This chapter deals with three important themes. The first theme is related specifically to the writings of Edmund Burke on India and his controversial ‘Reflections on the Revolution in France’ (sections I, II and III). The second is an attempt to look at the ways in which the roots of contemporary multiculturalism can be found in Burkean ideas (section IV). The third theme is concerned with the Burkean influence on India, specifically the ways in which his ideas privilege the protection of endangered groups and thereby give rise to a rights discourse often tilted preponderantly in favour of the group. This emphasis on protecting and preserving groups, it is argued, is complemented by the institutionalization of a system of property rights under the Permanent Settlement of 1793 (section V). An attempt is made to understand the ways in which Indian, specifically Bengali society was transformed by the transplantation of Whig principles. This transformation took place through the demarcation of private and public spheres by the colonial legal system. The private sphere became the guarantor of Indian ‘difference’ by offering to protect the various groups that Burke empathized with. The public sphere was the arena in which British contract and criminal laws could operate unhindered.

I.

The very first question that this chapter needs to answer is why a study of Burke’s writings is necessary in a consideration of the rights discourse in India. Burke was a vocal opponent of the natural rights tradition and thus looking at Burke’s writings as forming one of the theoretical vertices of a study on the rights discourse may seem rather anomalous. One obvious reason for looking at Burke’s writings is the fact that he wrote so prolifically on India. Further, Burke, in spite of the conservatism that is immediately attached, almost as a stigma at the very mention of his name, was extremely progressive when it came to the question of the colonies. What is remarkable about Burke was that he was a great imperialist, meaning a supporter of the British Empire, while at the same time being a vocal advocate of the rights of the colonies. The passion with which he advocated the rights of the colonies was reflected in his years as a parliamentarian when he would
censure those officials of the Empire he felt had wronged the colonies and whose policies were impoverishing them. His advocacy of various sites of the empire, notably India, America and his own native Ireland was passionate, historically informed, relying on an identification and empathy with the people living in these colonies. Burke was then, a complex thinker and his ideas seem to be replete with paradoxes. He supported the enterprise of the British Empire, while at the same time passionately advocating the rights of the colonies. He was enthusiastic about the American Declaration of Independence, but when the French Revolution happened thirteen years later, on more or less the same principles, he expressed a horror and outrage that few at the time could fully understand. ¹

Burke was born in Dublin in 1729. He was the son of a Catholic mother and his father was a prominent Protestant attorney. He was brought up in the Church of England. He was educated first at a local school and then as a boarder with a Yorkshire Quaker, Abraham Shackleton. Iain Hampsher Monk (1987) has commented that this was a varied background for someone living in the 18th century in which religion, while it did not give rise to the civil strife of the previous century, still remained a deep source of division.² In 1759 Burke was appointed as private secretary to Sir William Hamilton who was an aspiring politician and whom Burke accompanied to Ireland from 1761 to 1763 on the staff of Lord Halifax, the Lord Lieutenant. On returning to England Burke fell out with his patron and resigned. The time that he spent in Ireland gave him an opportunity to conduct considerable research into the operation of the anti-catholic legislation and its effects on social problems there. This formed a useful basis for an understanding of his native Ireland, which remained an enduring concern throughout his political career (Monk 1987: 2).

From 1770 until the American Revolution, Burke was a paid parliamentary agent of the colony of New York. The American question also had a dominating role in his public life and this profound influence was also true of many of his other contemporaries. In 1782 Lord North resigned after the loss of the American colonies with Rockingham,

¹ See Connor Cruise O'Brien's (1986) introduction to the Penguin edition of Burke's Reflections on the Revolution in France. Burke's Reflections and the outpouring of horror that he expressed at the developments in France were to arouse a number of adverse views regarding the work and there seemed to be a kind of general surprise at the extent of the repressed anger he harboured towards the revolution. See Thomas Paine's (1935) response The Rights of Man.
Fox and Shelburne forming a government. Burke was to serve as Paymaster-General in this government and this was the only position in government that he was to ever hold. The fact that it was not a cabinet level position brought forth a degree of adverse comment at the time, especially considering Burke’s formidable reputation as a parliamentarian and his centrality to the party (Monk 1987: 4).

Burke’s political works can be considered as comprising of a complex response to modernization (see White 1993), a process which itself involves aspects of secularization, commercialization, aristocratic fragmentation and competition, and in the case of Britain an accommodation to Empire. In many ways Burke’s political thought can be considered as arising from a context similar to that of Adam Smith and David Hume. These two figures of the Scottish enlightenment, like Burke, came from the Celtic fringe, most exposed to the changes brought about by Britain’s imperial political economy and the constitutional implications this was to have. The union of Scotland with England in 1707 had forced many a Scottish thinker into a comparison between the social and economic backwardness of the former with the advancement of the latter. Smith and Hume, needless to reiterate, were two central Scottish figures in this rethinking that had been set in motion. Adam Smith devoted sustained efforts to understanding the interplay between a society’s manners and morals and its stage of economic advancement, considering the kinds of political arrangements possible under different economic and moral circumstances. David Hume argued for the modernist case in which he rejected traditional concerns. In a consideration of modern commercial society he argued instead for individual self interest in political and economic life as against any promotion of austere republican virtues (Monk 1987: 13-14). In this he perhaps needs to be contrasted with Burke’s more cautious approach to modernization with all its attendant conservatism, reverence for ancientness, and the accent on the importance of the settled community that should not be disturbed at any cost by the hasty acts of the individual in pursuit of self interest.

As mentioned a little earlier the American question exercised a great deal of influence on Burke’s political ideas. It involved in many ways the same question that arose with respect to his native Ireland, the relationship of a fringe, marginal, outlying or peripheral territory with the core of the empire. The relationship between the core of the
British Empire and the American colonies was severely buffeted by heavy weather, especially over Grenville's Stamp Act, which authorized a tax on newspapers and local contracts to cover the costs of the Seven Years War. This method of recovering the costs of the Seven Years war appeared reasonable to British politicians. It was felt that the war had rid the American colonies of the French and this enhanced safety that the people of the colonies would now be enjoying, could in all fairness, be taxed. However, this was not the view taken on the other side of the Atlantic by the Americans and the measure, rather than being seen as a justified contribution to enhanced security, was perceived as crossing a constitutional boundary, giving rise to the famed slogan 'no taxation without representation'. To Burke the domestic and colonial troubles could be traced to a single focus which was the disruption of the constitutional balance (Monk 1987: 21).

Having seen the manner in which Burke was affected by developments in the American colonies it is perhaps important to point out a paradox in Burke with regard to his response to the American and French revolutions. He welcomed the first enthusiastically, while thirteen years later when the French revolution broke out, he reacted with a certain alarmed horror that he expressed in Reflections on the Revolution in France. Burke's ambivalences and eccentricities have been noted by many commentators. It will be the task of this chapter to take a closer look at Burke's writings on India.

However, before considering Burke's voluminous writings on India, his opposition to the natural rights tradition needs to be taken into account. This particular opposition was most famously and forcefully spelt out in his work, Reflections on the Revolution in France. In his opposition to the natural rights tradition and his views on the French revolution, the one dominant and recurring concern that stands out is Burke's communitarianism, his reverence and respect for settled, well established communities with all their attendant customs, habits and traditions that have been distilled and accumulated over centuries. Indeed, he exhibits a certain horror at the disruption of these well-settled communities and it is this deep-seated anxiety that is behind his political writings and accounts for much of the passion contained in them.

A further reason needs to be assigned for looking specifically at Burke's ideas in the context of the rights discourse. One of the central arguments of this study is that the
rights discourse, as it has developed in India has been skewed in favour of the group and against the individual. As a result, it has within it a certain tendency to reinforce traditional and conservative group or communitarian identities. This chapter argues that this particular tendency to reinforce traditional conservative attitudes of groups and communities can be traced to the Burkean perspective of viewing India in terms of settled communities with their associated habits, customs and mores. Most of Burke’s writings on India, as in his work on the French Revolution, to reiterate, are primarily concerned with established communities that are threatened (Mehta 1999: 159). It is this underlying conservatism found in Burke’s writings that has imparted to the Indian rights discourse its preponderant communitarian thrust and excessive group solidarity (see Rudolph and Rudolph 2001).

The point regarding conservatism has been made with some force by Sara Suleri who has tried to understand Burke’s particular attitude of respect bordering on reverence through his earlier work *A Philosophical Inquiry into the Origin of Our Ideas of the Sublime and Beautiful*. Suleri argues that Burke’s view of India was constituted by what he perceived to be the sublime nature of Indian reality. Suleri dismisses as ‘facile’ any reading of Burke that views such ‘rhetorical swerves into the sublimity of India as an aestheticizing of political discourse, or as idiosyncratic retreats from the parameters of rationalism into the categorization of irrationality that the sublime signifies’ (Suleri 1992: 28). Instead, citing the work of Donald Pease on the implication of sublimity in eighteenth century political discourse, Suleri argues that Burke’s writings, in spite of the progressive attributes they exhibited towards the colonies, ultimately end up serving a larger conservative project.

Thus, Burke’s attitude of reverence, bordering at times on awe for India and her communities, was admirable. His position on the colonies was, without doubt, extremely progressive. However, the conservatism in his writings and his pleas to uphold the established order of Indian society were undoubtedly serving a larger function of an ultimate endorsement of the British Empire. This was to continue despite, his hatred of the rapacity of the Empire that proceeded through the despicable acts of its agents, foremost among them being his arch adversary Warren Hastings. This argument is further strengthened when one notes the tendency of the British Empire to tap the authoritarian
possibilities in culture and impart to it an authoritarian bent. The British could in this manner claim that their colonial rule was marked by an enlightened recognition of native culture. British colonizers claimed that the strength and legitimacy of their rule and domination rested on deference to local custom and authority (see Mamdani 2002: 25).³

More interestingly, the Burkean proclivity of deferring to the settled, well-established cultural practices of ancient Indian communities has resurfaced in recent attitudes towards marginalised and threatened cultures in contemporary multiculturalism. The invocation of a threat to minority cultures, consequent attempts to protect such cultures from the ill effects of wider society, and the often naïve and romanticized celebration of such cultures that one finds in contemporary multiculturalism bear a distinct resemblance to Burke’s ideas. In exactly the same way that Burke’s sublimity served a larger conservative purpose in the 18th century, as pointed out by Sara Suleri, critics of multiculturalism could very much argue that its valorization of minority cultures, serves a larger conservative project of keeping these communities and their cultures locked in time warps. Such resemblances between multiculturalism and Burke, considered as the foremost proponent of the Empire, and his writings considered as in some senses an apologia for the latter, should not be too surprising when one considers contemporary multiculturalism as itself being a resurfacing of the theme of the British Empire in postcolonial times (Metcalf 1995; Kymlicka 1995).

