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CITIZENSHIP AND CIVIC EQUALITY: TENSIONS, PROBLEMS AND CHALLENGES

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ABSTRACT

This paper examines the tensions, problems and challenges associated with the liberal version of the rights-based conception of citizenship and its commitment to civic equality. In particular, it examines the basic objections against this conception of citizenship raised by both traditional and contemporary criticism, each claiming that this concept of citizenship is either too permissive and inefficient on the one hand or too divisive, unfairly discriminatory and oppressive on the other. The paper then delineates the requirement of difference-sensitivity that is consistent with the liberal version of the rights-based conception of citizenship and its commitment to civic equality.

Key words: citizenship, civic equality, liberalism, multiculturalism, diversity, pluralism

LA CITTADINANZA E L'UGUAGLIANZA CIVICA: TENSIONI, PROBLEMI E SFIDE

SINTESI

L'articolo si propone di esaminare le tensioni, i problemi e le sfide associate con la versione liberale del concetto di cittadinanza basata su diritti e il suo impegno per l'uguaglianza civica. In particolare esamina le obiezioni fondamentali contro la tale concezione di cittadinanza sollevate sia dalla critica tradizionale sia quella contemporanea, le quali sostengono che questo concetto di cittadinanza sia, da una parte, troppo permissivo ed inefficiente o, dall'altra, troppo divisivo, ingiustamente discriminatorio ed oppressivo. In seguito, l'articolo mette in evidenza la necessità della sensibilità alle differenze consistente con la versione liberale della concezione di cittadinanza basata su diritti e il suo impegno per l'uguaglianza civica.

Parole chiave: cittadinanza, uguaglianza civica, liberalismo, multiculturalismo, diversità, pluralismo

THE FOUNDATIONS OF A RIGHTS-BASED CONCEPTION OF CITIZENSHIP

Citizenship as a political conception of the person is both complex and controversial, as holding the status of citizenship includes a number of distinct and interrelated meanings, i.e. sharing a common legal status of civic equality, enjoying the benefits of a formally defined set of basic rights and fundamental liberties and assuming the responsibilities which give effect to the experience of shared membership in a political community. In this sense, citizenship consists of two fundamental dimensions, i.e. [i] the vertical dimension; and [ii] the horizontal dimension. The first dimension refers to citizenship as a status which determines the relationship between a member of a polity and the political community. Citizenship, Kymlicka emphasizes, “refers to membership in a political community, and hence designates a relationship between the individual and the state” (Kymlicka, 2003a, 147). On this understanding, writes Rawls, the role of the citizen is “specified by its political institutions” (Rawls, 1999, 460). The second dimension of citizenship as a political conception of the person is primarily horizontal and expresses the social, cultural and psychological relations between a political community and its members as well as the relationship between members of a polity themselves and their relationship towards those who are not members of their political community. The two dimensions of citizenship as membership in a polity refer to the three basic elements any conception of citizenship is bound to entail, i.e. [i] the status-based element; [ii] the rights-based element; and [iii] the virtue-based element. I turn to these elements in the next part of this paper.

The status-based element of citizenship

The status-based element of citizenship raises the question of membership, i.e. who is a citizen of a polity and what are the qualifications for membership in a political community. As a status, citizenship is conferred upon individuals via a threefold mechanism. The first is by aggregation, i.e. by being born within the territory of a state [*jus soli*], the second by birth, i.e. obtaining the status of citizenship by descent or parentage [*jus sanguinis*]. These two mechanisms show that the acquisition of citizenship as membership in a political community is first and foremost beyond of the volitional power of the individual. As Rawls rightly emphasizes, we do not join society “voluntarily but are born into it” (Rawls, 1999, 397). As citizens, he argues, “we find ourselves in a particular political society at a certain moment of historical time” (Rawls, 2001, 4). In this respect, the status of citizenship is primarily an involuntary personal characteristic. The acquisition of citizenship via this twofold mechanism needs to be contrasted with a volitional mechanism available to those who want to acquire the status of citizenship of a particular political community.

The conferring of citizenship is through an act of conscience-based volition [*volitional allegiance*] and the related process of naturalization. In fact, Samuel Scheffler explains, “actual liberal societies attach far more weight to birth than to choice in assigning citizenship and its associated privileges and obligations” (Scheffler, 2002, 70; Shachar, 2009). Throughout history, the question of membership is associated with the status-based element of citizenship of who is a member of a polity and what the qualifications are for holding the status of citizenship, such as sex, race, ethnicity, religion, property, military service. Also, what the bases are for granting individuals the status of citizenship remains the crucial aspect that define the nature of citizenship as membership in a polity as well as the very character of a political community. As J.G.A Pocock pointed out in his seminal article ‘The Ideal of Citizenship Since Classical Times’, “For Aristotle [...] the citizen must be a male of known genealogy, a patriarch, a warrior, and the master of the labor of others (normally slaves [...])” (Pocock, 1995, 31). In other words, the status of citizenship in ancient Athens was defined by a number of qualifications that any contemporary conception of citizenship would find exclusive, discriminatory and oppressive.

The rights-based element of citizenship

The question of the basic rights and fundamental freedoms that are associated with the rights-based element of citizenship identified above need to be divided further into two distinct questions, i.e. [a] why members of a polity have rights; and [b] what rights are to be associated with the status of citizenship, e.g. civil, political, social, cultural rights. From a liberal interpretation of the first question, two basic functions associated with the question of why members of a political community have rights arise, i.e. (a) the traditional aspect; and (b) the modern aspect.

