

INTEGRATION IS A HUMAN RIGHT

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Cultural integration is a human right central to the fulfillment of most fundamental human rights which can be understood as required for protection from discrimination. Discrimination is the basis of racism, war, apartheid and genocide. Developments in our moral and ethical understanding have made non-discrimination a cornerstone principle in the field of international human rights law. Without cultural integration there will most certainly be discrimination and fundamental human rights protection is compromised. A new theory resolving the fundamental contradiction between assimilation and the right to cultural identity is proposed: this contradiction is resolved through biculturalism, which will also ensure that integration occurs. Integration may thus be seen as the expression of cultural identity.

1. Introduction

Given current global trends in human migration in the Mediterranean region, which has an influx of new migrants yearly, many with cultural backgrounds vastly different from the native populations, critical questions in human rights discourse arise regarding cultural identity and integration. Together with their descendants, these immigrant populations and newcomers need the right to express their cultural identity, while being integrated and accepted as full members of society by having full protection of all their human rights, regardless if they choose to manifest the cultural identity of the host society or of their own ethnic origins. Together with these migrants are also minorities who have long standing rights in the country within which they reside,

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many for generations. They are characterised only by having different cultural characteristics from the mainstream, though they are not migrants. (UN Special Rapporteur) Capotorti's definition of a minority is as follows:

'a group which is numerically inferior to the rest of the population of a State and in a non-dominant position, whose members possess ethnic, religious or linguistic characteristics which differ from those of the rest of the population and who, if only implicitly, maintain a sense of solidarity, directed towards preserving their culture, traditions, religion or language.'¹

In the light of European colonial history in the Mediterranean region, in which European countries of the northern Mediterranean colonised the North African countries of the Southern Mediterranean; the post-colonial new world order is such that the relationship between former coloniser and colonised is vastly different. This different dynamic as expressed in the migration experience, where both the migrant and the host society give their own cultural values to the enrichment of the other, coupled with the fact that it is many of the formerly colonised peoples who are migrating to the former colonies, makes this issue a critical turning point in world history and places the Mediterranean region at the heart of this very important human rights issue.

Much legal controversy exists in terms of cultural and minority rights. These legal precedents will be applied to the cultural and integration discourse from a human rights point of view. In order to understand integration, it is important to ask also if a "multicultural society" can indeed provide for cultural integration free from discrimination or forced assimilation while simultaneously accepting the right to cultural identity for those who choose to express one that is vastly different from that of the host society. It is important to question if at times "multiculturalism" may end up being another way of making the situation of immigrants as "separate but equal", which is problematic from a legal point of view, and which is essentially a denial of justice.

¹ Natan Lerner (1991) *The Evolution of Minority Rights in International Law*. In, *Peoples and Minorities in International Law*, The Hague: Kluwer Law International, Martinus Nijhoff Publishers.

2. Thesis statement

The thesis of this paper is that integration is a human right. This means that without integration, the protection of human rights is vastly hindered. This also means that the right to a cultural identity different from that of the mainstream host society is not in contradiction with integration. It is not a question of one or the other. They are not mutually exclusive. This paper will argue that in fact, these two concepts are very much compatible.

3. The importance of cultural rights

The importance of cultural rights for two significant reasons will be highlighted in this paper. Cultural rights are important and are as important as all other human rights for their own sake. Without cultural rights, very rarely are the other important human rights, such as education, work, health, housing, political and civic rights achieved. Without cultural rights it is very difficult to reach other rights. One major reason for this is because of the existence of discrimination which leads to the exclusion of members of minority groups, or refugees, immigrants and newcomers, from society, and from access to government services. Without inclusion, few human rights are ever achieved. Additionally, cultural rights fulfill an important human psychological need, that of the need to belong, which is important for health, and health is certainly an important human right. We know that discrimination and prejudice causes societies and sometimes even governments to provide only for those whom they perceive as their own, and not members of an out-group. This point leads to two very important ideas; that inclusion is necessary for its own sake, and that inclusion is the basis for the fulfillment of most of all the other human rights. Cultural rights, particularly its element of belonging, inclusion and freedom from discrimination, are thus the true foundation underpinning all the human rights. They are the cornerstone. Additionally, discrimination can be seen as the reason why most groups, including women, children, the elderly, the disabled, and members of minority groups have their human rights trampled. Discrimination is what cultural rights exist to eliminate, that is, discrimination in the negative sense.