II. Burke on India.
Burke developed a sensitive perspective on the Empire through his writings on Ireland and America, and this seemed to be contradicted through his initial praise for the East India Company and his opposition to its reform (Fidler and Welsh 1999: 20). However, the period of Burke’s praise for the East India Company and his opposition to its reform extends from 1767 to 1774. Burke was to subsequently undertake a study of the Indian question which involved an extensive consultation of the records of the East India

³ Mamdani makes this observation in the case of Britain’s African colonies, but it could also apply to a great extent to India as well. The colonial state, Mamdani observes, was in every instance a historical formation and yet its structure everywhere came to share certain fundamental features. This happened because everywhere the colonial state was confronted with the same dilemma of how to govern and rule vast numbers of natives with a handful of foreigners. To this dilemma, two broad responses emerged: direct and indirect rule (see Mamdani 2002: 16).
Company. It is this in-depth understanding of Indian affairs he acquired that forced him to take up a passionate position vis-a-vis India and the havoc that was being wreaked there by the East India Company. Burke developed his position on India through his various writings and speeches. One of the earliest of these is the pamphlet that he wrote with William Burke entitled *Policy of Making Conquests for the Mahometans* (1779).

Subsequently, in 1781, Burke was made a member of the Parliamentary Select Committee entrusted with the responsibility of looking into relations with India. Eleven reports were produced between 1782 and 1783. Burke himself played a substantial role on the Committee and authored the famous *Ninth and Eleventh Reports of the Select Committee*. A significant part of the Ninth Report was devoted to a consideration of political economy and a discussion of the economic policies and impact of the East-India Company. Burke, through the views he expressed in the two reports, put forth the idea that India had been wronged by the misdeeds of the Company. As a result of the need that he felt of reforming the East-India Company, Burke introduced Fox's India Bill which he claimed was the 'Magna Charta of Hindustan' that would guarantee Indians the natural rights that had been abused by the East-India Company. In his speech on Fox's India Bill, which Burke delivered on 1st December 1783, he gives voice to a common bonding that unites the diverse people of Britain and India when he makes a reference to 'the law of common justice which cements them to us and us to them' (Fidler and Welsh 1999: 27).

When Burke considered the manner in which Britain was treating India, he forewarned the possibility of the end of empire, obviously a prospect that he did not relish. In the misdeeds and maltreatment of the peoples of the colonies, Burke felt that Britain was demeaning and debasing the very ideas that formed the cornerstone underlying the enterprise of the British Empire. Particularly in his writings on India, there can be found an idea that the abuses and ignominy being heaped on India would in some way boomerang on Britain and that the ill-effects of British rule would come back to haunt Britain. India and Britain were thus looked upon by Burke as in some ways 'braided concerns' (Mehta 1999: 170). Burke in his Speech on Fox's India Bill observed,

... if we are not able to contrive some method of governing India well, which will not of necessity become the means of governing Great Britain ill, a ground is laid for their eternal separation; but none for
sacrificing the people of that country to our constitution. I am far from being persuaded that any such incompatibility of interest does at all exist. On the contrary I am certain that every means effectual to preserve India from oppression is a guard to preserve the British constitution from its worst corruption (Marshall 1981: 383).

Burke thus saw the empire as embodying a community sharing the spirit of freedom. While he tried to reconcile the ideas of empire and freedom, when British policy forced a clear choice between these ideas, Burke supported freedom (Fidler and Welsh 1999: 18). Plamenatz, again is of the view that Burke was a thoroughgoing imperialist, and that his pride in the Empire which was only slightly less than his concern for freedom, inspired his writings about America (Plamenatz 1976: 336).

What makes Burke’s writings on the Empire stand out, is the fact that for the most part of the actual existence of the Empire, ‘it was a phenomenon that remained under-theorized and especially neglected by political theorists. Burke’s reflections on the various sites of the Empire were animated especially by the consideration that the British Empire encompassed a significant array of diversity of peoples, languages, ethnicities, races, tribes etc. Following the Seven Years War (1756-63), the British Empire was neither predominantly Protestant nor Anglophone: ‘It now included French Catholics in Quebec and millions of Asians who were neither Christian nor white. Burke was alone in asking how traditional British liberties could be reconciled with: “that vast, heterogeneous, intricate mass of Interests, which at this day forms the Body of British Power”’ (Mehta 1999: 155). It was accordingly, the duty of the British government to conform to the ‘character and circumstance of the several people’ who made up the Empire. Institutions that were appropriate to the administration of Bengal were not appropriate for the administration of New England (Dreyer 1979: 63).

An analysis of Burke’s writings on India need to take into consideration his ideas on the Indian economy (see Sen 1969). Beginning with the Regulating Act of 1773, the most important feature under this act was the reconstitution of the East India Company with a government in Bengal being created, consisting of a Governor General and four members of the Council. Warren Hastings was the only Governor General to be appointed under this act, which was superseded by the 1784 Pitts India Act. A year prior
to the passage of Pitts India Act, Fox's India Bill was introduced in 1783. It was based on the Ninth and Eleventh Reports of the House of Commons Select Committee constituted to look into Indian affairs and which were written by Burke. Fox's India Bill was defeated and this led to the fall of the Fox-North coalition government.

The Ninth Report is a basic document on 18th century economic history and many Indian writers have drawn from it. Romesh Dutt, who was greatly influenced by Burke's 'drain theory' considered Burke to be the 'the greatest political philosopher of England' (Sen 1969: ii). Burke prefaces his report with a brief review of the working of the Regulating Act of 1773 (ibid.: iii). He concentrates on three aspects of the 'drain': the system of investment from territorial revenue, the China investment, and the application of revenue above the investment. Sen notes that Burke leaves out the remittances of private fortunes (ibid.: xiii). The economy of the 18th century cannot be understood without reference to the drain in the form of investment out of revenues, the China investment, and the remittances of private fortunes. Further, the destructive effects of the drain were not offset by public expenditure on development work (ibid.: xvi). Interestingly, the Ninth Report provides an indication of how the possibility of India's capitalist development was thwarted in the second half of the 18th century.

As mentioned earlier, Burke begins the report by reviewing the period which elapsed from 1773, the year in which the Regulating Act was passed, to the commencement of 1782. The Committee found that throughout this period 'Disorders' and 'Abuses' of every kind multiplied, that wars contrary to policy and contrary to public faith were taking place in every part of India (Marshall 1981: 220). The Report goes on to say that the true condition of the Presidencies and the conduct of the British Government towards the Natives were not at all known to Parliament and that even the Ministers were not aware of the prevailing circumstances. The Act of 1773 is declared to have failed in its intended effect. However, the cause of the failure lies not completely in the 1773 Act itself. On the contrary, the general policy has been flawed and any law passed under the prevalence of such a policy cannot be effective (Marshall 1981: 220-221). The report calls for a restoration of India to its natural order before there is any possibility of remedial laws having any affect. It also critiques the existence of an economic system that has been put into place and which regards as its principal end the transmission of vast
amounts of wealth. This will inevitably lead to those who are the ‘instruments’ of the system following the same spirit of transmitting and diverting wealth for their own private purposes (Marshall 1981: 221-222).

The Committee had adopted the following plan: firstly to consider the law regulating the East India Company as it stood at the time of writing the report; secondly, to enquire into the circumstances of the two great links by which the possessions in India are connected to Britain. These two links are first, the East India Company’s commerce and second, the rule by the government that is carried out under the charter and under an Act of Parliament. The aspect of commerce is itself considered under two heads, which are the external or the direct trade between India and Europe; and the internal, or the trade of Bengal in all the articles of produce and manufacture that furnished the Company’s investment (Marshall 1981: 197). Trade, apart from the manner in which it operates by itself, also has a powerful influence over the general policy and the particular measures taken by the Company’s government (Marshall 1981: 222). The second link that binds India to Britain i.e. the government, is subjected to a scathing attack as it is as much ‘perverted’ from every good purpose for which lawful rule is established as trading system has been from every just Principle of Commerce (Marshall 1981: 306).

Burke’s review of the working of the Regulating Act of 1773 was the first significant attempt by any government to reform the East India Company. The act and its working left much to be desired and therefore had to be amended (Marshall 1981: 378). However, the fault lay not completely with the Regulating Act itself. There had to be a complete reversal in the policy of the government itself. Burke makes the following observation at the beginning of his speech on Fox’s India Bill, regarding the parliamentary effort that has gone into understanding the Indian situation and the direction in which this should now lead:

---

4 P.J. Marshall notes that the boundary between public and private interest was completely obfuscated after the upheaval of Plassey. There was a “massive invasion” of the internal trade of Bengal by private British enterprise. Men who had acquired political and military power used such power to further their own interests of private trade. There was a ransacking of the nawab’s resources which included the exaction of over 2,000,000 pounds in “presents” and significant looting of the Company’s first revenue collections. A new division between the public and the private had to be eventually enforced. This was intended to safeguard the company’s interests and those of the Indians by protecting them from spoliation. The company’s servants, except those actually employed in the commercial branch, were excluded from trading. They were now supposed to depend entirely on official salaries rather than on private profit (see Marshall 1987: 102).
It is now to be determined whether the three years of laborious parliamentary research, whether the twenty years of patient Indian suffering, are to produce a substantial reform in our Eastern administration; or whether our knowledge of the grievances has abated our zeal for the correction of them, and whether our very enquiry into the evil was only a pretext to elude the remedy which is demanded from us humanly, by justice, and by every principle of true policy (Marshall 1981: 381).

