



Communities, Belonging and the Individual Between Boundaries and Bridges

Lucia Bellucci 9 July 2020

1. Introduction

It is a pleasure to contribute to the “discussion”, hosted by Reset, on the article of Professors Adam B. Seligman and David W. Montgomery, “The Tragedy of Human Rights: Liberalism and the Loss of Belonging”,^[1] following the invitation received by Professor Silvio Ferrari. This article, published in 2019 in the journal *Society*, offers several interesting insights on the topic that prove to be precious for an interdisciplinary debate.

Our thoughts will be organized as a sort of brainstorming and with bibliographic references that are not too copious, to allow a more streamlined reading. Through a methodological approach that is

perhaps a bit risky, this contribution aims to build a critical analysis that, starting from quotations from the text, identifies some conceptual assumptions on which the article's argument seems to be based.

Without suggesting “that human rights are a ‘bad idea’ [the article argues that] human rights are as much the problem as they are the solution to the contemporary challenge of constructing civil society. [The authors are critical towards] half a century of advocating human rights to the exclusion of other components of human good and fulfillment. [They argue that the] rhetoric of human rights [which] has grown increasingly prevalent in political discourse, visions of international cooperation, and the legitimation of a liberal international order [has been used] at the expense of any sense of shared belonging”.[2]

We aim to outline a few assumptions from which the argument seems to move and to examine them along with the notion of community which will be considered a common thread. It seems in fact rather evident that the concept of community can be considered among the pivotal points of the authors' work. We will mainly focus on communities' borders, multiculturalism and other models of social inclusion, the agency of the individual within a group, freedom and the emerging of dissent, and the concept of trust.

2. Communities and Borders: The Individual, Acculturation and Dissent

Seligman and Montgomery argue that “communities are circumscribed entities. These, our communities of belonging are not universal but are bounded, just as families are bounded [...], [...] they do have boundaries which always define some ‘us’ as against ‘them’. And both us and them are group, not individual, categories”.[3]

Communities have always had some forms of borders. They are somewhat circumscribed, but their borders are also porous, never defined once and for all. The authors' words seem to minimize that communities, families, and people live processes of acculturation and

change their perceptions, customs and opinions. Moreover, even within cultures or social groups where the interests of the group prevail over those of individuals, as it happens in societies, even contemporary ones, which reflect somehow traditional forms of association, a space emerges, albeit variably limited, for individual freedom and dissent.

Bronislaw Malinowski already showed that the members of what were once identified by an ethnocentric expression as “primitive societies” do not supinely, mechanically and rigidly obey customary rules, crushed and dominated by the will of communities they belong to. In these societies norms are obeyed consciously and, while considering the fundamental importance of the group, Malinowski detected in them a relevant space for individual freedom.[4] As Edmund R. Leach underlined, it is indeed true that tradition is in principle conservative, but “what we choose to remember about tradition can quite rapidly be adapted to changing circumstances”. [5] Furthermore, as H. Patrick Glenn pointed out, the oral and community nature of the transmission of traditional norms strongly encourages consensus, but historically, dissent has also emerged irrecoverably and entire traditions have been modified by people who rejected their own society, in whole or in part. Even traditions in which the transmission of information is severely restricted cannot prevent opinions from flourishing.[6]

We can agree with the statement “life outside community is not possible”[7] that according to Seligman and Montgomery is inspired by Simone Weil and Hanna Arendt, if it is understood in the sense that we all need, and are part of, cultural and social references. Nevertheless, we could also belong to more than one community. Clearly it is important to think about the difference between normative orders “where individuals are considered as part of a group, a group whose interests prevail over its members [where] the protection of individuals is usually linked to the maintenance of their ties to the group as well as to the respect of gender and status relations within it”. [8] However, as Seligman and Montgomery indirectly confirmed through their article, this difference should not be exaggerated, not only because as they

claim, communities and their ties are at the core of our lives, but also because individuals retain the power to make decisions that release them from their communities. Of course, exercising this power is often difficult (and at times an enterprise that fails), but it recognizes a crucial role to the individual. Belittling this power would also mean removing the individual's responsibility to exercise it if necessary, which could be a dangerous approach. One needs to think about the cases of a member of a criminal group, or a parent whose partner is abusive to his or her children. In these cases, even if leaving the community is risky, the individual has the duty to do so, first of all to protect others, and the fact that one could enter a different community does not mean excluding the individual's ability to leave his or her community (the criminal group or the abusive partner). This is a capability that would in our opinion not only be obscured, but also weakened if the focus of political and legal reflection were on the community. Moreover, if it seems quite obvious that, as the authors pointed out, "while we can indeed leave any particular community with its obligations and moral ties, such an act can also only replace one set of ties with another", [9] it is also important to highlight the role of the individual within the community not to overshadow the fact that many changes that have improved humanity's living conditions have been the result of individual (and group) struggles against these ties.