The first question refers to the basic interests rights as entitlements granted to members of a political community. The traditional aspect of rights is associated with the protective function they primarily perform. From this point of view, rights protect individuals against the risk of the “tyranny of the majority”. In other words, these are rights that members of a polity are entitled to by virtue of their membership in a political community to limit the power of the state as well as the scope of majority decision-making power. This characterisation of the relationship between the individual and the political community upon which the rights-based conception of citizenship is articulated assumes that the basic function of rights and the basic institutional framework of a polity is to protect the individual liberties of its members, not to make its citizens virtuous or to impose upon them any particular concept of good.

On the other hand, the modern aspect of the question why members of a polity have rights is based on

the integrative function of rights, which are to produce a sense of civic unity and social cohesion among members of a political community (Štrajn, 2008). As T.H. Marshall firmly points out, equal rights of citizenship would generate a “direct sense of community membership based on loyalty to a civilisation which is a common possession” (Marshall, 1992, 40). In this respect, the integrative function which rights perform is primarily aimed at the development of a sense of mutual connectedness and unity among members of a political community who differ amongst themselves in terms of race, ethnicity, religion etc. However, we need to contrast the two questions here. On the one hand, the first question of the rights-based element of citizenship identifies the different functions which rights perform for those who hold the status of membership in a polity, such as the protective function and the integrative function. On the other hand, the second question of what rights define the status of citizenship raises a different set of challenges as each of the major theoretical positions outline a different set of entitlements members of a polity should be granted. In this respect, conceptions of citizenship differ among themselves in three separate respects, i.e. [i] what rights should members of a polity have; [ii] what are the priorities between the rights granted to members of a polity; and [iii] what interests should rights as entitlements protect? This leads to a number of different understandings of the nature of citizenship and the nature of the political community itself. For example, the liberal and multiculturalist conception of citizenship are primarily divided over the issue whether cultural rights should be granted to members of ethnocultural minorities.

The virtue-based element of citizenship

Citizenship as a shared political status gives us access to institutions, deliberative arenas and opportunities while at the same time requires us to act in these spheres in accordance with a common set of political values, principles and standards of public reason. In other words, citizens as free and equal membership in a polity appear to be giving way to citizens seen as individuals living in society with other members of their political community, in a variety of situations, conditions and circumstances. The virtue-based element of the liberal version of the rights-based conception of citizenship opens the question of the obligations the status of citizenship poses on those holding this status as the ideal of civic equality also make demands on how citizens behave within the internal and private arrangements of the associative network of civil society. Among the most widely acclaimed achievements bearing this mark is the expansion of non-discrimination from the public sphere into the sphere of civil society. The demand for civility in the sphere of civil society has been one of the effects of the public sphere and its institutional framework, for example the desegregation of US society in the 1960s

and 70s. However, feminist scholars argue, civil society can have a negative effect on citizenship in public. Women and other at-risk members of minority groups can have difficulties in exercising their individual rights and fundamental freedoms due to the possible constraints placed upon them by their membership in the associative network of civil society, through discrimination, oppression and exploitation [reverse spillover]. This extension of common principles and shared public values into the sphere of civil society has both positive and negative effects (Rosenblum, 2000). On the positive side, the extension of the public principle of non-discrimination into the other social spheres does primarily perform a positive function, such as through the spread of non-discrimination on the basis of sex, race and religious belief into other social spheres like education, employment. On the negative side, the extension of shared public values and the congruence of values between the two spheres might involve an [unjust] imposition of civic obligations and responsibilities of the liberal version of the rights-based conception of citizenship upon the associational network of civil society as values and the very structure of an association might be illiberal, undemocratic or both. The liberal conception of citizenship therefore makes demands regarding how citizens behave within civil society. As Will Kymlicka emphasized, the translation of the public principle of non-discrimination from government to civil society involves a “radical extension in the obligations of liberal citizenship” (Kymlicka, 2003b, 50). As Jeff Spinner-Halev claims,

[t]he universal nature of citizenship may triumph over, or at least transform, private identities. Liberalism makes far-reaching demands on how ordinary citizens act toward each other in many different settings. (Spinner-Halev, 1994, 37–38)

This transformative effect of liberal citizenship can have the twofold effect of a gravitational pull towards the mainstream with the melting away of the distinctive features of a cultural group [*the liberal expectancy effect*] and the creation of conflicting diversity and the subsequent distance of the marginalised social group from the mainstream [*the conflicting diversity effect*]. This characterization of the circumstances of the rights-based conception of citizenship also delineates the status and the function of civil society in a liberal and democratic polity.

