



MULTICULTURALISM

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Colors in most of Europe's cities have changed, and with them the landscapes, the villages, and the tongues audible in public space. The change came with new clothing or foods on display in tiny shops and areas of our supermarkets. They were a token of the many aspects of Europe's changing culture and life-style after WW II. But they also register what 'multiculturalism' in daily life and ordinary language means. European life created forms of *plural togetherness* within half a century. Novel political and cultural conditions, such as the emergence of the Union and its Enlargement forced to include others who are perceivably different in most ways of our own life. Those others entered our public space and intruded on our intimacy, because they obliged us to establish new and significant types of dialogue. Our innermost selves appeared to be at stake. We were reminded how the emergence of a personal identity depends on the interpreted existence of others. The place and role of our intimacy in the public sphere as well as the politics of our self-understanding became an outstanding feature in this context. Those three, the establishing of our selves, the embedding of our intimacy in public life and the management of our self-understanding, created a predominant condition for modern life in the context of Western culture. That condition is called *tolerance*. Tolerance, the key-word of these conferences, is the key concept of life in our Western world. However, more than one problem accompanies

this idea of tolerance. One is its sometimes strongly negative political color. Another is the widespread concern as to whether tolerance is a sufficiently powerful and overarching political form in Occidental society.

MULTICULTURALISM

Multiculturalism defines *a society that is predominantly composed of groups with different ethnic, geographic, religious and cultural roots which strive for equal positions on the markets of labor, goods and capital*. Why then is the expression loaded with so many negative connotations? To answer the question, we should have a closer look at two major components in this context, notably at *difference* and at *equality*.

'Multiculturalism' pertains to people who have *perceivably different* cultural roots and lifestyles. In general terms, perception plays the dominant role in view of difference. It is surprising how as early as in 1922 the German sociologist, historian and philosopher Max Weber highlighted that differences which show a mix of *binding forces* ('Gleichgearteten/Andersgearteten') and *strikingly different* ('auffällig') features determine a society's fate¹. In other words: the *variety* of cultural roots in a multicultural society is in itself less threatening than its *display* in public places. That puts tolerance to the test! No matter whether the differences are in belief systems and their practices, in ethnicity, language, or the image of man that dominates family relations, gender differences, household habits and professional attitudes – those differences cause acute problems in a multicultural society through their general perception and public display.

1. Max WEBER, "Wirtschaft und Gesellschaft", Ed. Johannes Winckelmann, Kiepenheuer & Witsch, Köln/Berlin 1964, Erster Halbband, p. 21f., p. 303 ff. [*On Law in Economy and Society*, E.Shils & M.Rheinstein (Eds.), Cambridge/Mass. 1954].



Europe's Union seems absorbed by the public perception of how autochthon and allochthon participants strive for equality in social and economic positions. The Union's destiny depends consequently on the extenuation that tolerance must ultimately lead to justice and social equilibrium.

It has marked the Union that this *striving for equality between market positions became almost exclusively the role of migrants* confronting established autochthon positions on all levels—the poor and the wealthy included.

The linguistic meanings of *difference* and *migration* became roughly identical all ambiguities included². Ambiguities, because the *acceptance* of *political* migrants as Union citizens underlined and emphasized Europe's commitment to human dignity and human rights, whereas the *rejection* of *economic* migrants displayed the opposite position. Migrant policies always concern a geographically determined location, a particular legal space and the political dimensions of a National State –no matter whether that State belongs to a supranational body or not. There is an important contrast here: some migrants were allowed to participate in binding interpretations of the common good (and thus creating multiculturalism) whereas others were strongly and publicly denied such place and position. The discrepancy between those two groups was often deeply felt. Do not forget how there are important historic affinities that result from the times of European National States colonialism. Inhabitants of Suriname or the West Indies possessed Dutch citizenship when they traveled to The Netherlands, where they were left to play the role of migrants. Citizens of India and Pakistan in London and other UK cities claimed a comparable historic affinity, as Latin Americans in Portugal and Spain or Ethiopians in Italy. The

2. The identification is so strong, that dictionaries translate the word 'allochthonous' as 'migrant' and 'alien'.

bouncing back of colonialism translates in multicultural migration problems.

Such contrasts made tolerance become a political issue whilst entering the discourse of allocation: when, where, how and how much tolerance to be provided. The discourse of contrast on the basis of scarcity enhanced a negative appreciation among the population of all perceived differences. It created an emerging right-wing political climate. It polarized societal interests in the heart of a newly conceived EU citizenship (with the Rome Treaty, 1957) whilst deepening the abyss between autochthon and allochthon individuals in the Union.