Finally, we believe that some writings published in the field of legal anthropology, whose authors have proved aware of the need to challenge and go beyond the dichotomy of cultural relativism versus human rights and attempted to provide conceptual tools to do so, may be a confirmation of the need to overcome the net opposition between the individual and community. We refer, for example, to the contributions by Susan C. Breau and N. Barney Pitanya. [10]

3. Community, Trust, Multiculturalism and the Other

The authors' statements "belonging is something that is necessary for existence beyond the individual; that is, for all existence that is social [, as well as] we must appreciate the implications of trust and confidence"[11] are among the most interesting remarks of the article and we fully share them. The concept of trust is indeed worth attention. The reflection on the concept of trust has not yet been sufficiently deepened. It will be important to further analyze both its positive consequences, for instance those linked to an increase in the reliability of human relations and their predictability, and its negative ones related to the development of feudal or even mafia-type relations.[12]

Moreover, it is possible that multiculturalist policies do not facilitate trust between individuals and communities. On the contrary, they often isolate communities from one another. This might be the greatest weakness of a model of inclusion which, despite its limitations, we still consider among the best models "available", which we support and regard as a form of respect.

Even if the attempt at categorization in the Trust/Belonging-Confidence/Rights table outlined by the authors[13] contains several categories that can be shared, the way in which some conceptual categories are placed in this table is questionable. We refer in particular to the inclusion of only "multicultural values" in the Confidence/Rights column and the concept of "others experienced as a risk" in the Trust/Belonging column. Furthermore, referring only to multicultural values with regard to the inclusion of minorities excludes from the discussion models of contemporary societies which, although liberal, are not inspired by multicultural values. Taking them into consideration will on the contrary enlarge the reflection on the concept of liberal society and the nuances that this expression can assume in our days, which would be useful in the light of the argument that Seligman and Montgomery put forward.

We are referring in particular to the model that inspires French society, which is the republican model of "integration", or "*à la française*", that does not recognize multiculturalism and to the one that has been

suggested in Québec. We propose that the authors enlarge their scope of analysis towards a broader complexity. This will help them “step out” of the Anglo-Saxon borders of the equation “liberal society equals multiculturalism”, the latter being a model that privileges the concepts of equal opportunity, cultural diversity, mutual tolerance[14]. It implies the provision of rules expressly designed for ethnic minorities[15] and, more generally, the protection and promotion “of cultural and religious rights of minorities though differential treatment [thus offering] such minorities the option of extra benefits which they are free to accept or reject as they wish”. [16] We recall that, according to the French republican model, cultural/religious characteristics are not formally taken into account in the public sphere with regard to the ownership of rights and the fulfilment of obligations. As a result, there are no regulations expressly addressed to communities (e.g. Moroccan or Algerian) and communities cannot therefore make use of particular rights granted to them. From the first report of the Haut Conseil à l’intégration, which has not been in operation since 2012, the egalitarian and above all universalist logic on which this model is based is already clearly visible.[17] The first report of 1991, entitled “*Pour un modèle français d’intégration*”, argues that “the French conception [must] obey a logic of equality and not of minorities. The principles of identity that date back to the Revolution and the Declaration of Human Rights, impregnate [this] concept based on the equality of individuals before the law, whatever their origins, race, religion [...] to the exclusion of an institutional recognition of minorities”. [18] The following year’s report entitled “*Conditions juridiques et culturelles de l’intégration*” states that: “The logic of equality is opposed to the durable installation on our soil of foreigners or people of foreign origin being sought and lived by pivoting on community groups constituted on an ethnic or national basis and negotiating their own spaces and specific rights”. [19]

In Québec, Canadian multiculturalism[20] (specifically of the English-speaking Canada) has long been widespread with regard to many aspects of ethnic minorities’ lives, but for historical and socio-political reasons related to the existence of a French-speaking majority,[21] it has

never been consolidated theoretically or rather it has not been officially recognized at the institutional level.[22] In Québec, a model of inclusion or integration or diversity management based on the concept of interculturalism (*interculturalisme*) was in fact suggested, without being formalized at the governmental level. Unlike multiculturalism, this model considers the existence of a French-speaking majority. It gives this majority a central role/position, intended to preserve its culture and *acquis*,[23] but at the same time it proposes “a mutual recognition between majority and minorities, which serves as a basis for a dynamic of exchange, rapprochement and partial fusion as a condition for social cohesion. [T]his mutual recognition must go hand in hand with reciprocal arrangements, given that: a) minorities need protection from the majority to ensure respect for their rights; and b) the French-speaking founding majority is itself a minority which must concern itself with its survival and development”.[24] In Québec, this model combines, since several decades, with a concept of secularism that differs from active secularism, with the latter implying not indifference towards religions, but intervention in favor of religious freedom conceived in a broad sense.