Burke replies to the objection that Fox’s India Bill was an attack on the chartered rights of men:

The rights of ‘men’, that is to say, the natural rights of mankind are indeed sacred things; and if any public measure is proved mischievously to affect them, the objection ought to be fatal to that measure, even if no charter at all could be set up against it. If these natural rights are further affirmed and declared by express covenants, if they are clearly defined and secured against chicane, against power, and authority, by written instrument and positive engagements, they are still in a better condition (Marshall 1981: 383-84).

In this passage Burke seems to be affirming the sacred, inviolable character of natural rights. He has been widely interpreted to have vehemently opposed the natural rights tradition in his subsequent and extremely well known work Reflections on the Revolution in France. This issue will be taken up in a more elaborate and amplified manner when Reflections is dealt with in a subsequent section of the chapter. However, it would be relevant to dwell a little upon Burke’s support for the idea of natural rights in his speech on Fox’s India Bill.

He seems to be upholding the power of the sovereign’s affirmation and recognition of the ‘original right’ in the subject. Such a formal recognition can never be subverted except by uprooting the holding principles of government, and even of society itself. Burke further expresses his admiration for and appreciation of the charters which we distinguish by calling them ‘great’. These are public instruments of the utmost value. The
best example of such a charter is of course the ‘Magna Charta’. Such great charters, it would seem, have made themselves, indeed the very term ‘charter’ itself, dear to the heart of every Englishman. However, Burke points to the existence of malevolent charters like the one held by the East India Company that are the ‘reverse’ of those of the benevolent great charters like the Magna Charta. Thus, rather than restraining power in the manner of the great benevolent charters, the other kind of malevolent charters like the ones held by the East India Company, do the opposite, by establishing monopoly and creating power (Marshall 1981: 384).

Towards the end of the 18th century there was a movement towards restraining the East India Company. Within a few years after 1765, the national government intervened over the manner in which the company managed its Indian concerns. There followed the famous statutes like Lord North’s Regulating Act of 1773 and Pitt’s India Act of 1784. These legislations defined the government’s powers, allowing it to determine the main outlines of Indian policy. The continued curtailment of the company’s monopoly, seen in its modifications in 1793, its termination in 1813 and finally the abandonment of the company’s trade after 1833, was the result of sustained pressure applied on the government by other British commercial interests, opposed to the monopoly, who felt that it was blocking the possibilities of British dominance in Bengal. As a result of this sustained pressure, both from within parliament and outside, the government tended to see itself as representing a national conscience on Indian questions. The company, was therefore, forced to pay attention to the views of men like Burke who criticized the abuses in its administration (Marshall 1987: 99).

What is obvious is the profound contempt in which Burke holds the East India Company for the manner in which its operations were fleecing India and resulting in a wholesale loot of the riches of the country. As opposed to the lowly contempt in which the East India Company and its officials were held, it is interesting to contrast the respect and high esteem that he reserved for the people of India:

My next enquiry to that of numbers, is the quality and description of the inhabitants. This multitude of men does not consist of an abject and barbarous populace; much less of gangs of savages, like the Guaranis and Chiquitos, who wander on the waste borders of the river of the Amazon, or
the Plate; but a people for ages civilised and cultivated; cultivated by all the arts of polished life, whilst we were yet in the woods. There, have (and still the skeletons remain) princes once of great dignity, authority and opulence. There are to be found the chiefs of tribes and nations. There is to be found an antient and venerable priesthood, the depositary of their laws, learning, and history, the guides of the people whilst living, and their consolation in death; a nobility of great antiquity and renown; a multitude of cities, not exceeded in population and trade by those of the first class in Europe; merchants and bankers, individual houses of whom have once vied in capital with the Bank of England; whose credit has often supported a tottering state; and preserved their governments in the midst of war and desolation; millions of ingenious manufacturers and mechanics; millions of the most diligent, and not the least intelligent, tillers of the earth. Here are to be found almost all the religions professed by men, the Brahminical, the Mussulman, the Eastern and Western Christians (speech on ‘Fox’s India Bill’; Marshall 1981: 389-90).

Burke continued to express his opposition to and strong disapproval of the practices of the East India Company and especially the corrupt practices of Governor General, Warren Hastings, with regard to the first long term settlement made by Hastings in which zamindars were to be given tenure for five years, a period thought to amount to a ‘permanent interest in his lands’. Within a few years, it was realized that the revenue farmers had plundered and impoverished the countryside as a result of the corrupt bargains struck between them and the company’s servants, including Hastings himself. Philip Francis, one of the members of the Governor General’s council, a man well versed in contemporary European social theory, put forward the argument that the Bengal zamindars were not simply the possessors of certain revenue rights that had become hereditary, but that they were the outright owners of the land from which they collected revenue.

Francis’s views could not however prevail and revenue policy was shaped by Hastings until he retired in 1785. However, Burke was convinced by Francis’s ideas and he included them in the reports that he wrote for the House of Commons Select
Committee in 1782 and 1783 (Marshall 1987: 120-122). Burke was of course to further express his distrust of Warren Hastings in the latter’s protracted impeachment proceedings, which Burke pursued with a certain determined and dogged perseverance that subsequently made him an object of derision and lampooning.

Burke in his speech on Fox’s India Bill goes into one of the processes that are considered to have defined and conditioned life in the Indian subcontinent, which is the continuous incursion of wave upon wave of conquerors, among whom many were plunderers. He then compares the effects of British colonization and how different and more ruthlessly exploitative was the presence of the British. He thus notes that ‘...several irruptions of Arabs, Tartars and Persians into India were, for the most part ferocious, bloody and wasteful in the extreme...’. In comparison to these the British entry had much smaller ‘effusion of blood’ as it advanced through ‘various frauds and delusions’ and by means of taking advantage of the divisions and animosity among the several power centers prevailing in the country. There was thus, relatively little force used. However, there was something commendable in the case of the earlier Asiatic conquerors they:

...very soon abated of their ferocity, because they made the conquered territory their own. They rose or fell with the rise or fall of the territory they lived in. Fathers there deposited the hopes of their posterity; and children there beheld the monuments of their fathers. Here their lot was finally cast; and it is the natural wish of all that that their lot should not be cast in a bad land. Poverty, sterility, desolation are not a recreating prospect to the eye of man; and there are very few who can bear to grow old among the curses of a whole people. If their passion or their avarice draw the Tartar lords to acts of rapacity or tyranny, there was time enough, even in the short life of man, to bring round the ill effects of an abuse of power upon the power itself (Marshall 1981: 401).

Under these earlier conquerors ‘the sources of acquisition were not dried up... and the general stock of the community grew by the general effort’ (ibid.)

Burke then comes to the English government. He feels that the Tartar invasion may have been ‘mischievous’ but the protection that Britain was extending to India was
actually destroying it. Comparing the British rule and its ill effects, with the Tartar invasion he further censures the manner in which India was being administered: 'It was their enmity, but it is our friendship. Our conquest there after twenty years, is as crude as it was the first day'. He is critical of the distance and aloofness that the British ruling class maintained with the natives: 'The natives scarcely know what it is to see the grey head of an Englishman'. He then goes on to express his serious disapproval of the manner in which young men were sent to India to govern the country. He describes their rapacity in the following passage, which is also a reference to the wholesale loot and draining of wealth that the country was being subjected to and which resulted in these young men carrying back with them immense amounts of wealth, which they then used to marry into the British aristocracy:

Young men (boys almost) govern there, without society, and without sympathy with the natives. They have no more social habits with the people, than if they still resided in England; nor indeed any species of intercourse but that which is necessary to making a sudden fortune, with a view to remote settlement. Animated with all the avarice of age, and all the impetuosity of youth, they roll in one after another; wave after wave; and there is nothing before the eyes of the native but an endless, hopeless prospect of new flights of birds of prey and passage, with appetites continually renewing for a food that is continually wasting (ibid.: 402).

III. Burke's Reflections.

There may be a variety of ways of reading and making sense of what was perhaps Burke's most well-known and controversial of political writings. Reflections on the Revolution in France is most obviously understood as a clear cut statement of opposition to the idea of natural rights. It also represents a dire warning of the consequences of a violent revolutionary overthrow of the existing order. Waldron points out a glaring inconsistency in Burke which arises from the paradoxical positions that he takes vis-à-vis the American and French revolutions. Thus, from 1775 Burke and his allies in Parliament were constantly attacking the North Administration for its conduct of American affairs. They urged conciliation with the colonists and openly supported the rebellion when it
broke out. However, Waldron notes that in 1789 when the French Revolution broke out on more or less the same lines, Burke was the first and most consistent person to denounce the developments (Waldron 1987: 79).

Waldron argues that Burke was not averse to deploying the rhetoric and language of rights and even on occasion the language of the natural rights movement. However, he firmly rejected the substance of many of the ideas that mark out the natural rights movement as a distinct philosophical and political tradition. He completely opposed the idea that human beings, on account of merely being human beings, had access to inherent natural rights that were independent of the social and political circumstances existent at a certain time. Burke was completely opposed to any political theory that privileged individual reason as the basis or touchstone upon which the legitimacy of existing political arrangements or institutions could be made. Instead, he believed in individual humility in the face of centuries old established traditions, habits and entrenched practices (Waldron 1987: 83).

There is thus a clear opposition between the Burkean emphasis on individual humility in the face of tradition and a more muscular and assertive individualistic rights based ethic. Waldron notes that Burke, for all his utilitarianism, exulted in the obscurity of the traditional order and its opacity to liberal reason (Waldron 1987: 91). Burke is of the view that the science of constructing a commonwealth or renovating it is like every other experimental science not to be taught a priori (Mitchell 1989: 111). In a passage, again characterized by its stunning prose, Burke has the following remarks to make on the futility of metaphysical abstractions inherent in natural rights:

These metaphysic rights entering into common life like rays of light which pierce into a dense medium, are, by the laws of nature, refracted from their straight line. Indeed, in the gross and complicated mass of human passions and concerns, the primitive rights of men undergo such a variety of refractions and reflections, that it becomes absurd to talk of them as if they continued in the simplicity of their original direction. The nature of man is intricate; the objects of society are of the greatest possible complexity; and therefore no simple disposition or direction of power can be suitable either to man's nature, or to the quality of his affairs. When I hear the simplicity of
contrivance aimed at and boasted of in any new political constitutions, I am at no loss to decide that the artificers are grossly ignorant of their trade, or totally negligent of their duty. The simple governments are fundamentally defective to say no worse of them. If you were to contemplate society in but one point of view, all these simple modes of polity are infinitely captivating. In effect each would answer its single end much more perfectly than the more complex is able is able to attain all its complex purposes. But it is better that whole should be imperfectly and anomalously answered, than that, while some parts are provided for with great exactness, others might be totally neglected, or perhaps materially injured, by the over care of a favourite member (Mitchell 1989: 112).

