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Race, Reason, and Representation

Tayyab Mahmud *

Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought. By Uday Singh Mehta.
Chicago: The University of Chicago Press 1999. Pp. 237. $45.00.

"[A]ll men are created equal," proclaimed the drafters of the American *Declaration of Independence* while taking slavery for granted.[1] Champions of the French Revolution deemed Haitian Blacks and Creoles not worthy of liberty, equality and fraternity.[2] Liberalism, which claims universality and prides itself for its politically inclusionary character, furnished justifications for European tutelage of colonial subjects.[3] Britain, following the reform bills of the nineteenth century, in its self-image was a democracy, yet it held a vast empire that was undemocratic in its acquisition and governance.[4] Following Locke, exercise of political power was

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[1] *See generally* JOSEPH J. ELLIS, AMERICAN SPHINX: THE CHARACTER OF THOMAS JEFFERSON (1997) (discussing Jefferson's views on slavery); PAUL FINKLEMAN, SLAVERY AND THE FRAMERS: RACE AND LIBERTY IN THE AGE OF JEFFERSON (1996); EDUMND S. MORGAN, AMERICAN SLAVERY, AMERICAN FREEDOM: THE ORDEAL OF COLONIAL VIRGINIA (1975) (describing paradoxical relationship between notions of slavery and freedom in colonial Virginia).

[2] *See generally* CAROLYN E. FICK, THE MAKING OF HAITI: THE SAINT DOMINGUE REVOLUTION FROM BELOW (1990) (describing Haitians' slave revolt against France that began in 1791 and ended in independence in 1804); C.L.R. JAMES, THE BLACK JACOBINS: TOUSSAINT L'OUVERTURE AND THE SAN DOMINGO REVOLUTION (2d ed. 1963) (presenting historical background of Haiti).

[3] *See, e.g.*, Bhikhu Parekh, *Superior People: The Narrowness of Liberalism from Mill to Rawls*, TIMES LITERARY SUPPLEMENT, Feb. 25 1994, at 11.

[4] The nineteenth-century Reform Bills included laws extending education, creating a competitive civil service examination, broadening House of Commons representation, reforming child labor laws and the Poor Law system, centralizing such governmental activities as road construction and adopting a freer trade policy by reducing protective tariffs. The Judicature Acts 1873 and the Appellate Jurisdiction Act 1876 streamlined the judicial system, professionalized legal practice and hastened the fusion of law and equity. *See* J.H. BAKER, AN INTRODUCTION TO ENGLISH LEGAL HISTORY (3d ed. 1990); A.V. DICEY, INTRODUCTION TO

deemed linked with rights of citizens, and yet in the colonies power was overwhelmingly exercised over subjects rather than citizens. Liberals recognized good government as intimately linked with self-government, and yet repudiated this linkage in the colonies.

These anomalies of modern history have vexed many as they raise intriguing questions about the past, present and future of modernity's promise of freedom, autonomy and dignity for all. Author E. P. Thompson succinctly articulated the question: how did ideas of equality, liberty and fraternity lead to empire, liberticide, and fracticide?[5] What is the source of the disjunction between the theory of liberalism and its history? Is the gulf between the two inevitable or incidental? Is it rooted in epistemological posture of modern thought, theoretical lacunas of liberalism or theorists' visions distorted by the racism of their milieu? Uday Singh Mehta's *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought* is a timely and thoughtful attempt to examine these questions.[6]

Mehta's project is to examine British liberal thought in the eighteenth and nineteenth centuries "by viewing it through the mirror that reflects its association with the British Empire."[7] He wants to understand how liberal theorists "responded to parts of the world with which they were largely unfamiliar but which also intensely preoccupied them."[8] The derivative query that informs the book is "the liberal justification of the empire."[9] An accom-

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THE STUDY OF THE LAW OF THE CONSTITUTION (E.C.S. Wade ed., 10th ed. 1958). Many scholars have provided useful accounts of British colonial expansion. *See* C.A. BAYLY, IMPERIAL MERIDIAN: THE BRITISH EMPIRE AND THE WORLD, 1780-1830 (1989); P.J. CAIN & A.G. HOPKINS, 1 BRITISH IMPERIALISM 1688-1914 (1993); FRANCIS HUTCHINS, ILLUSION OF PERMANENCE: BRITISH IMPERIALISM IN INDIA (1967); P.J. MARSHALL, A FREE THOUGH CONQUERING PEOPLE: BRITAIN AND ASIA IN THE EIGHTEENTH CENTURY (1968).

