

## COMMUNITARIANISM, MULTICULTURALISM AND LIBERALISM\*

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### **Abstract:**

In the first part of this text, the author exposes the main features of the liberal or civic state, because both communitarians and multiculturalists tend to criticize that type of state. Their critique of the liberal state and the liberal self as an unencumbered self is "culturalist" by its character. However, it is an expression of conceptual confusion, i.e. of their incomprehension of an essential difference between two conceptual levels: one that belongs to the purely normative rights-justifying perspective and the other that refers to the ontological perspective. Consequently, both of them reject the central liberal thesis according to which the right is prior to the good.

The author agrees with an assessment of Richard Robson that multiculturalism is only a form of communitarianism. Contrary to communitarians and multiculturalists, he additionally argues that collective rights are incompatible with the civic state in its pure form because there are structural differences between civic and specific minority rights.

Further, the author attempts to show that communitarianism and multiculturalism are forms of postmodernism. Namely, brought to their ultimate logical consequences, the mentioned orientations can be connected to the postmodern notion of radical, irreducible difference.

In the conclusive part of the text, he summarizes the common points of communitarianism and multiculturalism and emphasizes the importance of these contemporary theoretical tendencies.

**Key words:** communitarianism, multiculturalism, deontological liberalism, legal person, particular cultures, teleological and non-teleological norms, negative and positive freedoms, ethical relativism, contextualism, contextual universalism, procedural and essentialist Reason.

"Reason must in all its undertakings subject itself to criticism; should it limit freedom of criticism by any prohibitions, it must harm itself, drawing upon itself a damaging suspicion. Nothing is so important through its usefulness, nothing so sacred, that it may be exempted from this searching examination, which knows no respect for persons. Reason depends on this freedom for its very existence. For Reason has no dictatorial authority; its verdict is always simply the agreement of free citizens, of whom each one must be permitted to express, without let or hindrance, his objections or even his veto."

Immanuel Kant *The Critique of Pure Reason*<sup>1</sup>

In order to explain the relationship between communitarianism and multiculturalism in an adequate way, we first have to expose the basic characteristics of liberalism, as both abovementioned orientations criticize this doctrine. Liberalism is not a homogeneous concept. In my interpretation, liberalism is a specific concept of legal-constitution order which is not determined by anything that belongs to the sphere of experience, whether this notion is understood metaphysically (as a totality of superficial, visible forms of appearance of the Being as the hidden essence of the world), or from the standpoint of

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<sup>1</sup> Kant, Immanuel. *Critique of Pure Reason*. London: Macmillan, 1933, pp.329.

empiricism. This order, in Habermas' words, "can fully develop in the course of constitution-making processes that are not based on the previous choice of substantial values, but rather on democratic procedures." (Habermas 1998, 406). Because of that, it is separated from all substantive conceptions of ideology, worldview, ethnocultural tradition, etc. This type of liberalism views persons as individuals who have rights accrued independently of differences. Being blind to differences, it is simultaneously individualist and universalist. It is individualist because it does not irreducibly include a group aspect of identity: the bearers of rights are individuals as individuals. It is universalist in a formal, not substantive sense, as individual rights are purely formal. As the liberal order is not based on any concept of a good life, it is open to the pluralism of lifestyles. Deontological<sup>2</sup> liberalism does not presuppose any particular idea of the good, in order to enable pluralism of different conceptions of the good within a community or state.

Kant was one of the founders of liberal moral and legal orders. He developed in a systematic way an understanding of liberal moral and legal norms in his work *Critique of Practical Reason*. Some interpreters of this thinker overlooked that he wrote the critique of practical reason, not the critique of pure practical reason. The former, starting from experience, defines an idea of the good that serves as a deriving base for an appropriate law in accordance to which people should act in order to apply this concept of the good to their social life. Therefore, according to followers of this type of Reason, moral and legal orders are only the expression of the character of common good. In their view, the good has priority over the right.

Claiming that norms derived from experience can never be universal ones, Kant introduces a concept of pure practical reason. This Reason is practical because it provides people with behavioral norms. It is "pure" because it is not conditioned by empirical determinants. The pure practical reason does not depend on anything that would be external to it. It only depends on its internal laws, that is, on purely formal logical rules of human thinking, by which the logic ceases to be tied with ontology, as it is the case in metaphysics. Hence, the norms derived

from the pure practical reason are formal, substanceless, and non-teleological. As such, they cannot predetermine worldviews, ways of life, cultural traditions, etc. They are opposed to teleological norms, the content of which should be realized in everyday life.

If Kant in *Critique of Pure Reason* rejected the metaphysical postulate about unity between the Being and thinking and thus negated the possibility of knowing "the thing by itself," then he separated "ought" from "is" in *Critique of Practical Reason*, by which "ought" became "pure" one.

Separating "ought" from "is," Kant in fact separated morality from ethics as a discipline whose object of exploring is "*ethos*" (custom). According to Aristotle, the *ethos* always refers to a particular community (*polis*) which has its own ethos, its own system of customs and substantive values. "Even if there is some one good which is universally predicable of goods or is capable of separate and independent existence, clearly it could not be achieved or attained by man" (Aristotle 1984 1096b30-35). Ethics in Aristotle's sense did not make *ethos* since it was already embedded in human behavior as their regulator and guider. Ethics, according to Aristotle, was a discipline directed to a systematization of knowledge about a pre-existing *ethos* as a set of customs and substantive values. However, according to Hegel, *ethos* in the sense of a German notion of *Sittlichkeit* was only an empirical manifestation of the World Spirit as a form of existence of universal essentialistic reason. In both cases, the *ethos* was treated as a substantive concept of a good life: in the first one, it is particular; in the second one, universal.

Ethical conceptions of a good life belong to teleological ethics that are tied with *telos* (end or purpose), which people ought to realize in their life. According to followers of teleological ethics, this *telos* is the expression of human essence, and acting in accordance with human essence means to be a free being. For Aristotle, a man is free if his activities are oriented toward the realization of the substantial good of the *polis* to which he belongs. His life will then express what he essentially is and this congruence between activity and essence is freedom. However, the freedom for citizens of antique Athens was the freedom to participate in the *res publica* of their polis, not freedom as individual autonomy. Because of that, the rights of citizens derived from this type of positive freedom could not be the modern inalienable rights which belong to every human

<sup>2</sup> The term "deontological" is used in a double sense: as a Kantian concept of pure duty which is not directed to a realization of any empirical purpose, but only to respecting the law in its pure form; and as an opposition to the ontological.

being independently of his/her ideological, ethnocultural, racial, and sexual identity and of his/her social status. These rights were conditioned by the membership to a specific ethnocultural community that was organic by its character.

Kant could not divorce “ought” from “is” without reversing the relationship between the good and the law. “The a priori thought of a possible universal law-giving without borrowing anything from experience or any external will, is given as an unconditioned law. One can call the consciousness of this fundamental law a fact of reason since one cannot speciously derive it from any antecedent data of reason [...] However, in order to regard this law as given without misinterpretation one must well note that it is not an empirical fact but the sole fact of pure reason.” (Kant 1956, 31).