To summarise: the evolution of the ideal of civic equality which defines the liberal version of the rights-based conception of citizenship is defined by two characteristic features. Historically, the first characteristic feature consisted in the inclusion of those individuals that figure as equal members of a polity and has gradually resulted in the inclusion of those individuals and social groups who were previously excluded from the

status of citizenship. Compared to ancient Athens or the medieval city states, contemporary liberal and democratic societies are much more inclusive. The second characteristic feature of the ideal of civic equality associated with the rights-based conception of citizenship refers to the extension of rights that anyone holding the status of citizenship is entitled to. According to the historical interpretation of the rights-based conception of citizenship examined in Marshall's essay *Citizenship and Social Class* (1992), the rights and liberties granted to members of a polity were gradually expanded to incorporate three sets of rights that are traditionally associated with the liberal version of the rights-based conception of citizenship, i.e. civil rights [in the 18th century]; political rights [in the 19th century]; and social rights [in the 20th century] (Marshall, 1992). In this interpretation, over the last three centuries, the evolution of the status of citizenship as a political conception of the person has therefore witnessed a twofold expansion. The first consisted in the expansion of those who figure as civic equals in a particular political community [*expansion of membership*] whereas the second expansion consisted of the expansion of different groups of rights which members of a polity are entitled to [*expansion of entitlement*]. This twofold expansion associated with free and equal membership in a polity includes an equal distribution of a share of political power and protection from the abuse of this power granted by "a fully adequate scheme of equal basic liberties" (Rawls, 2001, 42).

However, the liberal version of the rights-based conception of citizenship and its principled commitment to civic equality could not altogether sidestep some of the challenges associated with diversity nor did it eventuate in full social justice for all members of a polity. In fact, both the expansion of membership and the expansion of entitlement which characterise the development of the liberal version of the rights-based conception of citizenship and its commitment to civic equality raise a number of separate objections that are advanced by both the traditional and the contemporary criticism of the rights-based conception of citizenship. They will be examined in a more detailed manner in the next section of this paper.

CRITIQUE OF THE RIGHTS-BASED CONCEPTION OF CITIZENSHIP

The liberal version of the rights-based conception of citizenship and its normative commitment to civic equality examined in the preceding section of this paper has been criticized from two distinct and opposing directions, i.e. [i] the traditional criticism; and [ii] the contemporary criticism. Both critics forcefully argue that this conception of citizenship is either too permissive and inefficient or too divisive, unfairly discriminatory and oppressive. The traditional criticism of the liberal version of the rights-based conception of citizenship and

its normative commitment to civic equality incorporates four divergent critiques, each targeting a particular element associated with this model of citizenship: the civic republican critique (e.g. Beiner, 2003; Miller, 2000); the communitarian critique (e.g. Sandel, 1982; MacIntyre, 1983; Taylor, 1989; Walzer, 1983); the libertarian critique (e.g. Nozick, 1974); and the social conservative critique (e.g. Scruton, 2002). The contemporary criticism of the rights-based conception of citizenship and its normative commitment to civic equality incorporates three distinct critiques: the deliberative democratic critique (e.g. Brettschneider, 2006; Deveaux, 2009; Talisse, 2005); the feminist critique (e.g. Okin, 1989; Nussbaum, 1999; Shachar, 2001; Song, 2007); and the multiculturalist critique (e.g. Kymlicka, 1995; Modood, 2007; Parekh, 2000; Raz, 1994; Young, 1990). Further on I examine the main objections advanced by the traditional criticism of the liberal version of the rights-based conception of citizenship and then proceed in a more detailed manner with the exposition of the two versions of the multiculturalist critique and its twofold objection against the liberal version of the rights-based conception of citizenship and its normative commitment to civic equality.

The traditional criticism of the rights-based conception of citizenship

The traditional criticism identified above is composed of three separate objections, each targeting a particular element of the liberal version of the rights-based conception of citizenship identified in Section II of this paper as well as the two characteristic features of the principled commitment to civic equality in general, i.e. [i] the identity-related objection [associated with the expansion of membership]; [ii] the virtue-related objection; and [iii] the effectiveness-related objection [both associated with the expansion of entitlement].

The first objection [*the identity-related objection*] has posed two different challenges to the promotion of citizenship as a shared civic identity (Šimenc, 2011). On the one hand, the expansion of the number of those granted the status of citizenship resulted in the decreasing of civic unity and social cohesion as by creating a more inclusive community where membership in a polity is not predisposed to nor limited by ethnicity, race, language, religion, income or cultural membership, the sense of civic unity and social cohesion among members can be diluted (Kodelja, 2011; Prebilič, Barle, 2011). On the other hand, if more and more individuals are granted full political membership in a polity, those who remain excluded are much more radically marginalised. An inclusive polity can therefore be more polarised and composed disproportionately of a large inclusive minority that may have difficulties in coping with the diversity and the subsequent lack of civic unity and social cohesion as well as a small part of those who are much more

radically marginalized from society's broader social arrangements and its basic institutional framework.

The second objection advanced by the traditional criticism is largely formulated against the consequences of the rights-based conception of citizenship, i.e. the individuals' basic rights and fundamental freedoms [*the virtue-based objection*]. According to this criticism, the liberal version of the rights-based conception of citizenship pays little or no attention at all to the importance of community and shared membership. One of the most persistent criticisms of liberalism and its conception of citizenship, writes Samuel Scheffler, "is that the priority it assigns to freedom and individual rights is not simply disruptive of conventional social norms but also undermines the value of community" (Scheffler, 2002, 18). In particular, the civic-republican and the communitarian critique blame the liberal version of the rights-based conception of citizenship for all major problems contemporary plurally diverse societies are faced with, such as the low turn-out at local, regional or national elections; the disengagement of individuals from the associative network of civil society; the decrease in social capital expressed through low trust in the basic institutional framework of a plurally diverse polity, and the overall disengagement of citizens from active participation in shared public life. According to these criticisms, as Samuel Scheffler points out, the liberal version of the rights-based conception of citizenship bears the responsibility for

a host of social problems, whose source, according to many critics, lies ultimately in a culture of individualism and a breakdown of communal values for which liberal thought itself is responsible. (Scheffler, 1994, 5)

In this sense, the liberal version of the rights-based conception of citizenship has been criticised as being too disruptive as well as not demanding enough because it lacks the necessary means to support the sense of unity among members of a political community. It argues that the presence of different and competing values, beliefs and practices fails to take into account the degree of moral convergence it takes to sustain a plurally diverse polity and therefore contributes to the fragmentation and falling off of unity among citizens. In particular, civic republicans criticise primarily civil rights including freedom of expression and freedom of association as they allegedly undermine the primacy of political rights, such as political participation and community involvement.