[5] *See* E.P. THOMPSON, THE ROMANTICS: ENGLAND IN A REVOLUTIONARY AGE 65-66 (1997). Other authors have provided useful studies of the evolution and content of liberalism. *See, e.g.*, GUIDO DE RUGGIERO, THE HISTORY OF EUROPEAN LIBERALISM (R.G. Collingwood trans., 1927); RONALD DWORKIN, TAKING RIGHTS SERIOUSLY (1977); ERNEST GELLNER, CONDITIONS OF LIBERTY: CIVIL SOCIETY AND ITS RIVALS (1994); HAROLD J. LASKI, THE RISE OF EUROPEAN LIBERALISM (Transaction Publishers 1997) (1936); ROBERT NOZICK, ANARCHY, STATE, AND UTOPIA (1974); KARL K. POPPER, THE OPEN SOCIETY AND ITS ENEMIES (1945); JOSEPH RAZ, THE MORALITY OF FREEDOM (1986); MICHAEL SANSEL, LIBERALISM AND THE LIMITS OF JUSTICE (1982).

[6] *See* UDAY SINGH MEHTA, LIBERALISM AND EMPIRE: A STUDY IN NINETEENTH-CENTURY BRITISH LIBERAL THOUGHT (1999) [hereinafter MEHTA, LIBERALISM AND EMPIRE].

[7] *Id.* at 1.

[8] *Id.*

[9] *Id.* at 2. Other studies examine the relationship between utilitarianism and British colonialism of India. *See, e.g.*, THOMAS R. METCALF, THE NEW CAMBRIDGE HISTORY OF INDIA:

plished scholar of liberal thought,[10] Mehta explores why liberals endorsed empire as a legitimate form of political governance, justified its undemocratic and nonrepresentative structure, invoked categories of history, civilizational hierarchies, and race and blood to fashion arguments for the empire's necessity and prolongation.

Furthermore, Mehta wants to contrast this with the posture of Edmund Burke, by common acknowledgement a leading modern conservative, who retained a sustained skepticism towards colonial rule and voiced moral and political indignation against injustices, cruelty, caprice, and exploitation of empire. Mehta subscribes to Harold Laski's view that on "Ireland, America, and India [Burke] was at every point upon the side of the future" and that "he was the first English statesman to fully understand the moral import of the problem of subject races."[11]

Liberal justifications of colonial subjugation are ironic given the foundations of liberal thought. Liberalism professes an abiding commitment to securing individual liberty and human dignity through a political cast that typically involves democratic and representative institutions, the guaranty of individual rights of property, the freedom of expression, association, and conscience, all of which are taken to limit the authority of the state. But the liberal involvement with the British Empire is broadly coeval with liberalism itself. This leads Mehta to explore the chronological correspondence in the development of liberal thought and empire, and the clear though complex link between the ideas that are central to liberalism and those that undergirded practices of imperialism.

Mehta's method is to examine the writings of a small though significant group of liberal political thinkers as they reflected on British rule in India, viewing the latter as "the promised land of liberal ideas — a kind of test case laboratory."[12] Importantly, Mehta insists that the claims he makes about liberalism are "integral to its political vision and not peculiar amendments or modifications im-

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IDEOLOGIES OF THE RAJ (1994); ERIC S. STOKES, THE ENGLISH UTILITARIANS AND INDIA (1959); Raghavan Iyer, *Utilitarianism and Empire in India*, *in* MODERN INDIA: AN INTERPRETIVE ANTHOLOGY (Thomas Metcalf ed., 1971).

[10] *See, e.g.*, UDAY SINGH MEHTA, THE ANXIETY OF FREEDOM: IMAGINATION AND INDIVIDUALITY IN LOCKE'S POLITICAL THOUGHT (1992); Uday S. Mehta, *Liberal Strategies of Exclusion*, *in* TENSIONS OF EMPIRE: COLONIAL CULTURES IN A BOURGEOIS WORLD 59 (Frederick Cooper & Ann Laura Stoler eds., 1997).

[11] HAROLD J. LASKI, POLITICAL THOUGHT IN ENGLAND FROM LOCKE TO BENTHAM 149, 153 (1950).