So, in Kant’s view, there is the priority of the right over the good: “The concept of good and evil is not defined prior to the moral law to which, it would seem, the former would have to serve as foundation; rather the concept of good and evil must be defined after and by means of the law.” (Kant 1956, 31). In other words, we do not discover what is right by finding out what is good. From this reversal, Kant derived his famous categorical imperative; *Act only to that maxim through which you can at the same time will that it should become a universal law*. The moral law itself, Kant says, can be the only form of lawfulness because nothing else remains once all content has been rejected. It is clearly that such law must be purely formal and negative. We cannot determine the content of our maxims through the categorical imperative; we can only reject maxims that cannot be universalized. “Any law-giving that is to be both self-imposed and negative—that is, without content—can impose no more than the form of law [...] As in the case of the discussion of practical reason in the *Groundwork*, the fundamental principle of reason, in general, is without content: it demands simply that thinking as well as acting not violate the form of law” (Neill 1992, 295-6).

Kant also derived the law (*Recht*) from the pure practical reason. Hence, its structure is the same as the structure of the categorical imperative; therefore, the law must be purely formal, substance-less, non-teleological. In other words, it also must be subjected to the universalizability test.

The difference between the categorical imperative and the principle of the law is in that the former refers to the internal freedom and the latter to the external freedom of action. The law of right is only

interested in how the consequences of one person’s actions reflect on the freedom of action of others. “Every action is right which, or the maxim of which, allows the freedom of the will of each to subsist together with freedom of everyone” (Kant 1964, 230).

Of course, Kant was aware of the fact that principles derived from pure practical reason can be realized only in history. Since Kant was not an adherent of a revolution theory, his philosophy concerning the problem of realization of the abovementioned principles became a theory of compromise and reform.

However, one thing is indisputable. By his thesis that the right takes precedence over the good, Kant established a philosophical basis for legal formalism which later became the essence of modern liberal constitutions. Of course, the real liberal constitution cannot be Kant’s regulative ideal, which mustn’t be read descriptively, because this real constitution is the result of the freely expressed will of real people. The principles of such a constitution are constitutive by their character because they constrain the behavior of real persons. The core of such constitution is pure legal formalism based on the purely formal and negative legal principles: freedom of choice, speech, association, religion, and so forth. The constitutions of the first liberal states (America and France) were accepted by the constituent assemblies, which members were the representatives of citizens of these countries. In these cases, the freely expressed will of the members of abovementioned countries preceded their legal forms. The thesis of natural law theorists that the individual precedes the community as a whole can be interpreted only in this way, whereby they rejected the traditional standpoint that was formulated by Aristotle: “The state is by nature clearly prior to the family and to the individual, since the whole is of necessity prior to the part” (Aristotle 1984, P1253a18-20). The constituent assembly can be treated as some sort of empirical equivalent to the idea of social contract.

Both communitarians and multiculturalists see the liberal constitution as a mere intellectual construction since it is not founded on a concrete way of life based on a particular cultural tradition. Hence, this constitution, in their view, implies a liberal self that is empty, abstract, and ghost-like because it is devoid of any empirical content. This critique of liberal formalism is “culturalistic” by its character. In its core is the liberal separation of legal-constitutional order from particular cultures. For

liberals, particular cultures and ethnicity are irrelevant for the establishing constitutional orders. Unlike this standpoint, both communitarianism and multiculturalism try to rehabilitate to this or that extent particular cultures as necessary components in constitution-making processes. The abovementioned orientations have insisted that particular cultures have become partially or totally a substantive base for constitutive legal principles of communities or states. Multiculturalists generally accept the standpoint of communitarians who insist that one cannot define the right before the good, for it is only through our participation in a particular community, which defines the good by its cultural tradition, that we can form our individual identities. As well as communitarians, they have rejected the central Kantian claim for *a priori* status of Reason - the idea that Reason is not dependent on prior sources, therefore it can, as an autonomous and unconditional authority, derive moral and legal principles independently of all traditions. Multiculturalists agree with the stance of communitarians that the Reason is defined by its conditional reliance on a prior evaluative context of tradition. Both support Gadamer's claim: "Reason exists for us only in concrete, historical terms, i.e. it is not own master, but remains constantly dependent on the given circumstances in which it operates" (Gadamer 1979, 245). This standpoint necessarily leads to contextualization of Reason, since it has been situated in specific historical and cultural contexts, within particular traditions. Common to both communitarianism and multiculturalism is *contextualism*, that is, an idea that there cannot be the context-transcending reason, moral, law, and person. For MacIntyre who is, by self-understanding, a communitarian, the conceptions of person, morality, and reason cannot be separated from the substantive horizons of a form of life, an ethos. A context-less person or a context-transcending (neutral) morality and Reason are mere liberal chimeras. There are only different types of persons, justices, and rationalities which grow from appropriate contexts.

MacIntyre as an outstanding communitarian wrote the following: "For I am never able to seek for the good or exercise the virtues qua individual [...] we all approach our own circumstances as bearers of a particular social identity. 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 for

one who inhabits these roles. As such, I inherit from the past of my family, my city, my nation, a variety of debts, inheritances, rightful expectations, and obligations. These constitute the given of my life, my moral starting point. This is what gives my life its own moral particularity. What I am is in key part what I inherit. I find myself a part of a history and that is generally to say, whether I like it or not, whether I recognize it or not, one of the bearers of traditions." (MacIntyre 1984, 220 and 221).

The compactness of a community depends on the strength of its particular cultural tradition as the common form of life. Because of that, these traditions must be protected by the legal order. In view of communitarians, we ought to tend to establish the unity between the cultural tradition of our community and its legal order. The identity of members of such community cannot be separated from its identity. Accordingly, communitarians see a community as a "constitutive community," as a "wider subject," which determines the identity of its members.

"Think of MacIntyre apotheosis of the Homeric hero and the Thomistic chooser who are (according to MacIntyre) so tightly hemmed in by communal identity that they do not even experience it as a constraint, for they do not see their action as originating in free will in the first place. Only when collective 'practices' have socialized individuals to this point, MacIntyre believes, it will be possible for people to act in concert without coercing and manipulating each other - as liberal individuals must do." (Jeffrey Friedman 1997, 471).

For Charles Taylor who is, not only for me but also for some other authors (A. Gutman, Lawrence Blum, etc.), a follower of multiculturalism and not communitarianism, as it is interpreted by some of his interpreters: "This identification exists where the common form of life is seen as a supremely important good. The common life has a status of this kind when is a crucial element in the members' identity" (Taylor 1985, 213). According to the same author: "judgments about what makes a good life - judgments in which the integrity of cultures has an important place" present the very essence of the "politics of recognition." In order to define Taylor's strand of liberalism, which recognizes differences, Lawrence Bloom writes: "Multiculturalism can emerge from this strand in that a person's cultural identity, with its distinctive set of traditions, history, and practices, is a central part of her overall individual identity. Hence recognizing cultures and cultural identity becomes a part of respecting individual per-

sons. At the same time, this strand involves an irreducibly social or group aspect of identity, hence is in that respect nonindividualist” (Blum 1994, 183). For Will Kymlicka, “most people, most of the time, have a deep bond to their own culture” (Kymlicka 1995, 90).

Therefore, according to communitarians and multiculturalists, the most fundamental level of our sense of identity depends on criteria of belonging to an ethnocultural community; cultural memberships shape our self-identity. Of course, Will Kymlicka as a multiculturalist pleads for particular minority rights, but the demand for them emerges from the thesis that the preservation and developing of cultural heritage and common life of minority groups are of essential importance for their existence and survival. However, in my view, minority rights are, by their own structure, different from civil rights. Namely, the ethnocultural appurtenance (belonging) is the basis for obtaining the minority rights; contrary to that, civic rights belong to all men independently of their ethnocultural, racial, sexual, and professional differences, that is, without distinction of any kind. Hence, unlike civic rights, the minority rights can never be universal, purely formal, i.e. de-substantivized ones. Because of their structural differences, there is always, at least potentially, some sort of tension between them. The bearers of minority rights are groups, not individuals. Minority group rights are incompatible with a civil state in its pure form.

