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CULTURAL IDENTITY AND LEGAL PHILOSOPHY OF MULTICULTURALISM

Abstract

This scientific article objective is to investigate the cultural identity and legal philosophy of multiculturalism. The subject area extends into different disciplines such as politics, philosophy, law and international relations. The question of who has the right to determine who belongs to a particular ethnic community and who does not is a pervasive one. In the following we focus on the social and political dimensions of multicultural life. The analysis requires an examination of the appropriate legal framework. From the scientific methods we have used the analytical and descriptive method to analyse the current situation.

Keywords: *cultural identity, legal philosophy, multiculturalism*

INTRODUCTION

Cultural identity is a topic that occupies many philosophers, lawyers, political scientists, and sociologists. The subject area extends into different disciplines such as politics, philosophy, law, cultural studies and international relations. It is important to me to present the question of cultural identity and to explore why this topic has become so crucial in recent decades. This gives rise to the following research questions: First, what are the reasons that this process was triggered in the first place, and second, what are the consequences of turning to cultural identity and culture? In the next few pages we devote to a general discussion of cultural identity and legal philosophy of multiculturalism since identity and culture are buzzwords that require a more detailed explanation as well as thematic embedding and delimitation. The present paper is less concerned with a precise definition, but rather the elaboration of the current phenomenon of cultural identity. In the part on multiculturalism, we focus on the social and political dimension of multicultural life.[I] Political parties largely use this subject to engage in identity politics and thus catch voters and votes. Ethnic groups of all kinds insist on their right to self-determination[II] and the preservation of their cultural identity. In our concluding remarks, we summarize the most important results. In particular, we address Charles Taylor's Philosophy of Multiculturalism where we analyze and criticize how he uses and operates with the concept of culture.

THE AIM AND METHODOLOGY

The aim of our article is to discuss the cultural identity and legal philosophy of multiculturalism. With regard to the characteristics of this article we apply the scientific methods of knowledge. The result of it is new knowledge which is

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[I] Funta, R. – Golovko, L. – Juriš, F. (2020): Európa a Európske právo. 2. doplnené a rozšírené vydanie, MSD, Brno.

[II] Erdősová, A. (2019): The Right to Informational Self-Determination in the Context of Selected Judicial Decisions and Practical Background.

organised into a certain system. On the basis of this, as well as on the content and scope of the article, we will also focus on the use of the logic method. Apart from the scientific methods of knowledge we have also used the analytical and descriptive method to approach and analyse the legal situation. The data was collected from scientific literature through in-depth document analysis.

THE RELEVANCE OF THE QUESTION OF CULTURAL IDENTITY

Although interest has increased enormously in the last two decades, this does not mean clarity in the discourses on culture and identity. On the contrary, more and more contradictory theories are being published, making the field of debate about cultural identity confusing. There is little clarity or even a uniform definition. Culture and identity are thus central terms in current discourses in various scientific disciplines, without any uniform definitions being able to be found. Two aspects are essential in the discourse of cultural identity: first, what are the reasons that this process was triggered in the first place, and second, what are the consequences of turning to cultural identity and culture? Nowadays there is more and more talk of identity politics, multiculturalism, the right to difference and politics of recognition,[III] to name just a few buzzwords. People's culture and identity are increasingly at the center of political discourse. So what are the causes of the focus on cultural identity?

Reasons for turning to culture and identity

Why is the topic of cultural identity finding such a strong echo, in the lives of individuals, as well as in social life, in politics, the media and science? Listing the reasons for starting this process is a difficult task, as they cannot be clearly separated. The causes, such as globalization or migration represent a complex system of interactions. Under the phenomenon of globalization we recognize a higher fluctuation in the area of migration, an acceleration of

[III] Sitek, M. (2022): Prawa człowieka. Pomiędzy ideologią a polityką. Polityka i Społeczeństwo.