[12] MEHTA, LIBERALISM AND EMPIRE, *supra* note6, at 9.

posed on it by the attention to India."[13] His primary motivation is to study "how liberal theorists responded to the challenge of a world marked by unmistakably different ways of organizing social and political life, molding and expressing individuality and freedom: in a word, an unfamiliar world marked by different ways of being in it."[14] Mehta argues that the primary factor conditioning the liberal response to empire was "the awareness of the inequality of power."[15] Furthermore, he discerns a two-fold effect of this background condition. On the one hand, it gives to liberal thought about India "an assertive expansiveness, a confidence of judgment, an unqualified energy, and often an acute sense of urgency and mission."[16] On the other, it "lends to the disagreements within British thoughts on India a tone of doubt, dilemmatic discomfort, and heightened and contentious acrimony."[17]

Mehta finds the inequality of power implicated in the question of race, a question he notes is "conspicuous in its absence"[18] in British liberals' writings on India. The surprising exception is John Stuart Mill, who elaborates the term through the biological notion of "blood," and draws what he takes to be the crucial distinction in terms of readiness for representative institutions by reference to "of [our] own blood" and those not of our blood.[19] Mehta wonders if the relative absence of race in this discourse is symptomatic of a deeper denial, that of not wishing to acknowledge the unfamiliar, or whether for the liberals "race is a visible mark of the unfamiliar, so that to allow it to stand for that alterity and the plethora of differences that lie behind it might limit the very constructive enterprise through which it can be molded to become, or at least appear, familiar."[20] This is where imperial pedagogy comes in, whereby race "operates in the malleable and concealed space be-

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[13] *Id.* at 9.
[14] *Id.* at 11.
[15] *Id.*
[16] *Id.*
[17] *Id.* at 13.
[18] *Id.* at 15.
[19] John Stuart Mill, *Considerations on Representative Government*, *in* JOHN STUART MILL, THREE ESSAYS 402 (1975) (1861). Several perceptive studies examine Mill's positions about colonialism. *See, e.g.*, Eileen P. Sullivan, *Liberalism and Imperialism: John Stuart Mill's Defense of the British Empire*, 44 J. HIST. IDEAS 599 (1983); R.J. Moore, *John Stuart Mill at the East India House*, 20 HIST. STUD. 497 (1983); Lynn Barry Zastoupil, John Stuart Mill and the British Empire: An Intellectual Biography (1985) (unpublished Ph.D. dissertation, University of Minnesota) (on file with author).
[20] MEHTA, LIBERALISM AND EMPIRE, *supra* note 6, at 15.

hind the starkness of blood and color to reproduce the familiar, even if somatically refracted, category of being English."[21] Mehta notes here Macaulay's agenda for colonial education targeted at producing a "class of persons, Indian in blood and color, but English in taste, in opinions, in morals, and in intellect."[22] Entry into representative politics, thus, is not open to all, with race deemed a mark of eligibility and lesser races obligated to undergo a process of tutelage by the higher race in order to acquire the requisite certifications of eligibility.

Mehta also locates the issue of power in the very stance and the point of view that particular ideas assume with respect to other ideas and forms of life. This he sees not as a matter of choice but determined by epistemological foundations of any particular set of ideas. He locates the liberal gaze in a judgmental rationality whereby the strange and the unfamiliar have meaning only within the general structure of what it would mean for facts to hang together rationally, and by their placement along the presumed linear trajectory of history.

For Mehta, "[l]iberal imperialism is impossible without this epistemological commitment — which by the nineteenth century supports both the paternalism and progressivism — that is, the main theoretical justifications — of the empire."[23] Rooted in Western philosophical tradition's posture towards correspondence between language and objects, the conditions for intelligibility forwarded by rationality render the singular intelligible only by reference to the general. This is predicated on the assumption that the strange is just a variation of what is already familiar, because both the familiar and the strange are deemed to be merely specific instances of a familiar structure of generality.

Highlighting the inextricable linkage between knowledge and power, Mehta argues that "the epistemological perspective that articulates that structure also undergirds an elaborate vision of how

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[21] *Id.*

[22] THOMAS BABINGTON MACAULAY, *Minute on Indian Education*, *in* SELECTED WRITINGS 237, 249 (John Clive & Thomas Piney eds., 1972); *see also* JOSEPH HAMBURGER, MACAULAY AND THE WHIG TRADITION (1976) (describing relationship of Macaulay with English political thought). For a perceptive study of the connection between colonialism and colonial education policies, see GAURI VISWANATHAN, MASKS OF CONQUEST: LITERARY STUDY AND BRITISH RULE IN INDIA (1989), Peter Robb, *British Rule and Indian "Improvement,"* 34 ECON. HIST. REV. 507 (1981), and Gerald Sirkin & Natalie Robinson Sirkin, *The Battle of Indian Education: Macaulay's Opening Salvo Newly Discovered*, 14 VICTORIAN STUD. 407 (1971).

