

Discussion

A continuation from the previous issue .

RESPONSE TO PLAMEN MAKARIEV'S COMMENTS

*Slobodan Divjak**

Honorary President of International Philosophical School Felix Romuliana,
Zaječar, Serbia
e-mail: slobodan.divjak945@gmail.com

I would like to express my gratitude to Plamen Makariev for his involvement in the discussion on the topic of liberal democracy and cultural diversity, in which he also reflected on some of the theses I presented in my text "Communitarianism, Multiculturalism, and Liberalism." With his subtle analyses of the given topic, he significantly contributed to its perception from different angles. Since he is a theorist who is well versed in the matter in question, it would be my pleasure to respond to his remarks regarding my article.

The central issue Makariev's remarks refer to is, in his opinion, my failure to distinguish between descriptive and normative communitarianism. However, my position is that this distinction, in principle, cannot be established as the concepts of communitarianism and multiculturalism developed during the 1970s and 1980s insist on a connection between the system of objectively existing particular cultural traditions of specific ethnic groups on one side, and moral and legal normative orders that aim to strengthen these traditions on the other. In this sense, a distinction can only be made between radical and moderate variations of these movements. But both include an inherent request for formal recognition of components of their cultural

traditions – a request for their specific cultural and political rights to be legally recognized so that individuals can sustain their status as members of those cultural communities. Without insisting on that connection in which the specific customs and fundamental values of an ethnic group are the basis of its moral and legal order, there can be no modern multiculturalist and communitarian movements. For example, in America, which is currently a typical liberal state not based on an ethnic principle, ethnic groups exist at the societal level but are not formally and legally recognized as such. As long as these groups do not demand specific cultural and political rights but accept the current American constitutional order, they cannot be treated as part of a modern communitarian movement, regardless of how much they adhere to their customs in private life.

* About the author: Slobodan Divjak was nominated two times for membership in the Serbian Academy of Sciences and Arts. He has written eight philosophical books. His book *Problem Identiteta* [The Identity in Question] is the most quoted Serbian philosophical book since the Second World War. He is the founder and an honorary president of The International Philosophical School Felix Romuliana (Serbia, Zaječar).

The theoretical exponents of both communitarianism and multiculturalism are either moderate or radical critics of purely formal liberal principles because they treat these principles, together with a hypothetical social contract, as mere intellectual concepts that, while being applied, commit violence against real social life and real history. Therefore, the representatives of both communitarianism and multiculturalism are supporters of a normative reductionism with its perspective that norms are an expression of existing internal practices of narrower or wider communities, including state communities. In such a conceptual framework, norms always have an inferior character – they can only reinforce what already exists as a way of life in each community. For example, Carl Schmitt, like all leading ideologues of Nazism, insisted primarily on racial homogeneity, which either exists or does not exist; if it does not exist, it cannot be produced by any norm. Norms, according to him, can only maintain and strengthen racial purity. But even the most successful norms of this type must always be reexamined from a pre-legal point of view. Pre-normative, pre-constitutional, pre-legal social conditions are the essence of every norm.

Racism, which Makariev treats as normative communitarianism, cannot be viewed as neutral concerning the primordialist approach to a particular culture (e.g., the hypostasis of the significance of blood and soil) also found within radical multiculturalism. The Nazi ideal of the “Aryan” race as superior to other races has its origin in an ethnolinguistic notion. Modern advocates of racism generally no longer insist on the superiority of their race but instead profess a belief in racial equality. But they do inherit from more standard accounts of biological racism the thesis of interracial mixing being unacceptable in the name of preserving racial “purity.” For example, a part of the French radical right does not label Algerians living in France as its citizens as racially inferior, but rather unwelcome. The message sent to Algerians is that their place is in Algeria, not France. Based on the premise that interracial mixing is unacceptable, the ideology of apartheid of a new type emerged; new because it is not propagated by members of the white race, but rather non-white. Thus, in America, African American men and women within the radical multiculturalist movement emphasize the demand for racial separation in schools.

I, of course, make a distinction not only between different types of political cultures (aside

from liberal and non-liberal) but also between moderate and radical communitarianism and moderate and radical multiculturalism. Nevertheless, I think that the way of establishing and justifying norms in both orientations is the same, but with different implications for liberal democracy. Both establish norms in different specific socio-historical contexts. Different types of culture, which in a broader sense can be interpreted as a way of human life, give rise to different types of norms. Thus MacIntyre, who is certainly neither a racist nor a Nazi, points out in connection with how norms are justified: “Philosophical theories give organized expression to concepts and theories already embodied in forms of practice and types of community” (MacIntyre, 1998, 390).

