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ON MULTICULTURALISM

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INTRODUCTION

There is no agreed definition of 'culture'. Definitions differ according to the intent and the discipline in which the concept is used.

For instance, Ernest Gellner defines it in an ethnological relationship. According to him, culture is the "pattern of behaviour and communication unique to a particular community."¹

Edward Said, on the other hand, defines culture as "artistic applications existing in an aesthetic pattern and which is independent from economic, social and political fields."²

Matthew Arnold's definition of culture in the 1860s is close to civilisation. Contrary to this, Edgar Morin differentiates between the two concepts. According to Morin, culture explains something that is singular and unique to a society, whereas, civilisation explains what can be transferred or exchanged from one society to another. Within this context, culture is unique to the genes and civilisation is what can be generalised. 'Civilisation' is used more often as the opposite of 'barbarism' whereas 'culture' is used as the opposite of nature. 'Culture' and 'civilisation' form a bipolarity. The singularity, subjectivity and individuality of the former opposes the transferability, objectivity and the universal nature of the latter.³

Understanding culture as Edgar Morin does—in the narrow meaning, such as ethnic groups, regions and things belonging to nations—is important in view of the foundation on which the European Union and the integration process rests and the question of whether Turkey has a place within this process.

If this separation between culture and civilisation is valid, then it is possible to assert that Turkey possesses a unique culture, yet shares the same civilisation with West Europe. Likewise, as some West European statesmen have done, it will be necessary to qualify the European Union not as a 'culture project', but as a 'civilisation project'.

The definition of culture also outlines the parameters of 'difference' with respect to the subject matter. The significance of the problem is better understood when one takes into account the existence of, according to one estimate, 5000 ethnic groups and 500 living languages in the international community of 195 independent United Nations member states.⁴ Even more so given the ethnic, religious, and cultural conflicts that have emerged as the most important source of violence following the end of the Cold War.

Cultural differentiation also includes closely related problems such as ‘identity’, ‘the other’, ‘racism and discrimination’ and, eventually, breeds the obligation to find an answer to the question of whether the contradiction between universality and relativism can be resolved.

Culture is closely related to the nation state. According to Gellner, the establishment of the nation state has resulted in the acceptance of a high culture in society. This culture, which has been coded to the needs of bureaucratic and technological communication doctrines at schools. It replaces the common local cultures adopted by the majority prior to the establishment of the nation state and provides for the bonding of society where atomised individuals live. There will be resistance from local cultures against this dominant culture and, if the local culture is successful in this, it does not replace the alien high culture by the old local low culture, but it creates a new high culture of its own.⁵

It is necessary to search for the reason for multiculturalism’s post-Cold War emergence as a concept that cuts through many fields of science from political science to social science and from law to history in the erosion of dominant cultures in nation states which, above all, Gellner mentions. The weakening of centres in the industrialised Western countries, the globalisation of capital and, as a result, the insufficiency of nation states’ traditional political and social structures in regulating socio-economic developments within their national boundaries have had an important effect. In reaction to this development, ethnic-cultural identities have emerged as a tool directed at preserving local political and economic interests. Culture started to act as the ideological instrument of the new ethnic nationalism.

On the other hand, massive migratory movements to West European countries have given birth to new ethnic groups in these countries and have given a heterogeneous quality to North European countries that had previously seen themselves as homogeneous countries. However, the alienation of new ethnic groups in these countries bred problems, such as targets for new racism, and resulted in the need to change local structures in order to accommodate growing cultural differences.

This article will dwell on problems emerging from multiculturalism and on the relationship between universality and multiculturalism.

Multiculturalism and Identity

Charles Taylor describes identity as recognition. According to Taylor, one of the most important features of today’s politics is minority groups’ demand for recognition. Identity depends on whether this demand for recognition is met or not. If individuals or societies are not recognised by the society they live in or if society reflects a negative self-image, then they lose their self-respect.⁶

We need to approach such identity expressions widespread in today’s Europe and North America with a little caution. First of all, it is difficult to grasp the relationship between recognition of identity and the existence of that identity. Since there is demand for recognition, there exists identity. If this identity is rejected, there is not much reason to believe the existing identity will either be harmed or disappear.

