as well as political terms. The core arguments and fundamental claims of Liberalism are historically built upon normative foundations which were very radical for its time. While there isn't a single or unitary strand of Liberalism, there are broadly three distinctive yet interrelated premises which act as the foundations on which liberal political thought emerges, and indeed, liberal rights have been built, and these are: 1) The primacy of the individual and individual autonomy; 2) The idea of liberal equality and freedom and the relationship between the right-holder and the right-addressee; and 3) The corresponding institutional architecture.

While there are distinctions between traditions within Liberalism on which form of liberty addresses the question of rights better, a large part of the corpus on rights has focussed on the negative liberty aspect of rights (Berlin, 2002; p. 169). It is within this realm that the thesis seeks to intervene, arguing that the liberal conceptualization of rights is an insufficient mechanism to understand the meaning and scope of rights themselves and what they are meant to achieve. In order to do so, the thesis makes use of the theoretical paradigm of the radical democratic tradition and focuses on the criticisms it makes of the liberal rights paradigm and elaborates on the points of contestation between them. This becomes of prime importance since various other interrelated conceptualizations of liberal political thought, including that of liberal equality as well as the distinction between private and public etc. all stem from the idea of rights themselves are conceptualized. Thus, the central questions that the thesis seeks to answer, are the following: Do ideas of liberal rights rooted in negative liberty suffice as a coherent way of addressing the requirements and the applicability of a rights-based discourse? How does the abstract position of the rights holder address questions of the meaning and reach of personal autonomy, freedom and equality? Is the institutional architecture around liberal rights sufficient in ensuring that rights serve as useful political tools?

Historically, the normative foundations of Liberalism have encountered various forms of criticism on all sides of the political spectrum, from the conservatives like Edmund Burke (Waldron, 1987, p. 96), to the more radical left traditions of Communism (Marx and Tucker, 1972, p. 24). Contemporary criticisms of liberal rights are most famously associated with adherents of communitarianism (Taylor, 1994, p. 257; Gutmann, 1985, p. 308). In present times, however, the attack on liberal rights and the growth of illiberal trends in governments and regimes around the world have made revisiting the normative conceptualization of liberal rights even more crucial. In this regard, the radical democratic tradition offers an alternative formulation towards a criticism, since as per the claims of the theorists who espouse it, the

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clearly stated goals of the tradition are to widen the scope of democracy, rethink the definition and meaning of politics, the political, reformulate the sense of equality and through these methods, increase the range for political action (Dahlberg and Siapera, 2007, p. 7).

The radical democratic tradition itself, however, is not a singular one and instead represents various theorists and differing conceptualizations and one of the significant considerations involves identifying what constitutes this theoretical tradition. The points of divergences between theorists are often more than any sort of convergence, and even trying to establish a common minimum discourse around it can prove challenging. This is further complicated by the fact that while some within the radical democratic tradition dismiss the notion of rights, others tread a more cautious path, arguing that rights are necessary but that liberal conceptualizations of rights are insufficient considering the social and political realities of our time. I believe that rights matter and this is why this thesis will engage with the radical democratic tradition that does not outrightly dismiss rights. This is useful it two ways since it helps define the scope of the criticism of the liberal rights project and at the same time, also aids in narrowing down the corpus of the criticism even within the radical democratic tradition.

The first question that emerges at this point is associated with the definition of radical democracy or if certain characteristic features are identified with the tradition. Dahlberg and Siapera (2007) help identify its two core features. The first of these features is to envision a rethinking and a possible extension of the concepts of liberty and equality, including the core questions of the identity and status of the right-holder (Dahlberg and Siapera, 2007, p. 7). A second feature of the radical democratic tradition is the idea that democracy is to be understood in terms of a process which has a reflexive component to it rather than as an end goal. While this is a claim that is made by different strands of political thought, I believe that the strength of the radical democratic tradition is in the fact that it offers us novel ways of thinking about

questions of political participation (Dahlberg and Siapera, 2007, p. 7) and this is a point that will be returned to later in the course of this thesis.

Another way to mitigate the divergent viewpoints within the radical democratic tradition is through a broad typology. Dahlberg and Siapera (2007) offer a three-category typology of radical democratic approaches: The agonistic perspective, the deliberative perspective and the autonomist perspective (Dahlberg and Siapera, 2007, p. 8). This threefold typology is a useful starting point since it allows for looking at how different strands of thinking within the typology coexist, interact and critique the normative foundations of liberal rights.

Since the primary aim of the thesis is not to disregard the very conceptualization of rights but instead focus on the criticism of the conceptualization of liberal rights, the choice of theorists within the radical democratic tradition will also keep the characteristics in the foreground while also considering the nature of the typologies in the background. This will allow for an assessment of the radical democratic criticisms of Liberalism in thematic terms, rather than by theorist.

To offer a meaningful and coherent criticism in theoretical terms, at the beginning of the thesis, the hypothesis is that the idea of rights understood as negative rights (which is the most often and commonly used formulation in liberal rights) is an insufficient way of addressing the uncertainties of the current social and political-economic order. To try and substantiate this hypothesis, the thesis makes use of the radical democratic theorists as a framework by which a critique of the understanding of rights within the liberal political thought tradition can be formulated. Using this, the thesis will seek to evaluate the nature of the criticism itself and elaborate on how alternative possibilities of rights-based discourses can be thought of.

The structure of the thesis is as follows: In the first section, the argument will seek to lay out the different normative foundations of liberal political thought as well as the ideas of liberty

and freedom, which are at the core of the liberal project. This is of utmost importance since, within Liberalism itself, divergent viewpoints exist on a variety of topics and it is essential to arrive at a lowest common minimum. This section will then go on to highlight the role of negative liberty in the modern rights-based framework and attempt to understand the centrality of its claims, its significance and the implications of the relationship between the right holder and negative liberty, while also dwelling on the current institutional architecture around a rights-based discourse. The second section proceeds to describe the various radical democratic criticisms of the liberal tradition primarily in thematic terms. Since this involves a close reading of the texts and theorists of the radical democratic tradition, the thesis will attempt to interpret these texts in the context of when they were written while also providing interpretations of the texts themselves. The third section will focus on developing a coherent synthesis of the criticism which will be arrived at from the previous chapter and will seek to defend its initial hypothesis as well as offer an alternative way of thinking about rights. In the final section, the thesis concludes by evaluating its criticism, its implications and the intervention it has made in understanding the rights-based discourse.

2. The Historical Premises and Normative Foundations of Liberalism

As touched upon in the introduction, Liberalism has been a dominant force in shaping the modern discourse of political and legal thought. The nascent philosophical origins of Liberalism have been traced back to the work of Thomas Hobbes and his magisterial work Leviathan by some philosophers (Waldron, 2001, p. 447). These philosophers argue that while Hobbes can in no terms be classified as a classic liberal philosopher, Hobbes' work on the questions of sovereignty, political obligation and its limits (Gaus. et al., 2018, para. 2) are central to Liberalism's relationship between right-holder and right-addressee. In all forms of the social contract theory that follow, there exists a core question of how political authority can be justified and what makes authority legitimate (Gaus et al., 2018, para. 2).

The more robust origins of liberal political thinking and philosophy itself arise as the result of the enlightenment in Europe. Sweeping changes in scientific methods, as well as new ways of thinking, also had a considerable impact on the political and social realm and it is here that Liberalism originates as not just a potent political force but also as a moral force. One of the most significant changes that Liberalism introduces is that it places the human individual in its focus. While it has not been left unchallenged for its normative conceptualizations and conclusions about how to build a political society, the latter part of the 20th century as well as the beginning of the 21st century, has only witnessed a more significant turn to and embracing of liberal values as envisioned through the building of liberal-democratic nation-states. This rise in the acceptance of liberal values globally has coincided with the defeat of Nazism in the Second World War as well as the fall of Communism in 1989. In today's context, liberal values are almost taken for granted and are seen as the cornerstone and foundational principle of a just and equitable society.

One of the issues while dealing with the ideas of Liberalism itself is that given its long history of four to five centuries, it is not straightforward what its core components are. Gaus et al.

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(2018) argue that there is a fracturing of Liberalism and divergent viewpoints emerge over a range of questions including what constitutes the nature of liberty, the meaning of equality, the role of private property and what institutional architecture is desirable. Some scholars argue for instance that the core commitment of liberals is to an ideal of equality rather than what is commonly assumed as a claim to liberty (Waldron, 1985, p. 129). While this is a pertinent question to ask and the divergences within liberal thought are many, it is possible to identify a set of foundational principles and normative structure which ties together different facets of Liberalism. In the following sections of this chapter, the thesis will try and layout the foundational normative principles of Liberalism and expand upon the role they play in liberal thought.

2.1 The Role of the Individual and Individual Autonomy

One of the most critical interventions that Liberalism has made historically and in contemporary times is the priority it gives to individuals. This is the basis of interrelated concepts of autonomy, liberty, liberal equality and state neutrality. Historically, before the advent of Liberalism, individuals or individualism was not considered the primary field of action in either political or moral thought. Conservatives such as Edmund Burke believed and viewed the commonwealth as a permanent, fixed unit and a source of stability. In contrast, within the commonwealth, individuals were seen to "pass like shadows" (Burke, 1837, p. 297). This placed individuals at a level almost subservient to the survival of the commonwealth. This, however, radically shifts during the time of the enlightenment and the period of the French Revolution. Discoveries and new ways of thinking in the sciences tended to place reason at a primary role. Since individuals were the carriers of reason, there was a primacy given to individuals (Lukes, 1971, p. 45). With the recognition of the individual as the carrier and bearer of reason, it also became prominent during the time of the enlightenment to give precedence to the interests and what individuals are entitled to (Lukes, 1971, p. 46). This debate took an

interesting turn in France where criticisms of individualism (as it came to be called) would destroy the moral and social fabric or tend to promote social anarchy (Lukes, 1971, p. 46). Early European liberal ideals got further solidified in institutional terms in the development of the United States of America, envisioning a social order based on equal individual rights, equal opportunity and natural justice (Lukes, 1971, p. 59). The origins of modern liberal thought can be traced back to an amalgamation of these various processes.