[23] MEHTA, LIBERALISM AND EMPIRE, *supra* note 6, at 18.

politically to assimilate things, even when those things are thoroughly unfamiliar."[24] This he terms "the cosmopolitanism of reason."[25] When faced with the unfamiliar, then, liberals can do no more than repeat and assert the familiar structures of generalities, which "in a single glance and without having *experienced* any of it, . . . make it possible to compare and classify the world."[26] Mehta finds in this glance the urge to dominate the world because "the language of those comparisons is not neutral and cannot avoid notions of superiority and inferiority, backward and progressive, and higher and lower."[27] As some liberals did resist this urge, Mehta's claim is not "that liberalism *must be* imperialistic, only that the urge is *internal* to it."[28]

For Mehta, what is denied in the rational assertions of familiarity of the unfamiliar is the archaic, the premodern, the religious, along with sentiments, feelings, sense of location, and forms of life of which they are a part. Here, again, he finds Burke's posture a salutary one, not because he has a more realistic epistemology, but rather because his thought is pitched at a level that takes seriously the sentiments, feelings, and attachments through which peoples are, and aspire to be, at home. This posture of thought acknowledges that the integrity of experience is tied to its locality and Burke does not presume to understand the unfamiliar simply on account of his being rational, modern, or British.

This openness to the possibility that the unfamiliar may remain unfamiliar, Mehta finds undergirded by humility. He argues that Burke "shatters the philosophical underpinnings of the project of the empire by making it no more than a conversation between *two* strangers."[29] This Mehta terms "the cosmopolitanism of sentiments."[30] It holds out the possibility of wider bonds of sympathy and understanding of sentiments through an open-ended conversation, not guided by any authorizing regime of reason or teleology. In this acknowledgement of the unfamiliar remaining so,

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[24] *Id.* at 20.
[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] *Id.* at 22.
[30] *Id.*

Mehta discerns "the possibility of *mutual* understanding, *mutual* influence, and *mutual* recognition."[31]

In the liberal discourse on empire, Mehta discerns pervasive deployment of the metaphor of childhood as a fixed point underlying the various imperial projects of education, governance and progress. Indians, for example, are characterized as being in the infancy of the "'progress of civilization,'"[32] necessitating that the British rule like fathers who are "'just and unjust, moderate and rapacious,'"[33] as a means of "gradually training the people to walk alone,"[34] and enabling them to "grow to man's estate."[35] For liberals, then, Indians are children for whom the empire offers the prospect of legitimate and progressive parentage and towards which Britain, as a parent, is similarly obligated and competent.[36] This point is the basis for the justification of denying democratic rights and representative institutions to Indians.

Mehta traces the pedigree of this idea in the liberal tradition that originates in Locke's characterization of tutelage as a necessary stage through which children must be trained before they can acquire the reason requisite for expressing contractual consent. Mehta focuses on the exclusionary effect of the distinction between universal anthropological capacities and the necessary conditions for their political actualization posited by liberalism. He sees the exclusionary basis of liberalism "deriv[ing] from its theoretical core . . . because behind the capacities ascribed to all human beings exists a thicker set of social credentials that constitute the real bases of political inclusion."[37] Liberalism claims to be transhistorical, transcultural, and transracial. The universality claims rest on certain minimal anthropological characteristics posited as being common to all human beings. Central among these are that everyone is naturally free, that all are, in the relevant moral respects, equal, and finally that they are rational. Not only are all, by

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[31] *Id.* at 23.

[32] *Id.* at 31 (quoting James Mill's multi-volume *The History of British India*).

[33] *Id.* (quoting Thomas B. Macaulay, *Warren Hastings*, *in* CRITICAL AND HISTORICAL ESSAYS 86 (1903)).

[34] *See* Mill, *supra* note 19, at 175-76.

[35] CHARLES E. TREVELYAN, ON THE EDUCATION OF THE PEOPLE OF INDIA 187 (London, Longman Orme, Brown, Green & Longmans 1838).

[36] *See* Asis Nandy, *Reconstructing Childhood: A Critique of the Ideology of Adulthood*, *in* TRADITIONS, TYRANNY, AND UTOPIAS: ESSAYS IN THE POLITICS OF AWARENESS (1987) (providing insightful discussion of concept of childhood in colonial context).

[37] MEHTA, LIBERALISM AND EMPIRE, *supra* note 6, at 48-49.

their natures, perfectly free, this condition itself allows each to give to one's persons, one's possessions, and one's actions strikingly extreme expressions. It is this individual that becomes the subject of the contractual agreement from which liberal political institutions derive.

This elaboration of the natural condition by Locke provokes an obvious question: what ensures that this condition of perfect freedom will not result in a state of license and anarchy? Locke's classic answer is the bounds of the law of nature, accessible through natural human reason. Mehta argues that Locke's minimalist anthropology, while serving as the foundation of his institutional claims, also exposes the vulnerability of those institutions because "the potentialities of the Lockean individual reside as a constant internal threat to the regularities requisite for Lockean institutions."[38] This necessitates mechanisms to ensure constancy and moderation in the expression of interests and desires of the citizens of the commonwealth. The means of doing so are positing conditions of political inclusion.

