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Varieties of Multiculturalism and the Canonic Model The Need for Conceptual Boundaries

1. Political. Partisan and Partial Use of Multiculturalism

Multiculturalism once again became a subject of intense media focus in July 2011, as it was invoked as a reason for the criminal acts committed by Anders Behring Breivik¹. However, negative attitudes toward multiculturalism had been manifest in political life for quite a while, sometimes bringing with them substantial capital, as in the case of Geert Wilders, the politician who turned the Party for Freedom into the third-largest political force in The Netherlands. Days after the beginning of the trial in which Wilders was accused of incitement to hatred for his description of Islamism as Nazism and his comparisons of the Koran to *Mein Kampf*, Chancellor Angela Merkel violated a taboo of German political life: before the young members of her party, she claimed that “Multikulti” had proven a total failure.² On 5 February 2011, Prime Minister David Cameron launched a devastating attack on UK 30 years of multiculturalism, deploring the fact that the British state has tolerated “segregated communities behaving in ways that run counter to our values”³.

These statements signified a more general change of attitude that is visible in the policies of administrations throughout Europe and Australia. In Amsterdam, where a quarter of the population is Muslim, the police launched an operation consisting in the infiltration of agents provocateurs posing as Jews, homosexuals or persons providing sexual services. The three groups are the favorite target of Islamist extremists⁴. In the autumn of 2010, the Ministry of Education in the United Kingdom took a public stand against the use of textbooks from Saudi Arabia in some 40 schools with Muslim classes teaching around 5,000 pupils. These books contain violent anti-Semitic and anti-gay statements and reproduced images describing the cutting of hands and feet according to sharia procedures⁵.

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¹ In parts one and two of his manifesto, Breivik discusses “The rise of cultural Marxism/multiculturalism in Western Europe”. See “The Manifesto of Anders Behring Breivik The Oslo Killer, in his own words” (www.theunitedwest.org/the-manifesto-of-anders-behring-breivik-the-oslo-killer-in-his-own-words/), accessed on 29 December 2015. The United West, the owner of this web page, is an organization “dedicated to defending and advancing Western Civilization against the kinetic and cultural onslaught of Shariah Islam”.

² *George Friedman*, Germany and the Failure of Multiculturalism, 19 October 2010, STRATFOR (www.stratfor.com), accessed on 20 October 2010.

³ *Oliver Wright, Jerome Taylor*, Cameron: My war on multiculturalism. No funding for Muslim groups that fail to back women's rights, *The Independent*, 5 February 2011.

⁴ *Rod Liddle*, Orange alert, *Spectator*, 16 October 2010.

⁵ *John Burns*, Lessons of Hate at Islamic Schools in Britain, *The New York Times*, 22 November 2010.

Somewhat simultaneously with these contestations of the multiculturalist project, several European administrations introduced practices which seemed to expand the latter, a move which suggests some incoherence in defining the public interest. In 2010, the Scotland Yard accepted to treat throwing shoes at policemen and politicians by groups of protesting Muslims as a ritual protest, even when these acts resulted in people being injured⁶. The protesters thus avoided the charge of “violent disorder”, which would have otherwise covered their actions⁷.

Of particular significance for the values of liberal democracy is the introduction in the justice system of the so-called “cultural defense”. Courts in Germany, Austria and elsewhere have accepted “multicultural” arguments the effect of which was sometimes the exoneration or substantial reduction of the punishment received for crimes which would have been severely punished had the perpetrators belonged to the majorities⁸. The sharia law has become a defining presence in some important cities in the UK⁹.

The examples above, selected from among many similar others, point to the use, in the public debate, of partisan and partial notions of multiculturalism. This either leads to the compromising of the concepts and of what lies behind it, or to the legitimation, under the multiculturalism label, of practices that are harmful to the human being¹⁰. This is the reason why we consider there is an urgent need to lend more coherence to this concept by the professional community which is dedicated to its study and promotion.

2. The Need for a Canonic Model for Conceptualizing “Multiculturalism”

Traditional epistemic wisdom tells us that any debate on the development, issues, successes or failures of multiculturalism should start with a definition of the term. But the meaning of “multiculturalism” is actually much more controversial than the unconditional supporters or the vehement critics of this notion might be inclined to believe. Over the years, the term “multiculturalism” has come to shape a diffuse discursive field, with links to a wide variety of political strategies¹¹. Under these circumstances, one should ask first whether it is possible to detach a core of “multiculturalism” which should command the acknowledgement of at least those scholars who have devoted their energies to researching this concept.

⁶ David Leppard, Met allows Islamic protesters to throw shoes, The Sunday Times, April 11, 2010.

⁷ Ibidem.

⁸ For “cultural defense” and “multicultural arguments” see G. Andreescu, Strategii multiculturaliste neliberale decente și indecente, în NRDO, vol. 6, nr. 4/2010, p. 52-65; M.O. Constantin, „Identitatea culturală – o posibilă circumstanță atenuantă? Admisibilitatea clauzei culturale în procesele penale din România”, în NRDO, vol. 11, no. 4/2015, p. 63-81.

⁹ The think tank Institute for the Study of Civic Society claims that “sharia courts operating in Britain may be handing down rulings that are inappropriate to this country because they are linked to elements in Islamic law that are seriously out of step with trends in Western legislation” (“Sharia courts should not be recognised under the Arbitration Act” (www.civitas.org), June 2009.

¹⁰ On 24 June 2012, a court in Cologne decided that circumcision of a boy “is an irreversible intervention on the integrity of the human body”. After the protest of the Jewish community in Germany and the official protest of Israel, Bundestag has adopted a law to legalize circumcision (see G. Andreescu, „Antisemitism sau alienare? Pornind de la o scrisoare de sprijin a Israelului, Timpul no.1, January 2013, p. 4-5).

¹¹ S. Hall, The multicultural question, Milton Keynes: Open University Pavis Papers in Social and Cultural Research no. 4/2001, p. 3.

The difficulties in finding a cogent answer to the question above are visible, for instance, in the very recent attempt by Steven Vertotec and Susanne Wessendorf to offer an assessment of the status of multiculturalism at the present time¹². That such an enterprise involves a wide-ranging assessment is confirmed by the two authors: “When attempting to bracket together an array of public measures as ‘multiculturalism’, the task is further complicated if undertaken comparatively across countries most known for the implementation of policies deemed, officially or not, multicultural: Australia, Canada, the United States, Great Britain, Sweden and the Netherlands”¹³. When these authors try to offer updates concerning multiculturalism in several European countries, their selection is disconcerting. Under the rubric of multiculturalism Vertotec and Wessendorf include measures aimed at the public recognition of ethnic minorities supporting their organizations; educational policies such as consideration for dress codes, mother tongue teaching and language support; social services for delivering culturally sensitive practices among public employees; public materials for state-sponsored information; specific regulations including cultural exceptions to generally applicable law; religious accommodation measures such as support for the establishment of places for worship, food practices which cover ritual slaughter; broadcasting policies to ensure non-discrimination or to avoid stereotypes etc.¹⁴ However, lumping together such policies, in particular special measures and anti-discrimination policies, is a hardly obvious strategy. Indeed, it does not seem to be necessary. Further diluting the conceptual borders, the editors of *The Multiculturalism Backlash* eventually come to identify multiculturalism with “diversity policy”. The fact that the British strategy document “Improving Opportunities, Strengthening Society” contains no references to “multicultural” and “multiculturalism”, yet features “diversity” no less than 34 times¹⁵, only signals, according to the authors, that the British government actually substituted the former two terms with the last, rather than a decision to abandon “multiculturalism”.

Vertotec and Wessendorf complicate things further in rejecting the criticism that multiculturalism promotes ethnic separation. Self-segregation, a key tenet of the backlash against multiculturalism, would be an expression of anxiety rather than of reality, research of which would actually suggest the contrary. The implication of this view is that multiculturalism leads to something that is different from and most likely the opposite of ethnic separation and self-segregation.

Lastly, in stating their option in favor of one definition of multiculturalism, the two authors connect multiculturalism with immigrants, as “multiculturalism can at best be described as a broad set of mutually reinforcing approaches of methodologies concerning the incorporation and participation of immigrants and ethnic minorities and their modes of cultural/religious differences”¹⁶. This time around, the authors’ option clashes with established doctrine, and particularly with Will Kymlicka contribution to the volume, which is

¹² S. Vertotec, S. Wessendorf, Introduction. Assessing the backlash against multiculturalism in Europe, in S. Vertotec, S. Wessendorf (eds.), *The Multiculturalism Backlash*. European discourses, policies and practices, Routledge, London and New York, 2010, p. 1-32.

¹³ Idem, p. 2.

¹⁴ Idem, p. 3.

¹⁵ In a 54 page document.

¹⁶ Idem, p. 4.

specifically concerned with multiculturalism in policies addressing national groups and indigenous minorities¹⁷.