With respect to what is said up to now, we could argue that multiculturalists accept the communitarian contextual idea of human nature. I agree with the assessment of Richard Robson:

Multiculturalism can be seen to be a form of multiculturalism because it is rooted in an essentially communitarian view of human nature. For multiculturalists, humans cannot be understood ‘outside’ of society. They are intrinsically shaped by the social and cultural structures within which they live and develop. Therefore, there is an emphasis more on what is distinctive about the group to which the individual belongs and thus a link between the personal and the social, as society is made up of different cultural groups seeking recognition. This leads to the individual being ‘embedded’ in a particular cultural, social, institutional or ideological context [...]

MacIntyre and Sandel portrayed the idea of the abstract individual – the ‘unencumbered self’ – as a recipe for rootless atomism. Only groups can give people a genuine sense of identity and moral pur-

pose. Consequently, multiculturalists reject any universalist model of personal identities, such as that proposed by liberals.

It can also be said that the multiculturalist idea of minority group rights constitutes a form of communitarianism. Will Kymlicka argued for the existence of polyethnic and representation rights. Therefore, as minority groups rights help express the distinctiveness of a cultural group and therefore the individual, and also help embed these groups into society, they can be said to constitute a form of communitarianism. (Robson 2014, 2).

The thesis that, according to liberals, humans form their identity “outside” of a society is wrong because of misunderstanding the liberal concept of the legal person by communitarians and multiculturalists. Every follower of the “deontological liberalism” is aware of a banal fact that humans are born in different types of societies in which they live and die. Consequently, the society is the medium in which humans form their identity; however, throughout the course of their lives, they must not be connected to only one society or only one type of society. Only real persons can be holders of different concrete individualities or particular identities. On the other hand, it is true that the liberal self is not connected with any substantial conceptions of a good life, so its identity is de-substantivized, abstract, and purely formal. This is because the liberal self, i.e. the legal person, is the bearer of purely formal rights and not of individual or particular identities. Members of a complex liberal-democratic society can have different individual identities, but their legal identity is still the same since they have equal formal rights. However, it is possible only under the condition that these rights are not determined by ways of life. It is clear that, in this case, the right takes precedence over the good, i.e. that legal person is prior to its identity (but this must not be interpreted ontologically, like communitarians and multiculturalists do). Namely, the legal person precedes to its identity and ends only normatively. As it is written by Reiner Forst: “That the self is there ‘prior to’ its ends must therefore be understood *normatively* and *not ontologically* (as Sandel believes).” (Forst 2002, 9) Human beings do not belong to only one community; they are members of different types of communities within the same state. As the bearers of the concrete identity, they belong to the ethical community; but, as the bearers of formal rights, they belong to the legal community. Forms of substantive identities cannot be derived from pure legal norms;

they only constitute “outer” framework that enables negative freedoms thanks to which individuals can make choices between lifestyles. From this perspective, the legal person can be seen as “the external abstract cover” which protects the particular identities of the members of an ethical community. (Forst 2002, 25). At the same time, it enables these members to revise their identities or accept other ones, should they choose to do it. The legal person is the condition of possibility of the individual's freedom of choice. Without purely formal and negative legal norms, pluralism of ways of human life would not be possible within one and same community or state.

If the legal system of a community or a state were grounded only in a particular cultural tradition as a set of concrete customs and substantive values, all other cultural traditions and substantial values would be excluded. Such a system would be based on positive freedom, which requires the postulation of the existence of an objective notion of the good life for humans.

Communitarians and multiculturalists have criticized the system the skeleton of which consists of negative legal norms because it cannot protect the rights of either ethnocultural groups or a single form of life since in this order ethnicity and particular cultures are separated from the state sphere and belong to a private scope. The fact that the individual's identity is formed within the community does not imply that the relationship between community's identity and identity of their members is an internal one. The contrary conclusion by communitarians and multiculturalists that there is a necessary link between the aforementioned two types of identities leads to the radical reductionism and abolishes every notion of the individual's autonomy, the capacity for self-reflection and maturity in choosing goals and ideals. This conclusion is a result of misunderstanding Kant's treatment of ethical conceptions.

Both communitarians and multiculturalists have maintained that Kant had derogated the value of substantive ethical life; however, that is mistaken. He did not reject all ethical conceptions. From his standpoint, people can accept those ethical conceptions, which do not contradict the categorical imperative and the principle of the pure law. For Kant, the principles of justice cannot be derived from a particular conception of the good life, since in that case only one conception of *eudemonia*, of happiness would be imposed on all of us. This is the basic principle of liberalism, according to which nobody can prevent people from seeking for their own idea

of happiness, as long as this seeking and the consequent result does not endanger freedom of others to discover their own happiness, as they understand it: an individual's own liberty is constrained by equal liberties of others: “Liberty consists of the power to do whatever is injurious to others; thus the enjoyment of the natural rights of every man has for its limits only those that assure other members of society the enjoyment of those same rights; such limits may be determined only by law. Whatever is not forbidden by law may not be prevented, and no one may be constrained to do what it does not prescribe” (The French Declaration of the Rights of Man and Citizen, 138).

Both communitarians and multiculturalists consider that liberal conception of the person is an atomistic one. For liberals, MacIntyre writes, “individuals are primary and society secondary, and identification of individual interests is prior to, and independent of, the construction of any moral or social bonds between them” (MacIntyre 1984, 250). Charles Taylor argues that liberals are infected by uprooting atomism, since they think “men [*sic*] are self-sufficient outside society”.

One of the icons of postmodernism, Carl Schmitt, had assessed in a similar way the liberal concept of the individual. According to him: “In the liberal bourgeois world the detached, isolated, emancipated individual becomes the middle point, the court of last resort, the absolute” (Schmitt 1986, 99). However, the liberal principle of freedom of association and liberal institutions (representative government, market, etc.) require the dense network of social bonds. “Locke defined ‘want of liberty’ as being ‘under the determination of some other than himself’. To be free, by extension, was to be independent, not to be subject to the inconstant, uncertain, unknown, Arbitrary Will of another Man’. Independence, in this sense, has nothing to do with atomization [...] The liberal conception of the person as neither black nor white, neither Catholic nor Jew, has a legal meaning. It was never intended to deny the obvious reality of primordial attachments” (Stephen Holms 1993, 194 and 196).

The primacy of individual rights does not imply only the individualized conceptions of the good life since it would enforce individuals to reject the traditional way of life. The aforementioned primacy means only that no one can make decisions for the individual unless he/she authorizes others to do so. It is up to the individual to decide whether they will choose an individualistic form of life or the one that

originates from a certain cultural tradition. From a liberal point of view, cultural tradition cannot be excluded as an optional content of choice. Therefore, according to liberals, neither the individualistic nor the traditional conceptions can be codified: "The reproduction of traditions and cultural forms is an achievement which can be legally enabled, but by no means granted" (Habermas 1995, 850).

This type of rights cannot be treated as collective rights.

Communitarianism and multiculturalism as contextual theories understood the world only from a particular perspective and tended to reject all universalistic standards. Their standpoint is that there is an irreducible plurality of valuable goods and ways of life, and as such, they cannot be assessed by a common measure. These values are here treated as the objective values because all of them belong to particular cultural traditions, i.e. to some way of life, which is organized around a single idea of a substantive common good.