While C. B. Macperson and Carol Pateman rest their well-known arguments of political exclusions in Locke on the revealing silences of his texts,[39] Mehta builds his case on the very language of those texts. Here, Locke's views on children are deemed critical. Along with lunatics and idiots, children are explicitly and unambiguously excluded from Lockean consensual politics. For Locke, consent is the fundamental ground for the legitimacy of political authority. Consent requires acting in view of certain constraints that Locke broadly designates as the laws of nature. To know these laws requires reason. Those who are unable to exercise reason either permanently (*e.g.*, madmen) or temporarily (*e.g.*, children) do not meet a necessary requisite for the expression of consent. By implication, therefore, they are excluded from the political constituency, or what amounts to the same thing, to be governed without their consent. Political inclusion is thus contingent upon a qualified capacity to reason.

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[38] *Id.* at 55.

[39] *See generally* C.B. MACPHERSON, THE POLITICAL THEORY OF POSSESSIVE INDIVIDUALISM: HOBBES AND LOCKE 194-262 (1962) (discussing Locke's political theory of appropriation); CAROL PATEMAN, THE SEXUAL CONTRACT 52-55 (1988) (describing how Locke and other social contract theorists maintain silence about "sexual contract").

What then is involved in developing the requisite capacities and credentials to be able to reason? Mehta focuses on Locke's answer detailed in *Thoughts Concerning Education.*[40] Here, Locke suspends the anthropological guarantee that natural human reason gives us a preconventional access to the precepts of natural law. Instead, the emphasis is wholly on the precise and detailed processes through which this rationality must get inculcated. Capacity to reason becomes a question of breeding an understanding of social and hierarchical distinctions. Education becomes an initiation into the enormously significant specifications of time, place and social status. Of course, "a Prince, a Nobleman and an ordinary Gentleman's son, should have different ways of breeding,"[41] so they learn Christianity, the laws of England, obedience, respect for property and "civility in their language . . . towards their inferiors and the meaner sort of people, particularly servants."[42] Mehta finds that the terms Locke uses and norms he advocates "draw on and encourage conceptions of human beings that are far from abstract and universal, and in which the anthropological minimum is buried under a thick set of social inscriptions and signals."[43] The actual subject of Lockean politics turns out to be propertied, white, Christian and male.

Mehta then moves to uncover strategies of exclusion deployed by liberals to exclude Indian colonial subjects from the primary promise of liberalism, representative government. The first, exemplified by James Mill, is the maneuver to characterize India as impenetrable, resistant to logical inquiry and inscrutable. For Mehta, the distinction between something that resists comprehension and something that is inscrutable is critical. The former description permits of a future change in which the object may, finally, become comprehensible. It also places the onus on the comprehending subject and not on the studied object. It suggests a limitation on one's knowledge without predicating this on any essentiality of the object.

In contrast, inscrutability designates an unfathomable limit to the object of inquiry without implicating either the process of in-

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[40] JOHN LOCKE, SOME THOUGHTS CONCERNING EDUCATION (Cambridge Univ. Press 1934) (1693).

[41] *Id.* at 187.

[42] *Id.* at 102.

[43] MEHTA, LIBERALISM AND EMPIRE, *supra* note 6, at 63.

quiry or the inquirer. Here the object is made to appear on its own reckoning as something that defies description and, hence, reception. Inscrutability places a limit on political possibilities by closing off the prospect that the object satisfies the conditions requisite for political inclusion. Lacking in Locke's reason, or, for that matter, Rawl's reasonableness,[44] the inscrutable stands akin to inanimate objects that Hobbes claimed must be represented precisely because they cannot give authority on their own behalf.[45]

If the exclusionary effect of inscrutability is achieved by the crude descriptive fiat in refusing to engage in the particulars of India, the next strategy Mehta explores represents an almost total reversal. This involves delving into the arcane details of India's ancient theological, cultural and historical particulars, and through them, exposing the deficiencies of Indian political and psychological endowments. Here, the universal anthropological minimum yields to a complex set of individual and social indexes as the prerequisites of political inclusion. Mehta terms this "the strategy of civilizational infantilism."[46]