I disagree with Makariev's position that multiculturalism as such cannot be sharply opposed to liberalism. Because multiculturalism is also expressed in its radical variations. This opinion is shared in a way by Will Kymlicka. Considering that polyethnic and representative minority rights are compatible with liberal democracy, he warns that the demands of minority ethnocultural groups for self-government may jeopardize the integrative function of citizenship and unified state-legal identity:

Both representation rights for disadvantaged groups and polyethnic rights for immigrant groups take the larger political community for granted and seek greater inclusion in it. Demands for self-government, however, reflect a desire to weaken the bonds with the larger political community, and indeed question its very authority and permanence.... In the case of self-government rights, the larger political community has a more conditional existence. National minorities claim that they are distinct ‘peoples’, with inherent rights of self-government. While they are currently part of a larger country, this is not a renunciation of their original rights of self-government. Rather, it is a matter of transferring some aspects of their powers of self-government to the larger polity, on the condition that other powers remain in their hands. In this sense, the authority of the larger political community is derivative.... Self-government rights, therefore, are the most complete case of differentiated citizenship, since they divide the people into separate ‘peoples’, each with its own historical rights,

territories, and powers of self-government; and each, therefore with its own political community as primary, and the value and authority of the larger federation as derivative (Kymlicka, 1995, 181–182).

Thus, the right to self-government, or what I call the right to political autonomy on an ethnocultural basis, may encourage minority groups to assert demands for a transfer of more state union competencies to themselves, leading to their further isolation in self-sufficient entities – in “states within states,” based on the people not in the political but in the ethnic sense of the word, whose members are guided by purely ethnic rather than political criteria when voting. In these situations, the request for secession would be a natural last step. The main internal cause of the disintegration of the former Yugoslavia is the fact that the dominant concept of the nation in all its republics was not a liberal, state-territorial but ethnocultural notion. If someone in Croatia declared himself a Catholic by faith, you could accurately conclude that he was not a Serb; and vice versa, if someone in Serbia declared himself an Orthodox, you could have known for sure that he was not a Croat, which testifies to the fact that religion as an integral component of particular culture was not separated from the nation. The dominance of the ethnocultural notion of the nation in the mentioned area is proved by the fact that in the first parliamentary elections, ethnic parties convincingly won everywhere. Even after the disintegration of Yugoslavia, sharp conflicts between different ethnicities persisted in its former republics. Bosnia and Herzegovina would have long ago disintegrated into three different ethnic entities in the form of mutually independent states if there were no strong external pressure against it. In Macedonia, Macedonians and the Albanian minority have long lived not together but side-by-side. Even though after the break-up of Yugoslavia Macedonia was led by the very moderate politician Kiro Gligorov, the Albanian minority has continually demanded an increasing degree of political autonomy for itself. In Croatia, despite the mass ethnic cleansing of Serbs, there is still a great deal of hatred between the Croatian majority and the Serbia minority. I am writing this as someone who never supported Milosevic's ethnonationalism.

Both communitarians and multiculturalists reject moral monism and therefore Kant's categorical imperative, which is otherwise compatible with the pluralism of ethical conceptions derived from expe-

rience because this imperative is a negative principle and as such, is at a higher level of abstraction than the previously mentioned ethical conceptions. It has a selective function: Only those ethical conceptions that cannot pass the test of universality (e.g. racism) are rejected.

However, even among multiculturalists and communitarians, there are radical pluralists (ontological pluralism) who advocate the thesis of the incommensurability of different forms of life as a system of customs and substantial values. Thus, different forms of life or different cultures are treated as pure particularities that cannot be assessed by any universal standard, even the basic one. Such an approach can be described as value relativism because it equates all forms of communities in terms of values, even those in which people do not have equal rights in the formal sense. This approach leads its followers to the justification of internal customs and substantial values, i.e. particular norms embodied in existing practices and interactions. Of course, they are therefore forced to reject any form of transcendent, trans-contextual critique and to accept only immanent, intra-contextual critique. If any universal standard is rejected, then the question arises as to how to criticize Nazism, slavery, sharia, communities in which there are such customs as disregard for individual rights, stoning of adulteresses, burning of widows, public flogging, if these customs are an expression of long-standing internal cultural traditions. Many multiculturalists and communitarians hold “there is an irreducible plurality of valuable goods, activities, and ways of life that are conflicting and often uncombinable and that sometimes when they come in conflict with one another, they are incommensurable... these goods can (not) be assessed, compared, and hierarchically ordered by a common measure” (Mehta, 1997, 510).

As John Gray would say, in his communitarian-postmodern phase, incommensurable values are inserted into the collective identities which are not chosen but inherited:

In political milieus which harbor a diversity of cultural traditions and identities, such as we find in most parts of the world today, the institutional norms best suited to a *modus vivendi* may well not be individualist institutions of liberal civil society but rather those of political and legal pluralism, in which the fundamental units are not individuals but communities. In polities that are plural or di-

vided, the legal recognition of different communities and their different jurisdictions may well be mandated on the Hobbesian ground that it promotes peace. Such a legal pluralism is justifiable also on the Herderian ground that it allows even people who are comingled in the same territories or human settlements to recognize their cultural identities in the legal order to which they are subjected. (Gray, 1995, 136).