Waldron while elaborating on the theoretical underpinnings of Liberalism argues that even etymologically the words Liberalism and liberty are connected and even though Liberalism itself is conceptualized in a variety of divergent ways, the primary concern of all strands of liberal thought is the importance given to the idea of individual freedom (Waldron, 1987, p. 129). This is the basis of the understanding of liberal equality, which is that all citizens are free as right-holders. This is in drastic contrast to most other earlier theories where individuals were considered as unequal by status or birth. The liberal notion of equal freedom of all at the same time also recognizes the fact that individuals are different when it comes to their interests and ideas of a good life and this recognition constitutes the basis of liberal pluralism. Liberal pluralism thus allows for the coexistence of these various diversities while at the same time promoting human values. Therefore, the protection of the different interests of individuals (Freeman, 1995, p. 25) itself offers the possibility of codification of rights in Liberalism, as protection of individual interests, which will be elaborated on in the next sections.

Closely related to the role of the individual in Liberalism, is also the idea of autonomy. Like with the case of the primacy of the individual, the notion of autonomy also goes back in its most coherent and modern form to the time of the enlightenment in Europe. For the sake of conceptual clarity, a possible definition of autonomy goes as follows: "capacity to form a conception of the good, to evaluate one's values and ends with the genuine possibility of revising them should they be found wanting, and then to realize one's revised ends" (Levinson,

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1999, p. 15). Arising historically in the works of Immanuel Kant, individual autonomy is seen as the ability to be one's person concerning an authentic self, rather than based on externally imposed ideas of the self (Christman, 2018, para. 3). Externally imposed ideas of self are seen to contribute to oppression, domination and paternalism and hence, stressing on autonomy helps in keeping these under check. In addition to protection from external ills, the value of autonomy also can be seen as having an intrinsic value which is closely related to one's wellbeing and thus it also allows for stressing on the necessity of individuals to be able to self-govern and know what is best for themselves (Christman, 2018, para. 3). These two aspects taken together make autonomy a highly appealing value in Liberalism and fact, become the basis on which political principles are formulated and justified (Christman, 2018, para. 39). Only if individuals can reflectively view these principles as agents can there be legitimacy for the principles themselves to exist. This has wide-ranging implications on various aspects of liberal architecture, including state neutrality, the need for institutions as well as principles of justice. The central role given by Liberalism to the individual taken together with the ideas of autonomy, as explained above, allows the liberal conceptualization to think of individuals as autonomous agents.

2.2 The Meaning of Negative Liberty

Having established the supremacy of the role of the individual and individual autonomy, it is necessary to arrive at a conceptualization of what liberal rights are and what they seek to do. Before doing that, this section of the chapter thus begins by elaborating on the ideas of liberty, and what it means to Liberalism. As mentioned earlier, the primary concern of Liberalism is the importance of individual freedom. Here again, there exists a divergence within liberal thought on whether the words freedom and liberty can be used interchangeably. Some authors have pointed out that there exist differences between the two (Carter, 2018, para. 4), but for this thesis, freedom and liberty are being used interchangeably. Isiah Berlin, in his classical

study on the types and meaning of liberty argues that what is often understood as a singular and unitary concept in political thought could mask a plurality of meanings and usages (Berlin, 2002, p. 168). Berlin expands on this by making a distinction between positive and negative liberty and sees them as rival and contradictory interpretations of a single ideal (Carter, 2018, para. 3). Another understanding of the two ideas of liberty has been to view them through the lines of factors which are internal and external to the agents themselves (Carter, 2018, para. 7). In this view, negative liberty refers to freedom from external forces while positive liberty relates to changes in factors which are internal to the agent (Carter, 2018, para. 8). For Berlin, non-interference forms the necessary condition of personal autonomy, and he writes:

> I am normally said to be free to the degree to which no man or body of men interferes with my activity. Political liberty, in this sense, is simply the area within which a man can act unobstructed by others. If I am prevented by others from doing what I could otherwise do, I am to that degree unfree; and if this area is contracted by other men beyond an absolute minimum, I can be described as being coerced, or, it may be, enslaved. Coercion is not, however, a term that covers every form of inability. (Berlin, 2002, p. 169)

MacCallum (1972) argues that there are two possible interpretations of negative liberty. The first is the mentioned idea of liberty as non-interference. A second reading, however, allows for a triadic relationship to emerge between agents, constraints and ends (MacCallum, 2006, p. 314). This triadic relationship is the one which has parallels to Liberalism, particularly in terms of how negative liberty can be understood and this will be expanded upon in a later section.

On the other hand, positive liberty is one where the individual can express herself and where the responsibility for the decisions taken is inherently linked to the priority given to the individual.

> The `positive' sense of the word `liberty' derives from the wish on the part of the individual to be his own master. I wish my life and decisions to depend on myself, not on external forces of whatever kind. I wish to be the instrument of my own, not of other men's acts of will. I wish to be a subject, not an object; to be moved by reasons, by conscious purposes, which are my own, not by causes which affect me, as it were, from outside. (Berlin, 2002, p. 178)

Berlin favoured a negative conception of liberty over the positive notion and this primarily for historical reasons. He argues that there has been a trend through which, aims of positive liberty was prone to authoritarian tendencies (Berlin, 1969, p. 180). He further believed that those who considered themselves as the torchbearers of positive freedom would really on methods of coercion though often it would be disguised under the banner of freedom (Gustavsson, 2014, p. 269). This for Berlin was utterly antithetical to the very idea of liberty.

As mentioned in an earlier section, one of the core components of Liberalism is the idea of individual autonomy, which itself relies on the absence of external conceptualizations of the self and factors which hinder the self. Thus, to prevent coercion and oppression from foreign agents influencing the self, the liberal conceptualization of liberty tends to favour the negative view of liberty, even though this isn't a monolithic view.

2.3 The Nature and Scope of Liberal Rights

The earlier sections have outlined the normative foundations of Liberalism in terms of the primacy of the individual, individual autonomy and the negative concept of liberty. In the part, the thesis will dwell the meaning and nature of liberal rights, the purposes that rights serve in Liberalism and its link to interrelated liberal concepts such as equality.

Using the three concepts outlined earlier and taking them together, the task in the liberal project is that of constituting an autonomous-individual as a political subject in modern society. This is where the triadic relationship reading of negative liberty can be useful. If we look at negative liberty in a triadic relationship with agents, constraints and ends, the goal of the liberal project can be reformulated as the relationship between individuals, absence of external impediments and liberty as the end goal. This means that Liberalism acknowledges the status of the individual as free from external obstructions and constraints to promote liberty. To do this, the political subject is differentiated from external constraints. The question of external constraints

requires some elaboration. Under conditions of political legitimacy, a political subject has a specific political obligation towards certain entities. In the modern context, these entities include the state and other political subjects. At the same time, coercion by these entities is detrimental to the political subject's interests, and hence, protection from these entities is paramount. To protect the subject from oppression, this is done vis-à-vis the body with whom the political subject has a political obligation (which in this case is the state) and other political subjects (other citizens) since other political subjects have different interests as well. From this point, the political subject is bestowed upon with an instrument to protect its interests, and this instrument, in turn, defines the relationship of the political subject in negative terms vis-à-vis the state and other political subjects. In Liberalism, this instrument is the catalogue of liberal rights. This, in turn, creates the relationship between the individual right holder (the person who holds a claim to individual interests) and the right-addressees against whom the claim is made (the state and other citizens).

To better understand the scope and nature of rights in Liberalism, one can make use of the tripartite classification provided by Martin and Nickel (1980, p. 165). They argue that rights itself consist of three elements: Constitutive normative element, function(s) and justifications. The first points to the fact that the scope and purpose of liberal rights are to protect individual liberty against threats, or limiting the actions which can cause impediments to individuals themselves and their lives. Second, the functions of rights are to serve the purpose of reiterating the worth of individuals and their autonomy by offering protection to individual interests (Harel, 2005, p. 191).

Functionally, rights are codified demands of the right-holder to the right-addressee. This is of utmost importance since it allows the right-holder to make the violation of claims made by individuals justiciable (Harel, 2005, p. 192). This idea of rights also, in turn, invokes the concept of duty. If the right-holder is claiming an entity, the entity has to fulfil the entitlement

of the right-holder (Gavison, 2003, p. 26). Rights offer the capacity for an individual to sustain and increase the scope of her autonomy, and by doing so, provide a cornerstone of the protection of the idea of individual autonomy. The third constitutive element of justification of liberal rights is based on the paradigm that rights are essential to promote human agency and dignity of individuals. These three elements taken together represent the centrality of rights in liberal political thinking.

Conclusion

In the previous sections, the thesis expanded in detail, the normative foundations of liberal political thought. While doing so, it also recognized and highlighted the differences present within liberal political thought while at the same time, identifying a standard minimum. This was done to achieve conceptual clarity as well as focus the criticism in concrete terms. To summarize, what we thus have in liberal political thought is an individual who is of paramount importance and one who possesses personal autonomy. To conceive of this individual as a political subject, it is necessary to bestow some sort of status on them, and this is the primary purpose that rights serve. Since this status is bestowed most commonly in the form of absence from external interferences, the notion of negative rights follows. The thesis aims to use the radical democratic framework to try and offer a criticism of the rights-based paradigm in Liberalism. In doing so, two central questions emerge: Firstly, does the standard of liberal rights suffice to address the normative need for rights? In other words, is the negative rights paradigm consistent with Liberalism's own normative foundational and universal premises? Secondly, does the constitution of a political subject by bestowing upon individuals negative rights through Liberalism allow for a comprehensive understanding of the goals and aims of what rights seek to achieve in terms of autonomy and equality?