The third objection against the liberal version of the rights-based conception of citizenship [*the effectiveness-related objection*] advanced by social conservatives (Scruton, 2002) and libertarians (Friedman, 2002; Nozick, 1974) targets welfare elements of the rights-based element of citizenship such as social rights. Two different criticisms need to be distinguished here, i.e. [i] the *efficiency-related criticism*; and [ii] the *oppression-*

related criticism. On the one hand, according to the efficiency-related criticism, the positive entitlements guaranteed by the state and its basic institutional framework, such as the right to health care, unemployment support and public education, undermine individual responsibility for the choices individuals make. On the other hand, according to the oppression-related criticism, social rights seriously undermine other fundamental rights of other members of a political community, for example property rights. In this sense, redistribution is largely seen as jeopardizing individual liberty.

I turn now to a presentation of the contemporary criticism of the liberal version of the rights-based conception of citizenship, whose various critiques and objections challenge the consistency of this conception of citizenship with its basic foundations and the core normative principles associated with citizenship as free and equal membership in a polity.

The contemporary criticism of the rights-based conception of citizenship

Contrary to the objections raised by the traditional criticism of the liberal version of the rights-based conception of citizenship that it undermines the overall stability of a plurally diverse polity and the maintenance of its basic institutional framework, the objections advanced by modern criticism, question its consistency with the basic principles of citizenship as free and equal membership in a political community. As has been emphasized at the outset of section III of this paper, contemporary criticism of the liberal version of the rights-based conception of citizenship and its normative commitment to civic equality consists of three distinct critiques including the deliberative democratic critique; the feminist critique; and the multiculturalist critique.

The deliberative democratic critique of the limitations and shortcomings of conflict resolution using the liberal formula (e.g. Brettschneider, 2006; Deveaux, 2009; Talisse, 2005), which weigh different claims in terms of different rights advances the objection that the liberal version of the rights-based conception of citizenship cannot solve the conflicts between equally compelling claims, such as gender justice and cultural coherence. As Monique Deveaux emphasized, "liberal principles set limits to both the form and possible outcomes to such deliberations" (Deveaux, 2009, 24).

In contrast, the feminist critique of the liberal version of the rights-based conception of citizenship has criticized liberalism's alleged indifference to various forms of injustice in the private sphere and the perpetuation of inequality between the sexes in the public sphere and its basic institutional framework (Okin, 1989, 1994). In this sense, the very ideal of citizenship as a free and equal membership in a political community is incompatible with the principle of non-discrimination and its commitment to gender equality.

On the other hand, the multiculturalist critique claims that the liberal version of the rights-based conception of citizenship is insensitive to the various claims for the accommodation of diversity in the institutional framework of a plurally diverse polity and has not redeemed its normative commitment to both civic equality and equal civic respect for diversity. Even with winning full citizenship status, inclusive of equality of status and equal civil, political and social rights, various groups and individuals remain either excluded or marginalised (Lukšič-Hacin, 2004). In this interpretation, the liberal version of the rights-based conception of citizenship remains contested since its twofold expansion of membership and the expansion of entitlement have not resulted in an inclusive, just and stable polity. Members of minority cultures, so the criticism goes, continue to suffer unfair disadvantages compared to those who are part of the mainstream since they do not enjoy the same choice-enabling background conditions as do members of mainstream cultures/religions despite the equal basic rights granted to all members of a polity. What is therefore required, advocates of multiculturalism in general argue is not just equal protection of basic rights, e.g. freedom of association [associative liberty] and freedom of expression [expressive liberty], and toleration of diversity, but the granting of group-specific rights and the recognition of their diversity that would compensate and reduce the asymmetry between the majority and the minority groups.

The multiculturalist critique of the liberal version of the rights-based conception of citizenship is both complex and manifold at the same time. We can distinguish between two different views associated with the multiculturalist critique which need to be distinguished here, i.e. [i] the moderate multiculturalist view (Kymlicka, 1995; Raz, 1994); and [ii] the critical multiculturalist view (Modood, 2007; Parekh, 2000; Young, 1990). I examine each of these two views identified here below, together with an examination of the two models of citizenship advanced by the multiculturalist critique: the multicultural citizenship model; and the differentiated citizenship model.

The moderate multiculturalist view

The moderate multiculturalist view primarily claims that basic rights and fundamental freedoms, including the rights to freedom of religion, expression, thought, association and political participation, are a *necessary* but not a *sufficient* mechanism to match with the obligations of equal civic respect for all citizens in the design of the institutional framework of a plurally diverse polity, including public education. This critique of the liberal version of the rights-based conception of citizenship is best exemplified by two competing claims which characterize its advocates, i.e. [i] the requirement of equal choice; and [ii] the requirement of equal freedom [equal protection of cultural membership].