Burke is arguing for allowing societies to retain their complexity and bewildering diversity. No attempt should be made to order society along certain neat categories by drawing sharp boundary lines or employing sanitized conceptual categories like natural rights that do not have the remotest correspondence or congruence with actual conditions as they exist in society. Such an attempt will lead to a worsening of conditions in society and damage parts of society that may not be receptive to such categories and lines of ordering and demarcation. For Burke, the natural rights of men are of an essentially elusive character that cannot be captured by the stark simplicity of definitions. At best, thick descriptions can be used to evoke some aspects of their meaning to humans:

The rights of men are in a sort of middle, incapable of definition, but not impossible to be discerned. The rights of men in government are their advantages; and these are often in balances between differences of good; in compromises sometimes between good and evil, and sometimes between evil and evil. Political reason is a computing principle; adding subtracting, multiplying and dividing a morally and not metaphysically or mathematically, true moral denominations (Mitchell 1989: 112-113).

Waldron, himself a supporter and upholder of the natural rights tradition, concedes that rights based ideas while being popular in political theory have nonetheless remained
controversial. He has noted the reservations that a number of writers have expressed at the shift away from utilitarian ways of thinking and the greater movement towards more rights based conceptions embodied in contractarian modes of thought. Waldron, rather dismissively, describes all these misgivings about rights based claims as being the 'shadow' that is being cast by the increasing ascendancy of rights based ideas in modern political discourse (Waldron 1987: 2).

A discussion of rights based ideas and the many misgivings that have been voiced regarding them by their opponents needs to be informed of the long history behind these rights based claims and the counter claims of their opponents. Waldron points out that in much the same way that many contemporary rights based claims have their ancestors in the theories of natural rights and the rights of man that developed in the 18th and 19th centuries, the contemporary opponents of such claims also have a distinguished and long lineage behind them. Obviously, Burke's *Reflections on the Revolution in France* can be considered as one of the most distinguished and earliest of the ancestors of ideas opposing natural rights. Waldron rightly notes that there have been many issues in the discussion on rights that have remained 'remarkably constant' over all these long years. These are the abstract universalism of rights based claims, the individualism of rights, the tensions between rights and the demands of community, the use of social contract models in the theory of politics, the absolutism and oversimplification of the claims made by rights, the use and abuse of reason and a priorism in political argument, and the idea of natural rights (Waldron 1987: 3).

A consideration of the issue of rights based thinking as imperialistic is significant, especially with respect to Burke. Burke's position on these matters is rather interesting as he was a thoroughgoing imperialist and believer in the inherent goodness of the enterprise of the British Empire. However, this did not blind him to the excesses and injustices of the Empire in its various colonies. However, there is a possibility of arguing that western conceptions of rights are inherently imperialistic. For such an idea one has only to look at the views of Waldron himself who believes that in response to charges that western conceptions of human rights do not apply to non-Western societies the west must do justice to its own moral traditions, which would entail asserting them even more forcefully (Waldron 1987: 169).
This inherent imperialism of western rights based thinking, along with its abstract nature and claims to universalism, is especially difficult to accept for once colonized societies like India. There are specifically three aspects of the natural rights tradition which need to be considered in this regard. These are the abstract nature of rights based ideas, their claims to universalism and their a priori nature. All these three different considerations are linked. Uday Singh Mehta (1999) in an important study on the connections between British liberal thought and the colonial encounter in India has remarked on the ‘anthropological minimum’ that liberalism creates and relies upon in its theoretical formulations. He finds this ‘anthropological minimum’ as being one of the conditions upon which liberal exclusions arise, in spite of liberal claims to universalism: ‘And yet the exclusionary basis of liberalism does, I believe, derive from its theoretical core, and the litany of exclusionary historical instances is an elaboration of this core. It is so not because the ideals are theoretically disingenuous or concretely impractical, but rather because behind the capacities ascribed to all human beings exists a thicker set of social credentials that constitute the real bases of political inclusion’ (Mehta 1999: 48-49). It is then, precisely this ‘thicker set of social credentials’ that Burke is talking about when he complains about the abstract character of natural rights.

Burke’s critique of the a priori nature of rights is similar in content to his concern about abstractness. Natural rights tend to neglect the rich ‘thicker set of social credentials’ that for Mehta are vital for political inclusion. Natural rights thereby strip individual capacities down to a bare anthropological minimum. Burke emphasizing the importance of circumstances complained that circumstances which are completely neglected by many gentlemen ‘give in reality to every political principle its distinguishing colours and discriminating effect. The circumstances are what render every civil and political scheme beneficial or noxious to mankind’ (Mitchell 1989: 75).

An obvious reason for Burke’s opposition to natural rights would be that in their abstractness and a priori nature they neglect human circumstances. However noble natural rights may be in intent, they may end up with totally ruinous results, thereby rendering them ‘noxious to mankind’ for the simple reason that they fail to take into account circumstances or the surrounding context. Mehta points out that the ‘counterposing of theories concerning the rights of men with Burke’s alternative focus on
human beings in the concrete underscores the significance he attaches to specific and jagged dispositions — dispositions that are lost in the abstractions that concern themselves only with the rights of men' (Mehta 1999: 177).

There is another manner of understanding the Reflections on the Revolution in France that has been put forward by J.G.A Pocock who outlines two different ways of studying a document in the history of political thought. The first method is to consider the text as being intended by the author and understood by its reader with the maximum coherence and unity possible. With such an approach the historian’s aim would be to reconstitute the fullest possible interpretation available to intelligent readers at the relevant time. According to the second approach, the text may be considered as a ‘tissue of statements’ that have been organized by the writer into a single document, that still remains accessible and intelligible, whether they have been harmonized into a single structure of meaning or not. The historian’s aim would now be to recover these statements, the establishment of the patterns of speech and thought forming the various contexts in which they become intelligible and the pursuit of any changes in the normal employment of these patterns which may have occurred in consequence of the statements being made.

Pocock adopts the second approach in his reading and understanding of Burke’s Reflections (Pocock 1985: 193). Pocock has pointed out how he has earlier argued in an essay published in 1960 entitled ‘Burke and the Ancient Constitution: a problem in the history of ideas’ that important passages in the Reflections as well as some of Burke’s other writings and speeches need to be understood in the context of a tradition of common law thought established in the age of Sir Edward Coke. In Pocock’s essay being referred to presently, he argues that ‘comparably important passages’ in the Reflections can be situated in a distinct tradition of thought termed as ‘political economy’ (1985: 194). The point that Pocock makes with regard to both these traditions viz. common law thought established in the age of Sir Edward Coke and the political economy tradition, is that Burke’s writings, for our purposes his Reflections, can be read in both and that this will provide a better and richer understanding: ‘Burke’s response to revolution looks different when considered as that of common law constitutionalist, and

---

5 For a detailed discussion of the Common Law tradition, see chapter 3.
as that of an exponent of political economy; the prime need is to establish that it can be looked at in both ways' (emphasis added; 1985: 194).

The interesting point that Pocock notes about the term political economy in the 18th century is its varying degrees of specificity. It could be identified with the science of 'the wealth of nations' and Burke was himself a great admirer of Adam Smith. However it could also be understood to refer to a more complex and ideological enterprise that aimed at establishing the moral, political, cultural and economic conditions of life in commercial societies. This was a 'commercial humanism' which met the challenge posed by civic humanism or classical republicanism to the quality of life in such societies. The implications of a reading of Burke in this tradition are that his defense of the existing Whig order are shown to be couched in terms of an appeal to and a defense of the continuous refinement of manners and morals. Commerce is the 'sole agency capable of refining the passions and polishing the manners'. The central place in Whig ideology between the English and the French revolutions 'was occupied by the concept variously expressed as manners, politeness or taste' (Pocock 1985: 195-96). This emphasis on manners and politeness offered a defense against the 'explosive power of enthusiasm' which characterized much of the moving spirit behind the French Revolution and which Burke seemed to dread. Burke was thus a passionate defender of the established Whig order, an order that promoted the growth of commercial society. In the French revolution Burke perceived a threat to precisely this Whig order and he used the language and category of political economy in order to analyze the revolutionary threat and how best to respond to it (ibid.: 194-95).

Burke’s Reflections is thus an ideological defense of the Whig order in which an appeal is made to uphold the principles of decency, politeness and good manners. Pocock notes that the Whig order was one in which rather than there being a variance between the aristocratic and bourgeois principles, it was founded on an assumed identity of interests between a managerial landed aristocracy and a system of public credit in which rentier investment in government stock stimulated commercial prosperity, political stability, and national and imperial power (Pocock 1985: 195). The important point to note here is the similarity of interests between the landed aristocracy and those who benefited from greater government expenditure. The ideological defense of such a
political order invariably takes on an upholding of morals and manners and also the interests of the aristocracy. It is thus typically a form of politics meant to uphold a Whiggian political order. Pocock notes that the defense of a commercial order in politics, society and morality, ‘wherever it occurs down to Burke’s time and after, is invariably a defense of the Whig regime and generally of natural aristocracy’ (Pocock 1985: 195).

There are links that exist between Burke’s writings on India and his reflections on the French Revolution. Parallels emerge as a result of a similarity in circumstances, with the ‘uprooting’ of French society by ‘ideologues and speculists’ creating a pattern that could also be found in the ‘uprooting’ of Indian society by the commercial, financial and political activities of the East India Company (Bromwich 1991: 326). Mehta points out that for Burke the British Empire in India was nothing less than a revolution with all the ‘psychological naivete’ and ‘theoretical arrogance’ that he associated with the French Revolution. The underlying common thread that is to be found both in his writings on India and in Reflections on the Revolution in France is the concern with established communities. When communities are threatened, Burke’s empathy would then give rise to a need to protect them. Through a consideration of Burke’s writings on India and his reflections on the French Revolution, it is possible to trace the emergence of the themes that typically characterize contemporary multiculturalism. The next section looks at the specifically Burkean themes that form part of contemporary multiculturalism.