One of the primary reasons for choosing the radical democratic framework, as explained in the introduction, is to be able to effectively compare points of convergence and divergence between the two theoretical traditions. This choice allows for the two normative conceptualizations to come into conversation with each other, and criticize each other. The aim of the thesis eventually, is to evaluate the competing claims and points of contestation that theorists make and to finally try and provide a synthesis between the two theoretical conceptualizations. In the subsequent sections, the thesis will first attempt to chalk out thematically, the criticisms that have been levelled against liberal rights by the radical democratic theorists.

3. Towards a Radical Democratic Critique of Liberal Rights

The earlier sections in the thesis have explained the rationale for choosing to engage with radical democratic traditions. To reiterate, firstly, the claims made by the radical democrats and concerns they have about questions of freedom and equality do often converge with the goals of the liberal project and the rights-based paradigm in Liberalism. Secondly, one of the significant issues with alternative political theories that engage in criticisms of liberal rights is that they end up often rejecting and dismissing the notion of rights. The radical democratic tradition encompasses a broad range of views within it. There are indeed some theorists associated with the tradition who also tend to disregard rights completely, arguing against the very need for a discourse of any sort of rights, most notably in the works of the CLS scholar David Kennedy (Kennedy, 2002, p. 34) and the Marxist thinker Alan Badiou's understanding of the concept of evil (Badiou, 2002, p. 2). While these thinkers also make potent arguments against the very need for a rights-based discourse, their stance forecloses any possibility of a conversation around the meaning and applicability of rights. Given the current scenario where a rights-based paradigm already exists, the focus of this thesis as mentioned earlier is to engage with the views of the theorists who do not entirely do away with the necessity of a rights-based paradigm in a modern context. By focussing on the contestations between radical democrats who don't abandon a rights approach and the liberal rights-based discourse, a coherent criticism of the normative foundations of Liberalism can be attempted.

At the same time, however, it is worth keeping in mind as mentioned in the introduction, that the diverse methodology of the radical democrats and their often-divergent viewpoints means that a common minimum agreement between them is not quickly arrived at. The thesis tries to mitigate this difficulty by engaging with the characteristic features of the radical democratic tradition instead of defining the tradition itself. In addition to those mentioned in the introduction, the thesis will rely on the following essential points. Firstly, Samuel Chambers

drawing from the works of Wendy Brown, says: "there is an important tradition in political thought that aligns a Marxist critique of capitalism with a republican emphasis on political participation" (Chambers, 2004, p. 191). The question of political participation is at the heart of radical democracy. Radical democratic theorists argue that it is this form of political participation and envisioning of politics through participation which allows for the expression of genuine pluralism. Radical democrats thus contest the notion of liberal pluralism, and this contention is one which will be explored in the subsequent sections of the thesis. Secondly, since the corpus of theorists and literature associated with the radical democratic tradition is plenty and often very diverse while sketching out a critique of Liberalism, the thesis will group itself around thematic criticisms rather than laying out various criticisms levelled by individual theorists. This will also allow for a more excellent explication of the convergences and divergences between the different theorists associated with the radical democratic tradition and contrast it with the contestations against Liberalism. As envisioned broadly, there are three crucial points of thematical criticisms: 1) Liberalism's inadequate conceptualization of the individual subject and identity; 2) Liberal rights understood in negative terms are limiting in terms of defining the scope of politics and the range of the concepts of freedom and equality and as a consequence of the first two; 3) The institutional architecture around rights is deficient and conceals fundamental contradictions.

The next sections of the thesis will seek to lay out in detail, the points of criticism offered by the radical democratic traditions.

3.1 Is the Liberal Conceptualization of the Individual Inadequate?

Criticisms against Liberalism have historically focussed on the question of how Liberalism conceptualizes the individual. The earliest criticism from Karl Marx centred on the fact that liberal rights appeared at a specific juncture in history, where they provided as a useful tool of articulation. Still, they would cease to give any meaning under different conditions, and this

made them by nature, particularistic. For Marx, the aspiration of rights towards individual liberty and ideas of equality was always in radical opposition to capitalism, which was grounded in profit and reconciliation was impossible between the two (Marx and Tucker, 1972, p. 24). At the core of the Marxist argument also lies the case against Liberalism's abstraction of the individual away from material circumstances. The claim that Marx makes about the individual in liberal philosophy is the battle between a universal which is thought of in general and abstract terms and a particular, which is rooted in specificities including the material. Radical democratic theorists, while differing from Marx in certain vital aspects, take the argument against the abstraction of the individual seriously. A point of agreement amongst radical democratic theorists is that the nature of the individual in Liberalism is thought of in binary terms, devoid of any social context. This decontextualization comes at a price, and radical democratic theorists argue that while liberal rights claim to protect individuals, the decontextualization is actually detrimental and instead seeks to create binary individuals, who are conceptualized in narrow terms politically. This section of the thesis will further elaborate on the criticism.

One of the sustained criticisms of the liberal interpretation of individual identity comes from the feminist political theorist Wendy Brown. Taking on from Marx's notion of abstraction, while disagreeing with Marx's ideas on economic scarcity and its resolution through collective ownership as a way by which the applicability of a rights-based discourse can be settled, Brown argues that at the heart of Liberalism lies a paradox. While the language of rights is universal, the effects they tend to produce are in highly localized contexts and often differential across contexts (Brown, 1995, p. 97). The localized nature of rights tends to have effects in spatial and temporal terms. On a temporal level, Brown substantiates her point by quoting examples of civil rights discourses which have been used globally and in various contexts. These include examples of the struggle of Black Americans within the United States, the fight in the erstwhile

colonies of European empire against colonial domination as well as the more modern struggles for self-determination for groups such as Palestinians. The crux of the temporal point for Brown lies in the fact that while these rights discourses have seen tremendous success at a particular point, at other times the same rights-based approaches have shut down more radical demands for some groups (Brown, 1995, p. 97). The example to consider here is the Palestinian cause. The Palestinian struggle for self-determination was primarily based on the claim on equal rights for the Palestinians. While this rights-based discourse did gain a lot of traction, the expansionist goal of the Israeli state has mostly meant that these demands have failed to articulate a meaningful form of self-determination for the Palestinians. On a spatial level, Brown cites examples of the right to privacy, which remains ambiguous in many parts of the world owing to the fact that different parts of the world understand public and private differently (Brown, 1995, p. 97) and hence, a conceptualization of rights which tend to assume a singular idea of public and private across geographies is often found lacking. If taken together, this implies for Brown that it is impossible to see any meaningful political value in rights by themselves. Instead, Brown argues that it is more helpful to know the effectiveness of rights depending on how societies have been stratified, viz. the social groups that rights act upon (Brown, 1995, p. 98). This, for her, implies necessarily moving away from the universalization of the idea of rights and the abstraction of the individual. While the criticism that Brown has in this regard does hold weight and is a meaningful criticism to understand the limitations of rights, it is unclear as to how Brown envisions rights in any alternate form.

A second concern that Brown raises with regards to the role of the individual in liberal rights involves how rights themselves interact with identities. Firstly, Brown disagrees with the liberal perception of the abstract individual, arguing that it is one which seeks to dissolve identities and, in its place, argues for historically situating social groups and the individuals that belong to these groups. Secondly, she argues that Liberalism's idea of the individual

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assumes an already existing natural human subject and this naturally existing human subject is in possession of individual rights which are fundamental just owing to their basic human existing thereby foreclosing the concept of what human means and predefining it. This for Brown is a problem because while the rights-based discourse seeks to offer protection for contingent identities, it tends to reinforce the subjugation of certain social groups, thereby reducing the potential for the emancipation (Brown, 1995, p. 99).

Elaborating further from Brown's criticism and seeking to understand rights through the effects they produce, Katheryn McNeilly argues that the boundaries created by the liberal understanding of the individual subject in rights-based discourses tend to operate in two different ways simultaneously (McNeilly, 2016, p. 271). Primarily, the boundaries tend to ignore the intersubjective realities that make up the idea of an individual in their various social realities. For McNeily, this assumes a de-contextualized individual to whom no rights-based discourse can meaningfully attach itself (McNeilly, 2016, p. 271). Secondly, the binary nature of the rights-based discourse and the subsequent ignoring of differences amongst individuals tends to benefit and give precedence to modern processes such as capitalism. This then creates a mechanism by which the rights themselves are undermined by capitalism. Capitalism's ideas based on extreme levels of rationality and self-interests understood in purely economic terms also tend to create a binary notion of an individual, thereby relegating the concept of other rights as secondary to commercial interests (McNeilly, 2016, p. 271).

The novelty of Brown's criticism stems from the fact that while she is operating at a theoretical and normative level, she is also able to permeate deep into what the meaning of rights itself is in a modern context, particularly in their inability to articulate an emancipatory goal under newer forms of social and economic stratification. Thus, the problem that Brown identifies in liberal rights is not a problem which is exclusive to liberal rights alone. Brown can further her thesis also to include conceptualizations of identity politics, including ones put forward by

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other feminist theorists. While Brown sees the differences between the liberal conceptualization of rights and the various discourses around identity politics, the prevailing trend that Brown sees in both of these discourses is that while they seek to employ emancipation as the primary goal, they tend to create a sense of "wounded attachment" (Brown, 1995, p. 36), which limits the nature of emancipation. The resulting paradox here is that how the individual is thought of and conceptualized reinforces woundedness to be the primary driver in a rights-based discourse and then, employing this discourse tends to further protectionism rather than the promised emancipation. For Brown, this is detrimental since protectionism alone is insufficient to remedy the ills caused by historical exploitation of specific identities. While Brown can identify the paradox, she also contends that there is no easy solution to the problem. This is a central feature of the criticism of Liberalism launched by radical democrats but also one that remains unresolved by them and will be returned to in the later sections of the thesis.