The first claim advanced by the moderate multiculturalist view, i.e. the requirement of equal choice maintains that individuals should have access to the cultures they are traditionally connected to (Kymlicka, 1995, 2001). Those groups that are traditionally not part of the ethnocultural mainstream, should be given additional rights in order for their individuals to have the same choice-enabling conditions as do individual members of the ethnocultural majority. Contrary to the liberal version of the rights-based conception of citizenship that distributes an equal set of rights to all members of a political community, the model of multicultural citizenship distributes an additional set of rights on the basis of membership in groups which meet the criteria for accommodation.

The second claim advanced by the moderate multiculturalist view is that the requirement of equal freedom limits the effect of the first requirement on individual agency. In this sense, the additional rights given to minority cultures should not override the civil and political rights of its members (Kymlicka, 1995, 2001). This second requirement basically refuses to allow basic rights and fundamental freedoms to be overridden by the interests of subgroups in the maintenance of membership in their groups and the distinctive ethical environment of these groups. Advocates of the moderate multiculturalist view argue that internal restrictions over group members are inconsistent with liberalism's basic premise of free and equal citizenship since they are likely to override individual rights and freedoms and may create the "reverse spillover" of these values into the public sphere.

In this sense, cultural rights perform a twofold function. First, they are designed to ensure the protection of minority groups from the pressures and influences of the dominant society and from outside interference in general [the protection of cultural coherence]. Accommodation and recognition of diversity and granting of group-specific rights or policies which rely on external protection of a particular minority group do not override the individuals' civil and political rights and are therefore consistent with the basic principles of free and equal citizenship. Second, part of the demand for a supplementary set of minority group rights has been argued under the self-respect argument. Self-respect, writes Rawls in *A Theory of Justice*, "includes a person's sense of his own value, his secure conviction that his conception of the good, his plan of life, is worth carrying out" (Rawls, 1999, 386).

However, two challenges related to the model of multicultural citizenship arise here. First, external protections fail to comply with the normative commitment of civic equality in two important respects. On the one hand, they fail to meet the test of internal fairness within groups. On the other hand, they also fail to meet the test of pluralism. While group-specific rights assure the diversity between groups within a particular society, they potentially undermine the pluralism within groups

and therefore undermine the diversity within a society as well as within groups. The moderate multiculturalist view unfairly disadvantages members of a particular minority group that – in one respect or another – does not identify fully with a particular element or marker of group identity, like language, custom, religion or political affiliation. Despite its promotion of between-group diversity within a society, the model of multicultural citizenship advanced by the moderate multiculturalist view puts at risk the internal pluralism within groups. Second, the most troubling premise of the moderate multiculturalist view and the model of multicultural citizenship demand is to treat individuals as a means to the well-being of a group or community, which is contrary to the basic normative commitment of civic equality.

The critical multiculturalist view

The critical multiculturalist view (Modood, 2007; Parekh, 2000; Young, 1990) is much more radical in its critique of the liberal version of the rights-based conception of citizenship and the overall effects of the liberal institutional framework. It forcefully argues that this conception of citizenship as free and equal membership in a polity and its commitment to civic equality is inegalitarian as well as oppressive and unfairly discriminatory. Two criticisms advanced by the advocates of the critical multiculturalist view need to be distinguished here.

The first criticism advances the claim that public institutions [including public schooling] are not neutral. As Iris Young emphasises, ‘rights and rules that are universally formulated and thus blind to differences of race, culture, gender, age, or disability, perpetuate rather than undermine oppression’ (Young, 1995, 267). In her critique of the liberal-egalitarian and the civic republican conception of citizenship and civic equality, she observes that both conceptions of citizenship do not pay adequate attention to the interests of those groups and communities she identifies as oppressed or marginalised. She argues that these two conceptions of citizenship and civic equality

excludes women and other groups defined as different, because its rational and universal status derives only from its opposition to affectivity, particularity and the body. Republican theorists insisted on the unity of the civic public: insofar as he is a citizen every man leaves behind his particularity and difference, to adopt a universal standpoint identical for all citizens, the standpoint of the common good or general will. In practice republican politicians enforced homogeneity by excluding from citizenship all those defined as different and associated with the body, desire or need influences that might veer citizenship away from the standpoint of pure reason. (Young, 1990, 117)

The second, and related criticism claims that even with the extension of the status of citizenship to those groups and individuals that are not part of society’s

broader social arrangements very often remain at the margins of society. As Yael Tamir emphasises,

[m]embers of disempowered minorities soon discovered that being granted a set of formal civic rights was insufficient to ensure equal status, and realised that they had to decide which was the lesser of two evils: remaining estranged and marginalised, or integrating at the price of self-effacement. Members of such minorities thus became increasingly aware that the ideal of a culturally neutral public sphere embodies a dangerous and oppressive illusion. (Tamir, 1995, 164)

According to this critique, both the liberal and the civic republican versions of the rights-based conception of citizenship offer an inadequate response to the problems of contemporary ‘circumstances of multiculturalism’ since they are insufficiently inclusive or even discriminatory. In particular, they do not give equal weight to the different conceptions of the good that are present in a plurally diverse polity.