IV. Burke and contemporary multiculturalism.

This section argues that there are specifically two Burkean themes that resurface in contemporary multiculturalism. The first is the understanding of culture found in contemporary multiculturalism and the second is the kind of patronizing protection that multiculturalism offers to threatened and endangered groups.

Burke wrote in an imperial context that put forward for the British the challenge of ruling peoples in different parts of the world living under conditions of ‘multifaceted and lived pluralism’. This challenge of ‘multifaceted and lived pluralism’ was reflected in Burke’s writings through the deference shown towards communities and their associated customs, traditions and culture. This deference exhibited in Burke’s writings is translated into a conservative understanding of culture, where culture for him is a means rather than
an end. Culture matters as a background condition that is vital both for an individual’s self-recognition and also acts as a kind of cognitive map to help one make sense of others (see Bromwich, 1991: 317).

The writings of Edmund Burke are what impart the particular understanding of culture as a background set of referents that subsequently inform contemporary multiculturalism. The typically Burkean concern with settled communities, their antique traditions and mores, the value of these mores, and the perceived threats to them, are all elements found in contemporary multiculturalism with its often naïve and overly romanticized view of marginalized minority cultures. Further, multicultural theory has an extremely impoverished and shallow understanding of culture. This is not withstanding the fact that since the decade of the 1970s there has been within political theory what David Scott feels is the ‘contemporary inflation’ of culture. Scott goes on to observe: ‘Such concepts as “cultural rights”, “multiculturalism”, “the claims of diversity”, “the politics of difference”, “the politics of recognition”, and so on mark the new preoccupation with culture among political theorists. A little belatedly, some might think, nevertheless culture has now virtually become a term of art in the science of politics’ (Scott 2003: 93).

One of the reasons why there is such an impoverished understanding of culture in liberal political theory may be that anthropologists, for whom culture is supposed to be their own disciplinary object, have been conspicuous by their absence in the debate on multiculturalism. The interesting explanation that Scott has to offer for this absence of the anthropologist is that debates regarding multiculturalism are taking place around the public institutions of the metropolitan centre of the capitalist system, North America, whereas anthropologists have traditionally gone out to the peripheries to understand the culture of the ‘other’.

There are a number of very crucial questions that Scott poses such as why culture has become indispensable in liberal political theory? What are the conditions that have occasioned this new demand in political theory? The important observation that Scott makes is that it is not as if the idea of culture and difference or ‘alterity’, if it may be termed in that way, is absent in the writings of thinkers like Locke in the 17th century, Hume in the 18th century, J.S. Mill in the 19th century, and Isaiah Berlin in the 20th
The important point is that the idea of culture that has inspired the present writings by theorists of the late 20th century is different.

This idea of culture comes from within the canon of western thinkers belonging to the liberal tradition and Edmund Burke is the thinker whose idea of culture seems to have been accepted by contemporary theorists writing on the issues of multiculturalism and recognition. Further the idea of culture that these thinkers rely on is something that they have not consciously thought through, but merely accepted. This uncritical acceptance accounts for the shallowness, lack of refinement, and theoretical impoverishment with which the concept is used. Thus Scott argues: ‘It is true, of course, that thinkers such as Michael Walzer, Will Kymlicka, Chandran Kukathas, Joseph Carens, and Charles Taylor, have all variously mobilized some concept of culture, and sought in more or less explicit ways to express ideas about what culture is or how it is to be understood. But to a large extent these thinkers are less interested in culture per se than in identifying a culture-concept that best suits their political theory of liberal democracy’ (ibid.: 95-96). Scott goes on to complain that culture in political theory ‘remains oddly undertheorized, oddly underhistoricized; it is merely and fundamentally there, like a nonideological background, or a natural horizon’ (ibid.: 111).

The point about culture being merely there, as a ‘non-ideological background’, or a ‘natural horizon’ needs repetition as the idea that Burke had with regard to culture was precisely one of a background set of referents, a cognitive map that could help make sense of oneself and the other (Bromwich, 1991: 317). Apart from the uncritical acceptance of culture, its associated shallowness and theoretical impoverishment, there is further the construction of a very conservative idea of culture. Thus, a very Burkean conservative appeal to tradition finds a ready resonance in contemporary multiculturalism (see Metcalf 1995: 234).

Scott’s complaint relates to the lack of critical reflection regarding culture among political theorists. To sum up the critique of multiculturalism that this study is attempting to develop in the course of understanding the theoretical foundations of group rights,

---

6 Will Kymlicka, one of the foremost theorists of multiculturalism, notes that there are a number of ways in which the term culture can be used. Kymlicka himself uses the term ‘societal culture’—i.e., a culture which provides its members with meaningful ways of life across the full range of human activities, including social, educational, religious, and economic life, encompassing both public and private spheres’ (Kymlicka 1995: 41; see also Carens 1997).
there are two problems with regard to multiculturalism that have been identified. The first
is its conceptualization of the group wherein it has in a very uncritical manner accepted
what has been termed as a realist social ontology of the group. As a result of this the
group has been visualized to be a solid, internally homogeneous, monolithic and bounded
block (see chapter 1). Second these blocks have been filled with a single colour to make
the groups conceptualized as blocks into monochromes. Scott appreciatively citing James
Tully’s book *Strange Multiplicity* says that the time has come to move on from the
conceptualization of culture ‘as separate, bounded and internally uniform’. The time is
then ripe according to both Scott and Tully to leave behind this ‘billiard ball conception
of cultures, nations and societies’. 7

A further aspect of multiculturalism, specifically derived from Burke, is the need
to offer protection to groups and communities that are endangered or threatened. Burke
wrote on the various sites of the British Empire like America, Ireland and India.
However, when he writes about America he never mentions the need for any protection.
On the contrary, India and its threatened groups are certainly in need of protection. What
accounts for this difference in conduct? Simply put, Burke considered America and
England as existing on a footing of equality ‘that although the relationship is one of
imperial power and colony, it cannot be conceptualized along the same
superior/subordinate lines used to describe the relationship with India’. As a result Burke
turns to ‘a language of mutual affection among equals in the case of England and its
relationship with America (White 1993: 514) and resorts to a rather patronizing
protection when it comes to India.

7 In spite of his overall appreciation of Tully, Scott criticizes him for even his lack of criticality when it has
come to accepting a particular concept of culture. Thus, Tully is aware of the fact that culture as it has been
understood from the time of John Locke in the 17th century down to John Rawls in the 20th century has
been an incorrect understanding and that this has adversely affected liberal constitutionalism. However, the
fact that there has been a different understanding of culture that has represented a movement forward in
anthropology has been enough to convince Tully that this new understanding that anthropology has to offer
can be accepted and incorporated within political theory. Scott’s article is an important attempt to
understand the cultural component in the term multiculturalism and a reading of his article reveals that this
component is indeed very weak. Scott himself teaches anthropology and it is heartening to see more
anthropologists participate in this debate as this greater participation will ensure a better and theoretically
more sophisticated understanding of culture. Dipankar Gupta (2001), another social anthropologist,
referring to the attempt to accommodate multiple cultural identities within liberal democracies as this
‘gigantic intellectual churn’ feels that his own discipline cannot refrain from actively participating in the
ongoing debate.
The protection that multiculturalism has to offer to minorities can also be a patronizing one. Stephen White has attempted to understand Burke and his later mature writings, especially the controversial *Reflections on the Revolution in France* from the vantage point offered by his earlier ideas on aesthetics. Such a viewpoint he argues is able to provide answers to what exactly it was about 'the modern system of morality and policy' that filled Burke with such horror. White argues that Burke's reflection on aesthetics and his ideas on what constitutes beauty gives rise to 'a natural alignment of binary distinctions: sublime/beautiful, male/female, public/private' (White 1993: 512). From such ideas arises the conclusion that whatever is vulnerable or weak should naturally awaken the instinct for protection. The multicultural emphasis on the need to protect and promote vulnerable minority cultures, which has quite often been defended on grounds of aesthetic preference, stems from this patronizing Burkean concern to protect that which is weak and unable to defend itself.

V. Property Rights, the Legal system and Conservatism.
The most effective way of understanding the conservative implications of Burke's writings is by viewing the opinions that he expressed in conjunction with views prevailing on property in his times and specifically the new rule of property that was institutionalised in Bengal with the Permanent Settlement of 1793. David Washbrook has attempted to look at the 'conundrum of colonial India through the angle of the law, especially with regard to effective property rights in land' (1981: 650). Washbrook has pointed out how the British Raj emerged out of the political relations of Bengal in the middle of the 18th century. Slowly, the East India Company which had until the mid-eighteenth century been a mercantile/warrior institution operating within the structure of the pre-colonial state, began assuming the formal responsibilities of government and developing its own principles of state-craft. He mentions how these gradually developing 'principles, especially with regard to the rule of law and the nature of property right, usually are seen to have received their clearest expression in the Permanent Settlement of 1793, which also laid the foundations of the Anglo-Indian legal system' (ibid.: 651).

Among the many private rights that were conferred on the subject along with a guarantee against violation and infringement from all quarters, even the executive, was
the right to property. The development of a right to private property which the Permanent Settlement gave rise to, along with the creation of an independent judiciary and other accoutrements of a modern legal system are indicative of a transformation and reordering of Indian society along principles laid down by British Whig political theory and ideas of European physiocrats (Guha, 1963; Washbrook, 1981).

Eric Stokes in his celebrated work *The English Utilitarians and India* has pointed out that the Permanent Settlement was a frank attempt to apply the English Whig philosophy of government which had as one of its central beliefs that political power is essentially corrupting and inevitably abused, and that if power was to be exercised with safety it must be reduced to a minimum, even then keeping it divided and counterbalanced. However, Stokes writes that the most decisive feature of the Permanent Settlement was not the permanent limitation of the revenue demand or the curbing of executive power. It was the determination to introduce private property rights in land and uphold them through a Western type of legal system (Stokes, 1959: 5).