A second but related criticism of the idea of the individual in Liberalism comes from the works of the legal scholar Costas Douzinas. Belonging to the dominant trend of Critical Legal Studies (CLS), Douzinas argues against the abstract identification of the individual in liberal rights-based discourses. His core claim is that this abstract identification leads to a high degree of atomization of the individual, who is often disconnected from reality (Douzinas, 2000, p. 286). Drawing from a variety of sources, including legal studies and phenomenology, Douzinas seeks to explain why the atomization is a problem. Primarily, the semantics and the language of a rights-based discourse is based coherently on the idea of recognition, rooted in an innate understanding of what it constitutes to be human (Douzinas, 2000, p. 286). While this recognition is crucial to Liberalism, Douzinas argues that liberal rights are mistaken in believing that this necessarily needs to be defined along with the limits of where others and community tends to lie and how the constitution of the human lies in identifying these boundaries (Douzinas, 2000, p. 286). This makes liberal rights something that individuals tend

to have and own rather than seeing rights as relationships. Douzinas instead proposes that rights need to address precisely that others exist as does a community and how best one can work with and within them (Douzinas, 2000, p. 286). Douzinas' argument involves rereading the idea of a right-claim that the holder makes. For Douzinas, the right-claim consists of two components. Firstly, the right-claim is related to a specific segment of the right-holder's status, which Douzinas argues Liberalism does recognize. However, Douzinas also contends that the idea of reciprocal recognition implies that a right-claim also demands that the whole identity be understood in terms of the specificities within which it exists, but this is impossible (Douzinas, 2000, p. 286). Drawing from the notion of the 'other' as described in Hegelian recognition and psychoanalysis, Douzinas argues that the scheme to find the whole being through the other will always fail the specificities in which the other exist are not singular. One way out of this is to recognize the multiplicity of the other. Douzinas argues that Liberalism does accept these claims. This in turn, however, will lead to a proliferation of various rights-based claims but paradoxically, will be unable to achieve self-realization of the individual which Douzinas traces back to the insulation that Liberalism seeks to solidify between individual and community (Douzinas, 2000, p. 386). While Douzinas does offer criticism for why liberal rights-based discourses are problematic for implicitly neglecting specific underpinnings of recognition, the question of how a rights-based discourse around recognition can account for historical circumstances and as tools for emancipation remains unanswered.

The third strand of criticism of the liberal understanding of the individual in rights-based discourses comes from Jacques Ranciere. In a traditional opinion of rights-based discourses, the bestowing of rights upon individuals makes them free and equal human beings. For Ranciere, such a claim is not based on the idea of an abstract individual but instead on specificities of what is considered as given, at that time (Ranciere, 2004, p. 303). Liberal rights are problematic since they do not recognize individuals as political subjects who are in flux

and not part of collectives which are unchanging (Ranciere, 2004, p. 303). The universalization

of a rights-based discourse undercuts the dynamic nature of society. In its place, Ranciere

suggests a rethinking of the idea of what constitutes a political community. Rejecting the binary

and abstract view of the liberal individual, he invokes a sort of constant movement between the

everyday consensus and actors who manifest dissent (Ranciere, 2004, p. 303). This has

significant implications for radical democratic traditions. Still, primarily, Ranciere seeks to

undo predefined categorizations of what constitutes the political and returns instead to the core

question of what participation means and actors involved in the process of participation

(Ranciere, 2004, p. 305).

Conclusion

The purpose of the above analysis was to show that radical democratic theories criticize and

contest three different liberal conceptualizations of the individual. Firstly, the abstract identity

of the right-holder leads to the depoliticization of the idea of the individual in social contexts.

While there are divergent views on how this depoliticization matters and what it implies, there

is a consensus around the inadequacy generated by it. Secondly, liberal individualism is based

on an idea of recognition that it seeks to employ then. While different trends view this

recognition in different ways, there is an understanding that this recognition itself does not

necessarily lead to the emancipation of any sort, which is the focus of Liberalism's emphasis

on the individual. For most of the trends, this recognition needs to be rooted in specific

historical circumstances and specificities while at the same time being emancipatory. While

critiquing Liberalism for being insensitive to recognition based on historical specificities and

thereby accusing Liberalism of being ahistorical, radical democratic theories remain unclear

on how juggling between the two can be resolved. This focal point will be expanded upon in

later sections of the thesis. Thirdly, a coherent point of agreement amongst the trends is that

the nature of the individual in liberal rights-based discourses tends to inadequately frame the

relationship between the right-holder and the right itself, particularly in relation to community and others.

3.2 Who Guards the 'Guardian'?

As mentioned in the earlier sections on the foundations of Liberalism, the protection of individual interests in the form of a right-holder gets codified in legal terms. The importance of this lies in the fact that it allows the right-holder to make the violation of claims made by individuals justiciable (Harel, 2005, p. 191). This codification in legal terms makes use of an institutional architecture central to the discourses around liberal rights. Radical democratic theorists have responded challenging this institutional setup in different ways, and these will be laid out in this section of the thesis.

The first point of radical democratic criticism argues that the mechanisms employed by a liberal discourse on rights overemphasize the role of the state and its apparatus. This strand of criticism first emerged in the Critical Legal Studies (CLS) and is often associated with its leading proponent, David Kennedy. However, Kennedy's criticism implies a complete rejection of any understanding of rights (Kennedy, 2002, p. 34). While his work rejects rights completely, it has found a voice in many other trends of the radical democracy movement who don't deny rights, most notably in the work of Jarrett Zigon. Beginning from an analysis of the language of liberal rights, Zigon argues that there are limitations in this vocabulary primarily owing to the scope and meaning of political action in the modern context (Zigon, 2014, para. 2). The argument relies on the fact that the rights- discourse is performed iteratively and repeatedly, thereby leading to a condition where it seems like the only language possible for political activism (Zigon, 2014, para. 2).

Zigon takes an issue around the relationship between the institutions that protect rights and the language that rights employ. The protectionist nature of liberal rights means that the only ways

by which rights become receptive are through the state or institutions which are state-centric. The vocabulary used by rights-based discourses is forced to address claims only to the institutions, thereby strengthening them further (Zigon, 2014, para. 12) and causing a process of repetition and iteration. Zigon does not entirely disregard this process, though. He believes that it has crucial short-term advantages. His point of objection, however, is when the rights-based discourse is employed as the only option. This, he argues forecloses the possibility of alternative political tools which can be used for formulation and emancipation and instead becomes dependent on a rights-based vocabulary (Zigon, 2014, para. 19). While Zigon's criticism highlights the limitations of current rights-based vocabulary, it does not sufficiently dwell on what the alternative tools could be.

A parallel discourse emerges from the writings of Douzinas, whose interest in the relationship between questions of sovereignty and rights leads to radically different conclusions (Douzinas, 2008, p. 91). Making a case through the historical trajectories of the movement of society through various stages of social organization, Douzinas argues that in the modern context of the national-state, citizens are considered as rights-holders, the current socio-economic realities tend to actually create a gap between the two (Douzinas, 2008, p. 91). While this has played out at different points in history through different conceptualizations of what is considered natural law, there are certain conditions which make it unique in the context of the nation-state and under capitalism (Douzinas, 2008, p. 91). The primarily negative view of freedom as the absence of external constraints has often only meant that the state would not interfere in the economy, thereby ceding power to other actors. These actors, in turn, tend to impinge on the rights of citizens in the interest of profit. What this creates is thus, a seamless combination of politics and economic policies, often interfering with each other (Douzinas, 2008, p. 91). This picture gets further complicated in a globalized world driven by imperial powers wherein the language around a rights-based discourse has been used very often in an international context,

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by the United States and other imperial forces, to get involved in wars and conflicts which are usually carried out at the behest of global capital and imperial interests. For Douzinas, modern experience leads to the conclusion that the only beneficiary from this institutional discourse is capitalism. The way capitalism operates in the world with its ideas of hyper rationality and self-interest has often translated very firmly into the arena of the nation-state as well. The way this works is by creating an ordered hierarchy around the language and meaning of rights, where very often, economic rights serving narrow interests are seen to trump social rights of a specific group of people. In addition to the hierarchy, capitalism makes it seems like these two rights are pitted against each other (Douzinas, 2008, p. 91). The oppression and inhuman conditions of workers in the Global South in order to produce products for the global economy as well as the industrialized countries stand testament to this fact (Pun et al., 2016, pp. 180-181). As more and more industrial supply chains are moved to the countries of the Global South, this process has only accelerated further. The institutional setup of the global order thus creates a peculiar situation wherein the language of rights itself is being used to impede and cause a receding of the rights-based discourse, thereby damaging its potential to talk about exploitation and emancipation (Douzinas, 2008, p. 91). Douzinas argues that this is done primarily by making the gap between an abstract rights holder and a real citizen as much as possible. This is then used to further specific economic ends and economic interests since, under capitalism, economics and self-interest has come to define what it means to be human. Consumption is at the core of the capitalist understanding of the human. Thus, even if unwillingly, the rights-based discourse in the globalized international context has tended to serve capitalism and imperial interests and hence, in the modern context, rights-based discourses need reworking and the recognition of the nation-state, capitalism, globalization, and the way they operate are to be placed at the core of understanding the needs of rights-based discourse, which will be a point of focus of the thesis in a later section.

The third wave of criticism around institutions and rights-based discourses is to be found in the works of Wendy Brown. Brown agrees that the modern conversation around rights tends to coalesce around the state and that can be a problem for very many social groups, the effects of which are felt most severely by women (Brown, 1992, p. 7). Feminist theorists have historically been critical of this and of state-power and have offered alternate conceptualizations (Brown, 1992, p. 8). However, Brown's interest in understanding the institutional structure of the state is not merely in identifying the state as the source of the problem and the cause but also in understanding how power operates through the state (Brown, 1992, p. 7)[1].