Furthermore, the issue of discrimination and integration could

not be more salient than in the Mediterranean, in which former empires have granted citizenship or other resident rights to formerly colonised peoples, a case in which coloniser and colonised must co-exist side by side, not with the older form of discrimination and conquest and “otherness”, but in a post-colonial realm in which the previously marginalised and oppressed are of an equal status. Though the immigration policies have changed, not necessarily have peoples’ attitudes and this is also an issue for consideration.

‘It should be remarked that certain rights are necessary conditions for the effective realisation of the former. The most important of these “preliminary” rights include the right to life, the prohibition of torture and inhuman and degrading treatment and the right to liberty and security of the person.’²

Although the above mentioned rights are indeed important for minorities, they are in fact *basic human rights* important for minorities, this paper argues that for minorities certain other rights as well are necessary conditions for the effective regulation of minority rights, namely cultural integration which leads to the realization of other critical rights, like the right to food, education, health, housing and work.

‘Freedom of expression, implying the effective protection of the expression of ideas and convictions divergent from the majority, and the freedom of association, are essential for the protection and promotion of the separate identity of the minorities in society.’³

This is exactly what minorities need, but what value is freedom of expression, assembly and assertion of identity if it leads to isolation or if it deprives minorities of general acceptance into the society? For these freedoms to have any tangible meaning, the individuals for whom they apply must be integrated into a society free from

² Kristen Henrard (2000) Chapter two. The contribution of individual human rights to minority protection. Part B. Other Individual Human Rights that are Especially Relevant for Minorities in, *Devising and adequate system of minority protection. Individual human rights, minority rights and the right to self-determination. International studies in human rights.* The Netherlands: Martinus Nijhoff publishers, Kluwer Law International, at p. 63.

³ *Ibid.*

discrimination against them precisely because of their cultural identity and expression of their cultural identity thereof. What value to minorities is it if their right to life and their right to their cultural identity are protected, but because of discrimination in tangible reality, they are marginalised from having access to the fulfillment of their other rights, like food, education, health, housing and work, which form the basis for a quality of life, indeed, for life itself?

Without protection derived from cultural rights, minorities would not have the protection to be who they are or to have their other rights protected while expressing their different cultural identity. Cultural rights are the basis of minority rights. Without them, minorities are left vulnerable and unprotected. To deny a person the right to live out their cultural identity is absurd because it is who they are, whether they are accepted by society for that identity or not, it is still their identity. Any policy which does not respect the cultural identity of peoples and members of minority groups, or causes them to suffer negative consequences for living out their cultural identity, perhaps their only way of knowing how to be, is in grave violation of human rights law and jus cogens principles. Although there is a spectrum of policies, some better, some worse than others, at their heart any policy that does not take the significance of cultural identity into consideration, or allow for protection for that cultural identity, is against the spirit of any human rights discourse.

4. Legal precedent

Perhaps another term already accepted in human rights discourse, the right to participation, is a forerunner to legitimising cultural integration. The right to participation is usually used to refer to the right to participate in civic and political life. It is important at this point to build upon an already existing human rights discourse, in that the right to participation, for minorities especially, should be expanded to include the right to participation as they are; meaning the right to participate as a member of a minority group, based on the unique cultural identity, and not just as an invisible assimilated person into the majority culture.