Washbrook further points out: ‘The scheme centred on promoting the commercial and economic development of Bengal by emancipating the individual from the dead hand of the state (and the land from the weight of taxation) and encouraging him to accumulate private wealth and property through the market. It was stamped by the philosophy of “possessive individualism”’ (Washbrook, 1981: 652). The Permanent Settlement was thus responsible for introducing into Indian society a capitalistic free market in all commodities, ‘including and especially land’ (ibid). This was indeed a significant change as the land had never been known to be held in Indian society in this manner as property which could be bought and sold.

Further, ‘parallel to this enunciation of the principles of “public” law, the Bengal authorities also attempted to define the bases of the “private” or “personal” law of their subjects’ (ibid). It is in this parallel enunciation of principles for the private or personal laws that one can trace some of the conservative implications of British colonialism that have been mentioned in this study. The reason for this is that the principles of jurisprudence that defined the personal law were in sharp contrast to those of the public law. While the public law was intended at “enlarging and safeguarding the freedoms of the individual in the market place”, and was thus based on principles relatively unfamiliar
to Indian society, the personal law was based on a traditional, scriptural understanding of religion, social norms and customs. While there seemed to be an attempt to free or emancipate the individual in the public domain dominated largely by the market, the very same individual was to be hemmed in and his/her sphere of free activity limited by the principles of the personal law.

We have then a situation of an individual being placed under the restrictions of his/her group and the consequent skewing of the rights discourse in favour of the group. This attribute of the Indian rights discourse of giving overriding emphasis to the group at the expense of the individual is a phenomenon rooted in colonial times. It is inextricably linked with the construction by colonial law of separate and distinct private and public domains.

Colonial policies and practices, which consciously acknowledged the existence of different social groups, were often enough, carried out without any sense of enlightened deference towards native communities. On the contrary the motives were often a cold and cynical calculation of what was best for the imperial presence, a calculation that could often work to the disadvantage of native society. As Susan Moller Okin points out, the British codified traditional family law systems within their colonies so that they would then be able to enforce their own idea of contract law relating to property and laws relating to crime, which were the laws that they really cared about (2005: 81).

To repeat, the contract laws relating to property and the laws pertaining to crime were British in origin and they (the British) were really concerned about enforcing them. Such laws were to form a part of the public domain. On the other hand the laws relating to family and religion were assigned to the private domain. These were laws that the British claimed to have merely discovered and subsequently given a certain fixity and firmness by codifying them. Burkean ideas which gave rise to a view of India consisting of separate, mutually exclusive, corporate groups, further gave rise to an emphasis on the preservation of indigenous law codes. This Burkean view and its implications can only be fully understood by taking into account the new property laws that were institutionalised.

---

8This points to the insidious link between British colonial practices and contemporary multicultural policies. Will Kymlicka (1995: 55) has mentioned that such British colonial practices and policies in various sites of the British Empire provide rich resources for multicultural theory. Kymlicka seems not to have noticed the cold cynical calculations and motives of the British colonizers in this regard. As a result he fails to notice that multicultural policies are tainted by such negative colonial associations.
by the British. The retention of indigenous law codes allowed greater control of the changes in property that had been set in motion. In other words the Burkean emphasis on protecting threatened communities which was in actual terms translated as the preservation of indigenous religious and family laws strengthened the precarious position of the British in which jurisprudence ‘played one code off the other in order to carve out the exclusive right of British officers to adjudicate conflicts over property’ (Kugle 2001: 268).

As a result of colonial jurisprudence creating a distinction between private and public spheres, with the latter public sphere being demarcated for contract and criminal laws and the former private sphere being demarcated for religious family laws, there are a number of harmful economic and social consequences. This division and demarcation actually led to a stifling of the capitalist potential of India. Indeed, this happened, despite the fact that a supposedly capitalistic free market had been introduced into the public domain. Further, colonial rule also had a number of retrogressive effects in the sphere of personal family ties with processes of nuclear family formation being reversed, discretionary and voluntaristic elements in family relations being suppressed and replaced by enforced prescription, and the position and independence of women declining (Washbrook 1981: 653).

Rather than the East India Company actually intending to or somehow indirectly bringing about a sort of transformation of Indian society and economy through the introduction of such novel ideas as ownership rights in land and thereby having a liberating, emancipatory impact, Washbrook argues that ‘the more carefully it is examined, the more does the Company state appear to be a continuity of the “ancien regime” and the less a revolutionary “liberating” government’. By ‘ancien regime’ Washbrook adds that he ‘means a state system strongly influenced by Islamic traditions of political centralization, extracting considerable quantities of surplus from the agrarian base and, in the eighteenth century if not earlier, undergoing a commercialization of its institutional forms’ (ibid.: 661, footnote 45). Washbrook harshly opines with regard to the nature of the early colonial state that it ‘operated under a “state mercantilist” form of economy in which the institutions of the “ancien regime” were made more efficient, brutalized and bastardized but, significantly, not dissolved’ (ibid).
This is a point reinforced by reassessments made by historians regarding the 18th century. P.J. Marshall points out that there are a number of distinguished historians who still depict the 18th century 'as marking a drastic change of course in Indian history'. However, he goes on to note that this consensus has broken down over the past 30 years or so: 'Much that is now written stresses a more evolutionary pattern of change and a considerable degree of continuity: continuities are found between the Mughal Empire and what was to follow, between the successor states of eighteenth-century India and early British rule, and in the history of peoples or areas never brought effectively within the Mughal system and yet to fall to the British' (Marshall, 2003: 3).

The legal system was thus premised upon a sharp demarcation and differentiation between the private and public domains, with both these domains having contrasting principles of law applying to them. Such a juxtapositioning of two contrasting public and private domains that British colonialism effected needs to be understood in some detail as it seems to provide a central characteristic of ordering the country. In many ways the creation of these two distinct spheres reflected the desire to maintain what was perceived to be India's 'difference'. The dialectic of difference and assimilation is important in an understanding of not just how the British Raj managed, organized and ordered the country, but also in developments that have taken place after independence. Thus,

---

9 The place that the eighteenth century occupies in Indian history has given rise to a lively debate among historians. As Marshall has pointed out, until recently there was a near consensus that the century represented rupture from the past as a result of the decline of central Mughal authority. Further, Marshall has noted this view has been challenged over the past three decades. It has historians neatly divided into opposing camps. There are those who would view the 18th century as a century characterized by disruption and discontinuity as a result of the decline of central Mughal authority. Irfan Habib is probably the most important historian to be put in this camp. His position on the eighteenth has been effectively summed up in the following manner: '...Irfan Habib's brief aside on the eighteenth century would seem to represent a summary of conventional thinking as it prevailed some twenty-five years ago: the decline of the Mughal Empire in the first half of the eighteenth century marked a setback to the strength of the Indian political, social, and economic structure, enabling British conquest to take place, and eliminating all such elements of internal growth as the previous regime might have fostered' (Ali 2003). There are historians who on the other hand would emphasize the continuities in the 18th century, such as Chris Bayly, Muzaffar Alam and Frank Perlin.

As has been noted the idea of the drain of wealth forms an important and respectable idea in any discussion of 18th century political economy of India. It may be useful to refer to one of Irfan Habib's articles, 'The Eighteenth Century in Indian Economic History' which has been included in the volume by P.J. Marshall on the eighteenth century in Indian history. In this article Habib points out that it is, 'very likely that in the 1780s and 1790s the annual Indian tribute to Britain approximated to about 4 million pounds or Rs. 4 crores'. He goes on to observe: 'The extraction of this tribute was what colonialism in its eighteenth century phase was almost entirely about' (Habib 2003: 111).
Metcalf argues that after independence the ideology of difference lived on. This was evident, according to him, even in the liberal rhetoric of the Nehruvian era, beneath which some of the basic structures put in place by the Raj endured and in which one of the most powerful was religious identity (Metcalf 1995: 234).

Returning to the distinction between the private and public domains, it was in the public domain that the ideal of assimilation and hence similarity was to be given a dominant position. It was the private domain that was to be the shelter of the overly romanticized Indian ‘difference’. This distinction between the private and public domains was of course created and reinforced by the new legal system and Metcalf has pointed out that the vision of the transforming power of the ‘rule of law’ was never abandoned. In fact it triumphed in the codes of civil and criminal procedure, proposed by Macaulay’s law commission in the 1860s. Codified law with all its certainty and predictability in the adjudication of disputes thereby created a public sphere where equality and justice were seen to be done.

Metcalf further adds that codifying procedural rather than substantive law had the additional advantage that such codes could incorporate the Benthamite and utilitarian desire for unity, precision and simplicity in the law. This could be done without challenging Hasting’s and Jones’s decision to utilize ancient Sanskrit texts as the basis of civil law. Metcalf thus concludes that the legal system of colonial India was able to accomplish an accommodation of both the assimilative ideals of liberalism, which found a home in the codes of procedure; and also the insistence upon Indian difference, which was ensured by means of a personal law defined by membership in a religious community (Metcalf 1995: 37).

The Transformation of Indian Society.

The enactment of the Permanent Settlement was then an attempt to translate into India certain British Whig principles as pointed out by Ranajit Guha (1963). However, this translation did not involve a complete and wholesale transformation of the country in the image of Whig Britain. The transformation of India that took place under the impact of British colonial rule rather than being a straightforward and rectilinear propagation of British Whig principles into the medium of Indian society was also to be refracted
through the prism of Indian difference. This perception of Indian difference was based on a particular Orientalist understanding of what constituted the true essence of India (see Inden 1986). Hence the need to preserve that particular Indianness through the category and device of 'difference'.

What needs stressing is that the colonial state, both in its earlier period and much later was particularly wary of tampering with or in any way altering certain traditional structures of Indian society. Many of these structures were considered as best left intact. The willingness of the colonial state to intervene and change such aspects of Indian society was a direct function of whether it thought such an alteration might lead to an undermining of the authority of the British colonial presence. Indeed, the willingness of the colonial state to intervene/interfere varied over time. One of the major barriers that prevented its intervention was created as a result of the British themselves. The demarcation between the private and public domains which colonial jurisprudence had created was itself a major obstacle, albeit one that the British had themselves consciously created, in the path of intervention.