According to that standpoint, "all groups, including majority groups, receive the right to establish ethnic autonomy to protect legally their particular cultural traditions so that legal pluralism would be introduced to such a state: each of these groups would have a legal system that would protect its particular tradition. Such a state would be temporary *modus vivendi* based on a feeble consensus of these groups to co-exist in the same state, whereby the legal order of the latter would be reduced to a protocolary or symbolic one. That state would no longer be a civic state. Each of these groups would live independently of groups with different cultural traditions" (Slobodan Divjak, 2018, 96).

In the text published in the *Balkan Journal of Philosophy*, I pointed to the following articulated by Michael Dusche: "radical multiculturalism claims that cultural groups, not the individual should be the yardstick for considerations of justice, because the group offers the individual the indispensable good of being rooted in the community and since membership in a culture is not voluntary, the abolition of culture leads to the uprooting of individuals.... radical multiculturalism risks falling prey to self-defeating normative relativism" (Dusche, 2004, 238). Again, not only "normative" communitarianism (in my view, without the requests for the legalization of group rights neither communitarianism nor multiculturalism can exist) but also radical multiculturalism "stand in stark opposition" with the liberal system.

Two types of universalism

Makariev's view of universalism is different from mine. I distinguish substantialist universalism from that of a purely formal character. I associate substantialist universalism with the metaphysically understood all-encompassing universal reason (*Vernunft*). Metaphysics ontologizes reason, i.e. treats it as the universal substantial basis of all that exists. More precisely, all existing empirical forms

are shown, from the metaphysical point of view, as phenomenal manifestations of the universal substance of reason. To that extent, such a concept of reason manifests itself as an all-inclusive totality within which the necessary internal relations between its moments rule. What is not included in that totality belongs to the sphere of contingency. Thus, empirical moments, from this perspective, have a secondary role for their essence lies outside of themselves in the sphere of reason as purely rational thinking. All differences are essentially reduced to differences within an all-encompassing universal reason.

According to Hegel, reason is deprived of any outside conditioning which makes it absolutely non-conditioned and independent, based in itself. Unlike understanding (*Verstand*), which is determined by empirical data that exist outside of it as an independent positive being, reason contains everything "other" within itself (the empirical, the sensual, the particular, the final), and becomes a self-positioning, self-developing, and self-uniting power. Therefore, any empirical given is nothing but a phenomenal manifestation of reason as an all-encompassing principle. It is not an empirical history but a conceptual, teleological one: What was potentially at its beginning is at its end, with all its potentials completely realized.

As a critic of metaphysical ontologizing of reason, Kant ascribes to reason a priori status. In his *Critique of Practical Reason*, relevant to our discussion as it points to reason's relationship with the normative order – both moral and legal – Kant treats pure practical reason as reason that is unmediated by empirical data, i.e. as an autonomous rational power that, following its internal formal logic rules, produces purely formal, non-teleological, de-ontologized norms, regardless of any cultural tradition and all empirical data. Therefore, Kant has become one of the founders of the universalism of a purely formal character that has its foundation in post-metaphysical reason. Universal norms, values, and ideals derived from metaphysical reason are substantial ones by their character. It is also clear that norms, values, and ideals derived from post-metaphysical (procedural) reason are not substantial by their character. They are unsubstantiated, non-teleological, and purely formal norms, such as freedom of speech, freedom of association, freedom of religion, etc.

The problem with the metaphysical concept is that it is monistic, i.e. tends to explain all the rich-

ness of the world starting from a single point – from universal reason, the innate universal substance that only changes phenomenal forms. According to this concept, there is essentially a unity of purely rational thinking and being (*Sein*), of what is and what should be (*Sein* and *Sollen*), of the factual and normative order. Hence, according to the metaphysical system, there is only one way of life appropriate to the truly universal human nature. Of course, both communitarians and multiculturalists reject this monistic concept of essential reason because they believe that different forms of life are based on the pluralism of particular cultures as systems of customs and substantial values that are sublimates of different cultural traditions. They are also supported by the fact that history has shown that there is no broad consensus regarding any metaphysical system. I share Kant's view that, in principle, it is impossible to reach a consensus on any substantive value. In my opinion, there is no universal substantive value. Regardless of their explicit universalist pretensions, metaphysical conceptions cannot be universal.