It seems quite natural to use the opinions of the well-known Canadian researcher as a guide in any attempts to define multiculturalism. His argument appears, at least initially, to outline the concept unambiguously and firmly. He does so by lending the term a maximalist extension. In one sense, multiculturalism is as old as humanity, but more specifically it can be seen as part of the larger human rights revolution in relation with ethnic and racial diversity. The movements which energized the principle of human equality – the decolonization struggles, the fight against racial discrimination – turned into the 1960s into the battle for multiculturalism and minority rights¹⁸. Thus, multicultural policies address indigenous people, the new forms of cultural citizenship of national minorities, and/or immigrants. Such policies would involve some combination of nine principles: recognition of land rights; recognition of self-government rights; upholding historical treaties; recognition of cultural rights language; recognition of customary law; guarantees of representation/consultation in the central government; legislative affirmation of the distinct status of indigenous peoples; ratification of the international instruments on indigenous rights; affirmative action.

The six elements of multicultural policies that target national minorities would be territorial autonomy; official language status; guarantees of representation in the central government; public presence of minority language in universities/schools/media; legislative affirmation of “multinationalism”; granting international personhood. Kymlicka distinguishes eight multicultural policies for immigrant groups: legislative affirmation of multiculturalism; the adoption of multiculturalism in school curricula; the inclusion of ethnic representation in the mandate of public media; dress-code exemptions; dual citizenship; funding for the organizations of ethnic groups; funding for bilingual education; affirmative action for disadvantaged immigrant groups.

In what sense do these three sets of policies all pertain or refer to the same governing idea – that of multiculturalism? Kymlicka’s answer runs as follows: “multiculturalism is first and foremost about developing new models of democratic citizenship, grounded on human rights ideals, to replace earlier uncivil and undemocratic relations of hierarchy and exclusion”¹⁹. Identifying multiculturalism with the human rights ideal, with whatever ensures civility and democracy in human relationships, raises however an issue of conceptual consistency: when a term or concept becomes the very expression of the good, it loses its normative relevance. We are essentially dealing with an ethical illustration for Popper’s principle of falsifiability. Kymlicka’s interpretation of multiculturalism is rather extreme in range. Extending multiculturalism to the point where its relevance is completely thinned out is apparent with other researchers as well: with Vertotec and Wessendorf when they identify multiculturalism with the principle of diversity, or with Jack David Eller as he substitutes multiculturalism for cultural relativism²⁰.

¹⁷ *W. Kymlicka*, The rise and fall of multiculturalism? New debates on inclusion and accommodation in diverse societies, in *S. Vertotec, S. Wessendorf* (eds.), *The Multiculturalism Backlash...*, op. cit., p. 32-50.

¹⁸ *Idem*, p. 35.

¹⁹ *Idem*, p. 37.

²⁰ *J.D. Eller*, Anti-Anti-Multiculturalism, in *American Anthropologist* 99.2 (1997), p. 249-256.

3. The Multiculturalist Paradigm among Others

The argument above shows that we are dealing with a serious practical issue, namely that of finding our way through the multiplicity of meanings with which scholars – not to mention politicians, the public opinion, journalists etc. – invest the notion of multiculturalism. A second question concerns theoretical consistency, as even the major authors in the field place under the umbrella of multiculturalism almost anything that significantly contributes to ensuring peace and social justice in ethno-culturally diverse societies. When a concept covers everything, it does so at the expense of not saying much.

My proposal concerns a “canonic model” that should be capable of putting some order into the various meanings of multiculturalism; and, particularly, of distinguishing between policies (but also ideologies and philosophies) addressing the questions of “multiculturalist” ethno-cultural diversity and whatever does not fall into this category.

I will start from the point that multiculturalism is a matter of paradigm. Considering the multitude of contexts which invite multiculturalist policies, as well as the need to improve them in time, does indeed imply that we are dealing with an open concept – that is, not one which can be defined in terms of a complete set of standard policies, but a notion that refers to “a way of looking at things”, a perspective. Should we follow this logic, it seems evident that an assessment of the multiculturalist perspective needs to proceed in terms not of this or that policy, but rather in terms of *other* paradigms, i.e., of other ways of dealing with cultural diversity.

There are two fundamental paradigms dealing with cultural diversity under the governing ideal of social peace and justice. The first, the *group protection paradigm*, seeks solutions for the empowerment of the members of vulnerable groups. This perspective is interested especially in economic, social, and political discrimination, in equal treatment and equality of opportunity, political persecution and homicide, disappearances, actions aimed at changing the ethnic make-up of regions, population transfer, cleansing, ethnocide, and genocide. In the case of minority groups, the emphasis is not on numbers, but on powerlessness. It is for this reason that definitions of minorities which are influential in the doctrine insist on their nature as non-dominant groups (see, for example, Francesco Capotorti’s well-known definition of 1979, offered in his capacity as special rapporteur on minorities²¹, or Deschènes’s work, relevant especially in the case of national/historical minorities)²².

The strong connection between the protection paradigm and vulnerability explains both the policies preferred in the field and the categories they apply to. The fact that vulnerability enjoys precedence over number legitimizes protective measures for the majority in Malaysia, for instance, which has traditionally been at an economic disadvantage. This specific case and others like it also show that one needs to be cautious in making general statements linking

²¹ *F. Capotorti*, Study on the rights of persons belonging to ethnic, religious and linguistic minorities, UN Doc. E/CN.4/Sub.2/384/Rev. I (1979).

²² “[A] group of citizens of the State, containing a numerical minority and in a non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law” [Promotion, Protection and Restoration of Human Rights at the National, Regional and International Levels, UN Doc. E/CN.4/Sub.2/1985/31 (1985), art. 181].

poor social performance to discrimination. The Chinese community in Malaysia has reached a high socio-economic status by country standards *despite* regulations and practices which placed it at a comparative disadvantage. Lack of instruction and modest income are not always the result of discrimination²³.

The underlying concepts of the protection paradigm are the fighting of discrimination and special measures. The CSCE experts on national minorities have identified such measures as, *inter alia*, advisory and decision-making bodies in which minorities are represented, in particular with regard to education, culture and religion; elected bodies and assemblies on national minority affairs; local and autonomous administration, as well as autonomy on a territorial basis, including the existence of consultative, legislative, and executive bodies chosen through free and periodic elections; self-administration by a national minority of matters concerning its identity in situations where territorial autonomy does not apply; decentralized or local forms of government; bilateral and multilateral agreements and other arrangements regarding national minorities; for persons belonging to national minorities, provision of adequate forms and levels of education in the mother tongue with due regard to number, geographic settlement patterns and cultural traditions; funding the teaching of minority languages to the general public, as well as the inclusion of minority languages in teacher-training institutions, in particular in regions inhabited by persons belonging to national minorities; in cases where instruction in a particular subject is not provided in the minority language at all levels, taking the necessary measures to find means of recognizing diplomas issued abroad for a course of study completed in that language; creation of government research agencies to review legislation and disseminate information related to equal rights and non-discrimination; provision of financial and technical assistance to persons belonging to national minorities who wish to exercise their right to establish and maintain their own educational, cultural and religious institutions, organizations and associations; government assistance for addressing local difficulties relating to discriminatory practices (e.g., a citizens' relations service); encouragement of grassroots community relations efforts between minority communities, between majority and minority communities, and between neighboring communities, aimed at helping to prevent local tensions from arising and at addressing conflicts peacefully; and encouragement of the establishment inter-state or regional permanent mixed commissions, in order to facilitate continuing dialogue between border regions²⁴.

The protection paradigm introduces qualitative distinctions based on categories of interest. As long as vulnerability is mitigated, there is no major problem in choosing between the funding of, say, official bodies in charge with uncovering cases discrimination and territorial autonomy. The focus of the protection paradigm is vulnerable groups, and the latter are immigrant communities rather than historical minorities.

The *special human rights paradigm* puts some additional order into special measures. It is based on several premises: that minorities enjoy special rights; that special rights are the main concepts in the field; and that the central goal of group policies is to acknowledge and ensure the exercise of these rights. The group rights paradigm is intimately connected with the nature of the postwar world order and with the elevation of human dignity to a pillar of universal

²³ B.R. Chiswick, Foreword, in M.L. Wyzan (ed.), *The Political Economy of Ethnic Discrimination and Affirmative Action*, Praeger, New York, 1990, p. xiv-xv.