communication processes, the compression of space and time and a profound change on a cultural, economic, political and social level. Globalization is not a new phenomenon, even though it is often presented as such in contemporary scientific literature. Globalization is a process that has been going on for a long time, is currently taking on a new form and is evolving rapidly. So globalization is nothing new, but the form has changed. Globalization has an impact on different areas: economic, politics, information technology and cultural level. These dimensions of globalization are characterized by worldwide exchange and transfer. The economic dimension of globalization in relation to the topicality of the cultural question is immense. Import and export of various goods and technologies increased and increase enormously. Globalization also expands the possibilities for communication and exchange between different cultures through various mass media such as television, the Internet and film. Not only are "foreign cultures" transported and consumable through the massive expansion of communication technology, there is also a trend towards global mass culture. The primary goal of the culture and media industry is not to bring different traditions and ways of life closer to other people and to build bridges in order to understand each other better, but rather to maximize profits. Profit is the highest goal of economic interests in the context of globalization. There is also a positive side to the global economic impact. In many companies and institutions, for example, diversity management is a top priority. Different employees are specifically sought so that a colorful work team is created. The differences relate to various dimensions such as age, religion, sexual orientation, gender and ethnicity.[IV] Diversity should have a positive impact on the working atmosphere.

Another crucial reason for the omnipresence of the question of cultural identity in various discourses is migration. Migration is a phenomenon that affects many people. Many change their place of residence due to different circumstances. Very few die today in the place where they were born. Migrants are therefore no exception. They are assigned a certain status depending on

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[IV] Friedery, R. – Horváthy, B. – Ziegler, T. (2018): Európai Unió alapjogvédelmi rendszere [European Union system for the protection of fundamental rights]. [in:] Lamm, Vanda (szerk.) Emberi jogi enciklopédia Budapest.

how a society deals with immigration.[V] There are different forms of global migration. People have different reasons for changing their place of residence: on the one hand, people leave their country voluntarily, on the other hand, many are forced to temporarily or permanently look for a new center of life due to a war, a natural disaster or because of the political or economic situation. The migration of people is often economically motivated. Migration is a phenomenon that has consequences for both the migrant and the host society.

CULTURAL IDENTITY

As already mentioned at the beginning, the topic of cultural identity is dealt with in detail in various academic disciplines. However, the terminology differs: the term in cultural and social anthropology for cultural identity is ethnic identity.[VI] In this discipline, the cultural identity of collectives is also understood as ethnicity or ethnic groups. Accordingly, ethnicity is a group of people who are connected to one another because of their history, shared memories, and different cultural elements. For a basic understanding, it is important to note that there are different forms of ethnic communities. Most of the time, ethnic identity is very strongly shaped by the community aspect and the associated cultural affiliation. Ethnocentrism has a lot to do with self-image and the image of others. Because the image one has of oneself is often much more heterogeneous than one has of other ethnic communities. This often results in the impression that oneself or one's own cultural practices are more diverse and ultimately better or more meaningful. Regardless of nationality, there are ethnic minorities or majorities in every nation. There are different forms of ethnic minorities. For example, there are ethnic minorities that are majorities in other countries. Others are in the minority everywhere. Today's

[V] Karas, V. – Králik, A. (2012): Právo Európskej únie. Iura Edition, Bratislava; Mihálik, J. – Bystrík, Š. (2019): Constitutional and Legal Foundations for Local Self-Government Law-making: Does the Slovak Republic Need More Precise Legal Regulation? [in:] Lex Localis. č. 3.

[VI] Sitek, B. (2013): The human right to respect the religious identity in the light of the media and political regulation. [in:] Sitek, M., Dammacco, G., Ukleja, A., Wójcicka, M. (eds) Europe of Founding Fathers: Investment in the common future. Olsztyn.

societies are strongly characterized by different cultural influences due to globalization and migration. Ethnic groups go through different transformation processes, especially if they are ethnic communities or people living in the diaspora. But there are also other consequences for people living in the globalized world: they have easier access to different ethnic groups. Belonging to an ethnic group does not work according to an exclusion principle. There are more opportunities to feel a sense of belonging to different groupings. A big question that opens up in this context is, who determines cultural identity? Who establishes the ethnic group, who defines it? On the one hand, it is the ethnic communities themselves that define themselves, their identity and their members. On the other hand, however, many images and ideas are implicitly or explicitly attributed to them, with which they can identify more or often less.