Although they reject any universal substantial value, both communitarians and multiculturalists support substantial values that are founded in a particular socio-historical context. Therefore, they can be characterized as supporters of contextual substantialism. However, they also deny any validity of formal universalism. According to them, a notion that reason independent of tradition, relying on itself and its internal logic, could construe a universal moral and legal normative order applicable to all contexts and times, is merely a liberal chimera. However, that is wrong. Contextual substantialism and pure formal universalism are at different conceptual levels. Customs and values related to contextual substantialism can never be universal, but only particular, specifically substantial and teleological, which means that they tend to be integral aspects of people's everyday life. In contrast, norms such as freedom of speech, association, religion, etc. can only be purely formal-universal, de-substantiated, and non-theological. Since they are negative in character, they impose obligations on people that take the form not of what they should do but what they must not do, namely: They must not infringe on the formal freedom of choice of others. Hence, there cannot be a necessary connection between purely formal norms and the way of human life. Such norms cannot predetermine the content of human life, but can only

limit it rationally, and these restrictions should apply equally to all. For example, Catholic religion predetermines certain aspects of worshipers' way of life: communion, fasting, seeking forgiveness, celibacy, acknowledgment of papal infallibility, etc. From the perspective of Catholicism as a religion which, according to self-understanding, is universal, these rules can be defined as prescribed positive freedoms, because living by them is supposedly an expression of human nature. The very principle of the individual's right to choose a religion cannot in any way be defined as a positive, but only as a negative freedom from which no specific religion can necessarily follow, because each of these religions is a substantialist and teleological conception.

It is correct to state that human beings as individuals or as group members can differ from each other in their individual and particular identity because there is no single universal culture, single religion valid for all people, universal form of life, etc. However, people living in a liberal-democratic state can be said to have the same abstract legal identity defined by a set of equal rights. But there is an essential conceptual difference between these two types of identities. Equal human rights enable people to maintain the acquired identity in society at their discretion and to modify or radically change it if they wish. It is necessary to distinguish the individual as a bearer of negatively determined rights that allow him to choose his own identity within certain constraints from the individual who, under the aegis of these rights, becomes the creator of his positive self-realization, the bearer of a specific identity. It is simply not possible to equate concrete, empirical citizens who are always characterized by miscellaneous forms of identity, and the notion of a legal person or "abstract citizen", i.e. a person without any cultural, religious, customary, and other specific identity forms. These terms are abstract conceptions that must not be understood ontologically. Thus:

As Individuals, legal persons are also normatively responsible members of a community, but in a way different from ethical persons: whether as Saul of Tarsus or Paul the Apostle, a person is a member of the legal community and a person of law; each person must obey the laws and has certain rights as such a person. Ethical values are valid with respect to the particularity of a person, legal norms in respect of his or her attribute of be-

ing a 'person' as such: they enjoy general and binding validity. They are not constitutive of identity; rather, they constitute the 'outer' framework of 'negative liberty' that both enables and limits, in the form of a 'protective cover', the positive liberty of self-realization. Persons of law do not have to identify with these norms, but they must come to terms with them: these are the norms of reciprocal respect that persons have to grant mutually and bindingly in order to enable social cooperation with legal certainty" (Forst, 2002, 263).

It seems that Makariev does not differentiate correctly between the cosmopolitan self and the liberal unencumbered one. In his text he poses the following questions, citing Jeremy Waldron: "Could we speak of a particular identity of a person who 'may live in San Francisco and be of Irish ancestry... learns Spanish, eats Chinese, wears clothes made in Korea, listens to arias by Verdi sung by a Maori princess on Japanese equipment, follows Ukrainian politics, and practices Buddhist meditation techniques?'... Isn't the latter an idealization which is too strong for postmodern times and which should not be taken seriously or, even less so, considered to be a factor in defining minority policies?"¹ Similarly, in another place, he writes: "For example, from a certain perspective, the liberal 'unencumbered' self may look like someone without true identity, someone unable to really love and care about other persons in their capacity as living human beings, rather than abstract individuals." After that, he cites Michael Sandel: "To imagine a person incapable of constitutive attachments such as these is not conceiving an ideally free and rational agent but to imagine a person wholly without character, without moral depth. For to have character is to know that I move in a history I neither summon nor command, which carries consequences nonetheless for my choices and conduct. It draws me closer to some and more distant from others."² Makariev finally concludes: "From the opposite perspective, there is no such thing as a self-consistent cultural identity at all..." In my view, Makariev is closer to Sandel's standpoint.

There are other authors of the multiculturalist orientation who want to establish the necessary

connection between fidelity to shared understandings within a community in which we are born and our moral depth because each of us owes our identity to our social context. So Alasdair MacIntyre accentuates in his famous book *After Virtue*: "I am someone's son or daughter, someone else's cousin or uncle, I am a citizen of this or that city, a member of this or that guild or profession; I belong to this clan, that tribe, this nation. Hence what is good for me has to be good for one who inhabits these roles. As such, I inherit from the past of my family, my city, my tribe, my nation, a variety of debts, inheritances, rightful expectations, and obligations. These constitute the given of my life, my moral starting point. This is in part what gives my life its own moral particularity" (MacIntyre, 2002, 220).

It is not easy to understand the term community used by multiculturalists and communitarians. MacIntyre mentions small groups, the city, but also a nation. Nonetheless, if we exclude communities of human beings that are not defined by ethnicity (as these groups are not relevant to my current investigation), we may focus our attention on community in the sense of an ethnic community, that is, "a particular people sharing a heritage of custom, ritual, and a way of life that is in some real or imagined sense immemorial, being referred back to a shared history and shared provenance or homeland" (Waldron, 1996, 96). Of course, every ethnic group has its cultural traditions, which are a central category not only for multiculturalism but also for communitarianism.