There are other problems created by collective cultural identities. Identity is determined by the individual’s interchange with others and the outer world, yet it is the relationship with the individual’s own self. The influence acquired from other cultures plays as much a role as the

individual's own culture in the shaping of identity. Today it is natural for identity to be influenced by other cultures as there is an intensive exchange between cultures. If cultural identity is shut to other cultures and if it is introverted, it is inevitable that this will lead to fanaticism. It is these closed collective identities that underlie the foundation of ethnic fanaticism that we see in many places today. The generally accepted trends in today's Western world are also encouraging ethnic fanaticism. In the West, most of the time cultural and ethnic identity is used with the same meaning. What is understood from cultural differences is the difference between ethnic communities. Ethnic characteristics are seen as the most important element of identity.⁷ As a natural consequence of this situation, other cultures are alienated and hated hostile 'others'.

Culture is not the only influence that makes up identity. Universal values and universal knowledge accessible to every individual also influence identity and bring it a continuous variation.

Today, the movement of labour, capital, technology that transcends national boundaries, and the migration of people has made it impossible for identities to remain solely within the borders of the nation-state. For the same reason, it is becoming difficult to talk about homogeneous identities in nation-states. People are acquiring multicultural characteristic in an increasing manner due to this situation. The best example of this is the approximately three million Turks living in Western Europe. In particular, the 'hybrid' identities of the second and third generation Turks are a product of a dialogue between different cultures at different times. Multiple identities should be viewed positively since it frees people from the confinement of their own ethnic identity, provides the opportunity to harmonise and integrate with the society and culturally enriches that society. However, Çağlar is sceptical on this subject. According to Çağlar, "hyphenated" identities are entrapped by the very "reification" that it intends to prevent. "Hyphenated" identities cannot depart from ethnic identities. For instance, German-Turks do not create a single heterogeneous culture; they remain limited to Turkish and German cultures—two different cultures—and maintain the cultural hierarchy.⁸

In order for immigrants living in foreign countries to form a synthesis of identities made up from a number of cultures, the host society, above all, must accept multiculturalism. In return this will result in the changing and influencing of the host society's own identity.

Multiculturalist theorists, such as Tariq Modood, Charles Taylor and Will Kymlicka draw attention to the fact that their understanding of multiculturalism does not include Moslems.⁹

Habermas outlines this influence as follows:

A democratic state is obliged to preserve "the identity of political society. Nothing can be allowed to alter this identity, including immigration, because this identity rests on the constitutional principles derived from political culture, and not from the ethnic elements emanating from the cultures of the country".¹⁰

Legal Situation: Individual Rights—Collective Rights

In liberal doctrine the subject of human rights is the individual. Human rights are granted equally to all individuals. Principles of equality and universality dominate fundamental rights and liberties. Since the 1776 Virginia Rights Declaration and the 1789 Human and Citizenship Rights Universal declaration, fundamental human rights and liberties have continued to be rights granted to the individual and asserted against the state. The same principles have been projected into the 1948

Universal Declaration of Human Rights and the 1953 European Human Rights Convention

In terms of enforcement, the European Human Rights Convention is the most important document from among the human rights documents prepared in the field of international relations in the aftermath of the Second World War. The European Human Rights Convention is an international document containing supranational qualities and contains mandatory obligations for states to fulfil in the area of human rights.

This Convention also grants individuals the right to apply to the European Court of Human Rights against their own state and, thereby, gives the individual the quality of an active subject of international law.

This liberal human rights doctrine does not encompass economic, social, or cultural rights. Although these rights are considered to be part of human rights, they are not in the European Human Rights Convention (property and educational rights may be viewed as an exception in the additional Protocol number 1 of the Convention). Therefore, there is the possibility to say that there is a certain hierarchy within human rights.

There are no rights granted to ethnic or religious communities, or to minorities, in both the European Human Rights Convention and the Universal Declaration of Human Rights. Though, for example, article 9 of the Convention, on freedom of thought, conscience and religion, states that this freedom can be used “either alone in community or with others “. However, the use of individual rights with others does not bring with it a quality of collective rights nor does it make that community a subject of the law. Rights, once again, remains with the individual. It is the same in terms of trade union rights. Collective bargaining rights granted to workers do not bring forth a collective right, even through this right is not used individually. The union, which carries out the bargaining, does not become the owner of the right. The subject of the right is the worker.