In order to understand this, Brown argues that it is necessary not to view the state as a monolithic entity but in a more dispersed form. State power can be seen as a complex web of social relations and interactions between different organs of the state, each with power operating at different levels, and she argues that sometimes the way in which state power works is not always out in the open (Brown, 1992, pp. 8).

Extending the argument further, she argues that the state-power operates in much the same way that other forms of power tend to operate[2] And there are parallels which can be drawn in how state power permeates many aspects of everyday life. The primary issue confronting the understanding of state power lies in the fact that in the face of the modern state lies a paradox.

This paradox lies in difficulty in characterizing the state as an entity, something which Liberalism does not explicitly concern itself with. The paradox is that the state presents itself as an entity which is at once concrete yet abstract, interferes in people's lives while staying away, often considered oblivious to change while at times malleable but above all, centralized

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[1] Brown begins her criticism with the family as the object of analysis and then goes on to explain how the state in many ways, is constructed like the family. The core point here centres around how ideas of masculinity and gendered dependences permeate different aspects of what is considered family and how institutions tend to coalesce around this. For more, see Brown, W. (1992). Finding the Man in the State. *Feminist studies*, *18*(1), 7-34.
[2] Ibid.

and decentralized all at once (Brown, 1992, p. 12). This creates not one form of political power but different contours of political power through which the state can choose to operate, and for Brown, these different contours tend to produce different effects on social groups, particularly on women (Brown, 1992, p. 12) but also other marginalized identities, which have historically faced oppression such as colonized populations, people of colour, people with disabilities as well as people of different sexual orientations. These contours of power tend to take vastly different forms. For instance, a colonial state power seeks to subjugate and oppress the indigenous populations while a state which is inherently biased towards a group of people of one colour tends to treat the other people of colour as second-class citizens. Very often, state power can have within it, different contours of varying degrees. A classic example is the case of Israel. While Israel acts as a colonizing power which subjugates and oppresses the Palestinian population, Israel also treats the Black Jewish community as second-class citizens within Israel. As explained in an earlier section, Brown categorizes rights primarily based on the localized effects they tend to produce, and it is in this context that she also views the ways in which political power has an impact. By using this understanding of state power in great detail, Brown analyses the complex ways in which these forms of state power affect the discourses around rights (Brown, 1992, p. 14). The two most prominent cases of state power, in the realm of bureaucratic and the juridical-legislative or constitutional aspects of state power, are the ones that Brown is most concerned with since these are the two aspects directly connected with the rights-based discourse. She argues that each element of state power carries with it a certain tendency towards masculinity and this, in turn, shapes how that aspect of state power operates through a masculine lens (Brown, 1992, p. 14). Brown extends the argument to map how these contours of various masculinities and state power interact, and while the apparent implication of this institutional setup is also felt primarily by women, it can also be felt by other groups who are historically marginalized or considered outside the norms of

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acceptably ideas of what constitutes the masculine (Brown, 1992, p. 15). This has a direct impact on rights since the institutions, which are the protectors and guarantors of rights, are also prone to act with certain assumptions of this masculinity. The strength of Brown's argument about the masculine and its impeding of rights can be best understood through two examples. Firstly, this impeding of rights has been most commonly seen in the case of certain judgments about rape where the judges are seen to blame the woman for the assault and in the many ways, globally, the judiciary continues to be biased against women and their testimonies (Bohmer, 1973, p. 303). Secondly, in a different context, in many postcolonial countries, personnel of the army have got away with mass rapes during the war and in spaces of conflict. This is owing to the fact that the military has come to symbolize state power and has been synonymous with the nation and victims of rape are viewed as unfortunate casualties in an attempt to preserve the nation (Pervez, 2014, p. 12; Sharlach, 2000, p. 101). For Brown, it is impossible to separate the underlying masculine logic employed by institutional structures which are guarantors of rights and the universalist philosophy used by rights themselves.

Brown's analysis helps usefully shift away from the view of the singular entity of the state as evil and undesirable into a more nuanced, pragmatic and diffused notion of how state power operates. Brown sees this as inherently linked to institutional architecture responsible for employing a rights-based discourse and hence, in the quest for a more egalitarian and emancipatory politics, Brown asks primarily feminist theorists to rethink the institutional setup around rights (Brown, 1992, p. 31).

Conclusion

The various strands of criticism described in this section on institutional architecture and Liberalism are diverse, primarily owing to the different levels at which they offer critiques.

While there is a predominant focus on the role of the state as the institution on which rights are dependent upon, the altering position of the state owing to globalization and neo-liberalism has meant that other institutions such as the economic architecture, capitalism etc. have all had a bearing on the discourse around rights due to their relationship to the modern nation-state. The diffusion of state power into multiple arenas has also complicated the picture further. The criticism from radical democrats thus accuses liberal rights-based discourses of furthering precisely what it seeks to prohibit. While this offers a coherent critique of the prevalent institutional architecture through which liberal rights are deployed, it is unclear as to where the solution might lie for the radical democratic theorists. How can an alternate discourse be formulated? Will the radical democrats support a more non-institutionalized and decentralized form of rights-based discourses? How would such an institutional architecture look like? Like in the case of individuals elaborated earlier, is the radical democratic suggestion to move beyond the confines of legally guaranteed rights alone into more recognition-based approaches? These are questions which will be returned to in the latter part of the thesis.

3.3 How Do We Think We Are Free?

In earlier sections, it was described that the primary motivation for choosing the radical democratic theories is the claim that these theories broaden the scope of ideas of equality and freedom while also offering new possibilities and range for political action. They thus depart from a sharp criticism of the options of freedom and equality that liberal rights provide.

One of the most significant criticisms of liberal equality and freedom comes from the works of Laclau and Mouffe, who are often considered as the pioneers of the radical democratic tradition. They claim that liberal democratic regimes tend to mask the various levels of power that operate within them and as a result of which, the values of equality and liberty which they claim to stand for are often repressed (Laclau and Mouffe, 2001, p. 165). The core argument they make points to the deficiency in the conceptualization of liberal pluralism. There have

been debates within the liberal tradition on what liberal pluralism should look like and whether it should take individual autonomy as the primary ideal or diversity (Crowder, 2007, p. 121). Laclau and Mouffe argue that the liberal project has a tendency to get assimilatory in the quest for pluralism and instead leads to cases where individualism overshadows a truly pluralistic ethic (Laclau and Mouffe, 2001, p. 165). They posit an alternative understanding which they dub 'radical pluralism' or agonism. There are two parts to this conceptualization. Firstly, agonism contests the version of liberal pluralism and questions the ideas of rationality and building of a consensus which are at the heart of the liberal project. Secondly, in order to rethink this new agonism, Mouffe, and Laclau call for the recategorization of the meaning of pluralism and conflict (Laclau and Mouffe, 2001, p. 159). Taking these two together, helps them to move away from the liberal understanding of social relations into an arena which redefines the scope and meaning of political action. As a result of this possibility, agonism offers a view of the subject at the core of the rights-based discourse in more relational terms compared with the isolationist liberal approach. In doing so, the liberty and equality components at the centre of the liberal discourse can be recovered since relational views of the subject help promote a pluralism which is comprehensive and inclusionary.

The second line of critique of the scope of rights to achieve emancipation comes from Wendy Brown's criticism. As mentioned in the earlier sections, Wendy Brown offers a criticism of the idea of the liberal individual as one based on the concept of victimhood and vulnerability through history (Brown, 1995, p. 36). This for Brown implies a sense of obtaining a remedial to different forms of injury and allows for a definition of autonomy (Brown, 1995, p. 133). This, however, does not appeal to Brown who argues that in the context of emancipation, rights only serve as "empty signifiers without any corresponding entitlements" (Brown, 1995, p. 134) and as impediments to emancipation. This is because as rights become entrenched in the discourses and these get repeated with the same vocabulary, they tend to reformulate the same

attachment to injuries while also entrenching particular identities (Brown, 1995, p. 134). While acknowledging that rights-based discourses were necessary at some point in history and often contributed in meaningful ways, Brown argues that their universalization around spatial and temporal boundaries is detrimental to the various possibilities of emancipatory discourses (Brown, 1995, p. 132). This picture gets further complicated in the neo-liberal context, where Brown argues that the entrenchment of discourses has created a widening gap between what is considered as moral principles and economic principles (Brown, 2003, p. 453). Working within this paradigm, rights-based discourses tend to slip into and favour financial calculations as evidenced by US foreign policy as opposed to genuine concerns for emancipation (Brown, 2003, p. 455). This occurs in an era where cost-benefit analysis and efficiency-based rhetoric have taken over as the guiding rationale in liberal democracies (Brown, 2003, p. 454) and even rights are held at the behest of global order and the market which follows its own logic (Brown, 2003, p. 458). This has further led to a corroding of the victories that rights won in the past. In order to move away from watertight identity-based discourses around victimhood, Brown argues for a political project which is based on the continually reworking parameters and reinventing them instead of securing them in advance like the liberal rights discourse seeks to do and as a result, Brown argues than an emancipatory project is one which is continuously in flux and works like a journey where the outcome can never be truly fulfilled (Brown, 1995, p. 134) and possibilities are worked continuously out in spatial and temporal specificities. This goes back to a point made earlier in the thesis about effects produced on different forms of social stratification. One of the ways that Brown's criticisms can be addressed is by viewing various forms of social stratification in conjunction with one another and then identifying some parameters by which they operate. Does this imply a negation of rights? Brown believes that rights would not be discarded but would instead function as the backdrop on which the project rests, not as predefined signifiers but as ones which acquire meaning within specific contexts

and most importantly, that rights would not be the ends and central organizing principle of emancipation (Brown, 2003, p. 458).