For example, in his book *Spheres of Justice* Michael Walzer exposes his concept of justice that is certainly a contextual one, and according to which the predicate "just" is defined as "just in its own terms." From the perspective of such understanding of the predicate "just," we can say that both a society which has individual freedom as a starting point and a society which is based on castes are "just in their own way." However, in that case, we can point to the question asked by Alessandro Ferrara: "If a capitalist society and a cast society can be just in its own terms, what are we to make with an idea of a just Nazi society" (Ferrara 1995, 23). In other words, can we avoid the value relativism in absence of universal standard? In my opinion, the answer can only be negative, since without a universal standard we are forced to treat all particular traditions equally by their value.

Multiculturalists are also confronted with the question tied to wicked traditions: "Groups which have these external protections may fully respect the civil and political rights of their own members [...] Other groups, however, are concerned with controlling internal dissent and seek group-differentiated rights in order to impose internal restrictions on their members. Both self-government rights and polyethnic rights can, under some circumstances, be used to limit the rights of the members of the minority group [...] This possibility has often risen in the context of claims for self-government by indigenous peoples." (Will Kymlicka 1995, 38).

If an anti-liberal minority cultural group which is a part of a liberal state would obtain "an external protection," which would allow this group to freely pursue its own cultural tradition, that would lead to the establishing two very different legal systems in that country – an anti-liberal one for this group and a liberal one for the wider community. Similarly, when the French citizens of Islamic origin would refuse to accept the French liberal notion of nation and demand particular minority group rights to pursue Islam as a fundamentalist religion, thus opposing separation of religion from the state and female suffrage in according to Sharia law then such a requirement, if accepted by the French state, would lead to establishing two mutually incompatible legal systems.<sup>3</sup> The legal system of the minority group would be conditioned by Islam as a fundamentalist concept of the good life, the assuming of which would be the condition for acquiring individual rights. The legal system in the remaining (bigger) part of France would be the liberal one, in which individual rights are primary because they precede any concept of the good life.

In order to avoid the risk of relativistic acceptance of the reproduction of any tradition as good in itself, communitarians and multiculturalists have shifted their notions attempting to resolve the question of wicked cultural traditions.

Some of MacIntyre's interpreters such as Alessandro Ferrara, argue that he "subscribes to the modern notion that no one citizen should be excluded from deliberations concerning the common good and no discrimination among citizens should exist in that respect [...] His definition of the good life as 'The life spent in seeking for the good life' is as 'formal' and modern as any in that it is intended to be compatible with a variety of substantive conceptions the good." (Ferrara 1990, 26).

It is true that MacIntyre, by accepting the project of a community in which "no one citizen should

<sup>3</sup> The emphasis here is not on the intolerance of Islamic fundamentalism; all other religions have shown intolerance to other types of religions throughout the history, and have had their fundamentalist forms, including Christianity. The emphasis here is on a particular way of life that would be incompatible with the liberal system because it would require a different legal framework for its reproduction. Of course, this is just a hypothetical situation, but the offense of communitarianism and multiculturalism on a global scale necessarily leads to a process of politicization and homogenization of ethnicity.

be excluded from deliberations concerning the common good" had avoided the extreme ethical relativism. Due to this project, he extends the Athenian citizenship, which only includes the male members of that polis, ignoring women and slaves. However, MacIntyre has not changed the very essence of Athenian citizenship as the contextually determined substantive concept of citizenship, as he has tied rights of all members of a community to rights to participate in the process of preserving and developing that community's common good. In this context, the freedom of citizens may be only positive liberty, not negative liberty, as they cannot act independently of each other and of their community as a whole. Hence, MacIntyre's common project is compatible only with the direct democracy, not with representative democracy. Because of that, MacIntyre's standpoint that all communities have to guarantee the equal rights to all their members is not modern, as Ferrara believes, since these communities should be based on the idea of common good derived from their cultural traditions. Of course, it is a universal standard, but it is not purely formal one. Nevertheless, this modification in MacIntyre's concept affirms the fact that it is impossible to exclude any cultural tradition without a universal standard. However, as some communities subject their members to unequal freedoms in the accordance with their traditions, MacIntyre's claim that "ought" has to be derived from "is" does not work here. In the communities of that type "is" should be changed in order to be consistent with "ought." The question is how to exercise that change: from "within," in an evolutive way or from "outwardly," by the forces outside of the given community, therefore, in a repressive way? MacIntyre is not clear and precise concerning this question.

It is the opening to a universal standard, coupled with the concept of inherently reflective tradition as opposed to Burke's unreflective tradition, that encouraged MacIntyre to attempt to set forward „contextual universalism“, i.e. to reconcile contextualism and universalism. However, in my view, it is an „impossible mission“, for „contextual universalism“ is a *contradictio in adjecto*. There are only two types of universalism: the substantive universalism, which is grounded in metaphysics that seeks for „universal substantive basis of the world as a whole“, and purely formal universalism, which is devoid of any substantial content. The former belongs to the essentialist reason, which is treated as immanent to the external world as such, while the

latter belongs to „legislative reason“. Particular cultural traditions may be related to universalism only if they are seen as empirical manifestations of the essentialist reason as an all-inclusive totality.

I cannot here reconstruct MacIntyre's path from contextualism to „contextual universalism“. Hence, I will only attempt to summarize his conclusion.

By understanding that bad things of particular cultural traditions can be criticized only by criteria immanent to these traditions, he had concluded that the question of wicked traditions could not be resolved by immanent critique; therefore, we should introduce a universal moral standard that surpasses particular communities. This standard is necessary because the self formed in communities based on common good „has to accept the moral limitations of the particularity of these forms of communities.“ Nevertheless, these forms of communities have to be the starting point of search for the universal moral law. „Without those moral particularities to begin from there would never be anywhere to begin; but it is in moving forward from such particularity that the search for the good, for the universal, consists.“ (MacIntyre 1984, 221).

With respect to these claims, a particular community, whose members pursue the community's good as their own good, can be criticized in the form of immanent critique and by appealing to the universal moral law. Of course, this universal law cannot be substance-less, non-teleological, purely formal and negative, for as such it would not be compatible with the character of communities constituted by their cultural tradition. The genuine moral norms, in MacIntyre's view, must serve as the telos of good life. Therefore, as the telos of a community must be connected to the universal, final telos that transcends concrete cultural contexts, then the universal moral law can only be teleological, substantive and positive one.

Since, for MacIntyre, „there is no such thing as justification independent of the context of any tradition“, then the universal final telos must be derived from a tradition which aspires to universality. Our author finds such a tradition in Aquinas' synthesis of Aristotelianism and Augustinianism. „Aquinas could not have achieved his synthesis if he was continually assessing Aristotelianism wholly within the perspective of Augustinianism or assessing Augustinianism wholly from the perspective of Aristotelianism.“ (Tate 1998, 37). Therefore, this third viewpoint is implied by MacIntyre's claim that Aquinas had ac-



cess to a „mode of understanding more comprehensive than either tradition“.

„This, in turn, requires that he modifies his criticism of modern liberalism, where this criticism is premised on the fact that liberals have assumed precisely this capacity to evaluate competing traditions from a third, independent or 'neutral' viewpoint.“ (Tate 1998, footnote 94).