²⁴ Organization for Security and Co-operation in Europe, "Report of the CSCE Meeting of Experts on National Minorities", Geneva 1991.

values (no less than of international security). This is stated among others in the preamble of the Universal Declaration of Human Rights, which notes that the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” The importance placed by the UN on human dignity has had direct consequences on the development of special group rights. “Instating human dignity as the basis of the legal system creates the premises for understanding man as a universal being... Human beings are equal in their dignity irrespective of the characteristics distinguishing them – race, nationality, ethnic origin, language, religion, sex, wealth, social origin, and any other similar trait. Any act which may degrade or force into submission men and women based on the criteria above represents an attempt against the universality of the human being, and tends to exclude from the human race members which have an inalienable right to belong to it. Diversity and pluralism are therefore intrinsic to humanity, and treating people as simple, identical atoms in a social order is contrary and thus detrimental to their humanity. Human dignity as a supreme value of any political order is opposed both to differences designed to exclude, and to assimilationist identity. It mandates unity in diversity and conciliates freedom and equality”²⁵.

Within this logic, it makes sense to distinguish between various types of special human rights meant to respond to various types of “special identities”. Although the individual was placed at the center of the state and of the legal edifice of the UN, rendering the person a subject of international law, while human rights have been interpreted as the solution to a safer and fairer world, the order defined after World War II has gradually offered room for special rights: individual rights exercised collectively, collective rights, and collective rights exercised individually²⁶ have been elaborated, promoted, and promulgated, and the doctrine has had a lot to say on matters such as precedences within, tensions among, and mutual support of these rights²⁷.

Despite the successes of the protection and special rights paradigms, both seem unable to respond to several specific issues. Both have a hard time offering satisfactory reasons *for the limits* of the system of privileges enjoyed by national or historical minorities, as opposed to ethnic minorities. When are special measures or special rights the expression of a necessity, and when do they represent an undue aspiration? Is default representation of minorities in the national legislative – the case in, for instance, Croatia, Slovenia and Romania – an instrument of protection, a right, or a means that falls outside the ambit of each of these two paradigms and is the product of power-negotiations between ethno-cultural groups and the majority?

Under these circumstances, the multiculturalist paradigm represents an essential complementary approach. It contributes a set of arguments which are marginalized by the two paradigms outlined above. Of course, the “multiculturalist paradigm” is very much a question of what we understand by “multiculturalism”, especially as even in the case of informed approaches different authors stress different facets of multiculturalism.

²⁵ D.C. Dănișor, Valorile supreme ale statului român potrivit Constituției din 1992, în Revista Română de Drepturile Omului no. 28/2004, p. 21-22.

²⁶ G. Andreescu, Drepturi colective exercitate individual, în Revista Română de Drepturile Omului no. 13/1996, p. 38-50.

²⁷ G. Andreescu, Națiuni și minorități, Polirom, Iași, 2004.

4. Varieties of Multiculturalism and the Canonic Model

The chief task of a canonic definition of multiculturalism is to outline the specific difference from the neighboring concept (neighboring paradigm) of *interculturalism*. As a set of policies / ideology / philosophy of interethnic relations, the latter stresses minority inclusion in society and communication among ethno-cultural groups. As a principle of social peace, interculturalism highlights the status of active citizens in cohesive democratic contexts, and searches for policies which oppose divisions among peoples along faith, national or racial lines²⁸.

The necessity of a “non-assimilationist inclusion” of minorities in a society dominated by a majority is one of the fundamental questions of multiculturalism as well. This directly links multiculturalism to democratic dynamics²⁹. But multiculturalism is not reducible to the majority-oriented issue of minority inclusion. An additional, minority-oriented concept is needed to buttress the concern for issues which are *minority-specific* rather than specific to the larger society³⁰. Defining these latter issues in terms of the need for separation, segregation, but also of internal autonomy, minority self-government,³¹ or internal self-determination³² has more often than not turned out to be contradictory and counterproductive³³.

One proposal designed to circumvent this problem concerns the notion of “community privacy” (or “group privacy”), underpinned by a “right to community privacy” which is a generalization of the individual right to privacy³⁴. The position of the community is, under this approach, analogous to the condition of the person who marks out for herself a private sphere within which the right to remain herself, without outside interference, is recognized. Accordingly, in order to describe the evolution of the condition of a group (of a minority) two dimensions are necessary: that of inclusion, and that of community privacy³⁵.

²⁸ *J.S. Gundara*, Civilisational knowledge, interculturalism and citizenship education, in *Intercultural Education* vol. 19, no. 6/2008, p. 469-479.

²⁹ For the relation between the inclusion of disadvantaged groups and democracy see *J.S. Dryzek*, Political Inclusion and the Dynamics of Democratization, in *American Political Science* vol. 90, no. 1/1996, p. 475.

³⁰ *H. Hannum*, *Autonomy, Sovereignty and Self-Determination: the Accommodation of Conflicting Rights*, University of Pennsylvania Press, Philadelphia, 1990. Hannum employs terms such as “separation” or “segregation”.

³¹ The term is used in the Hungarian system of minority protection (see The Office for National and Ethnic Minorities in Hungary, “The System of Minority Self-Government in Hungary”, edited by dr. *Doncsev Toso*, President of the Office for National and Ethnic Minorities (1999).

³² All three terms were acknowledged in international law with reference to indigenous peoples: “Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs...” (art. 4, United Nations Declaration on the Rights of Indigenous Peoples).

³³ As *Andreas Føllesdal* and *Nils Butenschøn* implies, we need to framework this issue in unitary and respectively, non-unitary political orders (*A. Føllesdal, N. Butenschøn*, Do Minorities and Group Rights Promote Just Stability in Non-Unitary Political Orders? A Research Agenda. *International Journal on Minority and Group Rights*, no. 13/2006) p. 141-152.

³⁴ *G. Andreescu*, Multiculturalism in Central Europe: Cultural Integration and Group Privacy, *East European Perspectives*, October 2001.

³⁵ *G. Andreescu*, Recente evoluții interculturale româno-maghiare în termenii multiculturalismului normativ. Privatitatea comunitară relativă, în *Revista Română de Drepturile Omului* no. 21/2001, p. 22-34.

Multiculturalism recognizes that a degree of minority inclusion³⁶ is indispensable to the welfare of minority groups, as well as that a degree of separation or segregation – that is, privacy – is equally fundamental. One may then propose the following definition:

The canonic model of multiculturalism is the view (the attitude, and the associated policies) that balance and fairness in inter-ethnic relations presuppose the acknowledgement of the importance of inclusion as well as of the need to privacy of ethno-cultural communities, and that these two dimensions should be developed in an inter-related way.

One should note, in support of this definition, that it dovetails with psycho-sociological research such as Kalman Kaplan's model in *Teaching Individuals to Live Together*. Kaplan's is a response to the one-dimensional theory of interpersonal distance according to which the individual moves along a one-dimensional continuum. He advances a bidimensional view involving "distance from the other" and "distance from the self". The first dimension corresponds to "attachment", the second to "individuation" – a measure of one's capacity to differentiate among oneself and the others. A healthy interpersonal distance is defined not as an average level of individuation and attachment, but as a balance between the two. A similarly bidimensional solution is proposed by John Berry's model of acculturation strategies in immigrants³⁷. The approach enables one to understand the causes and mechanisms of "problematic" relations between immigrants and society, as well as the formulation of pertinent strategies to satisfy legitimate needs at individual and community level³⁸.

The psycho-social theories alluded to above suggest the plausibility of an isomorphism between the results of psychosocial research and group-level research.³⁹ The main finding is,

³⁶ In previous attempts to define multiculturalism I have used the term "non-assimilationist integration", rather than "non-assimilationist inclusion". See (*G. Andreescu*, "Multiculturalism in Central Europe..."; and *G. Andreescu*, *Națiuni și minorități...*. I opted for "non-assimilationist inclusion" because integration is strongly polysemic and has invited numerous criticisms: "a strange term" (Christina Boswell); "a difficult to define concept" (Adrian Favell), "a treacherous metaphor" (Banton); "a long and winding road" (Kloosterman et al.); even: "the entire subject is a miasma, a minefield, which one would be well advised to be wary to enter" (Apthorpe) – see *A. Hamberger*, *Immigrant Integration: Acculturation and Social Integration*, in *Journal of Identity and Migration Studies* vol. 3, no. 2/2009, p. 3. In the French context, the integration paradigm is denounced as providing the background for discrediting claims for recognition and racial discrimination [*M. Wieworka* (ed.), *Une société fragmentée? Le multiculturalisme en débat*, La Découverte, Paris, 1996]. Another candidate to replace "integration" in a definition of multiculturalism is "incorporation". I left it out because it is usually used in connection with stigmatized categories of persons and immigrants (*J.C. Alexander*, *Theorizing the 'Modes of Incorporation': Assimilation, Hyphenation, and Multiculturalism as Varieties of Civil Participation*, in *Sociological Theory* vol. 19, no. 3/2001, p. 237-249).