To ground his argument, Mehta examines the writings of John Stuart Mill, and finds his chapter on "*The Government of Dependencies by a Free State*," "a revealing document on the increasing relevance of cultural, civilizational, linguistic, and racial categories in defining the constituency of Mill's liberalism."[47] Mill divides colonized countries into two classes. The first is composed of countries "of similar civilization to the ruling country; capable of, and ripe for, representative government: such as the British possessions in America and Australia."[48] The other class includes "others, like India, [that] are still at a great distance from that state."[49] Mill finds the practice of English colonialism towards those who "were of her [England's] own blood and language" variously "vicious," economically ill advised, and a betrayal of a "fixed principle . . . professed in theory" regarding free and democratic governance.[50]

Regarding the second class of countries — countries whose race, language and culture were different from the British — Mill's rec-

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[44] *See* John Rawls, *Kantian Constructivism in Moral Theory*, 77 J. PHIL. 515, 525-28 (1980).
[45] *See* THOMAS HOBBES, LEVIATHAN 217-22 (Viking Penguin 1968) (1651).
[46] MEHTA, LIBERALISM AND EMPIRE, *supra* note 6, at 69-70.
[47] *Id.* at 70.
[48] Mill, *supra* note 19, at 402.
[49] *Id.*
[50] *Id.* at 402-03.

ommendations are strikingly different. Not only is he opposed to dismantling colonialism, he strongly recommends that colonial rule be authoritarian. Absolute rule "guaranteed by irresistible force . . . is the ideal rule of a free people over a barbarous or semi-barbarous one."[51] To govern a people different from one's self only allows for "a choice of despotisms,"[52] precluding the possibility of representative governance.

As for the principle of liberty, for Mill "[i]t is, perhaps, hardly necessary to say that this doctrine is meant to apply only to human beings in the maturity of their faculties."[53] The group of such human beings excludes not only children but also "those backward states of societies in which the race itself may be considered as in its nonage."[54] Having classified human beings in immutably distinct hierarchical categories, Mill is constrained to acknowledge that he had "ceased to consider representative democracy as an absolute principle, and regarded it as a question of time, place, and circumstance."[55]

For classical liberalism, then, political institutions such as representative democracy are dependent on society having reached a particular historical maturation or level of civilization. But such maturation is seen as differentially achieved. Hence those societies in which higher accomplishments of civilization have not occurred do not satisfy the conditions for representative government. Under such conditions liberalism in the form of empire services the deficiencies of the past for societies that have been stunted through history. This is the kernel of liberal justifications for empire. Mehta likens empire validated by liberalism to "an engine that tows societies stalled in their past into contemporary time and history."[56] And this reading of progress and history "derives centrally from premises about reason as the appropriate yardstick for judging individual and collective lives."[57]

For Mehta, "[t]he central axis on which nineteenth-century liberal justifications of the empire operate is time, and its cognate,

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[51] *Id.* at 409.

[52] *Id.* at 410.

[53] John Stuart Mill, *On Liberty*, *in* JOHN STEWART MILL, THREE ESSAYS, *supra* note 19, at 15.

[54] *Id.*

[55] JOHN STUART MILL, AUTOBIOGRAPHY 120 (Columbia Univ. Press 1924) (1873).

[56] MEHTA, LIBERALISM AND EMPIRE, *supra* note 6, at 82.

[57] *Id.*

patience."[58] Rooted in global orientation of modern European historiography, nineteenth century liberals saw politics and history as only different aspects of the same study. Backwardness gets coded as a remnant of the past, a temporal deficit, which can be remedied by political intervention turning colonizers' present into the natives' future. While this past and future are the sources of liberalism's colonial agenda of reform, they limit the ability of the liberals to understand unfamiliar life forms. Mehta argues that "the contemporaneity of these unfamiliar life forms cannot be spoken of in the register of historical time, for that register translates them into the linearity of backwardness and thus immediately conceives of them in terms of an already known future."[59] Extant forms of living are then taken as only provisional and experience of these forms is either exoticized or denied.

The discourse of a progressive history and the notion of a single and continuous time "naturalizes what in fact were often aggressive and violent efforts to suppress multiple and extant temporalities and corresponding life forms."[60] This vision of history and time also forces liberalism in its colonial career to jettison its commitment to the primacy of the individual. The colonized subject is spoken for by the society of which she is a member, and that society is spoken for by the historiography that determined the stage of development that society is deemed to have achieved.[61]

Mehta then examines liberal positions towards territorial space as a clue to its complicity with empire. He first notes that liberal thought seldom gives theoretical attention to the monumental spatial size of empire. He finds that theoretical assumptions of liberalism do not readily comport with the considerations that give territory its political salience. Mehta finds Locke's theory of private property resting on two claims: first, that nature in itself is all but worthless, and second, that individual labor is the source of value. For Locke, even though the earth was given and held in common,

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[58] *Id.* at 106.