MULTICULTURALISM AND THE CLASH OF CIVILIZATIONS

As a result of globalization and the rising rate of migration, societies are increasingly being shaped by different cultural groups. There are different ways of dealing with ethnic diversity. One way is multiculturalism. Politicians and scientists ask themselves how much multiculturalism and plurality a society can tolerate. Furthermore, it is necessary to clarify what kind of multiculturalism is the appropriate form to treat all people fairly. Nations have different understandings of how to deal with cultural diversity. In a multi-ethnic society, there are different values. Thus, there are limits to cultural specificity, but this is accepted in order to prevent cultural practices that are not in line with human rights.[VII] Every citizen has the right to live out its cultural identity. All people should have equal access to the welfare state. A successful form of multiculturalism does not simply arise, but targeted measures are required, such as diversity management on the labor market.

[VII] Svoboda, P. (2010): Úvod do evropského práva. 3. vydání, C.H.Beck, Praha.

CHARLES TAYLOR'S PHILOSOPHY OF MULTICULTURALISM

There are completely contradictory demands on how to deal with diversity and plurality in a society. The question is how can society deal fairly with all the different groups? Charles Taylor systematically addresses this in his work Multiculturalism and the Politics of Recognition by first asking why the recognition of cultural identity is so fundamental to human existence. Charles Taylor justified his philosophy of multiculturalism with the thesis that every human being strives for recognition. According to him, the desire for recognition is rather a basic human need. He addresses the mutual recognition between the minority and the majority. The struggle for recognition can only find a satisfactory solution through mutual recognition among equals. It is the task and challenge of politics to create an atmosphere in society that not only ensures that people are recognized in their cultural identity, but also initiates the removal of the power structure between minority and majority.

Recognition and identity are to be understood as closely linked. This is also one of the most important theses that Taylor represents. He understands identity as a process that takes place in interaction with the other. Our self-awareness is dependent on the significant other, so we are always dependent in a certain way in our being. Charles Taylor concludes that the recognition of identity plays a very important role in the construction of self-image, but so does non-recognition: The thesis is that our identity is shaped in part by recognition and non-recognition, often also by misrecognition by others, so that a person or a group of people can suffer real damage, real deformation, if the environment or the society reflects a limiting, degrading or contemptuous image of itself.

Taylor illustrates the negative consequences of non-recognition through the example of women who have been exposed to negative self-images from men over a long period of time. The relationship to oneself as a woman was weakened and shaped so negatively that women found it difficult to assert themselves and create a positive self-image when the patriarchal structures fell apart. The mechanisms of non-recognition have also been applied in colonialism. Thus, a certain negative image of the dominated was present among the

colonial powers, which legitimized their actions of oppression. This negative construction of the colonized affected self-consciousness and continues to have long-term negative effects on identity today. Taylor suggests that it is an important task for the oppressed and marginalized to rid themselves of these negative attributions and misrecognition of their own cultural identity. Taylor then focuses on the public sphere and outlines a politics of equal recognition in relation to minorities. And here we come back to our initial question with the theory of recognition, namely, how can fair recognition of all citizens of a democratic society be guaranteed? What policies must be followed so that the rights of both the majority and the minorities are secured? Roughly speaking, there seem to be two ways and if we look at both, we find ourself in a dilemma: either all cultures, traditions and ways of life are recognized as equal and this also includes practices that are inhuman, such as forced marriage, slavery, etc., or we declare a culture as the way of the right life and everyone else has to submit or adapt.

CONCLUSIONS

Taylor has shown a new approach to transcultural understanding that goes beyond condemning foreign practices and traditions or declaring a "dominant culture" as a benchmark. Despite Taylor's innovative solutions, there are some flaws in his concept. Taylor conveys the impression that people have a cultural identity, feel a sense of belonging to a particular collective and ethnic community, and experience it as one without contradictions and ruptures over time. Cultures are not to be understood as closed islands, but are in an exchange with others. Differences between "cultures" are variable and change over time. Taylor describes "cultures" as self-contained entities.

The increase in diversity can sometimes mean a visible articulation of different cultural identities. However, the debate around migrants and people with a migration background often focuses on the divisive elements of identity, i.e. language, religion and cultural traditions. This makes the process of integration into society more difficult for the newly arrived and for the long-established to open up. The fact is that we live in multicultural and multiethnic societies. The

question is, how to deal with multiculturalism? There are different approaches and also the question of the limits of diversity is raised. This is in the sense of a strategy of how to deal with plurality within society. We can emphasize that the future must be a joint project. If one looks at the past, there are corresponding differences and breaks in socialization due to migration. But the future is what connects all people who want to live together in one society.

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