³⁷ *J.W. Berry*, *Acculturation as Varieties of Adaptation. The Role of Cultural Awareness and Ethnic Loyalty in Acculturation*, in *A.M. Padilla* (ed.) *Acculturation: Theory, Models and Some New Findings*, Boulder, CO, Westview Press, 1980; *J.W. Berry*, *Cultural Relations in Plural Societies. Alternative to Segregation and their Sociopsychological Implications*, in *M.B. Brewer and, M. Brewer* (eds.) *Groups in Contact*, Academic Press, New York, 1984; *J.W. Berry*, *Immigration, Acculturation, and Adaptation*, *Applied Psychology* vol. 46, no. 1/1986.

³⁸ *Idem*, p. 59.

³⁹ This model also corresponds to the sociological view of the nature of society based on the work of Burrell and Morgan as reinterpreted by Patricia Nemetz and Sandra Christensen ca "an individual's predisposition toward a particular ideal state of multiculturalism" (*P.L. Nemetz, S.L. Christensen*, *The*

in both cases, that “the optimum” is not necessarily a maximum or a minimum, as the one-dimensional model often assumes (being therefore incapable to cogently describe the “healthy” state). The “healthy” state is one of optimality, in which inclusion and community privacy, attachment and individuation, the conservation of cultural characteristics and the relations with other groups, reach a harmonious balance⁴⁰.

The “canonic model of multiculturalism” defined, all that is left is to check the classical and original meanings of the term in relation to the terms of the definition – non-assimilationist inclusion and group privacy. Of course, the canonic model cannot be employed as a standard, as a perfectly universalizing idea. Some authors use “multiculturalism” as a name for philosophies of cultural diversity, such as challenges to the premier cultural community of the modern world, the nation, or as a generalized form of anti-colonial discourse and struggle⁴¹. I have not considered here these approaches. The canonic model serves “simply” as a reference, a useful synthetic expression of the polyvalent nature of multiculturalism, from the perspective of policies addressing ethno-culturally diverse societies which need operational doctrines. The various perspectives on multiculturalism will then correspond to specific arrangements involving both the inclusion and the privacy dimension, while the socio-cultural context will serve to justify the appropriate emphases on one dimension or the other.

Defining multiculturalism in terms of “group privacy” means that whenever we talk of multiculturalism we necessarily imply that we recognize minorities not merely as the set of persons which make these minorities up, but also as collective entities entitled to specific forms of organization. This presupposition seems to be present in most approaches. For example, to Catherine Stimpson multiculturalism means “treating society as the sum of several equally valuable but distinct racial and ethnic groups”⁴². The group dimension appears in Banting and Kimlicka’s discussion of community practices that “go beyond the protection of basic civil and political rights guaranteed to all individuals in a liberal-democratic state, to

Challenge of Cultural Diversity: Harnessing a Diversity of Views to Understand Multiculturalism, The Academy of Management Review vol. 21, no. 2/1996, p. 434-462). The view of the nature of society described by the scheme *Radical Structuralist --- Functionalist* results in an ideal state of multiculturalism whose dimensions are *Separation --- Integration; Cultural Particularism --- Cultural Homogenization; Relativism --- Comprehensive Universalism*. In the Nemetz-Christensen model, the canonic definition corresponds to a functional pluralist view of the nature of society and to an ideal state of multiculturalism characterized by its situatedness between separation-integration poles, respectively, a “cultural pluralist” and “deliberative universalist” approach.

⁴⁰ This is, in my view, the crux of the question of multicultural privacy, which Christian Giordano criticizes for being “not just descriptively, a given, but normatively a deserved recognition of a natural need, or a social benefit, or a predictable and almost necessary act of justice” (C. Giordano, De la criza reprezentărilor la triumful prefixurilor. Un comentariu la propunerile lui Adrian Severin și Gabriel Andreescu, în *Polenda, Ruegg, Rus* (eds.), Interculturalitate...). In the abstract sense of the bidimensional representation, the normative character of the definition of community privacy simply means that the condition of a minority may reach an optimum – which ought to be reached – which is, in relation to the twin dimensions of integration and community privacy, neither necessarily a maximum, nor necessarily a minimum.

⁴¹ C. Joppke, Multiculturalism and Immigration: A Comparison of the United States, Germany, and Great Britain, *Theory and Society* vol. 25, no. 4/1996, p. 450.

⁴² C.R. Stimpson, On Differences: Modern Language Association Presidential Address 1990, in P.A. Berman (ed.), *Debating PC: The Controversy over Political Correctness on College Campuses*, Dell, New York, 1992, p. 43-44.

also extend some level of public recognition and support for ethno-cultural minorities to maintain and express their distinct identities and practices”⁴³. For other proponents of multiculturalism, “minority cultures need special recognition and group rights to withstand the forces of assimilation that undermine the sense of identity and well-being that individuals derive from membership in prosperous and respected communities”⁴⁴.

5. Multiculturalist Measures and Policies

The canonic definition of multiculturalism above generates additional distinctions. One involves what I call “multiculturalist measures”. These are normative actions which have the double function of ensuring both inclusion and group privacy, to be distinguished from inclusion-only or privacy-only measures. One example is the legislative representation of national minorities. This is a powerful means to the inclusion of national minorities in the institutional fabric of society, which also create an incentive for collective mobilization and for capitalizing on the opportunities for self-administration that are typical for community privacy.

Another example, characteristic of the US, is the set of academic reforms involving teaching, curricular reform, conferences, and professional organizations as well as academic journals and university presses dedicated to the identity of ethno-cultural minorities⁴⁵. Such developments, which have become a badge of US multiculturalism, have demonstrated a remarkable ability to aid in the promotion of group interests and to create pressure for the effective social recognition of these groups. They have also had a positive impact on the access of members of disadvantaged minorities to professional and decision-making positions.

The comparison between the two cases above suggests an additional distinction, that between *inclusion-oriented* measures and *privacy-oriented* ones. The former aim at inclusion but have a subsidiary group-privacy dimension, while the latter work in the reverse way – they target group privacy in a manner which implies inclusion processes.

I call “multiculturalist policies” those policies which involve inclusion and group-privacy measures. Multiculturalist policies may therefore involve one or more multiculturalist measures, or a combination of privacy-only measures and inclusion-only measures.

Multiculturalist measures and policies are the result of more or less extensive negotiations between the majority and minorities in which both bring to the table their own projects. One may suppose that minorities are especially interested in those instruments of community privacy which offer opportunities without the need to mix too much with the majority; and, conversely, that majorities seek to answer minorities in terms of inclusion measures which do not enable the latter to avoid the majority control. In short: majorities demand integration, minorities ask for community privacy.

The reality is hardly so uniform and contexts are essential here as well. Sometimes majorities are suspicious of group privacy, but occasionally they promote it – at least by acknowledging a status quo. While in Romania and Slovakia attempts by the respective

⁴³ K. Banting, W. Kimlicka, S. Soroka, Do multiculturalism policies erode the welfare state? An empirical analysis, in K. Banting, W. Kimlicka (eds.), *Multiculturalism and the Welfare State: Recognition and Redistribution in Contemporary Democracies*, Oxford University Press, Oxford, 2006, p. 1.

⁴⁴ J. Citrin, D. Sears, C. Muste, C. Wong, Multiculturalism in American Public Opinion, in *British Journal of Political Science* vol. 31, p. 2/2001, p. 247.

⁴⁵ P. Erickson, What Multiculturalism Means, *Transition* 55, 1992, p. 105-114.

Hungarian communities to develop a separate community project have been harshly criticized, the authorities in both countries have been reluctant to assume responsibility for protecting the vulnerable groups within Roma communities. The majorities deplored too much Hungarian privacy, though not also excessive Roma privacy. Recently, the UK has granted competences to Islamic courts although these courts' compatibility with the principle of gender equality has not been persuasively demonstrated, while France has chosen to recognize the representation of the Islamic community in spite of the fact that this was a breach of the sacred principle of laicite. Sometimes majorities favor convenient solutions that do not serve as a symbol of their power and control.

The fact that most frequently indigenous peoples, historical minorities and immigrants seek their own strong institutions able to provide rich opportunities does not signal their lack of interest in securing for themselves a place in the constitutional order and a presence in the public sphere alongside the majority⁴⁶. *The latter option is itself a dimension of minority privacy*. It becomes clear why if we return for a moment to the analogy of individual and group privacy, specifically in the context of the right to private social life in the jurisprudence of the European Court for Human Rights: "The right to private life is not only the right to keep to one's own universe and keep the others out of it; it is also a right to leave this universe and move towards the other members of society – that is, to lead a private social life, a notion which extends the traditional concept of 'personal private life'"⁴⁷.

Community privacy implies also *social community privacy*. One example is that of the Hungarians in Romania, Slovakia or Serbia: in requesting territorial and cultural autonomies which would secure a life within their communities, or their right to display their own monuments in the public spaces, they are exercising constant pressures to be considered constituent communities of the state rather than "simple" minorities. They do not wish merely to speak their mother tongue in the districts where they are a majority, but also to secure for the Hungarian language the status of an official language in such districts.