Colonial wariness in intervening was perhaps most pronounced in the immediate aftermath of the 1857 mutiny. The Queen's Proclamation of 1859, which promised absolute non-interference in religious matters is a concrete embodiment of this attitude of wariness on the part of the colonial authorities (see Sarkar 1993: 1871). The conscious policy of restraining from intruding upon the inviolable native private sphere on the part of the colonial authorities, a sphere which was then left free for domination by the natives elites was thus in keeping with the shift in British policies after the events of 1857. The shift was from an Anglicist aim of creating a class of westernized Indians as conceived by Macaulay's famous minute on education in 1835 to the conscious courting and encouragement of the more orthodox or traditional Indian groups (Sinha 1995: 4).

Washbrook argues that it was the influence exercised by the native forces in Indian society that provided the vital revenue needs of the colonial state that in turn determined the extent of alteration, transformation and modification the state could bring about in native Indian society. Washbrook then believes that it was not so much the wariness on the part of the state to interfere in the religious aspects of native Indian
society that acted as a constraint on the state’s ability to remould and transform Indian society along its own desired lines. (Washbrook 1981: 656-666).

We can discern, then, at least three distinct positions when it comes to a question of the colonial state reordering and transforming native Indian society. The first is a simple and straightforward reordering on the lines of British Whig principles. The second was a slightly modified version of the first in which the transformation of Indian society did take place along British Whig principles, but this was done with a concession to Indian difference, especially in a kind of protected and sheltered private domain. In this second position too much explanatory power is given to the British unwillingness to interfere in religious and community practices. The third is a further modified version of the second in the sense that it seeks to account for the resistance to transformation not just in terms of traditional and religious resistance but more significantly in the pressure that was exercised on the colonial state by the intermediary supporting groups. These groups played the vital role of supplying the significant revenue demands of the colonial state.

In this manner we are able to see the subtle conservative implications of the new property rights through the introduction of the Permanent Settlement. To reiterate, the conservative implications of British colonial rule are to be found not merely in an oriental and exoticised understanding of Indian ‘difference’ but in the perceived resistance to any reordering by the intermediary groups supplying revenue to the state. Washbrook thus observes:

The practice of the Anglo-Indian law cannot be divorced from the political structure of the colonial state. It never achieved the autonomy from “the executive” which the late eighteenth century Bengal authority proposed for it. The law functioned in the main to regulate the relations of urban commercial groups in the interests of the colonial power. Its concern with “traditional” social forms, while no doubt reflecting a genuine desire to avoid social disturbance, also aided the collection of debt, which was of more than passing importance to an essentially extractive state (ibid.: 669)

---

10 For an account of the dispute between Philosophical Whigs and the Philosophical Radicals in Britain in the 19th century see Collini, Winch and Burrow (1983).
From Washbrook’s article at least two conclusions can be drawn. The first, which has just been mentioned above is the conservative implications that colonial law had on Indian society. The second is the stifling of whatever possibilities there may have been for an evolving capitalism and hence a large scale social transformation. From both these conclusions that have been drawn one can figure the fundamentally retrogressive impact of colonial law. This broader conclusion subverts the earlier, rather neat distinction that was made between the public and the private domains and which has the danger of giving one the misconception that the public domain was an essentially free and emancipatory domain while the private domain, on account of its being governed by religious personal laws, was retrogressive.

The point that Washbrook is making is regarding the comprehensively stultifying effects of colonial rule and specifically colonial law in almost all aspects of Indian society irrespective of the division between private and public domains. His conclusion is that the conventions of the law just did not move fast enough to accommodate the ‘social imperatives of market capitalism’. On the contrary they served to ‘shore up “antique” social institutions and rights as they did to pave the way towards a society based upon individualism and competition. They confused the definition of property right and maintained the personal/public law contradiction’ (Washbrook 1981: 675).

Rather than pinning the blame on the backwardness of Indian society it was actually the institution of colonial law viewed in the context of its interaction with native Indian society that operated to arrest the forces of change. While there may have been forces resistant to change in rural society, there were at the same time ‘a range of forces critical of the timidity of the law and demanding politico-legal changes more appropriate to market forces of capitalism’ (ibid.: 676).

A significant point that has been mentioned earlier as an important component of Washbrook’s argument and which he reiterates towards the end is the relative lack of social transformation that colonial rule had on Indian society. This should not be understood as a weakness of the colonial state as in terms of penetration and effect that the state had on Indian society, one can perhaps with a reasonable degree of justification

---

11 See also Irfan Habib’s chapter on ‘Potentialities of Capitalistic Development in the Economy of Mughal India’ in his *Essays in Indian History: Towards a Marxist Perspective*, Tulika, New Delhi, 1995.
say that it was often disruptive and overwhelming. Washbrook explains this apparent contradiction of an all powerful colonial state not having an overall transformative effect well:

Indeed, the greatest significance of the raj for Indian history may have lain precisely in the severity of its contradictions. These meant that it was unable to pick up the forces of capitalist development, which had been released partly as a result of its own actions, and support them politically in a programme of social transformation. The “dynamic immobility” of the Indian economy reflected, and was constrained by, a “dynamic immobility” in the social and political principles of later British rule. In effect, the colonial state proved a poor vehicle to convey the social imperatives of capitalist development, to the long-term cost not only of India but even of the metropolis itself. (Washbrook 1981: 714).

In other words Washbrook has noted a certain paradox with regard to the colonial state. It had immense powers of penetration at its command, its revenue extraction capabilities were considerable, and it had an awesome repressive and coercive apparatus. One would have expected such a powerful penetrative state to have a large scale transformative effect on Indian society. Indeed, the colonial state did have a disruptive effect on Indian society, in the negative sense that revenue extraction had disastrous effects on Indian society. However, it was also to play a conserving role in Indian society: there were certain social institutions that the colonial state felt must be left untouched and the force of the law was used in doing this. P.J. Marshall has noted this paradox of the existence of a vast colonial state machinery not effecting a large scale transformation in native society:

All this would suggest a formidable foreign intrusion producing a very sharp break in continuity in eighteenth-century India, at least for Bengal and for other areas dominated by the British. Yet, self-confidence about the powers of government was to a considerable degree nullified by caution in using these powers, which inclined the British to non-intervention and conserving Indian systems as they understood them. Moreover, whatever, the Company’s servants might intend, there were very severe practical
restrictions on what a foreign regime, even with a monopoly of overt force, could achieve in conditions in which it had only limited contact with the mass of the population (Marshall 2003: 30).

**A Rule of Property for Bengal - Ideological influences.** It is important to continue to focus on the period of the late 18th century as this was the initial context crucial for the enactment of the Permanent Settlement and its attempt to fashion Indian, or more specifically Bengali society, on the lines of Whig England. Ranajit Guha has pointed out, that ‘the idea of Permanent Settlement, relayed from stage to stage during two decades, passed through the whole gamut of contemporary economic thought, but never lost its direction’ (Guha, 1963: 18). With regard to the Permanent Settlement it is interesting to note that the one and only common point of agreement among the five leading men who were the architects of the policy, Alexander Dow, Henry Pattullo, Philip Francis, Lord Cornwallis and Thomas Law was the recognition of property as the basic principle of government. Apart from this common measure of agreement all five architects had diverging views that stemmed from widely differing intellectual affiliations that ranged from the mercantilism of Dow; to the physiocratic beliefs of Patullo and Francis that land and agriculture constituted the main source of value; to Law and Cornwallis who were free traders. We have, represented here then, the whole gamut of 18th century economic thought.

However, there was also a different set of administrators in India taking inspiration from Edmund Burke’s views who were opposed to Cornwallis’s Permanent Settlement. This resistance to the idea of Permanent Settlement and the application of British constitutional principles was to arise a little later in the second decade of the 19th century. The resistance came from a group of brilliant subordinates serving Wellesley. The important names in this group of subordinate administrators were those of Munro, Malcolm, Elphinstone and Metcalfe. The work of these men gave rise to a new and conscious alternative to an Anglicised form of administration. Stokes (1959) feels that their work deserves close attention as they were the dominant school in the formation of Indian policy when liberalism first began to exercise an influence on internal administration after 1818. There exists a certain unity of thought in the work of all these
administrators, according to Stokes, which makes it possible to speak of them as the founders of a political tradition. The important point that needs to be noted is that their work, in terms of the principles that it embodies, forms a counter to the spirit of the Cornwallis system (Stokes 1959: 9).

It is important to focus on this alternative set of thinkers who were opposed to the spirit of the earlier Permanent Settlement and its simplistic attempt at applying British Whig principles to India. One of the most important achievements of one member of this group, Thomas Munro, was the ryotwari settlement. Another member of this group, Charles Metcalfe, as resident of the Delhi territory and later as member of the Governor General’s Council resisted with the full authority of his office the extension of the Cornwallis system to the Ceded and Conquered (afterwards the North-Western) Provinces. He lived to see the ‘village communities’ there, made the basis of a revenue settlement and the executive and magisterial functions permanently reunited in the person of the collector (ibid). Stokes argues that as the ‘Romantic’ generation in British Indian history, Munro, Malcolm, Metcalfe, and Elphinstone revolted against the cold, lifeless and mechanical principles informing the Cornwallis system. They were opposed to its a priori and unhistorical attitude which imposed English ideas and institutions on Indian society. They were sceptical of its facile optimism in the virtue of human nature when left without interference by the government.

More significantly, they brought to the Indian problem Edmund Burke’s notion of history which regards human society as a continuum of the past, present and future (ibid.: 15). The common aim of this Paternalist school of administrators was to conserve the original institutions of Indian society rather than to construct that society anew. Metcalfe’s vision was a benevolent paternalism founded on the unchanging ‘village republics’ and he never contemplated a system of direct rule that would remould India in the image of the West (Stokes 1959: 18). This group of thinkers felt that the zeal for permanency found in Cornwallis’s system of Permanent Settlement had led to an upheaval in Bengal as a result of his misreading of the situation. The recognition of proprietary rights in the zamindars had effected a revolution in Bengal which had seriously undermined the whole societal structure, thereby making the task of administration that much more difficult (ibid.: 20). All four men saw in the Cornwallis
system an attempt at applying abstract a priori principles with little or no relevance to India. The Cornwallis system necessitated an impersonal bureaucracy instead of a human and tangible form of government (Stokes 1959: 20).