Going back to the categories defined by the authors in the Trust/Belonging-Confidence/Rights table,[25] we do not see why the category of “Others experienced as a danger”, which is actually placed in the context of communities of confidence and rights, could not also apply in the context of communities of trust and belonging, where the authors only depict the category of “Others experienced as a risk”. We will not support our statement through examples from contemporary societies because this would require more in-depth analysis to avoid being misunderstood than the space available for this contribution allows. We will instead use some examples from the past, which refer to societies that we can consider without too much difficulty as having the same or similar characteristics to those that the authors associate with communities of trust and belonging. Many artifacts from civilizations that, to roughly use a widespread even if ethnocentric expression, belong to an age that has often been called “pre-Columbian”, some of

which are exhibited at the Metropolitan Museum in New York, show how members of great civilizations of what is now Latin America had prepared great gifts for the Europeans who disembarked on their land because they feared them, they considered them a danger and did not trust them. Moreover, for example, historical evidence reports of African rulers from powerful kingdoms of the past seeing the new European arrivals on their continent as a danger to the independence of their kingdoms. One of the greatest queens of what is now Angola, Nzinga,[26] who fought Portuguese colonialism for decades, considered Europeans as a great danger to her community. As a warrior and great strategist, she obtained a peace treaty with the Portuguese governor in the Seventeenth Century and since the Portuguese failed to respect it, she continued to fight against them. Even further back in time, still in Africa, the one-eyed warrior queen Amanirenas,[27] managed to defeat the armies of Caesar Augustus whom she saw as a great danger.

4. Conclusion

The idea reported in the article regarding religion, that “not everything can be shared”, [28] is certainly to be supported, but the context in which it is used tends to hide inter-religious experiences (e.g. churches that celebrate Catholic and Protestant rites) or coexistence between religions that in history have also led to the fusion of some important elements of different religions. We don't see the constructiveness of such a stress around religious differences. We know this is a slippery slope but for people like the author of this contribution who grew up in countries with a Muslim tradition, was brought up in a family sensitive to the religious phenomenon but not religious, had a spiritual formation of Christian/Catholic inspiration, and that has *desco* and children in a neighborhood of Jewish culture, stressing religious differences to a great extent, while ignoring social differences, doesn't make much sense. On the other hand, we realize from the North American experiences lived directly, that more and more so-called North American progressives conceive the concept of “identity” in a different way than their European

homologues. To many Europeans the concept of identity, whether cultural or religious, is scary, because it reminds them of a horrible, disgusting and inhuman, as well as authoritarian past that we know was driven by ideas and feelings that are always lurking and ready to reappear in Europe. In North America, on the other hand, the concept of identity is often seen as an “achievement”, as a positive, collective, social and individual result obtained in a given geographical and temporal context, the valorization and expected recognition of traditions, values, cultures, of a belonging ignored or even often persecuted not only in the past, but also sometimes simply elsewhere. Examples of this are the anti-Semitic persecution that many Jews (or their families) who emigrated to North America experienced in Europe, but also the forms of slavery and segregation that African Americans/Blacks experienced in the United States, as well as the racism that they still experience in this country.

Communities are not fixed and immutable entities and if community life is essential to the human being who is a species in need of sociality, on the other hand there is room for individual freedom and dissent and each individual is not necessarily part of a single community. Therefore, the belonging to which the authors refer could concern more than one community in a synchronic or diachronic way. We could affirm that, if our life is certainly characterized by a series of community ties, it is also characterized by a series of bridges connecting one community to another that the individual can (and often has to decide whether or not to) cross, even against the opinion of his or her community. We could therefore argue that the narratives of human rights leave a space for the individual and his or her agency that still seems important to preserve.

The approach adopted by the authors “that takes collective differences as not simply matters of individual preference but as constitutive of individuals and their communities”[29] is an excellent insight that allows us to reflect on approaches that are too often given as obvious and immutable. Nevertheless, it should be more effectively problematized, for example with regard to the question of who represents communities. Among the most complex questions to address

when it comes to communities is who decides which communities we belong to exactly and “Who represents whom and upon which base?”; that is, “Who is the spokesperson of a given community and with which legitimation?”. If it is true that “not everything can be shared”, these questions could be the starting point for a future and interdisciplinary debate devoted to the development of a multiculturalism and a religious pluralism that both protect and promote cultural diversity by highlighting not the existence of borders, but their porosity, not that of parallel roads, but of bridges that connect them.