An analogous example is the interest of indigenous peoples of get back territories which they can settle on and control, but also, for instance, to be represented in history textbooks. Important representatives of Muslim communities in Australia, Canada and even Europe do not only wish simply that sharia laws be recognized for legal relations between the members of their communities, but also that minarets be erected in their hometowns and that their freedom to wear burqas and to organize public religious manifestations be guaranteed.

The above are a few examples designed to suggest that minority privacy does not mean only privacy within the community, but also the manifestation of specificity in relations with the wider society, which involves the recognition of a right to shape the public sphere. Public visibility is not contrary to group privacy, since it is a component of *social community privacy*. The social dimension of group privacy serves to strengthen the effectiveness of inclusion measures. Below I offer a list of multiculturalist privacy-oriented and inclusion-oriented measures which, in various combinations, establish types of multiculturalist policies.

⁴⁶ The place in the constitutional order means at least an implicit recognition of the group identities, which is a leverage against ignorance, intolerance and discrimination (*G. Alfredsson*, Minorities, Indigenous and Tribal Peoples: Definition of Terms as a Matter of International Law, in *N. Ghanea, A.Xanthaki* (eds.) Minorities, Peoples and Self-Determination, Martin Nijhoff Publishers, Boston 2005, p. 163).

⁴⁷ *C. Bîrsan*, Convenția europeană a drepturilor omului. Comentariu pe articole, Ed. C.H. Beck, București, 2005, p. 618-619.

Evidently, as I have shown above, in order to talk of multiculturalist policy it is necessary that such combinations of measures should include at least a privacy-oriented one.

5.1. Minority Privacy through Legal Exemption

Law exemptions are conditions for the religious and cultural accommodation of immigrant minorities. Such norms were legitimized on the principle that “sometimes [they] represent the only way to assure minority or non-mainstream consciences the same respect as the majority or mainstream consciences, that is, the same opportunities to live in accordance with the ethical beliefs and commitments they experience as binding without a law or a policy unduly impinging on them”⁴⁸. Law exemptions were adopted not only in the Great Britain or Sweden, where multiculturalism already has a decade-long history, but also in Switzerland where, in the nineties, the Federal Supreme Court recognized the right of religious minorities to exempt their children from swimming lessons⁴⁹.

Some law exemptions are qualitatively different – such as the establishment of special status regions in response to requests by strong minorities (or in the context of weak states, such as the Republic of Moldova). This form of administrative organization has proved effective in several European countries (Finland, Italy, Spain, Denmark, France etc.). It presupposes the introduction of specific legislation in the autonomous regions, thus separating them from the other regions. Not only do such regions necessitate constitutional adaptations, but the countries which established them also had to negotiate accession treaties with the EU. Rules such as the *numerus clausus* in the Trentino Alto-Adige or the special terms for the creation of a company in the Åland Islands are contrary to European legislation.

In order to survive, many indigenous communities demand that they be removed from the jurisdiction of legislation that applies in modern-day societies. One may argue that the adoption on 13 September 2007, through the General Assembly Resolution 61/295, of the United Nations Declaration on the Rights of Indigenous Peoples lay the foundation for a general principle of law exemption. For particular Latin American or Africa tribes, exclusion from national jurisdiction has become incompatible with inclusion measures – a rare case of multicultural policy that is rendered inoperable by too much group privacy.

5.2. Minority Privacy through the Establishment of Private Institutions

Persons belonging to national minorities can obtain group privacy by establishing and managing their own private educational institutions, including schools with teaching in the minority language. In the case of historical national minorities this option is widely acknowledged. The essence of minority demands is to include such institutions within the relevant state systems, and thus to provide them with state funding, and to secure education in the mother tongue or at least the study of this language in the state education system. One example of the practical and especially symbolic stake of such demands is the dispute in Romania over the establishment of a Hungarian state university. The founding of the private

⁴⁸ S. Courtois, Multiculturalism and Equal Treatment: Scope and Limits of the Uniform Treatment Approach, in *South African Journal of Philosophy*, vol. 28, no. 3/2009, p. 297.

⁴⁹ G. d’Amato, Switzerland: a multicultural country without multicultural policies?, in *Vertotec, Wessendorf* (eds.), *The Multiculturalism Backlash...*, op. cit., p. 137.

Sapientia University in 2001 has never been considered sufficient by the representatives of the Hungarian community in the country⁵⁰.

In the case of immigrant minorities, actual policies in European countries are rather heterogeneous in nature. In the UK, there are more than one hundred private Muslim schools in which children are instructed based on Islamic principles⁵¹. Such initiatives have been contested as a betrayal of Enlightenment values in education, but once accepted the principles of international law require that states not hinder the enjoyment of this right by imposing unduly burdensome legal and administrative requirements regulating their establishment and management⁵².

A soft version of this policy is the creation of a framework for government-sponsored ethnic, racial and religious associations, as in Denmark⁵³. Though minority associations play a key role in ethnic mobilization and self-organization, and may become community institutions, they are rather a means to the empowerment of the persons belonging to ethno-cultural groups.

5.3. Minority Privacy through the Establishment of Bodies of Public Law

Perhaps the most typical means of ensuring community privacy for minorities is the recognition of the cultural autonomy of national minorities. In Estonia, under the terms of the 1993 Law on the Cultural Autonomy of National Minorities, persons belonging to national minority groups numbering more than 3,000 are entitled to establish cultural autonomy. Their self-governing body is the Cultural Council, which has full administrative and supervisory powers over minority schools and other cultural institutions. Cultural Councils also have the power to raise taxes from the registered members of the minority group⁵⁴. The Law on Unrestricted Development and Right to Cultural Autonomy of Latvia's Nationalities and Ethnic Groups guarantees to all permanent residents of this country the right to establish their national societies, associations and organizations (Article 5). It is worthwhile to notice the emphasis placed by the 1993 Act on the Rights of Ethnic and National Minorities in Hungary on the principle that "minority rights cannot be fully guaranteed within the bounds of individual civil rights; thus, they are also to be formulated as rights of particular groups in society." The law establishes minority self-governments which enjoy the status of public bodies⁵⁵.

In Canada, the Constitution Act of 1982 recognized multiculturalism, while in 1988 the Multiculturalism Act was adopted in order to codify the processes already underway – massive

⁵⁰ G. Andreescu, The Babeş-Bolyai University: Which are the Rights, what is wrong, what is reasonable, in E. Medgyesi (ed.), *Let 2007 Truly be the Year of Equal Opportunities at the Babeş-Bolyai University!*, Stúdiom, Cluj-Napoca, 2007, p. 51-65.

⁵¹ R. Grillo, British and others: From 'race' to 'faith', in Vertotec, Wessendorf (eds.), *The Multiculturalism Backlash...*, op. cit., p. 60.

⁵² Foundation on Inter-Ethnic Relations, "The Hague Recommendations Regarding the Education Rights of National Minorities" (The Hague, 1995) – (www.unesco.org/most/ln2pol6.htm), accessed on 15 December 2015.

⁵³ U. Hedetoft, Denmark versus multiculturalism, in Vertotec, Wessendorf (eds.), *The Multiculturalism Backlash...*, op. cit., p. 111-130.

⁵⁴ D.J. Smith, K. Cordell, Introduction: The Theory and Practice of Cultural Autonomy in Central and Eastern Europe, in *Ethnopolitics* vol. 6, no. 3/2007, p. 337-343.

⁵⁵ S. Deets, S. Stroschein, Dilemmas of autonomy and liberal pluralism: examples involving Hungarians in Central Europe, in *Nations and Nationalism* vol. 11, no. 2/2005, p. 285-305.

funding from the federal budget for activities fostering the preservation of small minorities' cultures, including the creation of ethno-community centers⁵⁶. Among European countries, Sweden follows a somewhat similar approach. Immigrant students may pursue, in the framework of specially designed programs, education in their mother tongue. In this case too, the system of fighting discrimination is strong, ensuring the necessary conditions for inclusion.

One should stress here the importance of educational institutions in shaping a sense of community. In some countries persons belonging to national minorities have the right to study and receive instruction in their mother tongue in the state educational system. Several minorities enjoy such conditions in Romania (the Germans, Serbians, Ukrainians etc.) and, among these, Hungarians enjoy education in their mother tongue at all educational levels and forms⁵⁷.

5.4. Inclusion through Ensuring the Conditions for Inclusion

In their sternly titled "From toleration to repression", Baukje Prins and Sawitri Saharso define developments in the second part of the first decade of the new millennium as an anti-multicultural trend⁵⁸. Policies such as learning the official language⁵⁹, attending and graduating from school, taking responsibility for the education of one's children, obtaining an income, codified as both rights and responsibilities, are seen in an assimilationist, repressive key. Such policies enjoy a certain tradition in countries such as Switzerland and Denmark, but they have been introduced in an emphatic way in Holland and Denmark, two countries which have experienced ethno-cultural crises.