In contrast, a politics of difference as advanced by Iris Marion Young (1990) requires the cultivation of a shared public space where the basic institutional framework of a polity is sensitive to the various differences amongst individuals and groups. Contrary to the liberal version of the rights-based conception of citizenship and its basic commitment to civic equality, as Avigail Eisenberg emphasises, a politics of difference ‘recognises that social structures and institutions can only address oppression and domination by making space for difference and by not reducing difference to some impartial, neutral or universal perspective’ (Eisenberg, 2006, 15). However, I maintain, a more inclusive conception of citizenship that recognises the claims of pluralism and diversity faces a twofold challenge. First, accommodating group diversity might create or increase intra-group inequality within different communities. Second, it might also create the risk of social fragmentation between various groups and individuals and therefore undermine both solidarity and social cohesion of the polity itself. The model of differentiated citizenship as elaborated by the critical multiculturalist view therefore brings problems and challenges of its own.

As we have seen in sections *The moderate multiculturalist view* and *The critical multiculturalist view* of this paper, the moderate multiculturalist view and the critical multiculturalist view have advanced a twofold objection to the liberal version of the rights-based conception of citizenship and its commitment to civic equality. In a moderate view, the liberal version of the rights-based conception of citizenship is incompatible with some forms of identity and personal values and does not pay equal respect to the members of ethnocultural minorities and their culture [*equal civic respect objection*]. It advances the claim that the liberal version of the rights-based conception of citizenship basically reduces individuals’ ethnocultural membership to indi-

vidual preferences and private choices. The moderate multiculturalist view acknowledges the priority granted to individual rights but it points out that this model of the protection of individual interest is insufficient. In this interpretation, the uniform treatment approach associated with an equal distribution of individual rights is insufficient for the preservation of a particular cultural environment as a context of choice for individuals who belong to a particular non-dominant minority community. The critical multicultural view, in contrast, rejects outright the liberal conception of civic equality as inequalitarian in principle and both discriminatory and oppressive in effect. It maintains that the liberal version of the rights-based conception of citizenship actually reflects the norms, values and practices of the majority and is subsequently prejudiced against those groups and individuals who are not part of society's broader social arrangements [*cultural subordination objection*]. In particular, the critical multicultural view argues that the basic institutional framework of a plurally diverse polity is unable to develop a coherent response to cultural and value diversity. In this sense, the liberal version of the rights-based conception of citizenship and its commitment to civic equality offers an inadequate response to the problems of contemporary 'circumstances of multiculturalism' since it does not give equal weight to the different conceptions of the good present in a pluralist democratic society and is insufficiently inclusive in confronting claims for the public acceptance and accommodation of diversity. In fact, as Sune Laegaard points out "liberalism is incomplete at best, or in itself unjust, at worst" (Laegaard, 2005, 326).

However, the basic question both versions of multicultural citizenship have to answer is whether their group-differentiated model of citizenship is consistent with the basic principled commitment to civic equality. I examine this challenge and the associated problems below. While both models of multicultural citizenship aim to provide a justice-based account of a group-specific model of cultural rights they both fail to capture the pluralism of diversity itself. In this respect, I argue, multiculturalism has itself become another part of the problem.

THE LIMITS OF THE MULTICULTURALIST CRITIQUE

Multiculturalism has been rejected by various scholars as being an unsustainable policy of accommodating diversity; some of whom have been sympathetic and others critical of the liberal version of the rights-based conception of citizenship that has been the motivational foundation for the development of the group-differentiated models of citizenship advanced by the two views of multiculturalism presented in the previous section of this paper. Two groups of critics in particular need to be distinguished here, i.e. [i] the liberal egalitarian critique; and [ii] the feminist critique. Let me expand on both critiques and the main objections they raise against

the limits of the multicultural citizenship model and the model of differentiated citizenship.

The liberal egalitarian critique

In general, the liberal egalitarian critique exemplified most clearly by Brian Barry in *Culture and Equality* (2001) advances a range of different objections against multiculturalism and its group-differentiated models of citizenship. Its primary target was to challenge the emancipatory project of multiculturalism as incoherent at best or discriminatory and oppressive at worst. The justification for its wholesale rejection has been largely based on the inconsistency of cultural rights with the principled commitment to civic equality. Two objections need to be distinguished here. The first is the justice-based objection, which argues that a differentiated distribution of entitlements as in the case of ethnocultural rights is inconsistent with the liberal version of the rights-based conception of citizenship and its commitment to civic equality. In this interpretation ethnocultural rights impose a discriminatory understanding of the rights-based element of citizenship as a free and equal membership in a polity. The second is the equal respect objection, which argues that multicultural policies and the differentiated treatment of non-dominant minority groups fail to meet the requirement of equal respect and concern between citizens of a plurally diverse polity. Barry's contentious objection is even more radical as he advances the assertion that the claims advanced by advocates of multiculturalism cannot be defended on justice-based premises.