For MacIntyre *Three Rivals Versions of Moral Enquiry* shows how Thomistic tradition is superior in comparison to all other traditions. Accepting Thomistic tradition as a superior one, he believes that he found a concept that unifies context-immanent and context-transcending criteria for a critique of every particular community. Reiner Forst says for MacIntyre „the good life consists in the search for the good for me, for my community and for the human being as such.“ (Forst 2002 203). This standpoint enables MacIntyre to be simultaneously a follower of both limited cultural relativism and moral absolutism.

Although Thomism aspired to be a universal substantive conception, that was not possible because of its inability to be the substantial basis of all particular communities, for a great number of them have been oriented neither toward this version of Catholicism nor toward this specific religion. A Thomistic version of Catholicism is not, as Reiner Forst believes, a metaphysical tradition. Namely, speaking of MacIntyre's understanding of meaningful life, Forst writes: „A life is meaningful only as an individual narrative within a collective narrative that is itself part of a metaphysical tradition.“ (Forst 2002, 203). The starting point of the substantive, i.e. metaphysical universalism, can be neither contextualism nor experience as such since metaphysics try to rediscover „universal substance“ as the hidden essence of all existing things. Different cultural contexts can only be some of the empirical manifestations of that universal substance. For Plato as a founder of metaphysics, every cultural context could be compared with the cave of shadows where prevail *doxa*, not philosophical knowledge of the truth. „Nor will you think it strange that anyone who descend from contemplation of the divine to human life and ills should blunder and make a fool of himself, if, while still blinded and unaccustomed to the surrounding darkness, he is forcibly put on trial in the law-courts or elsewhere about the shadows of justice or the figures of which they are shadows, and made to dispute about the notions of them held by men who have never seen justice itself.“ (Plato 1974,

321). Only when a philosopher goes out of the contextual cave of shadows, he can be open to the philosophical truth.

By elevating Thomism as a particular substantial conception of religion to the level of a universal religion, which, due to its superiority over all other confessions, can serve as the substantial ideal of the good life for all human beings, MacIntyre overlooks impossibility of achieving any consensus concerning substantial conceptions of the good life and substantive values. Concerning religion, for example, Protestantism is for Hegel the highest form of religion's development.

In a text I wrote for the international conference organized by the University of Veliko Turnovo, I have demonstrated the main contradictions of Michael Walzer's „reiterative universalism“ as a type of contextual universalism.

For MacIntyre freedom is always a positive freedom, one whose content is antecedently prescribed by substantive traditions. Hence, his definition of the good life as „The life spent in seeking for the good life“ is not, as Ferrara think, „formal“ in a modern sense, in the sense of negative liberty which enables individual autonomy in seeking for the good life. MacIntyre's seeking for the good is a collective seeking within the common project in which every member of a community can participate; however, not independently of its other members and basic presumptions of their tradition, as the main source of both their and the community identity. Of course, in virtue of such viewpoint, one can pose the question concerning dissenters.

Legalizing rights to internal dissidence would endorse radical critique of the common substantive good of a community by its members, grant rights independently of the participation in *res publica* and in the universal final telos, and ultimately lead to universalization of the right to differences, whereby members of that community can choose their own way of life.

What about dissenters in MacIntyre's type of community? Is it necessary to punish them by repressive measures or to exclude them from their community?

Neither moderate communitarians nor multiculturalists have demonstrated clearly on the conceptual level the compatibility of group rights with the liberal legal-constitution order, i.e. with the civil state as such.

As it is, in my view, not possible to show this compatibility, that is understandable. Civic state, by

its concept, is a nation-state in which the citizenship is equalized with the nationality: every citizen of such a state has the same nationality, independently of his/her ethnic origin. A nation-state is not a destinal community whose members have shared history, memory, ethnic origin and particular culture, customs and substantial values. All components of such destinal community are separate from a civic state in its conceptual form. On the other hand, the ethnocultural groups, which require particular cultural and political rights, are prone to live in the abovementioned type of community in which there is a desire to establish an internal relationship between interests of individuals and those of their community or state. Hence, some communitarians and some multiculturalists tend to criticize the civic state, as the community without shared goals, the polity without inbuilt telos that could unify its members and give them a deeper sense and meaning of life. Because of this, Hegel has sometimes inspired the proponents of both tendencies. For Hegel, the state is the unity of the individual's and state's interests. In the Athenian polis, this unity was given by pre-reflexive unity of the individual life's purpose and its community's purpose. In Hegel's universal modern state, that unity is mediated by reflection; in it, individuals become aware of the fact that the life devoted to the realization of the state's purposes is the realization of their essence as human beings. The individual who would live independently of his state would be the mere contingency. This universal state is the final point of the self-development of the essential reason since states are world-historical forms of its existence. In Hegel's universal state, the identity between Reason and Reality (*Wirklichkeit*) is achieved: Reason as such is completely realized; Reality is wholly reasoned.

As, according to Hegel, all states represent the unity between individual and state's interests, separation of society from the state in an essential sense is not possible. „There are two systems concerning state's order: a modern system in which the notion of freedom and the entirety of its building are maintained in a formal way so that one mustn't take in consideration the conviction as such; another system is one based on the conviction – a Hellenic system in general. Both sides – conviction and formal order – are inseparable.” (Hegel 1995, 124). However, under that presupposition, the sphere of negative liberties or the sphere of freedoms from the state as such cannot be made. In Hegel's universal state, the society is only a form of appearance of that state. Axel

Honneth is right: „If the Absolute Spirit is conceived of in line with model of self-understanding essence, then the mediation of particular and universal within absolute ethical life can no longer be regarded as the outcome of an intersubjective relation, but must, rather, be viewed as a relation that essence to its members, thought as accidental attributes... Hegel must, therefore, think of ethical reconciliation divided society solely in the form of a subordination of individual will to the essential authority of the state.” (Honneth 1990, 136).

In Hegel's speculative philosophy, Reason is not a predicate of the man as such; conversely, the man as such is the predicate of Reason, a necessary instrument through which it comes to its self-consciousness. “The principle of the modern state has prodigious strength and depth because it allows the principle of subjectivity to progress to its culmination in the extreme of self-subsistent personal particularity. At the same time, however, it brings it back to the substantive unity and so maintains this unity in the principle of subjectivity itself.” (Hegel 1967, 161). Hence, Hegel's system is not compatible with parliamentary democracy. As both communitarians and multiculturalists do not comprehend the essence of Hegel's system in its entirety, then they interpret Hegel's notion of the struggle for recognition in the wrong way.

It is clear that none of communitarians and multiculturalists would accept Hegel's notion of Absolute Spirit, according to which particular cultures as systems of customs and substantive values are only empirical results of the process of its self-development. However, some of them have accepted Hegel's definition of the state as a unity of will of individuals and will of their state, from which he derives his thesis about inseparableness of the legal system as such from the system of conviction: the legal system as legal system have never been indifferent to ideas, customs, and religions of their members. By abolishing the necessary relationship between World Spirit as one of the forms of Hegel's universal Reason, and different forms of particular traditions, i.e. by refusing to treat particular cultures as an empirical manifestation of that Spirit, they transform Hegel's substantive universalism into particular substantialism in order to secure the autonomy of particular cultures.