The developments which are regarded with concern by Prins and Saharso belong to the well-established category of acculturation, i.e., processes of cultural learning imposed on minorities, one result of which is that, though the original cultural patterns may be altered, the groups remain distinct⁶⁰. The anti-multiculturalist reading of acculturation processes misses the point that, unlike adjustment, adaptation, and assimilation, acculturation may also strengthen traditions and values because contact with other ethnic groups can boost the saliency of one's own ethnic identity⁶¹. The error of the accusations of anti-multiculturalism leveled against inclusion measures is visible in the question of the study of the official language by persons belonging to national minorities where the latter are guaranteed the right to study in the mother tongue (as in Romania). The study of the official language is an obligation assumed by the state to ensure the individual's integration in society irrespective of their identity. It is, in this sense, a burden on the state rather than on the individual, which is relevant especially where the value of linguistic identity is fully acknowledged.

⁵⁶ This Canadian variant of multiculturalism is pluralistic (each community has its specific own value) and particularistic (distinctions among cultures ought to be preserved).

⁵⁷ G. Andreescu, *Universal Thought, Eastern Facts: Scrutinizing National Minority Rights in Romania*, in W. Kymlicka, M. Opalski (eds.), *Can Liberal Pluralism be Exported? Western Political Theory and Ethic Relations in Eastern Europe*, Oxford University Press, New York, 2001, p. 270-283.

⁵⁸ B. Prins, S. Saharso, *From toleration to repression: the Dutch backlash against multiculturalism*, in Verotec, Wessendorf (eds.), *The Multiculturalism Backlash...*, op. cit., p. 72-92.

⁵⁹ A basic Dutch language proficiency exam in their own country is compulsory for the candidates at emigration.

⁶⁰ C.P. Kottak, *Windows on Humanity*, McGraw Hill, New York, 2005.

⁶¹ O. Cara, *The Acculturation of Russian-Speaking adolescents in Latvia. Language Issues Three Years After the 2004 Education Reform*, in *European Education* vol. 42, no. 1/2010, p. 8-36.

5.5. Inclusion through the Recognition of the Nation-building Status

Recognition of the group's status as constitutive of the nation is a demand usually made by historical, powerful national minorities. Art. 68 parag. (1) of the Hungarian Constitution establishes that individuals belonging to minorities living in Hungary are "constituent components of the State". In fact, the Hungarian constitutional statement was supposed to provide a model for Central and Eastern European (CEE) states with strong Hungarian minorities, which have systematically demanded the recognition of their nation-building status. After a twenty-year internal debate, the 19 national minorities in Romania backed the 2005 Bill on the status of national minorities, specifically its Article 2: "The national minorities are recognized as constitutive factors of the Romanian state, together with the Romanian nation, in majority"⁶².

While the symbolic dimension of the nation-building status for national minorities is dominant in CEE countries, it is a much more practical issue in the new Baltic states. Estonian researcher Raivo Vetik uses the term "democratic multiculturalism"⁶³ to refer to the recognition of ethnic heterogeneity and group rights for minorities, yet with a majority in place which provides the name of the nation, thus instituting a cultural – though not a political – form of dominance. This analysis looks for an answer to the specific problems of Estonian society, which freed itself from a long and brutal process of Russification. The translation of Vetik's model in the terms proposed herein highlights the need to define (i.e., acknowledge) the *majority privacy* of the main national group of the country. The implications of the notion of "majority privacy" on the issues of aliens and immigration are too wide-ranging to be developed here.

Immigration has been a central part of nation-building only in an exceptional sense. One case is Australia. The very centrality of immigration to Australian society explains both the diversity of multiculturalist measures in this country and the limits of the Australian models for countries where immigration is marginal. This model implies, among others, turning multiculturalism into a state policy, support for cultural pluralism through central public authorities such as, at the federal level, the Office of Multicultural Affairs (OMA) in the Department of Prime Minister and the Cabinet, and the transmission of skills at the level of ethnic organizations, such as in the provision of welfare services⁶⁴.

The matter of the nation-building status is related to the wider issue of the reflection of identity in the common public space – the majority-minorities co-ownership of the public sphere. During the past decades this has been one of the most pressing subjects on the agenda of immigrant communities. Measures in some countries, such as building mosques and wearing burqas in public spaces point to the limits of the inclusion of immigrant minorities *versus* national minorities from the perspective of participation in the definition of the common public space⁶⁵.

⁶² The draft law has not yet been adopted.

⁶³ R. Vetik, *Democratic Multiculturalism: A New Model of National Integration*, Åland Islands Peace Institute, 2000.

⁶⁴ S. Castles, *The Australian Model of Immigration and Multiculturalism: Is It Applicable to Europe?*, in *International Migration Review* vol. 26, no. 2, 1992, pp. 549-567.

⁶⁵ In November 2009, Switzerland adopted in a referendum a national ban on the construction of minarets. At the end of April 2010, Belgium's lower house of parliament voted for a law that would ban women from wearing the full Islamic face veil in public.

5.6. Inclusion through Effective Participation of National Minorities in Public Life

One of the fundamental principles of the international system of protection of national minorities rights involves ensuring for national minorities the conditions for their contribution to the shared social and institutional system of the entire society they are a part of. One model is the Lund Recommendations on the Effective Participation of National Minorities in Public Life of September 1999, which serve as a reference at least for the members of the Organization for Security and Co-operation in Europe. These recommendations cover participation in decision-making (formal or informal understandings for allocating to members of national minorities cabinet positions and seats on nominated advisory bodies or other high-level organs etc.); elections (recognition of the freedom to establish political parties based on communal identities, design of geographical boundaries of electoral districts which should facilitate the equitable representation of national minorities); arrangements at regional and local levels (public services in the language of the national minority in areas where they are in substantial numbers); advisory and consultative bodies (special purpose committees for addressing such issues as housing, land, education, language, and culture, competences of these bodies to provide views on proposed governmental decisions that may directly or indirectly affect minorities); self-governance (institutions of self-governance based on democratic principles to ensure that they genuinely reflect the views of the affected population); non-territorial arrangements (the right of the persons belonging to national minorities to choose to use their of names in the minority language, minorities can determine and enjoy their own symbols and other forms of cultural expression); territorial arrangements (territorial devolution of powers, particularly where it would improve the opportunities of minorities to exercise authority over matters affecting them); guarantees (arrangements should be established by law and generally not be subject to change in the same manner as ordinary legislation); remedies (judicial resolution of conflicts, an ombudsman for national minorities, and special commissions etc.).

The Lund Recommendations mainly address relations between the majority and national minorities which are important historical communities that are the subject of the OSCE High Commissioner on National Minorities. Most of them are multiculturalist measures, which is to say they have the double dimension of inclusion and community privacy promotion (particularly the case of cultural or territorial autonomies). Some provisions are, nonetheless, also relevant for indigenous peoples. Immigrants were not considered at the 1999 meeting of experts, but the Lund provisions may be read in the key supplied by the Advisory Committee in the Application of the Framework Convention for the Protection of National Minorities. The Advisory Committee extended the protective range of the Framework Convention under the “article-by-article” principle to cover ethnic, religious, and immigrant minorities⁶⁶.

5.7. Inclusion through Anti-discrimination Policy Addressed to the Persons or Groups Belonging to Ethnic, Racial, National and Linguistic or Religious Minorities

The basis of any system of inclusion is the fighting of discrimination. Non-discrimination is a principle that enjoys guarantees through the UN, the Council of Europe, and the Organization for Security and Co-operation in Europe and is the premier component of human

⁶⁶ G. Andreescu, Aportul Comitetului consultativ la doctrina Convenției-cadru pentru Protecția Minorităților Naționale, în Revista Română de Drepturile Omului no. 26/2004, p. 34-44.

rights protection as developed by the European Union. Anti-discrimination measures operate, by definition, on individuals. The Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin defines direct discrimination, indirect discrimination and harassment relative to persons⁶⁷. Nonetheless, the principle may be generalized to groups. The law on fighting discrimination in Romania takes this latter approach in establishing a “community’s collective right to non-discrimination”.

In my view, it is a little too much to call equality of treatment as such a multiculturalist measure. Multiculturalism starts, with Banting and Kimlicka, “beyond the protection of basic civil and political rights guaranteed to all individuals in a liberal-democratic state”⁶⁸. Which means that a policy is multiculturalist if it adds to anti-discrimination a group-privacy dimension.