[59] *Id.* at 108.

[60] *Id.* at 109.

[61] The relationship of modern theories of history with colonialism and modern constructions of race has been the basis of insightful analyses. *See, e.g.*, MICHEL ROLPH TROUILLOT, SILENCING THE PAST: POWER AND THE PRODUCTION OF HISTORY (1995); ROBERT YOUNG, WHITE MYTHOLOGIES: WRITING HISTORY AND THE WEST (1995); Dipesh Chakrabarty, *Postcoloniality and the Artifice of History: Who Speaks for 'Indian' Pasts?*, 37 REPRESENTATIONS 1 (1992); Michel de Certeau, *The Historiographical Operation*, *in* THE WRITING OF HISTORY (Tom Conley trans., 1988); Asis Nandy, *History's Forgotten Doubles*, 34 HIST. & THEORY 44 (1995).

prior to appropriation through labor, neither the reception from God, the holding, nor the fact of its being common has any individual, social, or political significance.

For Mehta, by divesting a nature given and held in common of any emotive force, classical liberalism blocks an important moment of commonness from furnishing a sense of collectivity, and thus being a collective experience. The rendering of nature, and the encounter with it, sentimentally inert, denies locational attachments as having any significance in relation to political identity. Imagining nature as a physically and emotionally vacant space, with no binding potential, makes it conceptually difficult to articulate the origins and continued existence of distinct political societies having territorial boundaries.

This posture lends itself to the denial of any distinct political community of the colonized on account of their living in a distinct physical space. Mehta's position is that territorial boundaries of societies "reflect a distinct cognitive or emotional reality of their members in which the physical considerations demarcate a positive collective identification."[62] The liberal inability to acknowledge a mutually constitutive relationship between bounded territory and polity precludes recognition of Indians as a distinct political community; a recognition that would open up questions of autonomy and self-governance, thus challenging the validity of imperialism.

Mehta compares liberalism's engagement with imperialism to the posture adopted by Burke. He shows how Burke saw through the abusive distortions of civilizational hierarchies, racial superiority, and assumptions of cultural impoverishment by which British power justified its empire. Burke's consciousness that racial prejudice always lurked around the colonial question is evidenced by his comment about his unremitting intensity on Indian matters, that "I know what I am doing; whether the white people like it or not."[63] For Burke, the existence of political society does not turn exclusively on such individual capacities as reason, will, and the ability to choose, but also on the presence of a certain order on the ground. Rejecting the centrality of consent, Burke contends that inheritances are in some crucial measure involuntary and that they bind

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[62] MEHTA, LIBERALISM AND EMPIRE, *supra* note 6, at 131.

[63] SELECTED LETTERS OF EDMUND BURKE 381 (Harvey C. Mansfield ed., 1984). *See generally* SARA SULERI, THE RHETORIC OF ENGLISH INDIA 25-74 (1992) (providing nuanced analysis of Burke's writings on India).

us through the inescapable mediation of location and past. This permits him to see political society and order in India, not just the prospect of it through tutored development. This leads Mehta to argue that "India's potential nationhood was evident to [Burke] centuries before it was to most Indians."[64]

Mehta notes that Burke was not only concerned with the destructive impact of colonialism on the colonies but also its corrosive and corrupting affect on Britain itself. Here Mehta fails to explore the extent to which Burke prefigures an increasing focus of post-colonial studies to examine the extent to which modern Europe itself is a product of the colonial encounter between the West and the rest. Mehta also leaves unexplored the question as to what extent Burke's position on colonialism was shaped by his Catholic and Irish background.[65] Mehta also compares liberal postulates of time space with those of Mahatama Gandhi and nationalist forces in the colonies. For Gandhi the question of civilization is purely individualistic, turning on how human beings are able to follow the dictates of their duty and morality. This conception of civilization precludes reliance on stages of history or the tutelage of one people by the other.

Nationalism in the colonies repudiates the developmental chronology of imperialism, and displaces history by making culture and geography the grounds for claims of political community and self-governance. Mehta's exposition of Gandhi's thought and the nationalist challenge to liberalism is too brief to be satisfying. But given his primary agenda in this book, this brevity is understandable.

In the end, Mehta comes back to the central question of why champions of liberalism so enthusiastically endorsed colonialism. According to him, the key to this question is the response of liberal theorists as they cast their gaze on an unfamiliar world whereby they saw those experiences and forms of life as provisional. The empire as liberals conceived it was premised on the idea that in the face of this provisionality it was right, even obligatory, to seek to complete that which was incomplete, and guide it to a higher plane of reason and purposefulness. For Mehta, "[t]hat judgment of

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[64] MEHTA, LIBERALISM AND EMPIRE, *supra* note 6, at 163.