Both conceptions of identity are prone to criticizing the cosmopolitan view, which they often equate with the liberal self. That is wrong. The cosmopolitan self and liberal "unencumbered" self are not on the same conceptual levels. The cosmopolitan self is not culturally neutral: it consists of a *mélange* of different cultural fragments and, as a substantial identity, it belongs to ethical or constitutive communities. It is a specific sort of concrete identity or substantial conception of the good life. Unlike the cosmopolitan self, the liberal self is culturally neutral and purely formal and, as such, belongs to the community of law. The liberal self precedes the cosmopolitan self, i.e. the legal person is prior to the ethical self, but that does not mean that individuals make their choices about the good life in a social vacuum. This preceding is not ontological but rather normative. The identity of the legal person is an external abstract facade for the ethical person which protects it from attempts by

¹ Here Makariev cites Waldron 1995

² Here Makariev cites Sandel 1982

others to coercively change its identity. A liberal self is a self to which no particular conception of life corresponds. As Rainer Forst emphasizes: “To recognize a person as an equal bearer of rights is one thing; it is quite another thing to recognize this person as the person who he or she is in all his or her attributes” (Forst, 2002, 27). A different approach to this question would entail an inextricable confusion between legal-negative and ethical-positive freedoms.

The essence of the liberal system is neither anti-traditionalism nor traditionalism but the preceding individual’s right to choose between these alternatives. This choice is not purely rational; it can be motivated by pre-rational, emotional, and psychological factors, but it is a result of an individual’s decision. Because of that, it is a realization of an individual’s personal freedom to act. The dignity of human beings implies the possibility to choose between different conceptions of life. Every tradition implies some rationality. Cultural traditions are not non-reflective in character; in other words, they are not an enclosed, unchangeable Universe. Their development requires that each is subjected to rethinking and review and thus modified to accommodate new historical circumstances so they remain alive. Gadamer says that “...the closed horizon that is supposed to enclose a culture is an abstraction. The historical movement of human life consists in the fact that it is never utterly bound to any one standpoint, and hence can never have a truly closed horizon. The horizon is, rather, something into which we move and that moves with us. Horizons change for a person who is moving. Thus, the horizon of the past, out of which all human life lives and which exists in the form of tradition, is always in motion” (Gadamer, 1979, 271-273). Later, Gadamer says: “Understanding...is always the fusion of these horizons which we imagine to exist by themselves” (Gadamer, 1979, 273).

I think that thesis about particular cultures as homogeneous entities – pure particularities – is an illusion, especially in the modern era of the Internet and new forms of traveling and communication. Cultural traditions are changeable identities, but their changes have occurred within a historically continuous framework whose stabler norms help them maintain particular characters. Thus, we could say that many contemporary cultures share similar characteristics.

If we take this into account (although I agree with the opinion that observance of the customs

and substantial values of liberalized cultures can lead to the creation of personalities with moral integrity), then we should be very careful when we consider the connection between a strong loyalty to our own culture and our strong moral character. Here, we must precisely differentiate between liberal patriotism and fanaticism.

It is well known that the German philosopher of the law, Carl Schmitt defends the ethnic purity of nations in his work about parliamentary democracy, as exhibited by the following passage:

Every actual democracy rests on the principle that not only are equals equal but unequals will not be treated equally. Democracy requires, therefore, first homogeneity and second – if the need arises – elimination or eradication of heterogeneity. To illustrate this principle it is sufficient to name two different examples of modern democracy: contemporary Turkey, with its radical expulsion of the Greeks and its reckless Turkish nationalization of the country, and the Australian commonwealth, which restricts unwanted entrants through its immigration laws and like other dominions only takes immigrants who conform to the notion of a ‘right type of settler’. A democracy demonstrates its political power by knowing how to refuse or keep at bay something foreign and unequal that threatens its homogeneity (Schmitt, 1988, 9).

Schmitt’s radical ethnonationalism, which also includes a demand for ethnic cleansing, is not as much an expression of him elevating the German ethnicity to a superior level as it is an expression of his belief that there are irreducible differences between particular cultures. In this respect, Schmitt is one of the spiritual fathers of postmodernism, which crucially includes the tenet that the absolutization of the difference between particular cultures leads to a celebration of an absolute homogeneity inside them.

Supporters of fanatical patriotism love their state irrespective of its character (*Deutschland uber alles* – Germany above all). On the contrary, representatives of liberal patriotism love their state only if it provides all citizens with human rights as well as the individual right to choose between individualistic and traditionalistic forms of life. As I have accentuated, liberal states in some cases can recognize particular cultural and political rights of minority groups without leading to their segregation

and destroying basic principles of the civic state. Comparing these two types of patriotism, we are confronted with a seeming paradox. Ontological pluralists who celebrate the concept of the irreducible difference between particular cultures argue for the ethnic homogeneity of their state because that implies their moral depth; those who criticize the liberal state because it is not inclusive enough (as it cannot admit certain cultural differences that are antithetical to liberal principles) now require that their state should be ethno-culturally “pure,” i.e. if the celebration of irreducible cultural differences replaces liberalism as a social ordering principle then ethno-cultural homogeneity, rather than liberation toleration, is necessary for achieving social harmony.