The third type of criticism comes from Costas Douzinas. Shifting the focus away from the goals of freedom and equality, Douzinas seeks to ask what human rights-based society would look like and what are the problems associated with the emancipation that it seeks (Douzinas, 2000, p. 356). While recognizing that liberal rights-based discourses allow for freedom to be experienced and for it to become a political strategy, they end up institutionalizing both one's own identity and the existence of the other. For Douzinas, these are thought of in binary terms by liberal rights. He further notes that throughout history, the over-institutionalization of this paradigm has led to cases where rights get entrenched in more bureaucratic procedures such as treaties and declarations. While the treaties and declarations by themselves have intrinsic value, Douzinas insists that the insurmountable difference between what the international treaties and declarations claim and the realities of what actually constitutes global politics has meant that they have not been able to meaningfully serve towards any emancipatory frameworks or possibilities for rethinking ideas of justice globally. For Douzinas, while rights-based discourses recognize individual interests and subjectivities, there are two complications which occur. Firstly, the individual human self is already preconceived, and secondly, the subjectivities tend to be reconceptualized in terms of the other who is yet to be encountered (Douzinas, 2000, p. 356). This presents a problem according to Douzinas owing to the fact that it tends to limit the possibilities of thinking about political actions in the present and as mentioned earlier in the thesis, this form of recognition through the idea of the other as unique, limits viewing what constitutes humanity as a monolithic idea (Douzinas, 2000, pp. 356). Thus, while Liberalism claims to promote pluralism, it actually tends to create unilateral structures which are unable to serve as markers of emancipation in the times of uncertainty, particularly in the context of current global capitalism (Douzinas, 2000, p. 380).

A fourth criticism against the way liberal rights conceptualize normative ideas of freedom and equality comes from Jacques Ranciere. In stark contrast to the view espoused by Laclau and Mouffe, Ranciere is highly sceptical of maintaining any normative ideas of Liberalism, including those of freedom and equality. Ranciere's scepticism is based around the idea that liberal rights are incapable of achieving any radically relevant emancipation or transformation in the arena of politics (Ranciere, 2004, p. 297). At the same time, Ranciere also believes that the way the individual is conceptualized in Liberalism is inadequate to understand the formation of a political subject and one which fails to serve radical aims (Ranciere, 2004, p. 298). Thus, Ranciere believes that all conceptualizations of a rights-based discourse tending towards teleological possibilities of freedom and equality are misguided. He therefore calls for a complete rehaul of the meaning and understanding of what politics constitutes. However, at the same time, Ranciere is unwilling to abandon the need for a rights-based discourse. This a point that will be returned to and elaborated in a later section of the thesis.

Conclusion

The nature of the agreement between the various strands of criticism on the concept of freedom and equality as espoused through liberal rights primarily focuses on the limitations of the defining features of what constitutes freedom and equality. The criticisms are also closely linked to the conceptualization of the individual in liberal rights-based discourses, and the various strands call for a more relational approach in thinking of the concepts of equality as well as freedom. While the constant claim of the radical democratic theorists is that they are broadening the scope of freedom and equality as compared to other political traditions, there has been very little explication on what precisely this would mean or what it would look like in practice. Following a teleological version of politics, which seeks to move towards these goals, the criticism that the radical democratic theorists launch on Liberalism undermines their own project. At the heart of the criticism also lies a deep paradox. While some of the theorists

have argued against setting fixed goals for the project, they are unable to convincingly argue for how the politics of the present should look like. This question of the politics of the today and the role of rights in them along with what the normative foundations which are desirable should look like will be taken up in the later section of the thesis.

4. Attempting a Synthesis

Having laid out in detail the various thematic criticisms offered by the radical democratic tradition against liberal rights-based approaches, the task in this section of the thesis is to try and answer the question of how the criticism of the liberal rights framework offered by radical democrats can be synthesized in a meaningful way. It is important to note that a synthesis of the two traditions is not merely arrived at by collapsing and suppressing some aspects of one tradition while keeping the other. As was mentioned at the outset, the aim of the thesis is not to do away with the idea of rights by themselves, and hence the synthesis will have to consider the role and place of rights while also considering what they mean. There are broadly two possibilities: Firstly, to try and arrive at a lowest common denominator of acceptance between the two traditions and reformulate what a rights-based vocabulary would look using that common minimum and secondly use conceptual tools offered by the criticisms to rethink what rights mean in a modern context. In the context of the two theoretical traditions being discussed here, an explicit synthesis has been tried out in multiple ways and has helped in formulating alternative discourses around how rights should look. One of the ways this has been done is to keep the rights-based discourse intact but use the tool of cultural translation as laid out by Judith Butler, to conceptualize what radical democratic practice of human rights would entail (McNeilly, 2016, p. 270). An alternate synthesis has been sought in the redefining of the political in the works of Claude Lefort (Ingram, 2006, p. 33). While both these approaches have their merits and demerits, the thesis will attempt to substantiate another way of rethinking the meaning and notion of rights.

In the previous section, the nature of the criticism offered by radical democracy against liberal rights was explained in detail. The main thematic points of the criticism center around how liberal rights characterize the individual, the institutional architecture surrounding rights, and the meaning of freedom and equality with regards to rights themselves. One of the difficulties

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encountered while engaging with the radical democratic theorists is that while their criticism is well thought out, the possibilities of an alternative are relatively limited and this extends to all the three thematic points of criticism. Take the case of the institutional architecture around rights, for example. While a lot of the theories deal with the paradoxes that emerge from using the state as a central unit in rights-based discourses, there is very little clarity on how that can be changed. It is also unclear as to what precisely radical democrats understand as institutions. Liberalism could well argue that it does support decentralization of the state and that the failure of some nation-states to protect rights does not discredit the idea of rights in themselves in normative terms. In addition, Wendy Brown's system of masculinity that runs deep and systemically in all institutional architecture is a criticism well made. However, would that imply a complete abandoning of any form of institutions by themselves? Or take the case of the ideas of freedom and equality. Mouffe and Laclau's agonism does not do away with any of the normative concerns of Liberalism but instead rethinks the concepts that Liberalism engages with. Liberals could well argue that this does not weaken the need for a liberal rights-based discourse but in fact, strengthens it. Douzinas' view on the inadequacies of liberal pluralism can be argued by liberals, is precisely its strength in defining what constitutes pluralism. Thus, the engagement of the radical democratic theorists on these questions still requires further elaboration and clarification.

One of the undeniable realities of the current situation, however, is that there is a need to view the role of rights by placing them in the context of current socio-political realities and circumstances. There can be no denying the fact that the period which Wendy Brown calls 'late modernity' calls for the use of rights-based discourse and not for a complete abandoning of it as has been suggested even by some theorists within radical democracy. At the heart of this, however, lies a paradoxical phenomenon. On the one hand, globalization and the associated processes have tended to weaken the nation-state in favour of global capital, industry and

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private corporations. At the same time, however, many nation-states all over the world have continued to slowly chip away at civil rights of citizens and often, act in complete impunity of human rights declarations sometimes at the behest of corporations and to hold on to power. Private actors and corporations have all primarily been accommodated beyond the realm of accountability and this, in turn, has been used to impinge on the rights of individuals as well as their livelihoods in countries in the global South. This has often had severe and adverse impacts in different processes of the global South particularly in agricultural production (Amin, 2012, p. 12), exploitation of labour (Suwandi and Foster, 2019, p. 16) and the prominent question of migration caused as a result of current global economic conditions (Wise, 2013, pp. 30-31). Internationally, imperial interests have favoured military-industrial complexes, global arms industries, often at the cost of global South countries (Prashad, 2013, p. 2; Harris, 2002, p. 8). It is thus crucial for rights to be rooted in and respond accordingly to the uncertainties that emerge from these processes. One of the questions that arise for liberal rights is whether the idea of an individual in Liberalism can respond adequately to the challenges that these uncertainties pose. The uncertainties themselves, however, have produced their own logics. At the same time that the world is seeing a rise in these uncertainties caused by global capitalism and the current world order, there are newer forms and processes of claim-making which are now appearing in different places and at different times.

The literature around global movements points to various examples of cases where newer actors are now seeking the stage, in order to make their claims heard (Motta and Nilsen, 2001, p. 2; Nilsen, 2007, p. 273; Stahler-Sholk et al., 2007, p. 6). This has been occurring across the globe and at different points in time, and very often, the claim-making itself often seems to conceal a variety of implications and demands. The best way to illustrate this is to take the example of the Black movement in the United States of America. In the 1960s, the dominant narrative amongst the Black communities was that of the civil rights movement. Rooted firmly

in the civil rights tradition and the demand for equal citizenship, the movement was influential in its claims for equal rights (Lawson, 1991, p. 462). The successes of the campaign were in plenty, but there were also failures, and these led to the formation of the Black Panther Party (BPP). While the core outlook of the Black Panther Party was rooted in a more militaristic and revolutionary tradition (Umoja, 1999, p.135), the ten-point program of the Party[3] was rooted in claim-making, albeit a different one from the earlier civil rights movement (Potorti, 2014, p. 47). The Panthers made extensive use of urban spaces and operated primarily through the cities. In fact, the origins of the Panthers itself can be traced to the claim that the Black population of the United States also had the right to bear arms, guaranteed by the constitution of the United States of America (Garrow, 2007, pp. 651-652). Though the Panthers had their successes in individual spheres, their eventual fading out lead to the emergence of movements such as the Black Lives Matter movement, which are now using a different language of claim-making, vastly different from the Panthers often using vastly different forms of organization as well as newer types of diverse tactics (Rickford, 2016, pp. 35-36). While there are multiple divergences and sometimes convergences between these movements, the point of this example is not to highlight that there exists a clear continuity or discontinuity in the Black movement in the United States but instead to demonstrate clearly that at different times, different strategies towards claim-making have been adopted by the Black population. These forms of claim-making need to be given specific importance while understanding what a rights-based discourse can achieve. While sometimes representation could be one of the motivations of the movement, it isn't the sole one. This implies that neither the motivations nor tactics can be aligned to fit into a single canvas. This altering nature of claim-making is not one that is unique

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[3] See Party, B. P. (1966). Ten Point Program. *Marxist History: USA: Black Panther Party*.

to the United States and the Black Movement alone but is one that is occurring globally, in many parts of the world (Nilsen, 2007, p. 273; Stahler-Sholk et al., 2007, p. 6).

