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ESSAYS

DIFFERENCES AMONG DIFFERENCE

Martha Minow*

Why I started to look at difference is not entirely clear to me. I would like to say it's because of the Sesame Street song, "One of These Things is Not Like the Other" — and I do think that working with that puzzle is really practicing legal reasoning. But Sesame Street came along after I was launched in my fascination with differences.

Maybe it's because I was the kid in a wheelchair for a while or because mine was one of only two Jewish families in the school. For whatever reason, the impact of traits of difference on people's lives and the struggle to battle discrimination while retaining pride in one's own identity seem central and constant in my inner dialogue with the world. The analogies and distinctions across experiences of difference also fascinate me. How is religious identity like and unlike gender? How is a physical or mental disability like and unlike linguistic difference? How is sexual orientation like and unlike ethnicity? How are any of these things like and unlike age?

It may be somewhat paradoxical, but in looking at questions like these, I have come to realize that a major way of knowing, or believing we know, anything in our culture, is through comparison. And yet — and here is the paradox — we tend not to assert what we know as a comparison but instead to ascribe the difference, when we see it, to one item in the comparison pair. We say, "women are

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different," "people with disabilities are different," "members of religious minorities are different" instead of seeing these differences as points of comparison otherwise known as gender, capabilities, religious identity, and so forth. Making this point is like realizing that we all have ideologies, it is not just radicals who do — but the ideologies that are shared by a majority or a dominant group recede in the background and only those who are different seem to have one.

The hidden assumption that differences are intrinsic rather than a feature of a process of comparison thus helps expose another hidden assumption: There is an unstated norm used for comparison that so often implements a hierarchy or message of superiority and inferiority. And there are other, related assumptions: that all of this can be viewed free from anyone's own perspective; that there are no important and competing perspectives one needs to consult; and that the burden of proof in case of doubt is on those who want to make the change. Some of these assumptions have been well articulated by feminists, some by advocates for persons with disabilities, some by lesbian and gay rights activists.

Can we root theoretical insights in practical struggles for change, and learn from parallel struggles engaged in by different kinds of people? If we try, differences across different groups will also become apparent. It really is very complicated.

I remember my first year in college: the lights would be out and my Pentecostal Catholic roommate would say to me, "Tell me again why you don't believe in Jesus Christ." I was the first Jewish person she brought home to meet her family, and her younger sister sent me a Christmas card saying, "I liked you; too bad you will burn in hell." Over the year, my roommate tried hard to understand and one day presented me with a canvas banner to hang over my bed, like the canvas banner on her wall, except mine had a Star of David instead of a cross. I had trouble explaining why I didn't want to hang it, just as I had trouble explaining why I didn't wear a Star of David around my neck, as she wore her cross. I was frustrated by her apparent inability to understand that our difference could not be understood simply by analogy, and by her conviction that, point for point, we'd be the same or have comparable practices.

It was not until last summer, some fifteen years later, that I understood my own failure to cross over to her world view. This realization occurred one day at the beach. I saw a woman wearing a cross and felt a familiar and yet unexamined discomfort with what I took to be her broadcasting of her religion, and her membership in

the majority group. (Although now I realize that Christianity is complex, and a Catholic, in some communities, might well feel like a member of a minority group too.) I suddenly realized, as I saw her bending in the sand to help her children build a sand castle that she may not necessarily think that wearing the cross was broadcasting her Christianity, but instead that it was an expression of her faith, her community, and her commitment to teach her children. It's so hard. We cannot know about differences without empathizing, but empathy itself can be misleading about how much we do not know. There is a Korean saying: Every finger can hurt. To that, I guess I'd like to add — in its own way.

Sometimes I think that exploring just this problem of incommensurability and uniqueness offers a way out of the dilemmas of misunderstanding and prejudice, because if we could all see how we are all unique, then we'd also see how we're all really the same — in our uniqueness. That is the paradox. It's like the Monty Python scene of the host of people all chanting: "I am unique." I just want someone to shout back: "Speak for yourself!"

There is something alluring about the idea that we all share uniqueness. But there is another paradox. Some of us are unique because we reject even this effort to fold each of us within the evolving cloak of liberalism. We do not see each separate and unique person as always and fundamentally the important unit of analysis, but, at times, see family, ethnic group, religious community, or other group as somehow prior and critical to who and what we are. My individual uniqueness then arises in part because I am not solely an individual; I am also inextricably a member of my group. So then how can I join hands with all other unique individuals in the happy dance of autonomous individualism and personal rights and liberties?

This is one but hardly the only source of the puzzle I'd like to name. I have called "the dilemma of difference" the difficulty of developing ways to break out of stigmatizing treatment of a trait of difference. Ignoring difference risks perpetuating it, as when the class is instructed in English despite the non-English speaking student; but focusing on difference also risks creating new kinds of stigma, as segregated special classes and programs so routinely do. The solvent of individual rights does not seem responsive to this problem because it either assimilates the individual to the norm of the generic — and thus nondifferent — person, or else calls for individualized accommodation, while leaving the larger structure untouched. Some group-based notion was critical in devising bilingual

education, affirmative action, parental leave and so forth. And yet, the ethic of individual rights and equal opportunity has also been critical in challenging historic exclusions from schools, employment, transportation, clubs — indeed from mainstream life — on the basis of race, religion, gender, sexual orientation, and disability.

Thus, individual rights rhetoric is important, but I think only as a tactic used deliberately in the struggle around the dilemma of difference. Group rights may be another tactic. I myself am most interested in exploring relational notions: ideas that locate the problem not in the “different” person but in the relationships or institutions that assign the difference. The wheelchair is a severe impairment only in buildings that are inaccessible; the language barrier is a barrier not just for the non-English speaker but for everyone who cannot talk with her, so the solution must reach them all.

An example in the context of hospital treatment of persons with AIDS arises when medical staff want to know immediately who has AIDS, while patients want to avoid large signs outside their rooms announcing that information. The solution to this dilemma is “universal isolation” — the development of hospital-wide practices to treat every patient as though the AIDS virus were present. Granted, this is a boon to rubber glove manufacturers. It is a protection against the spread of a variety of other diseases and infections, too. But, we all know the objections to this kind of solution: it is too costly; it is inefficient; it ignores real differences. The AIDS example suggests that we can avoid stigma by transforming the norm against which difference is defined. Some people at times want to assert their differences and resist inclusive practices that render them invisible. This is yet another challenge in addressing dilemmas of difference.

For me, the dilemmas of difference engage the debates over rights and inclusive solutions, over utilitarianism and over dignity, and, indeed, over conceptions of what we as human beings share and what we owe one another when we do not see that we share.