On this interpretation, the moderate multiculturalist view and the critical multiculturalist view raise two problems that might undermine the viability and sustainability of a polity and risk violating the rights of some of its citizens despite their intended positive integrative function. First, conferring minority rights to ethnocultural groups may put some members of these groups at risk vis-à-vis their own group and the broader society by making it considerably more difficult for them to enjoy their individual civil and political rights. Contrary to the assumption shared by the moderate multiculturalist view and different sub-variants of liberalism, such as those holding an autonomy-liberalism position, societal cultures are not internally homogeneous as they can be internally divided across different lines (religious, political, socio-economic etc.). External protections against the influence of majority culture may have the effect of coercively diminishing or reducing the options available within a particular minority group therefore restricting its members to the options available as well as reducing the overall diversity within a society. The liberal egalitarian critique argues that the introduction of minority rights might leave members of these cultural groups uneducated or otherwise disadvantaged and with fewer opportunities to compete in the wider society. Second,

whereas civil and political rights are status-based, with those holding the status of citizenship being entitled to them, cultural rights granted to some non-dominant minority groups fail to comply with the commitment of civic equality and the principle of non-discrimination since only those cultural groups who are internally liberal and democratic would be granted cultural rights. While this certainly avoids the problem of possible in-group discrimination and oppression of at-risk members of these communities, the selective nature of cultural rights is both inegalitarian and discriminatory and therefore inconsistent with the principled commitment to civic equality.

The other source of dispute between the liberal egalitarian and the multiculturalist scholars revolves around the nature of cultural membership and of culture itself (Song, 2007 [ch. 2]). Two distinct and divergent objections can be identified here. On the one hand, liberal egalitarian scholars advocate the uniform treatment approach (Barry, 2001) towards cultural diversity. Its main contention is that – from a liberal egalitarian perspective – minority rights and the associated model of multicultural or differentiated citizenship are not a requirement of justice. On the other hand, advocates of either the moderate multiculturalist view or the critical multiculturalist view argue succinctly that ethnocultural membership and minority status is part of one's circumstance and is therefore entitled to justice-based entitlements such as minority rights or exemptions from otherwise binding norms and laws.

The feminist critique

The feminist critique of multicultural policies (e.g. Enslin, 2003; Okin, 1998; Nussbaum, 1999; Shachar, 2001) is directed against the two views of the multicultural critique of the liberal version of the rights-based conception of citizenship. According to this critique, minority rights discriminate against the least well-off members of those minority groups who are the beneficiaries of a differentiated allocation of rights. Minority rights risk creating in-group discrimination while aiming to reduce between-group discrimination or inequality. In this interpretation, the feminist critique of multiculturalism advances the objection that group-rights will create the “paradox of multicultural vulnerability” (Shachar, 2001), i.e. the creation of within-group inequalities as an effect of group-differentiated rights. It points to the unequal distribution of the benefits of minority rights within a particular community as well as the discrimination against members of a particular disadvantaged or marginalized community who are most at risk (usually women and children). This assertion implies that multicultural policies have a twofold effect, i.e. the *direct effect* and the *indirect effect*. The direct effect of a group-differentiated policy or remedy is to reduce the inequality between groups and contribute to a more egalitarian

and stable society. On the other hand, the indirect effect of a group-differentiated policy consists in the assertion that this policy would contribute to more inegalitarian relationships within the beneficiary community and that most at-risk members of these groups will be considerably worse-off. While the multicultural claims were advanced under a broadly liberal claim for increasing the self-respect of minority ethnocultural groups and other social groups, the feminist rejection of multiculturalism rests on the assertion that multicultural policies are likely to create more harm than good, i.e. that its effects [either intended or unintended] will outweigh the intended positive effects multiculturalism is likely to expect. The feminist criticism of multiculturalism argues that the value of gender equality is an important limit on cultural accommodation which challenges both the justice-based claims of minority groups as well as the integrative function of the claims for accommodation.

The paradox of multicultural diversity

I want to join the critics of multicultural [group-differentiated] policies and the two models of group-differentiated citizenship for a different but related set of arguments. What I find objectionable in the multicultural project in general is the negative side effect of an intended positive policy, which is the recognition and accommodation of diversity in the basic institutional framework of a plurally diverse polity. I argue that the multiculturalist objection against the liberal version of the rights-based conception of citizenship and its commitment to civic equality creates two important problems. The first problem refers to the possible violation of the individual rights of women and other at-risk members of those minority groups who can claim vulnerability via the system of differentiated citizenship and has been identified as ‘the paradox of multicultural vulnerability’. This problem is related to the tension between common principles and shared public values of a particular political community and those values that constitute the ethical environment of a particular cultural group (Haydon, 2006a).

In contrast, the second problem, I maintain, can potentially reduce the overall diversity within a political community as well as jeopardise the individual freedom of some of the individuals who are members of minority groups. Like languages, cultures and practices are diverse and plural in nature as well. By publicly recognising and accommodating a particular minority culture or some of its aspects we risk failing to acknowledge the internal diversity, pluralism and heterogeneity of a particular minority culture and its ethical environment. As Jeff Spinner-Halev emphasises, “[i]nclusiveness does not reinforce distinctiveness, as some multiculturalists seem to think; inclusiveness wears away differences” (Spinner-Halev, 1994, 180). At the same time, a particular multicultural policy could essentialise a particular form

of cultural diversity it aims to protect or accommodate. This creates the *paradox of multicultural diversity*. At the same time, in particular cases group-differentiated rights might violate the basic civil and political rights of the most vulnerable and disadvantaged members of a minority group [*the reverse spillover effect*]. This criticism is premised on the assumption that the basic problem of group-differentiated rights is that members of a particular group do not share equally a particular disadvantage. We can therefore conclude that group-differentiated rights as a compensatory and integrative strategy or policy to reduce the inequalities and disadvantages between groups cannot function as an equalisandum within a disadvantaged community as its members do not share equally a particular disadvantage. The basic problem of any claim for group-specific accommodation of diversity, I maintain, rests on the assumption that members of a particular group bear an equal share of a particular disadvantage. I call this *the fallacy of equal disadvantage*. This paradox together with the paradox of multicultural vulnerability explicated above points to a number of potential perverse side effects of both the theory and the policy of multiculturalism and its inconsistency with the liberal version of the rights-based conception of citizenship and its commitment to civic equality.