There are a few characteristic features of these emerging claim-making phenomena, and these cannot be ignored. Firstly, a lot of these claim-making mechanisms are not organized as in the case of earlier forms of mobilization that were carried out by organized leftist factions and took the form of strikes, such as factory worker strikes. In stark contrast, these forms of claim-making are often sporadic, unorganized and leaderless movements which seem to emerge from a specific context and fade back into the same context that they emerged from, sometimes within short intervals of time. What is also important to note, is that it is also the case sometimes that making a claim itself seems secondary to the spontaneity of the event. Secondly and more importantly, what these claim-making mechanisms show is that there is a radical shift away in how claims themselves are made, moving away from an institutional and justiciable paradigm of seeking redressals into a more public form of claim-making which very often tends to plays out in the streets of urban areas and in public view. These processes have often brought into question, the previously well-entrenched ideas of claim-making as well as the idea of who constitutes political subjects.

One of the ways by which we can better understand the nature of these movements is by using the framework of social movements. Sidney Tarrow understands social movements as "collective challenges, based on common purposes and social solidarities, in sustained interaction with elites, opponents, and authorities" (Tarrow, 2011, p. 9). Thus, the uniting factor in these mobilizations is the unique elements of shared solidarity which they tend to display while the movement itself is occurring. Using these shared solidarities, the movements are able to articulate a claim which at its heart seeks to question the premises of existing institutional structures and the bounds within which these structures operate. These movements thus fall into the category of what Charles Tilly dubs as 'contentious politics' (Tilly, 1997, p. 56). This

is advantageous since the framework of contention allows bringing into political conversation processes which can then be seen as relational rather than isolationist (Tilly, 1997, p. 65).

It has often been argued that at the heart of the social movements is also a rights-based discourse owing to the fact that it is the denial of rights which is one of the factors that allow social movements to coalesce (Osaghae, 2008, p.192). Thus, in order to reformulate what an alternate rights-based discourse could look like, it is necessary to pay closer attention to the processes of claim-making occurring globally. The writing of Jacques Ranciere has paid a great deal of attention to these forms of claim-making. This part of the thesis will argue for the use of Ranciere's formulation to rethink the idea of a rights-based discourse and elaborate on how it addresses the criticisms raised earlier while also highlighting some examples from around the globe. At the heart of Ranciere's idea of understanding, claim-making is a concept known as subjectification. Ranciere himself defines it thus, "the production through a series of actions of a body and a capacity for enunciation not previously identifiable within a given field of experience, whose identification is thus part of the reconfiguration of the field of experience" (Ranciere, 1999, p. 35). While on the face of it, this concept of subjectification seems to overlap with identity politics, Ranciere makes it clear that it is not the same. He argues that this form of subjectification actually appears in the in-between of identity politics, and he sees this as the opening up of a space where none existed previously. In that sense, it is not the coalescing around a particular identity to make a common claim but is instead one that seems to sporadically assume significance towards a specified purpose rather than as one that is predefined (Ranciere, 1999, p. 35). A number of recent protests in the past decade come to mind, where a set of mass protests erupted across the globe, including the Arab Spring in West Asia and North Africa, the Occupy Wall Street movement (Van Stekelenburg, 2012, p. 224) in the United States and the Indignados movement in Spain (Taibo, 2013, p. 311). Very often, one of these movements tended to set a precedent for another (Taibo, 2013, p. 309). The uniting

trend in these movements was the presence of horizontal organization of different groups of people, united around a common goal, often employing unique and innovative methods of protest. In the case of the Spanish Indignados movement, the disillusionment with the organized political parties including those on the left led to a massive movement which involved the occupying of public places (Taibo, 2013, p. 313). The greatest strength of the Indignados movement lay in the fact that it aimed at the formation of horizontal solidarities in Spanish society (Taibo, 2013, p. 313). The Occupy movement in the United States was similar in the sense that it also relied on upon takeover of public space as the core of its agenda and often involved innovative methods including the extensive use of social media (Van Stekelenburg, 2012, p. 225). One of the defining features of all these movements, however, was that it opened up forms of political participation to groups of people who were previously not active in organized politics (Van Stekelenburg, 2012, p. 225) and often managed to coalesce around informal networks.

Thus, the idea of subjectification that Ranciere uses helps us to understand these processes better in theoretical terms. Using this, Ranciere coins the term *dissensus*, which is described as that which has the capacity to make the excluded visible. This is in contrast to the commonly held notion of a consensus (Ranciere, 2004, p. 306)[4]. There is a twofold angle which can help better understand the role that dissensus serves. Primarily, the act of dissensus itself is the performance which while employing the vocabulary of rights, performs and enacts a claim for equality, mainly since the subjects who are taking part in it are those that have been previously excluded. At the same time, however, dissensus also serves as a sharp reminder pointing out to the existing inequality in the current social order because it does not allow these same

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[4] Ranciere uses the term 'police' to describe a consensus-based society. Here, police do not refer to the instrument of the state but instead refers to that which constitutes the sensible and defines the nature of community 'as the sum of its parts—of its groups and of the qualifications that each of them bears'. For a more detailed discussion on Ranciere's concept of the police, see McLoughlin, D. (2016). Post-Marxism and the politics of human rights: Lefort, Badiou, Agamben, Rancière. *Law and Critique*, *27*(3), 303-321.

participants performing the dissensus, a voice under normal circumstances (Ranciere, 2004, pp. 304). In this sense, dissensus itself closely related back to the idea of contentious politics, as Tilly explains (Tilly, 1997, p. 56). At the heart of the dissensus thus, is a contentious politics which is enacted in multiple ways, including different forms of organization and methods. The point that requires further elaboration here is that as mentioned earlier in the thesis, Ranciere does not wholly abandon the need for rights. He locates the need for rights-based discourse to exist within the enactment of dissensus. The utility of a rights-based discourse for Ranciere lies in its ability to act as a disruptive event. In doing so, Ranciere is able to offer an alternative understanding of what constitutes politics since this disruption is itself in stark contrast to what is commonly understood as politics, which at its core consists of ideas of rational human beings and the building of a consensus around that (Ranciere, 2004, p. 304). Arguing against models which place deliberation and consensus at the heart of political pluralism, Ranciere argues for a rights-based discourse which would be capable of staging a "division put in the "common sense": a dispute about what is given, about the frame within which we see something as given" (Ranciere, 2004, p. 304). In this novel approach, he expects rights to act as markers of disruptions and as a mechanism by which consensus-based approaches are not accepted but instead put to scrutiny.

Does the rethinking of rights through the mechanism of contention and as disruption help address some of the concerns that are raised by radical democrats? In this section, the thesis will argue that it does. The first strand of criticism that radical democrats have against the liberal conceptualization of rights is on the role of the rights-holder. The abstract, universal idea of the right-holder is not one which appeals to radical democrats. They argue that this predefined subject is too removed from socio-economic realities, thereby creating a massive gap between reality and the abstraction. While this is not a completely accurate understanding of how Liberalism posits the individual, it can be argued that a reconceptualization of rights

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using Ranciere's framework allows far greater room for thinking about the right-holder than Liberalism does. By using the understanding of dissensus, the process by which the right-holder comes into existence can be reformulated. By enacting the contention, the political subject comes to be through the subjectivity of the specific situation that they are present in. This essentially means that a rights-based discourse can be formulated without the necessary apriori understanding of a human subject, which assumes that there is something inherent in the knowledge of what constitutes a human, a point that bothers radical democrats. Secondly, this also helps move away from the universalization of the right-holder, to a more particularistic understanding of understanding the right-holder in the context of the dissensus that is enacted. This contextual understanding of rights, in fact, helps mitigate quite a few concerns that radical democrats have about liberal rights, in particular the gap that the current global capitalism has often tended to create. Thirdly, using the act of disruption and the constituting of subjectivity, the relationship between the right-holder and the process of claim-making is continually changing, over space and time and this help understands the particular related political processes that are occurring, and the effects they tend to produce in those contexts, a tension that Wendy Brown often feels is overlooked in liberal rights-based discourses.

The second strand of criticism that radical democrat's level against liberal rights is on the question of the institutional architecture around rights themselves. As explained earlier, the broad points of criticism are that the institutional architecture of liberal rights is overly dependent on the state and that capitalism and its related processes have tended to weaken the capacity of institutions which are integral to redressal mechanisms. The idea of locating rights within dissensus is able to free the understanding of rights from this institutional burden in so far as it is not dependent on the institutional architecture for itself to be heard. On the one hand, the claim against inequality that is made through this process can be made at different levels, since the process of contentious politics is often able to direct itself against various entities be

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it the state, corporations or even inequalities generated by global capitalism. In doing so, it is able to articulate a position which is sensitive to not just the political and social, but also vis-à-vis current economic realities, something that the most influential critics of liberal rights claim that Liberalism is often not sensitive enough to. The nature of the claim being made is thus solely dependent on what subjectification the actors choose to coalesce around and when. Secondly, and probably the most important interjection is that the act of dissensus is able to take the focus of redressal and claim-making away from the institutions of the state such as the police and the courts, into the streets. In fact, the growth of such claim-making has been strongly associated with urban spaces, often making use of various spatial strategies and utilizing public space (Miller and Nicholls, 2013, pp. 467-468). In addition to claim-making in the streets, a second defining feature that has occurred in claim-making is also how the internet and social media are being made use of. The internet is providing an entirely new arena of claim-making, often able to reach much larger groups of people than on the street (Van Laer and Van Aelst, 2010, p. 1164). This has had several advantages. As more global and transnational actors are getting involved in economic processes, the internet is also able to provide means of resisting them and holding them accountable (Van Laer and Van Aelst, 2010, p. 1164). Thus, the recourse of turning to institutional redressal mechanism has further reduced. While it is not abundantly clear yet, what sort of impact such processes might actually have, the fleeting nature of the disruption occurring in the streets as well as the opening up of virtual space as a space of resistance can be seen as the most persuasive statement against the institutional mechanisms that are meant to guarantee rights and towards an understanding of rights which may be free from over-institutionalism. This argument can be taken a step further. Liberal rights accept that there have been previously socially disadvantaged groups that require certain extra exclusive rights to remedy the wrongs of the past. The has, in fact, led to the need for social rights and group-specific rights. Radical Democrats, including Ranciere and Wendy

Brown, argue against this. The idea of dissensus mitigates this by instead envisioning participation, one that has been achieved not through recognition by institutional criteria or past vulnerabilities but coalescing around a specific circumstance.