Migration thus became *the expression of perceived differences* and *a test of tolerance*. Both aspects constituted a new and unforeseen issue in the European Union, in the transition from Community to Union and in its Enlargement. This clearly contrasts with the United States. The US understands itself as a nation of immigrants. Most of its continent belonged in the eighteenth century to Mexicans and Indian tribes living in the western states, but only a small number of the 270 million individuals that now constitute the US can trace their roots to those ancestors. Citizens whose ancestors were migrants populate the US today. Some came in chains, as African slaves, most to avoid famine, war and depression, and migrated for socio-economic betterment. About one million immigrants are yearly admitted for permanent residence and the corresponding admission policies are largely purged of overt racial and ethnic bias³. In US terms, immigration means citizenship and citizenship is mostly the achieved goal of all migrants. Citizenship symbolizes personal dignity and the equality of social positioning. The multicultural variety of race or origin seems to be overarched by the common good of citizenship and the legal

3. Owen FISS, "The Immigrant as Pariah", in *Boston Review*, October/November 1998.



right to 'diversity'. Hence the expression that bounded all members of US society after the events of September 11, 2001: "United We Stand" –a slogan largely unimaginable in the Union.

Europe struggles to allow migrants EU Citizenship by means of Member State citizenship. Europe struggles with an allocation of equality when sharing space and employment, struggles with the vast array of languages, as with the hampering performance of its administration on the level of Member States and Union. Most aspects of that struggle translate into varieties of tolerance. What does this mean?

RECOGNITION

The widely known Canadian philosopher Charles Taylor has transposed tolerance into recognition. He thus made a deeper understanding possible than most contemporary US publications on the subject. Recognition is not only a political, outer-directed level of discussion but it seems also an inner-directed process that contributes importantly to the emergence of one's identity. Taylor emphasizes the political dimensions of tolerance. There are two objections to observe: first, the distinction between political and private dimensions of tolerance reproduces an essentially legalistic thought pattern, as one can learn from the dogmatic differentiation between public and private law, which displays the ideological dimensions of legal discourse. The second is that only the emergence of a well-established identity as a 'self' can be the basis of public discourse on tolerance. In other words, how tolerant do I have to be *as a 'self'* to discuss tolerance? That is not a rhetorical question. Inwardly generated identity seems the carrier for an outer-directed policy. Multiculturalism begins in our selves. It does not appear as the result of stimuli provided by politicians. Identity formation is an essential prerequisite for performing tolerance, for performing a creative management of

perceived differences and of coming true that –as Rousseau once formulated in his *Du Contrat Social*– that “...each one perceives and loves oneself in the others...”. This seems to confirm the old adage that someone can only recognize others if he or she loves or estimates his or her self. Recognition not only pertains to the other as the one who has to be recognized, but equally well to my self that has to be recognized in order to recognize other selves. Hegel, in his *Phenomenology of Spirit* has laid the groundwork for this dialectics when explaining the relations between master and slave. Equality is in the speech they perform, in the words they selected, in the terminology they use during their communication. Recognition seems beyond legal expressiveness although it is most prominently practiced in the language of rights and obligations, which protects our varieties of tolerance.

But how do members of a society make tolerance concrete and perform their transition to a multicultural society? It is clear in the light of what I said, that this does not only touch the promotion of social issues or of rights in the public space, but in the first place a transition in oneself, a transition of one’s self and as a self! Recognition is a re-birth, notably the rebirth of knowledge about what others contribute to my life, how they ground my life, its language, its norms and values, its goals and ideals. What Taylor called the *Politics of Recognition* is therefore a policy of *bringing forth* the knowledge that emerges from others⁴. Walter Benjamin reminds us how that is like a work of art: its character like the character of my self derives primarily from being *addressed* and not from any autonomy. What is at the end the issue in multiculturalism: me, in my autonomy and inalienable rights–or me as constituted and receiving constitutive incentives from others, that is: me as a truly social being? The question focuses an inwardly directed politics of recognition,

4. Charles TAYLOR, “The Politics of Recognition”, in Amy Gutman (Ed.): *Multiculturalism*, Princeton University Press 1994.



which is in my inner dialogue that prepares for accepting the plurality of others. That pertains to an altered self, another self that fits the categories of citizenship in European society better than traditional liberal individualism ever proposed. I name that other self “the multicultural self”.

THE MULTICULTURAL SELF

When I define this multicultural self, I must perceive how it is *the self that accomplished recognition* in the political form of tolerance towards a perceived plurality of social, behavioral and ethical standards and traditions. Tolerance has to function as a major element of the many ways the EU reflects its basic values when avoiding ethnic tensions or infringement of minority rights. But tolerance is not solely an issue for politicians, but rather of all of us. Much of it has to be engendered in the inner life of our selves when we participate in the multicultural life-styles of the Union. One has therefore to focus the inner-directed dimension, although outer-directed features remains indispensable and problems pertaining to the legal positioning of others seem to have priority in more than one situation.

Identity goes with recognition, and sometimes emerges from the heroic attempt to break out of life long cherished prejudices and beliefs about others. To see the other, to see the other as an equivalent self, to see the other as a source of my own identity, to accept his figure as a value in my inner self, to enjoy the wealth of the ‘non-me’, are forms of being an accomplished multicultural self. ‘Active citizenship’ comes into being only when I succeed to develop this inner-directed basis for multiculturalism. The EU administration sustains the latter process. It is reflected in the Union evaluation of language. Acquisition and use of language reflect most clearly the emergence of an identity within the life of a self. Multicultural contexts challenge us to perceive,

learn and speak more than one language. The Union ideas about a learning society focus therefore on languages. Any native tongue represents a self amidst others and represents challenges to transcend the limits of that particular self. Listening to others implies the question “why is culture plural and not singular?” One has to find the answer to that question within one’s lifetime and lifestyle. There is an answer to propose: “because plurality brings harmony, which is impossible in the singular!”. So, the multicultural self not only accomplishes recognition of plurality within itself, it also performs the task to pass legal and administrative discourse on to the discourse of civility, the discourse of tolerance at the communicative and democratic levels of the Union.