5.8. Inclusion through Empowerment of the Persons Belonging to Ethnic, Racial, National and Linguistic or Religious groups

One of the senses of integration recognized by international law implies that persons belonging to national minorities are given an effective voice at all levels of government, especially with regard to those matters affecting them directly. Integration can only be achieved if persons belonging to national minorities participate, in turn, in all aspects of public life⁶⁹. Considering the specificity of ethno-cultural diversity in each society, as well as the variety of conditions enjoyed by the several national minorities within one and the same country, states have established their own specific approaches to minorities’ effective participation at all levels of government. One solution involves the inclusion of minority community members in legislatures or local administrative bodies, or efforts by political parties to be inclusive of minority groups⁷⁰.

Another national minority inclusion policy that is of particular interest in the OSCE system is the development of measures to address the use of minority languages in the broadcast media⁷¹. One policy addressed to aliens is investments in the career of the immigrant children in Switzerland⁷².

5.9. Inclusion through Empowerment of Ethnic, Racial, National, Linguistic or Religious Groups

One empowerment method for the national minorities is parliamentary representation by default. In Croatia, no less than five and no more than eight seats in the House of Representatives are reserved for the national minorities in the country: Serbs, Italians, Hungarians,

⁶⁷ Council Directive 2000/43/EC of 29 June 2000.

⁶⁸ See footnote 32.

⁶⁹ OSCE High Commissioner on National Minorities, “Recommendations on National Minorities in Inter-State Relations & Explanatory Note”, The Hague, June 2008, p. 6 (<http://www.osce.org/hcnm/33633>) - accessed on 16 December 2015.

⁷⁰ Inter-Parliamentary Union, United Nations Development Programme, Report on the UNDP -IPU Consultation on Minority Representation in Parliament, Geneva, 19-20 March 2007 (www.ipu.org/dem-minorities/ipu-undp07.pdf) - accessed on 16 August 2011.

⁷¹ Minority Rights Group, Guidelines on the use of Minority Language in the Broadcast Media, 2003 (www.minorityrights.org/1207/international-statements/guidelines-on-the-use-of-minority-language-in-the-broadcast-media.html) - accessed on 27 December 2015.

⁷² G. d’Amato, Switzerland: a multicultural country..., op. cit., p. 130-152.

Czech/Slovak and “others”⁷³. In Slovenia, two Members of the Parliament represent, in the National Assembly, Hungarians and Italians as the “historical minorities”. The most developed system is the Romanian one. The persons belonging to national minorities who do not secure any seats in the parliament through elections have the right to one seat in the Chamber of Deputies. The condition that the organizations of persons belonging to national minorities receive at least 5 percent of the nationwide number of votes for the election (generally less than 1,500 votes) is easily met by the 19 historical minorities in this country⁷⁴.

With respect to immigrants, the empowerment of the communities may take the form of affirmative action policies – a typical way to acknowledge collective rights. The classical “Canadian model of multiculturalism” is based on massive funding from the federal budget for activities fostering the preservation of small minorities’ cultures, including the creation of ethno-community centers⁷⁵. Among European countries, Sweden follows a relatively similar approach. The Swedish Instrument of Government of 1974 provides support for linguistic, religious, and cultural groups who prefer to maintain the immigrant characteristics⁷⁶. A series of programs are implemented, including instruction in mother tongues in the public school system and support for journals in immigrant languages.

In the UK, the condition of minority groups developed over the last decade from a race-based to a faith-based approach. The Home Office recognized the existence of appropriate community representation, funded faith groups and networks through the “Faith Communities Capacity Building Fund”, and encouraged “faith schools”. The British state pledged support for Muslim, Sikh and other schools⁷⁷. It is relevant that affirmative action policies were adopted even in France, a state whose republican, lay philosophy implies, at least in principle, a refusal to acknowledge minorities. After Science Po, the Grand École, offered special admission procedures to students located in disadvantaged neighborhoods, the example was emulated by other educational institutions⁷⁸.

6. Liberal and non-liberal multiculturalism

The difference among varieties of multiculturalism is generated by the conditions of the policies designed to respond to the inclusion and privacy needs of minority groups. One of the most significant distinctions is that between liberal and non-liberal multiculturalism. Strictly

⁷³ “Members of national minorities elect no less than five and no more than eight of their representatives in special election constituencies” [art. 19 parag. (2), Constitutional Act on the Rights of National Minorities in the Republic of Croatia].

⁷⁴ Although in no general elections all 19 seats were secured (*C.-C. Alionescu*, Parliamentary Representation of Minorities in Romania, in *Southeast European Politics* vol. 5, no. 1/2004, p. 60-75).

⁷⁵ The Constitution Act of 1982 recognized multiculturalism as one of the bases of the Canadian State, while in 1988 the Multiculturalism Act was adopted in order to codify the processes already underway.

⁷⁶ *H. Runblom*, Swedish Multiculturalism in a Comparative European Perspective, *Sociological Forum* vol. 9, no. 4/1994, p. 623-640.

⁷⁷ *R. Grillo*, British and others: From ‘race’ to ‘faith’”, in *Vertotec, Wessendorf* (eds.), *The Multiculturalism Backlash...*, op. cit., p. 50-72.

⁷⁸ *P. Simon, V.S. Pala*, We’re not all multiculturalists ‘yet’: France swings between hard integration and soft-antidiscrimination, in *Vertotec, Wessendorf* (eds.), *The Multiculturalism Backlash...*, op. cit., p. 97.

speaking, liberal multiculturalism claims that policies addressing diversity should remain compatible with the fundamental rights and freedoms of the human person. An expression of this view is the 2003 Speech to the Danish People of prime minister Anders Fogh Rasmussen, to the effect that Denmark will not allow gender discrimination, the politicization of religion, or genital mutilation⁷⁹.

Though specific enough in terms of its definition, liberal multiculturalism raises several matters of nuance. In an important number of cases which have made it to the European Court for Human Rights, plaintiffs who accused their states of violating fundamental rights through, for instance, prohibitions on wearing veils in public educational institutions or mandatory attendance of physical education classes even for Muslim girls, lost⁸⁰. One conclusion would be that such policies do not constitute a violation of the rights and freedoms of Muslim persons. This does not mean that the reverse practices – wearing the veil, or exemption from physical education classes – are in breach of the fundamental rights. The fact that many countries introduced exceptions and exemptions to the general rules suggests that they considered such practices compatible with the fundamental rights and freedoms, since the countries in question are members of the Council of Europe.

Are such measures also compatible with the child's best interest as defined under the UN Convention on the Rights of the Child? There is so far no unambiguous case law on this point, and as a result liberal multiculturalism must deal with the issue of the margin of appreciation of states in defining the limits of the exercise of European Convention rights. In this context, liberal multiculturalist issues should be approached taking as a reference systems of principles that are not strictly reducible to the standard of fundamental rights and freedoms. One proposal is that Walter Kälin dubbed "the fundamental rules of coexistence in immigration societies", specifically: (1) the principle of non-discrimination; (2) a state has to accept cultural differences if a neutral policy penalizes and devaluates members of specific groups; (3) the state has the right to exempt people from certain duties for the sake of inclusion if this does not damage their good functioning; (4) rules as religious freedom, the right of parents to decide on the education of their children, marriage and family building are also valid for the minorities; (5) the state must not tolerate the principles of the international private law as forced marriages, or behaviors which are harming physically and psychically the adults which practice them, or acts which endanger the well-being of the children; (6) reluctance of the

⁷⁹ U. Hedetoft, Denmark versus multiculturalism, in *Vertotec, Wessendorf* (eds.), *The Multiculturalism Backlash...*, op. cit., p. 114.

⁸⁰ See G. Van Bueren, *The International Law on the Rights of the Child*, Martinus Nijhoff, The Hague, 1998, p. 160-162; V. Leskovar, Parental Rights and Religious Freedom in Education Considering the Case-law of the ECtHR, in *International Constitutional Law Journal* vol. 3, no. 3/1999; A. Nieuwenhuis, *European Court of Human Rights: State and Religion, Schools and Scarves. An Analysis of the Margin of Appreciation as Used in the Case of Leyla Sahin v. Turkey*, Decision of 29 June 2004, Application Number 44774/98, in *European Constitutional Law Review* vol. 1, no. 3/2005; M. Nowak, T. Vospernik, Permissible Restrictions on Freedom of Religion or Belief, in T. Lindholm, W. Cole Durham, B.G. Tahzib-Lie (eds.), *Facilitating Freedom of Religion or Belief*, Martinus Nijhoff, Leiden, 2004; C. Langenfeld, S. Mohsen, Germany: The Teacher Headscarf Case, in *International Journal of Constitutional Law* vol. 3, no. 1/2005; C. Evans, The 'Islamic scarf' in the European Court of Human Rights, in *Melbourne Journal of International Law* no. 7/2006; C. Joppke, State neutrality and Islamic Headscarf Laws in France and Germany, vol. 36, no. 4/2007, p. 313-342.

state to impose the public order when it renders vulnerable persons even more marginal (e.g., children in the polygamous marriages)⁸¹.