Concerning minority ethnocultural rights within a state, Ernesto Laclau is right when he writes:

These remarks allow us to throw some light on the divergent courses of action that current struggles in defense of multiculturalism can follow. One possible way is to affirm, purely and simply, the right of the various cultural and ethnic groups to assert their differences and their separate developments. This is the route to self-apartheid, and it is sometimes accompanied by the claim that Western cultural values and institutions are the preserve of white male Europeans and Anglo-Americans and have nothing to do with the identity of other groups living in the same territory. What is advocated in this way is total segregationism, the mere opposition of one particularism to another. Now, it is true that the assertion of any particular identity involves, as one of its dimensions, the affirmation of the right to a separate existence. But it is here that the difficult questions start, because the separation – or better, the right to difference – has to be asserted within a global community – that is, within a space in which that particular group has to coexist with other groups. Now, how could that coexistence be possible without some shared universal value, without a sense of belonging to a community larger than each of the particular groups in question? (Laclau, 1995, 93).

The question of human moral depth is complex. I am inclined toward a liberal understanding

of traditional forms of life, although I’m critical of some aspects of my Serbian tradition. Adherence to particular customs and substantial values can, in my view, contribute to the moral depth of a human being. However, this adherence needs to be conditioned and depend on the characteristics of the norms in question. To judge these characteristics, it is necessary to appeal to purely formal moral and legal standards. Extreme ideologies like totalitarianism, authoritarianism, despotism, racism, radical Islam, and cultural traditions that do not respect individual rights or that legalize barbaric customs like serfdom, cannot pass the negative test of universalizability. Can a person who cannot choose between different options be a free and responsible human being? One response could be that the attachment people have to their community is not enforced but voluntary, and therefore an expression of freedom and responsibility. If so, why are cultural traditions protected by the appropriate legal systems? Why would human beings, ready to die defending the liberal system and its form of liberty, lack moral integrity and dignity in their actual lives? Why would a cosmopolitan renounce patriotic feeling for his country, a country in which he has equal rights as others, and at the same time be a citizen of the world? The desire to travel the world – an odyssey – does not have to exclude love for one’s homeland. After all, Odysseus returned to his homeland after a great journey, where members of his family and his friends were waiting for him. Odyssey and attachment to one’s home do not have to be conflicting concepts.

Plamen Makariev thinks that my opinion is an oxymoron: “The very idea of a culturally neutral culture is an oxymoron...” But this misrepresents my view. My view is that there is an essential difference between the ethnocultural understanding of the nation (common language, common ethnic origin, shared history, fated community, etc.) and the liberal understanding of the ethno-culturally neutral nation. The basic principles of the latter (freedom of speech, association, expression, etc.) are not substantial values because they do not imply concrete values human beings should realize in their lives to live a good life. The person as rights-bearer exists at a more abstract level than the ethical person. To the person as rights-bearer particular conceptions of the good life do not apply, as notions of the good life represent a linguistically, socially, ethnically, culturally, or historically mediated subject that is outside the purview of the pure-

ly formal subject. The person as rights-bearer is a part of a moral and legal normative order that forms and circumscribes ethical identities. Indeed: “Individual rights grant the ethical self constituted in the community the latitude to develop and the formal possibility to examine critically and revise this identity. This possibility does not have any direct ethical implications in the sense of particular individualistic ideals of the good life” (Forst, 2002, 26).

Although they are formal and non-teleological, these moral and legal principles are not value-free, for negative liberty has enormous value. Their values are only different in terms of their normative content, while the content of substantial values always goes beyond that of normative ones. The latter, regardless of whether they are metaphysical or contextual, always tend to be realized in actual human life. Since every metaphysical claim is that a normative system is an expression of the essence of all human beings, it treats the contexts of its norms as universal. But as already mentioned, there is no consensus about metaphysical truths; therefore, we must treat metaphysical substantial values as only a form of particular values, regardless of any ambition to universalize.

Without this essential difference between substantial values, which are always particular, and non-substantial values, which are always universal in a formal sense, it is not possible to make a fundamental distinction between systems whose norms are rooted in this or that type of community and the liberal system in which the law is independent of the ethnocultural structure of the community or state. Habermas, in reference to the notion of the self-legislation of voluntarily associated citizens who are free and equal, has said: “This idea is not ‘formal’ in the sense of being ‘value-free.’ However, it can be fully developed in the course of constitution-making processes that are not based on the previous choice of substantive values, but rather on democratic procedures. Hence, there is a justified *presumption* that the deontological idea of self-legislation or autonomy is neutral with respect to worldviews, provided that the different interpretations of the self and the world are not fundamentalist but are compatible with the conditions of post-metaphysical thinking...” (Habermas, 1998, 406).