It is indisputable that purely formal-procedural legal system is not, at a conceptual level, compatible with legal systems based on either universal substantialism or particular (contextual) substantialism. A

principle is formal-procedural in that no substantive norm can be directly derived from it. Because of that, the system based on the principles of that type cannot protect any sort of particular cultural tradition, for it must be separated from such traditions and of substantive values generally. A particular cultural tradition can be protected only by the legal system, which is also particular by its character. That system must be derived from that tradition which represents its substantive foundation; hence, it must be substantive one too. Its constitutive principles cannot be negative ones; they are legal norms that prescribe the duties and obligations, which the members of the given community must exercise in order to preserve and develop their cultural tradition as their common way of life. The content of these legal norms is determined by the content of way of life of that community's members. In that case, there is identity between norms and social facticity. Therefore, such a legal system is only the codification of pre-existing ethos.

With regard to what has been presented so far, it could be concluded that liberal system based on the formal-procedural principles is not, at the *model* level, compatible with the legal system based on a set of social customs and substantive values.

Some communitarians and multiculturalists think that liberal conception based on the primacy of individual freedom can be compatible with group rights under the presupposition that groups in question fully respect civil and political rights of their own members, i.e. their individual autonomy.

For example, Will Kymlicka emphasizes the following: „The basic principles of liberalism, of course, are principles of individual freedom. Liberals can only endorse minority rights as far as they are consistent with respect for the freedom or autonomy of individuals. In this chapter, I will show that minority rights are not only consistent with individual freedom, but can actually promote it... respect of minority rights can enlarge the freedom of individuals because that freedom is intimately linked with and dependent of culture.“ (Kymlicka, 1995, 75).

Kymlicka overlooks two things. The first refers to his understanding of individual freedom. Individual freedom can be a negative one and positive one. A negative liberty is devoid of any empirical content; it enables individuals to choose their own identities, which include cultural components too. As soon as the freedom of individuals is seen as „dependent of culture“, it ceases to be the negative individual freedom since in that case it is conditioned by

empirical cultural determinants. The negative freedom as freedom of individual choice and as the basic category of liberalism cannot be „intimately linked“ with the culture as such. None of the different types of cultures belongs to the formal-procedural structure of the civic state, which presents the very essence of the state of that type. In my view, Kymlicka in his considerations does not differentiate in a precise way legal-negative liberty which enables to individuals freedom of choice, and individuals who in virtue of that freedom, as members of civil society, choose between different possibilities that present contents (objects) of their choice. Of course, different cultural alternatives can be a part of these contents but one of results of choices of individuals can be the life's motto; Don't be attached to any particular culture. According to Kymlicka, such a choice would be meaningless. However, such an assessment is not liberal but repressive one. Only liberal legal person who is not determined by any constitutive good enables freedom of individual choice and limits its content. In other words, the right that grants individuals a free choice of values is one thing; but it is quite another one concerning the very process of self-realization of individuals based on that right. In the system where negative freedom is central, there is no way to recognize minority rights based on its liberal principles. This is because rights in that system are acquired independently of ethnocultural belonging, while minority rights are acquired dependently of ethnocultural belonging. The man as such is the holder of the former rights; the holder of minority rights is not every man irrespective of his or her ethnocultural identity, but rather a man as a member of a particular ethnocultural group.

Ronjoo Seodou Herr remarks quite well; “Will Kymlicka argues that societal culture matters to liberalism because it contributes to its members' freedom. If so, multiculturalism that advocates group rights to sustain minority societal cultures in the liberal West is in fact entailed by liberalism, the core of which is individual freedom. Freedom then functions as the main bridge between liberalism and multiculturalism in Kymlicka's position. The sense of freedom enabled by culture, however, is not equivalent to the notion freedom advocated by mainstream of liberalism, liberal autonomy... Kymlicka's multiculturalism is an inconsistent and therefore implausible theoretical construct because Kymlicka unwittingly equivocates on freedom in

using its two distinct senses interchangeably.” (Herr 2007, Abstract).

The second thing that Kymlicka overlooks is the following. As soon as ethnocultural groups obtain specific cultural and political rights, ethnocultural concepts transgress the boundaries of civil society and to a certain extent become, dependently on the character of these rights, part of the constitutive principle of the liberal state, whereby this state ceases to be neutral to ethnocultural groups within civil society.<sup>4</sup> By official recognition of some groups, the state gives certain privileges to them. Their members have not only civil but also specific cultural and political rights, while the members of majority cultural group have only civil rights. When ethnic groups acquire ethnic autonomy, they can interpret themselves as the people in the ethnic sense, while the other citizens remain the people in a political sense. If the logic of the linking individual freedom with cultures is valid for minority groups, then one can pose the following question: why would not that logic be valid for majority groups?

If in a complex state all liberalized groups, including majority groups, receive the right to establish ethnic autonomy to protect legally their particular cultural traditions, legal pluralism would be introduced to such state: each of these groups would have a legal system that would protect its particular tradition. It is evident that such state would be temporary *modus vivendi* based on a feeble consensus of these groups to co-exist in the same state, whereby the legal identity of the latter would be reduced to more or less protocolary or symbolic one. That state would no longer be a civic state. Each of these groups would live independently of those whose cultural traditions are different. „Such a legal pluralism is justifiable, Gray argues, not only on the Hobbesian rationale of promoting the peace but also on the Hederian ground that it allows even people who are co-mingled in the same territories or human settlements to recognized their cultural identities in the legal order to which they are subject.“ (Gray 1995, 136).

Up to this point, I have briefly outlined the two basic models of legal systems. A distinction between pure models and real historical systems, which show some minor or mayor exceptions to the aforementioned models, should be made. These exceptions bear witness to the fact that the pressure of real life

demands a certain type of *compromise* between these normative perspectives, which means that each of these models becomes open to the influence of some elements of the other. I will cite the example of the introduction of minority rights into a liberal state. I use the syntagma “introduction of minority rights” because there is no way to recognize such rights based on liberal principles: minority groups justify their claims by pointing to the importance of preservation and development of their cultural traditions. Sometimes, a *primordial* intervention into a civic state is inevitable, for it can be the expression of every life’s reality. We should not compress life’s reality into the “Procrustean bed” of pure theoretical principles.

Polyethnic and representation rights can play an integrative role in certain contexts: due to them, minority communities can largely accept the given state as theirs. However, these rights can also lead to homogenization of minority groups on the ethnic basis, i.e. to their isolation from the wider community. This type of homogenization may become an obstacle to free circulation of people, commodities, capital, services, etc. It may also lead to posing new demands by these groups concerning their rights, e.g. they can require the right to establishing ethnic autonomy that would allow them to become people in an ethnic sense, and whose members would vote by ethnic key, not by political key. After acquiring that right, the demand for secession cannot be excluded.

We should not forget that both radical communitarians and radical multiculturalists consider that bearers of rights are groups, not individuals. According to them, the rights of ethnocultural groups are not derivative, but intrinsic. For John Gray, who is a radical communitarian, „the institutional forms best suited to a *modus vivendi* may well not be the individualist institutions of liberal civil society but rather those of political and legal pluralism, in which the fundamental units are not individuals but communities.“ (Gray 1995, 32). For Michael Duche, „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, abolition of culture would lead to the uprooting of individuals... Radical multiculturalism risks falling prey to self-defeating normative relativism“. (Duche, 2004, 238).

<sup>4</sup> In my book *Problem identiteta* (Službeni glasnik, Beograd, 2006, the chapter Multiculturalism) this question is elaborated in details.