The European Human Rights Convention does not mention cultural rights. However, to this, the “margin of appreciation” doctrine, which evolved with the decisions of the European Court of Human Rights, harmonises universal human rights and the different characteristics unique to nation-states. With the application of this doctrine, the Court provides nation-states with a field other than universal values for the implementation of the Human Rights Convention, thus drawing the border between public interests and the interest of the individual. At the same time, it accepts that the Human Rights Convention cannot be applied in uniformity to all states. For example, the Court foresees state interference with certain individual rights and freedoms to take measures to protect the safety and interest of the public.

However, this margin of appreciation entrusted to states is not limitless. The Court’s case law has determined the criteria that outline these limits. First, in a democratic community, this interference by the state must be a necessity. That is, there must be a pressing social need and it must be proportional. Second, any restrictions to these rights must pursue a legitimate aim.

Ethnic conflicts in the aftermath of the Cold War lead to the view that these conflicts could be resolved by way of collective rights such as cultural and minority rights. As a result, we see minority rights gaining a place in many international documents following the Cold War.¹¹ However, the common feature in all these documents is the mention of persons belonging to national minorities. In other words, these documents have accepted the individual, and not the community, as the subject of

rights.

Article 3 of the Council of Europe “Framework Convention for the Protection of National Minorities”, which recently became effective, is very clear on this. According to 3/2, “People belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present Framework Convention individually as well as in community with others.” The explanatory report of the Convention states that individual rights may be used in conjunction with others. However, this is different from the concept of collective rights and that the term ‘others’ equally includes other national minority groups, people belonging to the majority, or people from the same national minority group.

On the other hand, when we look at implementation at the European level, we see that almost all European countries limit fundamental rights and liberties to the individual. An exception to this is Hungary. The fifth article of the 1991 “Law on the Rights and Liberties of Ethnic and National Communities and Minorities” grants minorities the right to cultural autonomy. However, it can be inferred from the following articles that in reality this carries the characteristics of an individual right. Article 68/7 of the Hungarian Constitution mentions the protection of “national and ethnic minorities” and the use of their own languages. This article could be assessed as a collective right.

The Constitution of Slovenia also deals with individual and collective rights in one combination.

Although it may be implied by an amendment to its constitution in 1988, Norway has agreed to the collective rights of its Sammie minority and, likewise, Finland has enacted a law on the same subject.¹²

Apart from these not so clear exceptions, there does not exist a country in Europe that accepts collective rights in their laws. Consequently, it is a fact that in the existing European public order, collective rights are not accepted and individuals are the subjects of fundamental rights and liberties.

Time will show whether this conclusion, which is valid in view of existing law, will also be valid in the future.

However, forming communities into subjects of rights will create a paradox in terms of human rights law and, besides this, will breed political and social drawbacks.

Today, one of the greatest arguments at the United Nations human rights forums, where states from other regions of the world meet along with Western Europe and North America, is ‘cultural relativism.’ Non-European countries—especially Asian countries such as China, Malaysia, Pakistan, Singapore, India and Latin American states—assert that it is necessary for the concept of human rights to take account of the historical and cultural conditions unique to countries. Further, they argue that the human rights system, which was born out of the evolution process of Western countries, cannot be valid for non-Western countries. We see that Prof. Samuel Huntington also uses similar arguments.¹³

Western countries, on the other hand, point out that human rights are derived from natural law and that these rights are inherited at birth and, therefore carry a universal quality.

This argument peaked at the 1993 World Human Rights Conference and jeopardised the assembly of the Conference. The declaration adopted at the conclusion of the Conference reflects a compromise.

The universal characteristics of human rights is emphasized in the declaration which, on the one hand, foresees the taking into account of national and regional characteristics and various historical, cultural and religious backgrounds while, on the other, in the same sentence states that:

“it is the duty of states, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”

If cultural rights were granted to communities in the area of human rights, then rejecting the cultural relativist views of Asian and Latin American states would become impossible. The universality principle of human rights would be marred and, for the sake of bringing human rights to a more advanced point, violations of human rights would gain acceptability in communities with different cultures from those of European countries. In a sense, Samuel Huntington’s thesis would be confirmed in this way.