I, of course, differentiate between the theoretical model of the liberal system and the liberal system in its empirical forms. There is no theoretical model that is fully realized. Still, such models help

us to interpret an existing system adequately. The liberal system is by no means ideal. In my view, it is only less bad than other systems. It should also be noted that the liberal form of liberty must not be imposed by force; rather, the adoption of such a system must be the result of the freely expressed will of the citizens of a country. For this reason, I am a radical critic of military interventions that are allegedly humanitarian; they are, by their nature, deeply antiliberal. However, in both a liberal theoretical model and in liberal countries like America and France, bearers of human rights are not ethnocultural or religious groups but individuals. Now, I endorse particular polyethnic and representative rights of minority groups with adequate justification – in other words, if there is a specific need that is satisfied by these rights, which thereby serve an integral function in society. While these rights may be justified in liberal society, this does not mean that they are liberal rights. Indeed, we can interpret such rights only as certain necessary deviations from the norms of liberal rights, i.e. from the logic of a pure liberal system. Ethnocultural or religious groups then transcend the liberal framework of civil society so that ethnocultural principles become a part of the constitutive principles of the civil state, in which case the state then ceases to be an ethnically- and culturally-neutral nation-state. Hence, while specific minority rights may indeed be necessary, they cannot be interpreted as anything other than antiliberal in character.

I do not think that any system can exist without at least a minimum of assimilation. The entirely unassimilated system would be entirely inclusive – a utopian society. In reality, not a single state system can resolve the question of the ‘Absolute Stranger.’ When broaching this question, it is key to acknowledge that our central concern is not whether it is desirable for majority groups and ‘outsiders’ in every civilized country to establish hospitable relationships, but whether it is possible for outsiders to acquire equal citizenship. Crucially, it should be noted that the nature of the Absolute Stranger depends on the nature of the state order. But regardless of the specific system, the Absolute Stranger, justly or unjustly, cannot be a full member of civil society. In a state that defines itself in terms of race, Absolute Strangers are all human beings who belong to racial minority groups. In a state that defines itself in terms of ethnocultural heritage, Absolute Strangers are human beings of another ethnic origin.. In theocratic states, a basic

condition for acquiring civil rights is belonging to a fundamentalist religion that represents the substantial base of the legal system. In liberal states, Absolute Strangers are members of anti-liberal groups, e.g. fundamentalist Islam, since their forms of life cannot be reproduced under a liberal legal system.

Some examples of such forms of life include: the institution of slavery, mass killing of people to maintain despotic rule, absence of universal individual rights, lack of women's rights, polygamy, burning widows, discrimination against allegedly 'inferior' races, an amalgamation of church and state, etc. If members of such groups refuse to abandon their radical antiliberal tradition to obtain legal status in liberal systems, they cannot acquire citizenship as this would result in two mutually incompatible legal systems existing within the liberal state. So, for example, a person cannot both embrace French citizenship and belong to a fundamentalist religion since the forms of life prescribed by religious fundamentalism undermine the liberal French social order. French citizens who defend fundamentalism must consequently abandon its radical components in order for their forms of life to be reproduced within the framework of the French formal legal order. Turks in the Turkish state in the era of Kemal Atatürk's rule had to do the same so that Turkey could become a secular state. Both of these examples illustrate partial integration within civil states through the assimilation of non-liberal groups. In these cases, assimilation to the liberal system has been only partial because these groups never completely rejected their cultural traditions; they only reformed them in the name of liberalization.

It bears mentioning, however, that it is difficult – if not impossible – to identify any particular culture which does not evolve and reform in some measure through contact with new cultural forms. Groups that are exposed to liberal social forms often undergo a process of liberalization. They may continue to follow customs and substantial values of their cultural traditions that are compatible with liberal constitutional systems while abandoning those practices that are not. In this way, their culture is reshaped by liberalism while simultaneously the forms of life that are associated with the principles of liberalism are expanded to include these newly liberalized practices. From this it is clear that liberal orders are more inclusive than non-liberal ones, and non-liberal systems are far more closed to 'the Other' in respect of extending citizenship.

What about assimilation?