In fact, human rights discourse has already set the stage with the right to participate as a unique identity in the realm of women's rights. Women are seen as having the right to participate as women, and this is central to equality for women and freedom from

discrimination for women. In a similar vein, the right to participation is important for minorities in that they should be given the right to participate based on who they are, meaning; based on their unique cultural identity.

The right to participation also encompasses another important aspect, the right to be free from discrimination and marginalisation. Participation by its very nature signifies inclusion, and respect for the unique identity of those participating. This inclusion is central to the spirit of the human rights discourse and central to most of the human rights principles. With inclusion and participation, there is clearly a higher probability for equality and freedom from discrimination, whereas, without inclusion, the chance of discrimination, non –equality and marginalisation are guaranteed.

The ideas of inclusion and participation are at the heart of what true integration for minorities means. It means that they will maintain their unique cultural identity and still be included as equal members of society in civic, political, economic, and cultural realms, free from discrimination and free from exclusion while expressing their unique cultural heritage. This way of looking at integration is different from either assimilation which does not allow for the expression of the unique cultural identity, nor multiculturalism, which does not guarantee the equal participation of minorities or their inclusion free from discrimination. Integration would surely guarantee inclusion and participation and would be a policy that would provide for higher human rights protection in all spheres of life, especially those relevant to minorities who are more vulnerable than other social groups because of their cultural differences and because of discrimination related to those differences.

Legal scholars have previously made the connection between several key legal principles; the interconnectedness of human rights, minority protection, participation, right to cultural identity and the right to express it. Understanding well the relationship between these principles gives us the foundation for understanding why integration is a human right. For example: 'Hannum extends the interrelation between individual human rights and the right to self-determination regarding their contribution to an adequate minority protection to minority rights. This is apparent in his enumeration of aspects of the right to political participation, which include the right to education, the right to take part in the cultural life, minority rights, family rights, and the right to association, the

freedom of expression and the freedom of thought, conscience and religion. He even underlines explicitly that the recognition of the interlocking of human rights, minority participation and self-determination is essential.⁴ We can clearly see therefore, using reasoning by analogy, that if A=B, and if B=C, then it follows logically that A must also be equal to C. Thus, if participation is considered a human right for women, and for minorities, and if participation is similar to integration, which in spirit and in effect it is indeed, then it would naturally and logically follow that integration is a human right, just as participation is, and previous legal arguments on the subjects have already paved the path towards protecting integration as a human right.

This means the right to enjoy all the above mentioned rights in the context of being socially and culturally integrated, not in the context of being socially and culturally marginalised and alienated. All of the human rights are interrelated. What is the value of obtaining all the aforementioned rights in the above paragraph only to live in a situation of discrimination, isolation, poverty and deprivation from basic resources? That all human rights are intrinsically interconnected is a guiding principle that emerges clearly in the spirit of human rights discourse, and this same principle is the basis for the argument in this paper that cultural rights, especially for minorities, underpin all other human rights. This holistic view of human rights is consistent with integration. Integration as a form of inclusion and participation ensures not only the protection of some rights, like the civil and political ones, but also the protection of other rights which are equally important to maintain quality of life, if not even more so important, such as those related to work, education, cultural life and religious rights. Religion is also a large part of cultural identity, and any protection of cultural rights and minority rights aimed at protecting the unique identity of minorities must take into account religious rights, such as the right to freedom of thought, conscience and religion, as well as the right to manifest those beliefs, in action or as an expression of one's identity. There would be no value in having the right to have freedom of religious belief if one could not also act on such belief, manifest it publicly and express it as an extension of one's

⁴ *Ibid.*

(cultural) identity. Thus, the interrelationship here also between the right to participate politically, and the right to participate religiously, and to express and manifest a religious identity and the right to a cultural identity, which includes religious beliefs and actions, should be clear.