Cultural Rights Within the Framework of the Council of Europe

The first Article of the Council of Europe’s Statute indicates the objectives of the organisation. According to this, the objectives of the European Council are to realise the ideals and principles of a common heritage and to form closer unity among the member states for the protection of these ideals and principles. The second paragraph of the same Article foresees joint action and the drafting of agreements in economic, social, cultural, scientific and administrative matters in order to realise these objectives. Consequently, cultural matters are one of the fundamental areas of interest for the Council of Europe.

The culture policy of the Council of Europe has two objectives: to create a common European cultural identity and to protect cultural characteristics.

The European Culture Convention, which became effective in 1954 and of which Turkey is a party, is directed more at developing cultural co-operation among the member states. However, until 1978, other than the establishment of some structures, solid steps had not been taken. In 1978, the main executive organ of the Council of Europe, the Committee of Ministers, accepted a ‘Declaration of Human Rights’. In this way, the Committee started to think about cultural rights for the first time. The second paragraph of the Declaration foresees the broadening of individual rights to include the social, economic, and cultural fields and the protection of these by agreements.

As a result, the culture Committee of the Council of Europe, consisting of experts, intensified its efforts to draft a list of cultural rights. A list of human rights was drafted with the intention of including it in the European Convention on Human Rights.

The three criteria in determining cultural rights were as follows: These rights were to be (1) fundamental and (2) universal and have (3) the power of enforcement.

From the list of 80 rights, consensus was reached only on one right, the right to education, to be included in the European Convention on Human Rights. Article 2 of the supplementary protocol No.1 of the European Convention on Human Rights regulates this subject.

Following this, the Council of Europe’s Culture Committee intensified work to prepare a Charter of Culture. When it became obvious that the governments would not accept such a document, the work of the Committee moved to a Culture Declaration which was less specific and would not have a

binding quality, and it was intended to be a supplement for the European Culture Convention. The Committee of Ministers rejected the draft, which was the product of work spanning the years 1978 to 1984.

These unsuccessful efforts led Council of Europe to focus on a single, cultural right: the European Charter on Regional and Minority Languages. Following long negotiations, a Charter on Minority languages, prepared by a Committee of experts, was accepted by the Committee of Ministers and opened to signatures in 1992. Sixteen states have signed the Charter and it has become effective in the five states that ratified this agreement. (There are 40 members of the Council Europe.) Turkey has not signed the Charter.

For the first time the Council of Europe departed from universal rights with the Minority Languages Charter. But the Charter is valid for signatory states. More than half of the member states has not ratified the Charter.

Following the end of Cold War, East European states began to join the Council of Europe. The East European states' membership brought about major changes in the Council of Europe. In 1993 the Heads of State and Governments Summit gathered in Vienna to decide how to meet the new needs of the organisation. We see that cultural problems gained new significance in the accepted declaration of the Summit. Cultural co-operation, along with democracy, human rights and the constitutional state, is accepted as the fourth pillar of the organisation. Within the process of the Council of Europe's expansion toward East Europe, it was thought that cultural co-operation would play the role of an adhesive in the unity and solidarity of the organisation, while simultaneously preserving cultural differences. It would pit tolerance against these differences and would become the solution to ethnic problems that surfaced with the ending of blocs.

Two solid decisions were accepted in the Vienna Summit Declaration: the Framework Convention for Minorities and, on the matter of preserving minority cultures, the preparation of an additional protocol to the Convention on Human Rights.

The Framework Convention for Minorities was opened for signature in 1995 and the ratification requirement (at least 12 states) to render it effective was fulfilled in 1997. Turkey did not sign the agreement. Some of the signatory states have lodged reservations about specific articles of the Agreement. For example, Federal Germany made a reservation that it would not consider foreign workers as minorities and would exclude them from the Convention. It is arguable whether this reservation contradicts the spirit of the Convention and, therefore, to what degree it conforms to the criteria of the Vienna Agreements. Since Turkey is not party to the Convention, she does not have the right to object to this reservation.

The majority of the rights contained in the Convention are cultural rights. The right to belong to a minority, the right for people belonging to minorities to use their own language, the right of minorities to establish their own private educational institutions, the right to use a desired name, the right to learn the minority language, and the like.