WHAT TO DO

Our last considerations sound very abstract and at distance to our everyday life. So, what do *we* have to do in this context? I emphasize this *we*, and define *we* as the totality of all of you: young intellectuals who represent other young intellectuals in the European Union. You will become a lawyer or perform other legal work in a society that no longer derives its validity solely from a National State and its organisms. I address three issues of that context.

First, we all have to highlight for ourselves our inner politics of that self. It is embedded in the philosophical adage from early Greek thoughts to our own age, that one has to be attentive to each fragment of the inner dialogue that constitutes us. In that dialogue we cherish the plurality of the “I”, select what we include and exclude to belong to “us” and how we shape our judgments in that innermost area of our self-consciousness. Moreover, all this is externalized in language. The expressions we



use and the language we exploit bear the marks of our personal responsibility. The “right to use our own language”⁵, bestowed upon us by EU Parliament, must, as I said before, lead us to break the immurement of shaping our life solely in our own language. In other words: we have to learn more than one non-native tongue and thus prepare in an exemplary manner for dialogues with those who embrace different values, norms, expectations and life styles. You should practice all this, engage in learning another language and read a newspaper each day—in printed or electronic form—in more than one language. This is what shapes intellectual life in the Union, and without it, despite your academic education you do not, deserve to be called an intellectual. That is indeed a new dimension in education that reaches beyond legal training: without any personal practice of multiculturalism, no intellectual life is possible and no entitlement of being an intellectual is justified.

Second, multiculturalism challenges Member State lawyers in their EU context. They possess hitherto unknown legal instruments to favor the practice of multiculturalism. One does not need solely to recur, as is the case in the US, to strictly legal criteria laid down in a constitution to defend a client’s “right to diversity”. The difference between diversity and multiculturalism is that the latter does not entirely fit the rights language. Where migrants symbolize certain conflicts in a multicultural society, lawyers have the possibility and the duty to display aggressive legal action on behalf of migrants. They should know the limits of their discourse, but not refrain from its use! Moreover, they are no longer good lawyers when they do not have appropriate knowledge of European Union law. No lawyer can exercise active and responsible citizenship whose legal knowledge and skills remain within the confinements of a National State. European

5. See Official Journal of the European Communities, 25.07.94. Doc C 210/528 and 529.

Law is the context of your State, and your National State is no longer solely a National State but a Member State of the Union. Only the latter fact determines the boundaries of legal knowledge and practices. So anyone of you must be able and diligent to sue a Union Member State for administrative misconduct by means of legal actions, and not shy away from bringing your case to the ECJ or the ECHR. Signing the EU Treaties and the Conventions of the European Council has been the privilege of your National State. It has led to important changes in legal status, which opened the way for new legal practices. Where migrants are symbols for multiculturalism in the Union, they receive also Union protection. Important to them is Article 41 of the Union's Charter of Fundamental Rights about the right to good administration. Impartial and fair treatment within a reasonable time span, the rights to be heard, to access to the person's files and receiving the reasons for decisions made and the use of the person's own language are stipulated. These rights are not restricted to those who have Union citizenship. Article 41 shows the many possibilities to defend multiculturalism in the Union by means of positive law and of appeal to the Charter and related Human Rights provisions. Non-discrimination is also at issue in Art. 21,1 and 22 about diversity and freedom of changing your viewpoint in religion, in language, culture and Art. 19,2 on the protection of individuals in a Member State against actions of other States.

My third and final remark goes to the politician which some of you might become. It was made clear from the beginning that tolerance was fundamental in the Union's multiculturalism. However, the expressiveness of tolerance should not, like in the US, remain limited to the balances of rights and duties of individuals and legal persons. In other words, it is a major concern for politicians to observe how tolerance is inherent to a practice of rights that transcends the rights and legal practices of a single state! Tolerance is a good that must be protected in the discourses



we design to achieve our political goals. The language of law seems necessary to all participants in society, but it is not the only discourse to provide the conditions for an appropriate expressiveness of multiculturalism. It was said, how tolerance is never treated well in a discourse of scarcity. Law and politics tend to be such discourses. As a consequence, politicians should master more than one discourse in order to protect the plural character of our lives. The achievements of European multiculturalism are in that perspective a symbol for man's existential situation in this 21st century. However, symbols are not just there—they must be made to come true, they must be made useful. This is the task ahead for all of you, the young intellectuals of a future Europe, the lawyers in European society and the politicians listening to the appeals of a learning society that enhances active citizenship. Indeed, multiculturalism has a deep meaning. With its links to the virtues of the plural, to tolerance, to exodus and exile, it implies, despite all negative connotations, tolerance as a powerful and overarching form of life in Occidental civil society.