[65] For a compelling discussion of the link between Burke's background and his ideas, see ISAAC KRAMNICK, THE RAGE OF EDMUND BURKE: PORTRAIT OF AN AMBIVALENT CONSERVATIVE (1977).

other peoples' experiences as provisional — and the interventions in their lives that it permits — is the conceptual and normative core of the liberal justification of empire."[66] This posture Mehta finds ultimately rooted in a fundamental orientation of modern Western thought, "namely a desire to master and possess nature, where nature was understood in the broadest sense as that which was external to the mind."[67] Mehta finds liberalism to be a derivative discourse of this broader orientation, in which,

> being part of that orientation is to share in a *project*, which *projects* itself by anticipation onto an unbounded future. As an implication of this, every "present," whether individual or collective, is judged and acquires its meaning by reference to the *projection* of which it is understood to be a part. The primacy of the *projection* subsumes both judgment and understanding. Whatever is the freedom of thought or the internal freedom that the *projection* stems from gets carried over into its conception of what is involved in understanding that which is, only nominally, still external. In this sense of the term, understanding is tied to the *project* from the outset. It therefore, in a strict sense, lacks the potential to surprise. Similarly, the *projection* subsumes the "present" as a specific, and not as a singular, halting moment, in which the "present is not a transition, but one in which time stands still and has come to a stop," where, as it were, the "'state of emergency' in which we live is not the exception but the rule." In this *project* the experiences of those who are, or remain, unfamiliar — of those whose "present," whose life forms, are not deemed to be already aligned along the anticipated axis of the *projection* — must necessarily be viewed as provisional; provisionality being the term through which an uncertain and unfamiliar encounter gets mapped onto a plain of temporal and categorical familiarity. For those in that condition there is no *Fetzt-Zeit*, no time of the present, no singular experience in which the Day of Judgment is the normal condition of history — only an infinite future. Within this project man was made for the infinite.[68]

In contrast to the liberal posture, Mehta articulates an attitude, one he assigns to Burke, for "a conversation across boundaries of

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[66] MEHTA, LIBERALISM AND EMPIRE, *supra* note 6, at 191.
[67] *Id.* at 208.
[68] *Id.* at 209-10 (internal citations omitted).

strangeness," and terms it "a posture of imaginative humility."[69] This posture "accepts that there is no shortcut around the messiness of communication, no immanent truth on which words can fix, no easy glossaries of translation; instead, just the richness or paucity of the vocabularies we use to describe ourselves and those we are trying to understand."[70] As critical legal scholars negotiate traces of past oppressions in legal terrains of today in search of peace, justice and dignity, this posture of imaginative humility may come in very handy. In sites of post-colonial displacements and multicultural hybridities, we must find modes of conversation and deliberation in which the boundaries of what can be articulated are never firmly established prior to the conversation. Only in such a conversation, as Mehta contends, "power is denied space, and in this sense the empire becomes an impossibility."[71]

Mehta's book would be very useful for a number of lines of inquiry in critical legal scholarship. It suggests fruitful lines of inquiry with regards to the relative exclusion or marginalization of groups based on gender, race, class, sexuality or culture in formally liberal democratic legal orders. It alerts us to possible contradictions at the very heart of apparently coherent worldviews and prescriptions for sustainable collective life. Most importantly, by highlighting the intersections of modernity and the colonial encounter, Mehta underscores the need to situate and examine modern legal history on a global plane. This should encourage us to uncover traces of time, place and circumstances in the modern construction of the reasonable person as the only legitimate legal subject.

Imaginative humility would warrant against taking the history of the world as an appendage to the history of modern Europe. Instead, we should endeavor to recover voices and choices erased by the colonial encounter. Colonialism brought into sharp relief many fundamental contradictions inherent in projects of modernity and the way universal claims are often bound up in particularistic assertions. And as post-colonial studies teaches us, the colonial encounter is not simply a thing of the past; it remains embedded in the conceptual constructs, disciplinary regimes and prejudices it engendered. As legal scholars our contribution to antisubordination struggles must include unveiling the colonial lineage of

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[69] *Id.* at 216.
[70] *Id.*
[71] *Id.* at 217.

many hegemonic legal ideas and practices of today. Bringing this lineage in sharper relief will give us a better purchase over strategies of resistance, recovery and representation. As global projects of neo-liberal restructuring, "humanitarian" intervention, harmonization of legal regimes and delegation of sovereignty march ahead amid assertions of the end of history and triumph of liberalism, we would do well to remember the disjunction between the theory and history of liberalism. Mehta's book should help us do just that.