The Cornwallis system, after having put in place a system of justice and revenue, was essentially non-interfering. Thus, it did not have any sympathy for ideas like those held by the Evangelicals who attempted to transform Indian society by assimilating or subsuming Indian difference. As against the Cornwallis system, the Paternalist school believed in a conservation of Indian society in accordance with a certain essential timelessness.

More importantly, conservative consequences flow from both streams of thought, more so in the latter Paternalist school, probably owing to the greater influence that Burke exercised. Among the figures in the Cornwallis system, Philip Francis, probably the most important architect of the Permanent Settlement, was exposed to the ideas and influence of Edmund Burke the most. Francis was a great friend and admirer of Edmund Burke whom he met in 1773. Francis was to be of great help to Burke in the writing of the ninth and eleventh Reports of the Parliamentary Select Committee appointed to investigate Indian affairs, and both men collaborated closely in the impeachment trial of Warren Hastings. However, it was Francis’s position on the French Revolution that caused a break in their friendship, a friendship that both men had cherished so much earlier (Guha 1963: 82).

A significant voice of opposition to the whole idea of Permanent Settlement was John Shore. In expressing his opposition, Shore was to negate some of the most important and central ideas of the main architect of the Permanent Settlement, Philip Francis. In fact Shore has often been considered as belonging to the same political tradition as Francis, an idea that Ranajit Guha thinks is misleading (Guha 1963: 187). There may have been certain similarities between Francis and Shore. In fact Guha feels that Shore was politically closer in his views to Francis than Governor General Hastings. This does not, however, warrant a placement of Shore in the same political tradition as Francis. Guha then proceeds to bring out the many contrasts in the personalities of Francis and Shore (ibid.: 188). The important point about Shore is that in his rejection of the ideas of the Permanent Settlement he was to become the forerunner of Munro and his associates in
the Paternalist school, who were to subsequently reject the Cornwallis system. On the most outstanding political issue of the 1790s, the French Revolution, Shore was in opposition to Burke in his enthusiastic support for the revolution. Inspite of this opposition on the issue of the French Revolution, Shore displays a distinct Burkean influence as well and Guha observes that 'his views appear to be placed at a neatly calculated middle point equidistant between Burke and Francis. They also illustrate his geometry of decision-making on any problem where two positions were given at opposite extremities' (Guha 1963: 189).

The central thread of the argument perhaps needs to be mentioned. The conservative implications of Burke's views on India can be found in the influence that he exercised on two rival groups of Indian administrators, the first group led by Cornwallis who favoured the Permanent Settlement of 1793 and which included amongst its members Philip Francis. This group, favouring the Cornwallis system of Permanent Settlement, attempted to fashion India according to English Whig principles. Burkean ideas fitted well with the ideas of Cornwallis and the Permanent Settlement as they complemented each other. Thus, contract laws relating to property were assigned to the public domain while Burkean ideas with respect to the continuation of communities and Indian difference found a home in personal laws that pertained to the private domain. This division and demarcation of separate public and private spheres was in line with the transformation of India that was taking place according to Whig principles. This translation or transplantation of Whig principles, rather than involving a radical transformation of Indian society, had on the whole negatively conservative, indeed stultifying effects. Therefore, the rhetoric of the transformation or fashioning of India along English Whig principles should not deceive us into looking for large-scale social transformation.

Conclusion.

Burke comes across as an ambivalent and indeed confusing character. How is one to make sense of the rousing parliamentary speeches in which Burke seems to be upholding vigorously the rights of the colonies and upbraiding the British Empire for the ravaging effects that it was having on native colonial societies? His concern for and anguish over
the plight of the colonies was genuine. This concern and anguish and its sources are captured well in the following remark made by the left wing political scientist Harold Laski: 'the essential Burke is, no doubt, a great and generous man, the springs of whose compassion were as wide as they were deep' (quoted in Mehta 1999: 156). Obviously a convincing explanation is that native societies, colonized by the British were, according to Burke’s concerned communitarian perspective, ancient communities that were threatened. Hence they needed to be protected.

In the influence that Burke exercised over the administrators following the Cornwallis system, the distinction between the private and the public domains becomes important. It is the private domain with its native laws that becomes the shelter for the protection of Indian difference. Further, the public/private distinction with an accent on a modern market system in the public domain did not necessarily mean a great forward movement in terms of forces of production in the economy as it has been noted that the Cornwallis system had comprehensively stultifying effects, most notably the stifling of an Indian proto-capitalism (Washbrook 1981).

The influence of Burkian conservatism was more straightforward in the case of the Paternalist school of administrators relying on a simple appeal to conserve the original institutions of Indian society rather than constructing Indian society on the lines of English Whig principles, as in the case of the administrators following the Cornwallis system.

In an assessment of Burke, especially after the extended discussion on permanent property rights in land, his own stout defense of property rights needs to be kept in mind. What further sets Burke apart is his support for and upholding of the privileges of the aristocracy. His views on property, his upholding of the privileges of the aristocracy, his outspoken views against the upheaval caused by the French Revolution, alongwith the overall conservative thrust of his ideas would make Burke a figure of some revulsion for many on the left. Strangely this has not been the case and the left wing political scientist Harold Laski has commented approvingly of Burke’s progressive views on the colonies arguing that ‘on Ireland, America, and India, he [Burke] was at every point upon the side of the future’ adding further that ‘he was the first English statesman to fully understand the moral import of the problem of subject races’ (quoted in Mehta 1999: 155).
Isaac Kramnick (1983) has noted that ‘there have always been those on the Left fascinated by Burke’. With respect to the Left’s ambivalence regarding Burke, Kramnick goes on to say: ‘Whatever, it is clear the Left has read Burke, too, and read him thoroughly’ (Kramnick 1983: 189). Kramnick has also noted how Burke in the 19th century was appropriated by Victorian liberals. His philosophy was considered by many, like his 19th century biographer, John Morley to be ‘at bottom Benthamite utilitarianism’, the main reason for this being Burke’s rejection of natural rights and other abstract and absolute principles (ibid.: 194). Further, Burke’s rejection of metaphysical ideas and abstractions like natural rights had caused him to be enlisted in the camp of the positivists.\(^\text{12}\)

However the attitudes of two leading left-wing political scientists of the 20th century, Harold Laski and C.B. Macpherson towards Burke are interesting. In the case of Laski, as already seen in his appreciative quotation cited above, there is general praise for Burke and his compassionate views especially with regard to the suffering of the colonies. However, the Marxist political theorist, C.B. Macpherson views Burke as an apologist for market society, in short ‘a theorist of possessive individualism, four square in the liberal tradition’ (ibid.: 201-202). Kramnick has commented that Macpherson has effected a two-stage transformation of Burke through a reading of him. The first and ‘less surprising step involves emphasizing Burke’s writings on political economy’. In such a reading Macpherson finds a number of bourgeois assumptions about human nature; he finds a blatant defense of laissez faire; a horror at government regulation of market forces as in some way an infringement and violation of the laws of nature and hence of God. Macpherson thus places Burke very close to Adam Smith and his idea of the invisible hand, although in Burke there can be discerned a theological element of the invisible hand as in some way being the hand of God.

\(^{12}\) Kramnick further observes: ‘What happened to Burke at the hands of the Victorian liberals is of crucial importance. It represents the first and most important step in the embourgeoisement of Burke, his capture by the bourgeoisie, and his enlistment to further their cause and their interests. His aristocratic biases as displayed in his writings on France and India are pushed to the side and writings on America are pushed front and center’. (Kramnick 1983: 196). There were thus many resources in Burke’s writings that could be used by the bourgeoisie to defend and maintain the status quo in which they dominated. Thus, Kramnick goes on to observe: ‘The existing order was now the bourgeois order and it had to be defended against the abstract and speculative schemes of new restless and insidious minds, those of tampering anarchists and socialists, utopian and Marxist’ (ibid.: 197).
It is in the second stage of the argument regarding Burke that Macpherson makes the claim that there is nothing surprising, inconsistent or problematic in Burke’s simultaneous championing of both a hierarchical society and a capitalist market economy. In fact he believed the latter needed the former. Thus the hierarchical ordering of society, while it may seem to sit in a relation of apparent contradiction with a modern capitalist market, is exactly what the latter needs as it provides the necessary subordination that a class based society with its logic of class domination requires. It is precisely this second stage reading of Burke, carried out by Macpherson, which can provide a hint to the problem or the paradox that has been noted earlier with regard to Burke’s progressivism when it came to the plight of the colonies on the one hand, and his unabashed advocacy of the enterprise of the British Empire on the other.

It needs to be remembered that Burke remained a throughgoing imperialist. Therefore could one conclude that Burke’s apparent progressivism regarding the colonies and his conservative defense of threatened communities, were nothing but a roundabout justification for the continuation of the empire? Was Burke’s progressive defense of the various sites of the empire, along with his conservative upholding of the traditional order ultimately contributing to, perhaps unknown to even him, a larger function of the continuation of the empire? It might be a little unfair to assess the 18th century Burke with 20th century standards influenced by such momentous historical events as decolonisation. One would do well to credit Burke for the sympathy that he expressed for the colonies and appreciate the fact that Burke spoke out so many times against the atrocities of the East India Company.

However, Burke’s ideas, to the extent that they contributed to the constitution of a rights discourse in India, can largely be held responsible for imparting to that discourse a significant element of group and communitarian consciousness with a reinforcement of conservative value systems. To go back to the method outlined at the beginning of this study in the first chapter, the author’s intention at the time of writing needs to be recovered. In the case of Burke one can say without too much difficulty that a significant intention was a conservative emphasis upon protecting threatened communities. Having recovered an author’s intention it is also important to realize that the actions of the author do not remain confined to the context in which they were first performed but have much
wider ramifications that are produced in an open-ended series of effects. Thus to quote Pocock we have to ‘concern ourselves with the author’s indirect action, his posthumous action mediated through a chain of subsequent actors’ (Pocock 1985: 6). The effects of such ‘posthumous actions’ that are being dealt with here then, are the overbearing influence that the group exercises in the rights discourse in India; and further the emphasis on protecting marginalized minority communities and their cultures with all its conservative implications that are to be found in contemporary multiculturalism.