References

[1] Adam B. Seligman & David W. Montgomery, “The Tragedy of Human Rights: Liberalism and the Loss of Belonging” (2019) 56:3 *Society* 203–209.

[2] *Ibid* at 203, text and abstract.

[3] Seligman & Montgomery, *supra* note 1 at 204.

[4] See Bronislaw Malinowski, *Crime and Custom in Savage Society* (Totowa, A Helix Book: Rowman & Allanheld, 1985. 1st ed. London: Routledge & Kegan Paul, 1926) at 9–84.

[5] Edmund R. Leach, *Custom, Law and Terrorist Violence* (Edinburgh: Edinburgh University Press, 1977) at 7.

[6] H. Patrick Glenn, *Legal Traditions of the World. Sustainable Diversity in Law* (Oxford: Oxford University Press, (2000) 2007, 3rd ed.) at 62, text and note n. 14, and at 63. With regard to these three authors see also Lucia Bellucci, *Consuetudine, diritti e immigrazione. La pratica tradizionale dell’escissione nell’esperienza francese* (Milano: Giuffrè, 2012) at 46, 47 and 53.

[7] Seligman & Montgomery, *supra* note 1 at 204.

[8] Lucia Bellucci, “Customary Norms vs State Law: French Courts’ Responses to the Traditional Practice of Excision”, in R. Provost (ed.), *Culture in the Domains of Law* (Cambridge & New York: Cambridge University Press, 2017) at 86.

[9] Seligman & Montgomery, *supra* note 1 at 204.

[10] See Susan C. Breau, “Human Rights and Cultural Relativism: The False Dichotomy”, in J. Rehman & S. C. Breau (eds.), *Religion, Human Rights and International Law. A Critical Examination of Islamic State Practices* (Leiden & Boston: Martinus Nijhoff, 2007) 137–165; N. Barney Pityana, *Toward a Theory of Applied Cultural Relativism*, in P. Zeleza & P. McConnaughay, *Human Rights, The Rule of Law, and Development in Africa* (Philadelphia: University of Pennsylvania Press, 2004).

[11] Seligman & Montgomery, *supra* note 1 at 207–208.

[12] Among the studies concerning economic development see Richard Ball, “Individualism, Collectivism and Economic Development” (2001) 573 *The Annals of the American Academy of Political and Social Science* 57, in particular at 67–68 and 78–80.

[13] See Seligman & Montgomery, *supra* note 1 at 207.

[14] See Sebastian M. Poulter, “Ethnic Minority Customs, English Law and Human Rights” (1987) 36:2 *International and Comparative Law Quarterly* at 592; Kristin Couper, *La société multiculturelle version britannique*, in R. Gallissot (ed.), *Pluralisme culturel en Europe* (Paris: L’Harmattan, 1993) at 592.

[15] See on the topic Lucia Bellucci “Immigrazione e pluralità di culture: due modelli a confronto” (2001) XXVIII: 3 *Sociologia del diritto* 131 at 145.

[16] Poulter, *supra* note 14 at 608.

[17] On the topic, see extensively Bellucci, *supra* note 15 at 133–135; Lucia Bellucci, *Consuetudine, diritti e immigrazione. La pratica tradizionale dell’escissione nell’esperienza francese* (Milano: Giuffrè, 2012) at 104–109.

[18] Haut Conseil à l'intégration, *Pour un modèle français d'intégration*, Rapport au Premier Ministre (Paris: La Documentation Française, 1991) at 19 [the translation is mine].

[19] Haut Conseil à l'intégration, *Conditions juridiques et culturelles de l'intégration*, Rapport au Premier Ministre (Paris: La Documentation Française, 1992) at 63 [the translation is mine].

[20] The literature on the topic is very rich. For further details see the "classics" Charles Taylor, *Examining the Politics of Recognition*, edited and introduced by A. Gutmann (Princeton: Princeton University Press, 1994); Will Kimlicka, *Multicultural Citizenship. A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995).

[21] In Québec there are also several anglophones who are born native English speakers.

[22] See Gérard Bouchard, *L'interculturalisme. Un point de vue québécois* (Montréal: Boréal, 2012) at 234.

[23] *Ibid* at 231–232.

[24] Bouchard, *supra* note 22 at 230.

[25] See Seligman & Montgomery, *supra* note 1 at 207.

[26] Nzinga of Ndongo and Matamba (1583-1663) known by several names, including Anna de Souza (Ana de Sousa) Nzinga Mbande or Njinga Mbandi).

[27] Also spelled Amanirena. She was the queen of the Kingdom of Kush from c. 40 BC to c. 10 BC.

[28] Seligman, Montgomery, *supra* note 1 at 208.

[29] Seligman & Montgomery, *supra* note 1 at 208.

Lucia Bellucci is Associate Professor of Sociology of Law at the University of Milan.

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