The preparation of an additional protocol to the Convention on Human Rights is more serious since it grants the individual the right to apply to the Court of Human Rights, and could become the subject matter of a court with enforcement powers. Regarding the additional protocol, an expression used in the Summit Declaration of October 1993 states that "a protocol complementing the European

Convention on Human Rights in the cultural field by provisions guaranteeing individual rights, in particular for persons belonging to national minorities.” This is an assurance that the additional protocol will not ruin the foundation that the Convention on Human rights rests on and that the protocol will not lead to collective cultural rights.”

The Council of Europe’s Committee on the Protection of Minorities carried out studies until 1996 and prepared a draft additional protocol containing the four rights: the right to use a name, the right to the language of choice, the right to learn the language of choice, and the right of minorities to establish their own cultural and educational institutions.¹⁴ However, besides legal difficulties concerning the matter of an additional protocol (such as clearly determining the inclusiveness of rights), the Committee suspended its activities because of the absence of political will of the Governments.

It can be inferred from the above explanations that in the aftermath of the cold war, the increase in the membership numbers of the Council of Europe and the ethnic problems of East Europe have brought liveliness to the problem of cultural rights and minorities in the Council of Europe. Developments that followed indicate that Governments are not prepared to take on obligations with enforcement power on cultural rights and minority matters.

Traditional Liberal Principles and Multiculturalism

Traditional liberal doctrine is based on individualism, equality of individuals before the law, and universality. Individuals’ ethnic, religious or linguistic characteristics do not enter the public sphere. In other words, the state is impartial to these characteristics of the individual. The state is obliged to protect the fundamental rights and liberties of the individual and to provide equality. However, in doing this, the state is not interested in the individual’s ethnic and religious characteristics.

The above explanations indicate that these principles dominate both the law on human rights and the basic position of the Western states. Where are we going to place the cultural demands that emerge as a result of this situation? Are we going to pretend not to see them, are we going to try to relate them to the system of liberal values, or are we going to establish a different system of values other than the liberal one?

In case differences rest not on culture but on the foundations of class, then the fundamental argument takes place between the liberal view, which ignores differences, and the socialist view that intends to remove these differences. The parameters of the argument are clear. However, the parameters of the argument are more undefined and complex in today’s world, where ethnic or religious differences have taken the forefront instead of class differences, than they were before.

To move to a system of values based on communal differences—by setting aside the democratic understanding of citizenship brought about by the liberal system of values—will create dangers for human rights and democracy.

In a culture based on the communal system, the identity of the individual crosses through membership of the community. And this obstructs both the evolution of individual identity and the subjectivity of the individual. The community determines the individual’s code of conduct.

The institutionalisation of cultures, effected by delivering them to the public arena, will result in the

freezing of differences between cultures and will give legitimacy to cultural communities.¹⁵

As a result of all this, communal order is very much prone to becoming a tool that would violate the human rights of individual members of the community and keep its members under oppression. Kymlicka contends that communities could bring two limitations, outer and inner. Inner limitations are those imposed by the community on its members' rights and liberties. Outer limitation, on the other hand, is one group's oppression of the other and the limitation of the rights and liberties of this group.¹⁶ Apartheid or the ethnic cleansing in Bosnia is an example of this.

If an ethnic or religious community does not try to impose on another community its own values, yet rejects liberal values and wishes to exist in a manner consistent with its own cultural values, then should this be tolerated by the remaining segment of this society? For example, the circumcision of female children is a widespread cultural practice in many African countries. Because of this many little children either die or remain disabled. Will this practice, which is a violation of human rights, be tolerated because it is a cultural practice, or will states, which have these kind of practices, be pressured to remove such human rights violations? In other words, is it acceptable for ethnic or religious communities to impose limitations on their members that would breach their fundamental rights and liberties?

In a community of free and equal individuals and within the framework of a constitutional order that is based on the democratic equality of individuals, it is impossible to tolerate the deprivation of rights and liberties of certain individuals just because of the communal membership of some individuals. This would contradict the principle of equality and the constitutional order. Therefore, reconciliation between cultural demands should be found within the liberal values.