Rejection of the Other by non-liberal states does not necessarily mean the absence of assimilation. Both multiculturalists and communitarians insist on tight connections between personal and communal identity. However, this thesis requires such a radical reduction of individual identity in favor of social determinants that it leads to denial of individual freedom. Proponents of this thesis claim that personal identity is carved within the communal one and therefore members of such a community do not feel its collective practices as a constraint, but rather as a result of their voluntary consent. In other words, their identification with communal identity is not a consequence of force and manipulations by communal rulers, but a consequence of their true striving to act in accordance with a concept created by pre-rationally determined shared goals and procedures of a prolonged process of hyper-socialization. Thus, MacIntyre believes that a hyper-socialized individual who is inescapably drawn to the community's view of the good supersedes an atomistic individual who can choose only arbitrarily and therefore cannot justify its choice to other free wills. However, this belief is very problematic. If we assume that it is at all possible to realize a community or a state in which there exists unity between individual and collective interests, then we must also assume that such a community can only have a sphere of positive liberties. The sphere of negative liberties cannot be present because it must be separated from the community or state's interests; in such a community or state, individual interests must be subordinated to the community or the state. This fact is denied by neither Hegel nor Marx, both of whom undertake their own totalizing metaphysical projects. The vision of community endorsed by communitarians and other thinkers who designate an identity between individual and community interests thus raises the question: is the existence of the free will that can choose what to believe, how to act, and how to live one's own life possible in such collective entities?

A free individual is one whose actions correspond to his or her choices. In my view, we can identify a person's voluntary tie to a cultural tradition only if this tradition is self-maintaining, self-developing, and freely adopted by its adherents, and is not sanctioned by any law. This does not mean that many or even most members of a community or state in which a particular cultural tradi-

tion is in fact enshrined in laws cannot also voluntarily identify with and participate in this tradition. However, history has shown that such states and communities have had their share of dissidents, i.e. those who were ready to reject these forms of life and were unwilling to change their own in order to conform. Could we not then qualify the punishing of such dissidents for their violations of laws by which the cultural traditions of state communities have been asserted as forcible assimilation? Such antiliberal state communities thus subject its members to a condition of unequal freedom. Given that the choice of cultural traditions which one practices can be either advocated or punished at an official institutional level, it is clear that members of these states have much fewer rights than others and only a limited freedom of self-determination.

The laws of state communities that protect the unequal rights of their members cannot be culturally neutral, for human rights are always connected with forms of human life. The laws of these state communities predetermine different substantial contents of the life of their members. Hence, they have at least a potentially assimilationist character. In contrast, purely formal liberal laws do not predetermine the contents of people's lives; they only constrain them.

I am not attempting to say that there are not de facto forms of discrimination in liberal systems. However, liberal systems contain an important legal component that distinguishes them from other systems: the ability to express civil disobedience against all forms of discrimination and oppression. Of course, actions motivated by civil disobedience cannot eradicate tendencies towards some forms of discrimination, but they can certainly minimize them.

Radical multiculturalism and radical communitarianism as one of its forms aim at the reintegration of what liberalism tore apart – a cultural tradition and a legal-constitutional order. Of course, there is also moderate multiculturalism, whose goal is not to reject liberalism but to correct it. As already mentioned, I am one of the scholars who believe that if social reality in some liberal-democratic countries demands the introduction of some aspects of moderate multiculturalism then that reality should be acknowledged. But one should also not forget the fact that radical multiculturalism, which undermines liberal values, is in effect moderate multiculturalism brought to its ultimate logical consequences.

Finally, unlike Makariev, I think that communism as a totalitarian regime is not “normative communitarianism,” because communism is not based on any cultural tradition but on a new, non-commodity form of production.

Editor: Vanja Dragutinovic, a US Citizen of Serbian ethnic origin, bilingual in both English and Serbian languages.

References

- Divjak S (2018) Multikulturalizam i moderno pravo. In *Stanje i perspektive multikulturalizma u Srbiji i državama regiona*, a collection of works from an International conference held in organization of SANU (Serbian Academy of Sciences and Arts).
- Dusche M (2004) Radical Multiculturalism versus Liberal Pluralism. *Ethical Perspectives* 11: 238-249. DOI: 10.2143/EP.11.4.519089
- Forst R (2002) *Contexts of Justice: Political Philosophy beyond Liberalism and Communitarianism*. Berkeley, CA: University of California Press.
- Gadamer H-G (1979) *Truth and Method*. London: Sheed and Ward.
- Gray J (1995) *Enlightenment's Wake*, cited in Pratap Mehta, 1997. “Pluralism After Liberalism?” *Critical Review* 11.
- Habermas J (1998) A Response to My Critics. In *Habermas on Law and Democracy*, ed. Michael Rosenfeld. Berkeley, CA: University of California Press.
- Kymlicka W (1995) *Multicultural Citizenship*. New York: Oxford University Press.
- Laclau E (1995) Universalism, Particularism, and the Question of Identity. *The Identity in Question* 61: 83–89.
- MacIntyre A (1998) *Whose Justice? Which Rationality?* Notre Dame, IN: University of Notre Dame Press.
- MacIntyre A (2002) *After Virtue*. Notre Dame, IN: University of Notre Dame Press.
- Mehta P (1997) Pluralism after Liberalism? *Critical Review* 11.

- Schmitt C (1988) *The Crisis of Parliamentary Democracy*. Cambridge, MA: MIT Press.
- Waldron J (1996) Minority Cultures and the Cosmopolitan Alternative. In , *The Rights of Minority Cultures*, ed. Will Kymlicka. New York: Oxford University Press.