In my book *Teror uma ili teror nad umom* (Terror of Reason or Terror over Reason), I attempted to demonstrate that communitarianism and multiculturalism are the forms of postmodernism which radically criticizes the Universal Reason both in its metaphysical and postmetaphysical sense<sup>5</sup>; therefore, both essential and procedural Reason. Hence, the essence of postmodernism is also contextualism, which excludes any universal standard. The central category of postmodernism is the concept of difference. This is radical, irreducible difference. According to postmodernism, particular cultures are irreducibly diverse. The radical difference between particular cultures implies that each of them is homogeneous from within, mirroring holistic conception of community. According to postmodernists, there is a diversity of mutually incommensurable goods. This standpoint leads to ethical relativism.

Derrida as the corypheus of postmodernism has always emphasized the contextual nature of deconstruction. „To count as just, it must transcend general maxims such as Kant's categorical imperative... For Derrida, such imperatives are deficient insofar as they are a species of what Kant called 'determinant judgment'; we know in advance the general law and subsume the particular case under the rubric. Those who observe this procedure, Derrida argues, can never do justice to the unique demands of the individual case... Law, conversely, always seems to suppose the generality of a rule, a norm or a universal imperative.“ (Wolin 2004, 234).

Therefore, Derrida here rejects the pure formalism of Kant's procedural Reason arguing that this type of Reason is „logocentric“in the same extent as it is the metaphysical essentialistic Reason. However, it is mistaken. Procedural Reason is not ontologized as a metaphysical Reason. It only tends to restrict, by its purely formal prohibitions, negative freedoms of individuals - not to order the entire social life in a rational way as the followers of the metaphysical Reason intent to do. Kant rejected metaphysical thesis about the unity of Being and thinking, of Reason and the external world, of Being and „ought“. He cannot be seen as an adherent of deification the belief that world can become wholly transparent to Reason as such.

In my view, both communitarianism and multiculturalism brought to their ultimate logical consequences can be connected to this postmodern con-

cept of difference. Thus, John Gray as a radical communitarian legitimizes all existing particular cultures, for in his view they cannot be assessed, compared and hierarchically ordered by any measure.

Charles Taylor claims that we should assign the equal worth to all cultures, because of their key importance in the process of forming collective and individual identities. Taylor's „politics of recognition“is based on some sort of holism as a conception according to which the whole is irreducible to its parts.

Even Will Kymlicka as a moderate multiculturalist assumes that particular cultures are, in their essence, irreducible by their character. Kymlicka's opponent Jeremy Waldron, as a proponent of cosmopolitanism, rejects that particular cultures are the homogenous entities and assumes that they consist of different fragments of cultures of different types. „Salman Rushdie's description of a life lived in the shadow of Hindu gods, Muslim film stars, Kipling, Christ, Nabokov, and the Mahabharata is at least as authentic as Kymlicka's insistence on the purity of a particular cultural heritage...We need cultural meaning, but we do not need homogenous cultural tradition. We need our choices in the contexts, but we do not need any single context to structure all our choices. To put it crudely, we need cultures but we do not need cultural integrity. Since none of us needs a homogeneous cultural framework or integrity of a particular set of meaning, none of us needs to be immersed in one of the small-scale communities which, according to Kymlicka and others, are alone capable of securing this integrity and homogeneity.“ (See Divjak 2002, 108).

In response, Kymlicka argued „that while options available to people in modern society come from a variety of ethnic or historical sources, these opinions become meaningful to us only if they become part of shared vocabulary of social life, i.e. embodied in the social practices, based on the shared language, that we are exposed to...That we learn... from other cultures, or that we borrow words from other languages, does not mean that we do not still belong to separate societal cultures, or speak different languages.“ (Kymlicka 1995, 103).

Kymlicka has understood a language as a part of collective identities, not as an instrument for communication between people.<sup>6</sup>

<sup>5</sup> See broader explication of that theme in Divjak Slobodan *Teror uma ili teror nad umom – Karl Šmit kao ikona postmodernizma*, Službeni glasnik, Beograd, 2012.

<sup>6</sup> See more of a language as an instrument for communication among peoples in Divjak Slobodan *Teror uma ili teror nad umom*.

None of these authors understands in an adequate way liberal notion of the legal person that enables every member of the liberal state to be a cosmopolitan or a proponent of a particular culture, because it is on the higher conceptual level than persons who choose between cosmopolitanism and traditionalism. However, a liberal state cannot grant any of these forms of life. Waldron does not conceive that cosmopolitanism cannot be treated as the more superior conception of the good life than traditionalist conceptions of the good life. Just as the cosmopolitan form of life cannot be a basis for establishing the civic state as it is „*mélange*“ of different cultural fragments, just so the traditionalist way of life cannot be elevated to the level of the constitutional principle of the liberal state. Neither Waldron nor Kymlicka is liberal. A member of a liberal state must respect the forms of life of other members, under the condition that they do not contradict the rules of the game that applies to all of them.

Liberalism, by its nature, cannot be imposed by force on any state. This is a logical consequence of the fact that the establishment of the liberal state, in principle, requires the prior consent by its citizens expressed by their voting in accordance with previously instituted procedures. Hence, Rousseau's claim about the enforcement of people to be free is antiliberal: „Whoever refuses to obey the general will shall be compelled to do so, which means nothing else than that he will be forced to be free.“ (Rousseau 1974, 31). This claim, which implies repression in the name of freedom, is the consequence of equating freedom with positive freedom, i.e., with a prescribed range of activities. It also entails some sort of paternalistic way of government. Paternalism is a restriction of the citizens' freedom, which is supposedly in their interest according to their authority's (government's or sovereign's) view. Kant was resolutely opposed to a paternalistic form of government; A government that views subjects as immature beings who are “incompetent to decide for themselves what is good or bad for them is the worst despotism we think of.”

In the contemporary world, the humanitarian military interventions are justified by paternalism. Namely, through these interventions, liberal states allegedly try to impose liberal order on illiberal states against their will since this is, in intervening states' views, in the best interest of these countries. However, it is a violent imparadising of nonliberal countries and their populations. There are hidden imperial interests behind such justifying. There is no

liberal order on the interstate level. On that level, dominates *Machtpolitik*, which is based on the right of the stronger. Because of that, all military humanitarian interventions are deeply antiliberal by their character. None of them relies on the international law, but upon *ad hoc* moral arguments. However, the direct moralization of the law endangers the very basis of the modern world - the principle of separation between law and morality since the law is separated from moral in it. To criticize illiberal orders so as to demonstrate that liberal orders enable higher extent of individual freedom is one thing, but it is quite another to plead for the violent establishment of the liberal order in these non-liberal countries. It is their internal decision when and if these countries will introduce liberal order. Every order is legitimate as long as its population, at least implicitly, supports it. Only great mass uprising can call into question its legitimacy.

### Conclusion

Now we can summarize the main common points of communitarianism and multiculturalism:

1. The critique of liberalism from „culturalist“ standpoint. This standpoint tends to rehabilitate the great importance of particular cultures in the process of forming both collective and individual identities. Because of that, the preservation and development of particular culture cannot be left to changeable individual will, but it must be institutionalized. Without pleading for the institutional protection of particular cultures, there cannot be either communitarianism or multiculturalism. This requirement separates both these orientations from liberalism as, according to liberals, individuals can pursue particular cultures but these cultures cannot be officially protected since liberal states are culturally neutral.

2. The critique of liberal self that is, as unencumbered and non-situated one, detached from real life in a society whose essence is given by particular cultures. This critique is the expression of conceptual confusion, i.e. of their incomprehension of an essential difference between the purely normative rights-justifying perspective and the ontological perspective.