However, the search for such reconciliation carries importance in not alienating a segment of society from the country's political and social culture.

How to achieve such a reconciliation? Above all, emanating from the law on human rights, the state has obligations towards its citizens, subjects and others within its borders.

The primary one among these is respect the individual rights of the people living in that country. Second is the protection of individual human rights against the violation of specific individuals or non-state groups. Third, in all areas legally and actively maintaining equality among individuals, or preventing discrimination. Although discrimination could result from ethnic or sexual differences, it could also manifest itself, for example, in the form of individuals not participating in the political life because they have not been able to obtain citizenship rights from the countries they live in. The state is obliged to take positive measures to ensure that individuals benefit from human rights in the real sense.

In other words, within the liberal doctrine, the state has broad obligations towards individuals. The fulfilment of these obligations, in many instances, meets to a large extent the aspirations of the individual. Nevertheless, in the liberal doctrine, the state is impartial to the ethnic and religious characteristics of the individuals. However, this is a benevolent impartiality. The state does not reject these characteristics. It respects them.

Even if the state effectively meets all these obligations, there will be variations according to each country and the conditions unique to each community. If cultural identities have formed alongside citizenship, and if there are differences because of this, which is the situation today in many

countries of the world, then the human rights foreseen by the liberal doctrine might not suffice. The insufficiency of universal human rights results in alienation from society. Alienation from the governing social culture in a country emerges as a dangerous threat in places where ethnic and religious differences are at the forefront.

Consequently, the state faces a dual threat in terms of cultural differences. In a way, there is serious apprehension that granting cultural rights to communities could mar the integrity of the country. For example, Arthur Schlesinger asserts that multiculturalism segregates races, leads to ghettos and fragments the shared American identity. American writers such as Ray Honeyford and Norman Tebbit also share the same views and defend assimilation.¹⁷

On the other hand, it is highly probable that insulation and alienation caused by the rejection of cultural difference could turn into violence. And, it is possible to say that this is equally dangerous regarding the integrity of the country.

For this reason, to relate differences to universal human right today is not just a theoretical problem, but an actual one.

Wieviorka asserts that this reconciliation can be achieved with the following triangle:

On top of the triangle is individualism and universality. Community and subjectivity take place on both of the other corners. The concept of subjectivity is used in overcoming the contradiction between individualism, universal values and the community. Within this context, subjectivity is the space owned by the individuals in making their choice between the universal values of the individual and the community, and this is achieved only by way of subjectivity. However, in case only one of the elements that form the triangle is valid and others are missing, then this tilts the balance between the elements.

Rejection of cultural roots has its own pitfalls. It gives away to the continuous suppression of the gap that emerges in the life of an individual who becomes assimilated through the rejection of his own cultural roots. Furthermore, as the Jewish genocide in the Second World War has shown, there is also the danger that the assimilated group could sometimes become the target of racism.

The concept of absolute community could lead to religious fundamentalism, to sectarianism, and to the community deciding even the minutest detail of the life of individuals.

If subjectivity dominates alone and all the ties of the individual is severed from the cultural community, then this time an individual hedonism emerges. What is important is the individualism of the cultural experience. However, if the cultural reference points are lost, the possibility to resist oppression from or alienation by community members disappears.¹⁸

The solution to the problem perhaps lies here: individualisation of cultural characteristics and the acceptance of the individual with his or her cultural differences. And in doing this, the right to choose should be available on the matter of the degree to which the individual wishes to preserve his cultural characteristics. The individual should be able to use this choice freely. In other words, equality of the individual and, at the same time, the right to be different.

This result is the redefinition of the public sphere and a redrawing of the borders of the individual

sphere and public spheres.

It is inevitable that, on the one hand, borders between the public-individual sphere will lose its previous definitive nature and, on the other hand, the borders of the public sphere will widen with the individualisation of cultural differences.

One of the practical results of this is that the state no longer retains its impartiality against the cultural characteristics of the individuals and becomes partial. In other words, the obligations of the state is not only limited to the acceptance and protection of these characteristics, but also includes the development of these.

The redefinition of the public sphere requires a new understanding of citizenship which will combine a system of liberal values with individual identities. It is without doubt that civil society will play an important role in search for this new concept of citizenship.

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