The third strand of criticism that radical democrats put forward against liberal rights is on how it conceptualizes freedom and equality. This, in particular, is a point of contestation because while radical democrats criticize liberal rights and the ideas of equality and liberty associated with it, they are unable to offer a more successful reconceptualization of the same, very often accepting the normative understanding that Liberalism offers. The idea of viewing rights through the lens of dissensus reformulates this problem using a novel approach. The argument centres around the fact that teleological possibilities of freedom and equality are not necessarily the principal aims of rights-based discourse. Taken together with Tilly's understanding of contentious politics, the focus shifts away from teleological possibilities into a more organic, political process that is currently being enacted through contention (Tilly, 1997, p. 65). There are two significant implications that arise as a result of this. Firstly, it implies that the rights-based discourse cannot be viewed as an end in themselves, and there are no normative considerations which are absolute and final in the understanding what constitutes rights. Secondly, and as a result of the first, it implies that the rights-based discourse is one that is continuously being performed and in flux. This performative nature of dissensus is able to shift the focus of a rights-based discourse away from teleological possibilities of the future into a 'praxis' of the present. This radically alters the understanding of a rights-based discourse and is at once able to take it beyond ideas of recognition and representation while also moving away from utopian possibilities that are yet to be realized.

5. Discussion and Conclusion: Towards a Rights-Based 'Politics of the Present.'

The thesis began with a quote which succinctly captured how dominant a rights-based discourse is in the current context, often most powerfully resisting against those that try and impede it. The monumental impact and victories that a liberal rights-based discourse has managed to achieve cannot be stated in strong enough terms. At the same time, however, the current climate where the rise of 'illiberal democracies' has taken the global stage by storm, it is necessary to revisit the normative and foundational concepts of what constitutes liberal rights and the impacts it has in the current context. The thesis attempts to do this by putting the normative foundations of liberal rights in conversation with the theoretical tradition of radical democracy. Accepting the premise that a rights-based discourse is necessary and at the same time, hypothesizing that the prominent discourse in liberal rights around negative liberty is an insufficient mechanism to address the concerns that arise out of the current uncertainties stemming from the current economic and global order, the thesis aims to offer a novel positive argument for rethinking a rights-based discourse beyond the confines of liberalism. It does so by focussing on three major thematic criticisms that have been pointed out by radical democrats, and these focus on the nature of the individual as envisioned in liberalism, the ideas of freedom and equality that flow as a consequence and the institutional architecture that is present around the codification of rights-based discourses in liberal thought.

As has been highlighted in the earlier chapters, points of agreement between theorists of the radical democratic tradition are not quickly arrived at. The thesis tries to mitigate this problem by first, focussing on theorists that don't outrightly dismiss rights and secondly, by arranging the criticisms thematically rather than by theorist. While this does help elaborate on the nature of the objections, one of the most significant drawbacks that seem to be present in most theorists of the radical democratic tradition is their inability to put forward an alternative by

synthesizing their criticism. While this does not necessarily invalidate the criticism itself, it points to two things: Firstly, an alternative theoretical underpinning of how a rights-based discourse can be envisioned is not quickly arrived at. Secondly, a lot of the concerns that radical democrats have raised against liberal rights often tends to have an answer within different strands of liberalism itself. This point can be further illustrated by exploring the question of institutional architecture. Radical democrats criticize the over-reliance of liberal rights on state apparatus to be able to guarantee it. It remains unclear on how precisely radical democrats understand institutions and this a point to which different strands within liberalism can respond to effectively, albeit in different ways. While this might mitigate the criticism in some form, a primary paradox remains within the understanding of liberal rights.

On the one hand, the protection from external impediments and state coercion is paramount for a liberal understanding of rights. At the same time, however, a state which is ceding more and more ground to non-state actors such as corporations and global capital, while also wielding higher coercive power against its citizens, creates a double bind. This process is often accelerated in parts of the global South, where state violence is an ever-present reality and often comes at the cost of human lives.

Given the multiple points of divergences and the often-divergent points of reference between liberalism and radical democrats, a synthesis of the two traditions is not achieved easily. This is compounded by the fact that radical democrats themselves offer very few alternatives, and as mentioned earlier, this only highlights the difficulty in rethinking a rights-based discourse. At the same time, however, the thesis has maintained that a rights-based discourse is of utmost necessity and perhaps even more so in the current context. To thus offer a novel alternative, the argument stresses primarily on keeping current socio-economic realities including capitalism and globalization in the background while at the same time, also understanding the nature of claim-making that are appearing as a result of these uncertainties, in the foreground.

Taken together, the thesis makes a positive argument for making use of the social movement frameworks in combination with Ranciere's understanding of dissensus to rethink the meaning, conceptualization and applicability of rights-based discourse.

If taken as a whole, certain advantages are apparent in this reconceptualization. Primarily, it can sufficiently if not completely respond to the criticisms that radical democrats on the whole level against liberal rights. Secondly, by focussing on the ideas of the present as the focal point of what rights are meant to achieve, this understanding of rights can give precedence to a current form of action rather than the often-utopian possibilities that are thought of in a rights-based discourse. Thirdly, it is a powerful tool at the disposal of the previously marginalized and excluded, particularly in the face of uncertainties generated by the existing economic order. While liberalism does posit an idea of an equal, abstracted individual, the processes of globalization and capitalism have often left a large number of people around the globe dispossessed as well as destitute. Fourthly, it offers a wide variety and array of claim-making to be able to speak for itself. This is also of paramount importance since it can transcend even the previously established trope of identity politics, which has representation at the core of its goals. By focussing on the nature of claim-making, it has been able to move the focus away from the definition of a pre-defined categorization. Also, these forms of claim-making can make use of a wide array of possibilities through which the dissensus itself can be enacted. This has, in turn, led to a shift away from seeking redressal mechanisms through the judiciary and state apparatus alone into spaces which constitute the public. The most common space where this tends to play out is in the streets of urban areas. This has had massive implications on how cities itself are to be understood and has led to the bourgeoning stream of understanding politics and social justice in spatial terms. Growing technological possibilities represented through the internet and social media are further widening the options and scope for participation in these movements. Finally, the greatest strength lies in the fact that it asks us to

rethink and reformulate concepts and processes which are often taken for granted, such as politics, political subjects, consensus etc. and stresses on the need to think of these concepts in more relational and immediate terms.

Having highlighted the crucial ways in which this reconceptualization offers certain novel interjections into thinking about rights, it is also essential at this stage to dwell on some of its possible limitations. This includes primarily, those that tend to become apparent through a mix of specific empirical examples as well as certain possible logics which remain unanswered. Mostly, the biggest and one of the significant questions that will continue while thinking about rights in this formulation is the question of institutionalization. Ranciere himself has argued against propositions that achieve any participation through recognition by institutional criteria by claiming that any form of institutional presence tends not to be a rights-based discourse in essence (Ranceire, 1995, pp. 61). This is a particularly tricky question to answer since radical democrats while seeming opposed to any form of institutionalism are also not anarchists, and it is unclear what kind of an institutional setup would be more desirable for them. The shifting away of claim-making away from classical redressal mechanisms is a reality that is becoming ever so common globally, and this could point to some alternative forms of institutional arrangements that can be thought of and are a promising area for future enquiry and investigation, but this in itself is not straightforward. The primary complication in this regard is that empirically, there have been numerous cases and occurrences where claim-making movements through social movements and enactment of dissensus have often ended up being more institutionalized, and have tended to negotiate as well as replace the state, which in turn have disastrous consequences for the people involved. Countries which went through the Arab Spring come to mind almost immediately. There is also a fundamental issue concerning the state and its interaction with these movements, considering the dynamics of how dissensus itself operates. Given the nature of how claim-making works, it is quite possible that it will

also be overwhelmed by state power and state violence if it sustains itself for too long. Given the way that states often act at the behest of global authorities, this could also be detrimental. It could well be the case that in this scenario, its sporadic nature is perhaps its greatest strength. The dynamism and unexpected nature by which these occur is also a double-edged sword.

On the one hand, it possesses the element of surprise in claim-making, which could be a great asset as opposed to pre-planned mobilizations. On the other hand, however, more prolonged lasting movements have also seen issues around sustained organizing (since it is often loosely done) as well as negotiating the methods of how best to achieve the social change they desire. In that sense, perhaps they yearn for some stability.

Having pointed out the advantages and limitations of rethinking rights in the manner elucidated above, one of the most unambiguous implications that emerge from the research is the crucial importance that needs to attributed to the idea of a praxis, which is rooted in the now. Foregrounding rights and rethinking them in this manner has vast potential for further research as well as in addressing the pressing concerns of our times. In this sense, this novel reading of rights constitutes what the thesis chooses to term as a 'politics of the present'. Perhaps its greatest achievement will be when those who feel inadequately represented by liberal rights can enact these politics on their terms and in the present.

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