3. This critique of the rootless liberal self is connected with the rejection of liberal thesis that the right takes precedence over the good. Having rejected not only purely formal universalism but also the substantial universalism of metaphysical type, their standpoint that the good is prior to the right can be

understood only in contextualistic key, so that contextualism is the very essence of communitarianism and multiculturalism. Contextualism as a perspective understanding the world leads to contextualization of the universal Reason as such. This implies that there are only contextually determined rationalities, ones which do not possess their own autonomy. Their attempts to reconcile contextualism and universalism in the concept of „contextual universalism“ cannot be seen as successful since they are contradictory from „within“.

4. Starting from the wrong critique of liberal self both communitarians and multiculturalists apply to liberalism atomistic conception of the individual, according to which men are self-sufficient beings who live independently of influences by historically developed social organization.

5. Both communitarianism and multiculturalism are prone to the reductionist understanding of the relationship between the identity of particular community and identities of its members. Of course, there are stronger and weaker variants, but they do not change the very essence of reductionism.

6. The inspiration for this reductionism is found in Aristotle's or in Hegel's comprehension of the community or state. It is understandable since these thinkers insisted on the internal relationship between individual and community's interests, and between the identity of individuals and identity of their community. Of course, for them, in this mutual relationship, the primacy belongs to the community as a whole.

7. Both communitarians and multiculturalists argue that most people are attached to their own culture and thus every order should be, to a certain extent, an expression of a particular culture. From that standpoint, they could not give universal authority to liberal order, since this order is also, in their view, based on a particular culture. However, they have never clearly answered the following: What type of a particular culture underlies the liberal system? Why the legal-constitutional orders of America and France are almost the same although these countries have rather different cultures? Which particular culture can be the substantial foundation of freedom of religion? One cannot respond to these questions from a culturalist point of view because a) the essence of American and French constitutions is not based on any particular culture and b) it is impossible to derive in a direct way any substantial concep-

tions of religion from freedom of religion as that principle is purely a formal one.

8. Their claims that individual freedom is intimately connected with particular cultures point to their misunderstanding of the central category of liberalism – the category of negative freedom. Negative freedom is wholly indifferent to any substantive content; it is wholly empty so it cannot be „intimately connected“ with the culture as such. Only positive freedom may be determined by particular culture. Negative liberty only enables individuals to choose between numerous possibilities. It is up to individuals to choose either an individualistic conception of the good life or the one that originates in a particular tradition. In a complex liberal state, a particular culture can be the result of the individual's choice.

9. Multiculturalists accept the communitarian view of a human nature that is contextual by its character. Cultural membership is the essential feature of human nature. The more a man is attached to his own culture, the more his character has moral strength and depth. According to such logic, the moral integrity of the fanaticized members of communities based on fundamentalist cultural traditions is the strongest one. Communitarians and multiculturalists argue that people who are prone to choose in accordance with their preferences are without any character. For example, Michael Sandel emphasizes: „In order to imagine a person incapable of constitutive attachment to his/her community it is not necessary to imagine ideally free and rational subject, but a person without any character, without moral depth.“ (Sandel 1982 97).

However, can a person who has no possibility to choose to be free and responsible? Their respond could be that attachment people have to their own community is not a result of enforcement but their voluntary consent. If so, why are the cultural traditions of such communities protected by an appropriate legal system? Why would a man who is ready to die defending the liberal system and its form of freedom be without moral integrity and dignity? Why would not those who fought against totalitarian orders in the name of parliamentary democracy be considered brave and dignified? These are certainly examples of a deep loyal relationship with the system based on the primacy of individual freedoms. Liberals do not understand human nature in an essential way. For them, a man is free being only as far as he has the possibility to choose between different alternatives.

10. Proponents of both orientations claim that collective rights are on the same or even higher level than individual rights. However, it could be said that they are not sufficiently aware of the conceptual incompatibility of these structurally different types of rights and potentially negative implications of the introduction of collective rights in the civic state.

11. Brought to their ultimate logical consequences, both communitarianism and multiculturalism accept, in essence, the postmodern concept of radical difference. They apply this type of difference on relationships between particular cultures; because of that, particular cultures are seen as mutually incommensurable, something that is *sui generis* or *causa sui*. In this way, they have comminuted metaphysical Absolute in a multitude of small absolutes, pure particularities, windowless monads. Absolutization of the difference between particular cultures necessarily leads to absolute ethical relativism and abolishment of the differences within communities based on mutually incommensurable particular cultures. It is the conclusive point of radical critique of the universal Reason: of not only metaphysical universalism but also postmetaphysical universalism whose starting point is the primacy of freedom of individuals.

12. Of course, civic states are not fully inclusive ones, although they are open to ideological, ethnocultural, religious, etc. pluralism. For example, as a Serbian Orthodox who accepts customs and substantial values of Serbian tradition, I have a different identity than a French person who as a Catholic lives in accordance with different customs and substantial values. However, had I obtained French citizenship I would not have to reject my way of life, because as liberalized one it could be dovetailed with the French liberal system. Therefore, I am not the Radically Other or the Absolute Stranger in relation to the civic state. The wholly Strangers in relation to the civic state as such are those who can live only in a group whose customs and substantial values cannot be inserted in its legal system. For example, if the members of an antiliberal (fundamentalistic) group who want to live according to their tradition require obtaining French citizenship, they would not be able to do so, for their fundamentalistic way of life cannot be inserted in a liberal system. Hence, postmodernists reproach liberals for not resolving the problem of the Other or the Stranger, as they refuse any modification of a liberal system in order to accommodate the cultural difference. However,

this accommodation would introduce another legal system in a liberal system, the two being incompatible. The system that does not exclude any form of life can be, in principle, treated as an utopistic project. The critics of non-inclusivity of the liberal system concerning the radically Other avoid posing a question: why is not any kind of inclusivity appropriate to the legal system of an autarchic community based on a single particular tradition? The reason is very simple. For such a community the absolute Stranger is everyone who does not belong to the same ethnocultural substance. Postmodernists tend to romanticize of the Other. The propensity to evil is not reserved only for Westerners. „The celebration of difference, respect for pluralism, avowal of identity politics – these are regarded as hallmarks of a progressive antiracist outlook... I want in this paper to show this to be a naive and dangerous view. Far from establishing a critique of racial thinking, the politics of difference appropriates many of its themes and reproduces the very assumptions upon which racism has historically been based. Most critically, the embrace of difference has undermined the capacity to defend equality. The very title of the final debate at the Frontlines/Backyard conference ‘Equalities and the politics of difference’ - express the problem. Equality cannot have any meaning in the plural. Equality cannot be relative, with different meanings for different social, cultural and sexual group. If so it ceases to be equality at all, or rather becomes equality in the way racists used to define it – ‘equal but different’ – in defending segregation or apartheid. Equality requires a common yardstick, or measure of judgment, not a plurality of meanings.“ (Malik 1998, 125).

13. The importance of both communitarianism and multiculturalism consists of their critique of Eurocentrism and imperialism and their pointing to weaknesses of the liberal system. There cannot be an ideal rule of law. No civic state can wholly prevent injustices, including discrimination of some groups at the level of civil society and creation of invisible informal centers of might. However, the fight against these negative social phenomena within liberal state, including civil disobedience, directed toward its improvement, is one thing; it is quite another to argue that the fundamental cause of these phenomena is the liberal system as such. The latter implies the rejection of this system in favor of the completely different system. Nevertheless, great historical experience shows that civic state is better than other types of systems.



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