There is a deeper sense of the synergy between multiculturalism and rights. Kymlicka expressed it in justifying the cultural preconditions of the value of freedom of choice. His conclusion stressed the importance of the viability of societal cultures for their contribution to people's autonomy⁸². This is the point of Robert Goodin's distinction between "protective multiculturalism", based on entrenching minority rights in order to protect cultural minorities, and the "polyglot multiculturalism" which expands the choice set of autonomous agents⁸³.

The second typology illuminates the positive, rather than limiting, relation between multiculturalism and rights, in the sense that there is a margin of what can be tolerated with respect to conditions for protection. This answers a concern expressed previously by Kymlicka who, as we already mentioned, in justifying the cultural preconditions of the value of freedom of choice, stressed the importance of the viability of societal cultures for their contribution to people's autonomy⁸⁴.

In practice, the issues raised by non-liberal multiculturalism concern the cultural lifestyles of ancient communities, most often indigenous peoples or immigrants coming from non-liberal regimes and regions. Typical examples involve the control of girls and women, whether in radical Muslim groups resident in the West or within Roma communities⁸⁵. As the liberal – non-liberal distinction tends to simplify things, one should insist on the fact that non-liberal varieties of multiculturalism are in need of a more nuanced approach. One category of non-liberal policies which I have referred to above involves exemptions from specific laws, which may generate the breach of rights but the absence of which would arguably lead to the community's extinction. One example is the status of Native Americans, a policy which is multiculturalist in approach, as these groups enjoy collective rights. In cases such as *Wisconsin v. Yoder* and *Santa Clara Pueblo v. Martinez* the US Supreme Court decided to limit the exercise of individual rights in order to ensure the survival of the community. In *Yoder*, the exception concerned mandatory schooling which would have affected the traditional ways of life of the Amish. In *Santa Clara*, the marital rules of the Native American tribe were protected despite the fact that they discriminate among men and women⁸⁶.

Contexts are decisive in assessing the rational or irrational nature of non-liberal multiculturalist policies. Charles Hale showed that in Guatemala the neoliberal cultural project entails proactive recognition of a minimal package of cultural rights with a non-liberal component, and an equal rejection of the rest. As a result, the principles of state-endorsed

⁸¹ See references in *G. d'Amato*, Switzerland: a multicultural country without multicultural policies?..., op. cit., p. 137.

⁸² *W. Kymlicka*, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Oxford University Press, Oxford, 1995.

⁸³ *R.E. Goodin*, *Liberal Multiculturalism: Protective and Polyglot*, *Political Theory* vol. 34, no. 3/2006.

⁸⁴ *W. Kymlicka*, *Multicultural Citizenship*..., op. cit.

⁸⁵ *A. Braga, A. Catrina, S. Gamonte, D. Neaga, G. Andreescu*, Ce spune un dialog cu soțiile de romi?, in *Nevi Sara Kali. Roma Women's Journal* vol. 1, no. 1/2009, p. 85-94.

⁸⁶ *S. Song*, *Majority Norms, Multiculturalism, and Gender Equality*, in *The American Political Science Review* vol. 99, no. 4/2005, p. 473-489.

non-liberal multiculturalism do not stand entirely in tension with neoliberal political-economic policies⁸⁷.

Another type of non-liberal multiculturalist positions involves the acknowledgement of cruel traditions which affect the lives of community members: forced marriages, genital circumcision, serious discrimination of women etc. The issue has been raised in countries where assuming multiculturalist policies has pushed the authorities close to the recognition of sharia law. After a report by a former attorney general had recommended the use of Islamic law to settle issues such as divorce and child custody, the head of Canada's Ontario province rejected in 2005 attempts to allow Muslims to use sharia law in family disputes⁸⁸. Muslim leaders in Australia expressed their option for a parallel system of sharia law following the model of some traditional Aboriginal and Torres Strait Islander law⁸⁹, and some scholars justified this demand by arguing that "the law will incrementally improve and transform over time as a response to multiculturalism"⁹⁰.

Controversy concerning the sharia law involves contextual matters, such as what competences – if any – may be granted to Islamic courts. When in the UK the Archbishop of Canterbury stated on 7 February 2008 that "as a matter of fact certain provisions of sharia are already recognized in our society and under our law"⁹¹, he faced public scandal and demands to quit. A mere seven months later, sharia courts were given powers to decide on Muslim civil cases ranging from divorce and financial disputes to domestic violence⁹².

From the perspective of militant democracy, one may also identify a liberal *militant* multiculturalism when the protection of minority groups goes as far as prohibiting the expression of ideas which negatively affect the sense of dignity of such groups, guaranteed by the "fundamental principles of a free democratic order"⁹³. In most countries in Europe, the laws controlling offensive speech and political association suggest that we are dealing with forms of militant multiculturalism.

The current multiplication of varieties of multiculturalism, some of which are promising models, while others sometimes defend reprehensible practices, provides a good reason to abandon *multiculturalism* in favor of "varieties of multiculturalism". One implication of this move is to suggest that policy-makers must today decide not so much between a multiculturalist and a non-multiculturalist strategy, as among varieties of multiculturalism.

⁸⁷ C.R. Hale, Does Multiculturalism Menace? Governance, Cultural Rights and the Politics of Identity in Guatemala, in *Journal of Latin American Studies* no. 34/2002, p. 485-524.

⁸⁸ "Sharia law move quashed in Canada", BBC News, Monday, 12 September 2005.

⁸⁹ P. Bibby, Muslim leader wants elements of sharia in Australia, in *The Sydney Morning Herald*, 8 March 2010.

⁹⁰ M. Voyce, A. Parashar, Legal Pluralism, Family Personal Laws and the Rejection of Sharia Law in Australia (http://www2.warwick.ac.uk/fac/soc/law/events/globalsharia/m_voyce_paper.pdf).

⁹¹ See (<http://www.archbishopofyork.org/1573>) - accessed visited on 15 November 2015.

⁹² A. Taher, Revealed: UK's first official sharia courts, *The Sunday Times*, September 14, 2008.

In "classical" democracy, the traditional example of which is the American democratic order, only actions may be forbidden (C. Mudde, Noi provocări globale pentru drepturile omului și democrație, în *Revista Română de Drepturile Omului* no. 26/2004).

Conclusions

A 2010 conference on “Women and Religion: A Humanist Critique” organized by the European Humanist Federation in Stockholm turned into an occasion for severe condemnation of multiculturalism for the still pervasive inequalities affecting women the world over. Most of those who spoke referred to attitudes and policies which harm women’s dignity and render women less than equal to men⁹⁴. Secular humanists joined in this condemnation although the movement is cosmopolitan and involves many traditional defenders of the rights of aliens and immigrants⁹⁵. Feminist criticism is a most reliable source of anti-multiculturalist critique.

The fate of this concept is equally determined by the promoters of the notion. The fact that the internal and international crisis generated by the 12 cartoons published in the Danish *Jyllands-Posten* on 30 September 2005 has been often misread by multiculturalism supporters – e.g., “As the infamous cartoons case has demonstrated, Denmark and multiculturalism are strange bedfellows...”⁹⁶ – can only alienate those dedicated to peace and justice in present-day societies⁹⁷.

At issue is not only the education of our attitudes, but also the appropriateness of our notions for what we do, think, and feel. From this point of view, the problems of multiculturalism today are theoretical as well. The variety of meanings attributed to “multiculturalism”, the often improper use of terms etc. represent a real impediment for a discussion of the relevance or irrelevance of multiculturalist strategies. A canonic concept of multiculturalism should assist in supporting a multiculturalist perspective as well as in defining the limits of such support irrespective of varieties and contexts.

⁹⁴ European Humanist Federation in association with the Swedish Humanist Association and European Humanist Professionals, “Women and Religion: A Humanist Critique”, Stockholm, 29 May 2010. See presentations by *Maria Hagberg*, Religion and Human Rights; *Eduardo Grutzky*, Oppression of women in religious context; *Azar Majedi*, Inherent misogyny in religion, with a special focus on Islam; *Unni Wilkan*, About honour; *Sara Mohammad*, Political Islam, cultural relativism and the problem with honour related violence; *Gilly Coene*, Feminims, Humanism and Multiculturalism; *Elfriede Harth*, Organizing resistance of women against religious oppression in their faith community: the case of Catholicism.

⁹⁵ For the ethos of secular humanist organizations, see particularly “The Neo-Humanist Statement of Secular Principles and Value” (www.paulkurtz.net) - accessed on 25 December 2015.

⁹⁶ *U. Hedetoft*, Denmark versus multiculturalism..., op. cit., p. 111.

⁹⁷ A demystifying presentation is available in *R. Dawkins*, *The God Delusion*, Bantam Press, New York, 2006.