CONCLUSION

As I have argued in this article, the difficulty in conceptualizing citizenship as a political conception of the person, originates from its complexity and controversy as any of its existing conceptions entail several distinct and interrelated meanings, i.e. sharing a common legal status of civic equality, enjoying the benefits of a formally defined set of basic rights and fundamental liberties and assuming the responsibilities that give effect to the experience of shared membership in a political community. While both the expansion of membership and the expansion of entitlement associated with the liberal version of the rights-based conception of citizenship have resulted in a more just and inclusive polity and in an egalitarian status of citizenship, its critics forcefully argue that this conception of citizenship is

either too permissive and inefficient on the one hand or too divisive, unfairly discriminatory and oppressive on the other. While both of these criticisms and the related objections against the integrative and the redistributive character of our commitment to civic equality rightly diagnose the foundational tension any conception of citizenship in a plurally diverse polity is faced with, both projects explicated above fail to grasp the complexity of the problem at hand. I maintain that neither traditional nor contemporary critics of the liberal version of the rights-based conception of citizenship in offering a conception of civic equality that would be consistent with the fair terms of engagement with diversity. The difference between various conceptions of citizenship then, is not just a matter of the distribution of entitlements associated with a conception of citizenship as a political conception of the person.

In fact, any conception of citizenship that claim to be consistent with the liberal ideal of free and equal citizenship is therefore left with two major challenges that it needs to take into account: firstly, to see whether it can pay equal civic respect to all citizens in the design of its basic institutional framework [the requirement of equal civic respect]; and secondly, to see whether equality of respect and concern including recognition and accommodation of diversity will increase social harmony, inclusion and a sense of unity among members of a polity [the problem of social unity and stability]. These issues leave us with two fundamental questions which need to be answered. First, what kind of priority do basic rights and fundamental freedoms together with shared public values and basic democratic values require, since respect for diversity and, more particularly, acknowledging the limited claims of liberal public reason, call for certain kinds of restraint with respect to our public agenda? Second, how are accommodation and recognition of diversity in the institutional framework of a plurally diverse polity able to be consistent with our twofold normative commitment to civic equality and equal civic respect for diversity? The difficulties, problems and challenges identified above require an articulation of a conception of difference-sensitivity that would reconcile the requirement of civic equality with the acceptance and respect of diversity.

DRŽAVLJANSTVO IN DRŽAVLJANSKA ENAKOST: NAPETOSTI, PROBLEM IN IZZIVI

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POVZETEK

Težava pri konceptualizaciji državljanstva kot političnega koncepta posameznika izvira iz kompleksnosti pojma, saj vsaka od obstoječih definicij obsega več različnih in medsebojno povezanih pomenov. Iz obsežne obstoječe literature s področja temeljev, narave in vrednote državljanstva v pluralni raznoliki ureditvi je razvidno, da so nekateri izmed najpomembnejših vidikov, povezanih z državljanstvom kot osebnim političnim konceptom, še vedno predmet debate in je tako vsak koncept državljanstva podvržen različnim interpretacijam. Izraženi so bili številni pomisleki o konceptu državljanstva, utemeljenem na pravicah, in trditve, da je taka koncepcija preveč permisivna in neučinkovita ali preveč razdvajajoča, nepravilno diskriminatorna in zatiralna. Prispevek analizira temelje, naravo in vrednote normativne zaveze državljanjski enakosti, povezane s konceptom državljanstva, utemeljenem na pravicah. Sestavljen je iz petih delov. Prvi del se prične z razlago na pravicah utemeljenega koncepta državljanstva kot deljenega političnega statusa, povezanega s svobodno in enakopravno pripadnostjo politični skupnosti. Nato določim temeljne razsežnosti državljanstva in raziščem osnovne elemente državljanstva, utemeljenega na pravicah. V drugem delu se osredotočam na številne pomisleke o liberalni različici koncepta državljanstva, utemeljenega na pravicah. Nadaljujem s predstavitevjo tradicionalne in sodobne kritike koncepta državljanstva, utemeljenega na pravicah. Posebej pozorno kritično ocenim oba modela multikulturalnega državljanstva. Nato v tretjem delu sledi pregled več različnih kritik multikulturalizma in njegovih modelov diferenciranega državljanstva. Na tem mestu opredelim razne paradokse, ki se porajajo iz multikulturalnega razumevanja državljanjske enakosti, tudi paradoks multikulturalne raznolikosti, ki kaže na v veliki meri neraziskane učinke politike multikulturalizma. V sklepnem delu prispevka orišem potrebo po razliki-občutljivosti, ki je skladna z liberalno različico na pravicah utemeljenega koncepta državljanstva in njegovo zavezanostjo državljanjski enakosti.

Ključne besede: državljanstvo, državljanjska enakost, liberalizem, multikulturalizem, raznolikost, pluralizem

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