For minorities, certain rights stand out; the freedom of religion, the right to education and language use, and political participation. Many human rights instruments dealing with minorities have clearly set out these rights. All of these rights are important, especially the right to education and political participation, but without cultural integration, they are rendered moot. What would be the value of protecting the political, religious, educational and religious rights of minorities that allow them to fully preserve their cultural identity and heritage, if such protection does not lead to their overall protection in society? The irony of such a situation must be made clear. Without integration, without inclusion and participation as full and equal members of society, without freedom from discrimination for their unique cultural identity, without the protection of all the fundamental human rights, having some rights related to cultural identity is not enough, especially if these rights lead to further discrimination. This is the irony of the situation that minorities face, and one very feasible solution is to ensure their right to have their cultural identity openly manifested, while also ensuring their full protection of all their human rights for having that identity.

Affirming that political participation is an inherent principle and right in minority protection is indeed a critical step in the right direction. Affirming also that participation and inclusion are key principles crucial for international human rights jurisprudence, and that any policy consistent with such principles is in the spirit of preserving the dignity of humanity and in line with human rights principles, then by logical reasoning it should be clear that any type of exclusion or discrimination, leading to marginalisation is in grave violation of the most fundamental of all human rights principles. Therefore, policies leading to integration and to other forms of participation, while preserving the cultural identities of minorities are also a critical step in the right direction.

Perhaps another term already accepted in the human rights discourse, the right to participation is a good forerunner to legitimising cultural integration.

5. Human Rights Instruments

Within the context of legal argumentation and reasoning, it is important to also analyse the important human rights instruments regarding cultural identity and freedom from discrimination. Many of these human rights instruments are built on the foundations of non-discrimination.

Human rights instruments in the forms of treaties, resolutions, declarations and conventions enshrine, promote and protect principles that have relevance to the concepts presented in this paper, and many of these instruments are legally binding, while all of them set forth the normative principles that should be followed regarding the subject of integration.

Several notable human rights instruments exist to prohibit discrimination by enshrining principles that prohibit discrimination; for example, the Convention on the Elimination of Racial Discrimination (the CERD), in the Preamble and Articles 1-2, 4-6, 8, 16, the Convention on the Elimination of all forms of Racial Discrimination Against Women (the CEDAW), the Council of Europe Framework Convention on Minority Rights, in the Preamble and in Article 14, and the Convention on the Rights of Persons with Disabilities in the Preamble, and Articles 2-6, 23-25, 27-29, the 1951 Convention relating to the status of Refugees, in the Preamble and Article 3, the Universal Declaration of Human Rights, Articles 7 and 23, as well as in the International Convention on the Suppression and Punishment of the Crime of Apartheid, in the Preamble, and Articles 1-2 and 10. Additionally, the Preamble of the United Nations Charter highlights the need for tolerance which is a principle contrary to discrimination.

‘The General Assembly of the United Nations adopted resolution 1510, condemning all manifestations and practices of racial, religious and national hatred in the political, economic, social, educational and cultural spheres of the life of society as violations of the Charter of the UN and the Universal Declaration of Human Rights.’⁵ Paragraph 9

⁵ Natan Lerner (2nd Edition) (1991) *Group Rights and Discrimination in International Law. International Studies in Human Rights*. in Chapter Three, Racism and Racial Discrimination: the UN Convention, The Netherlands: Kluwer Academic Publishers, at p. 46.

expresses alarm because of the governmental policies based on racial superiority or hatred, such as 'Apartheid, segregation or separation.'⁶

In Article 1, paragraph 1 of the Convention on the Elimination of Racial Discrimination (the CERD), the definition of racial discrimination is clear:

'In this Convention the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. Four kinds of acts are, thus, in given circumstances, considered discriminatory: any distinction, exclusion, restriction or preference.'⁷

The human rights language is clear; any distinction, exclusion, restriction or preference, such as what happens to those who express their cultural identity differently from the mainstream, in political, economic, social, educational and cultural realms, such as the discrimination of minorities in work, education, and housing, especially separate housing areas, leading to a lack of social integration, is prohibited.

A lack of integration of minorities who express their cultural identity is a form of distinction, exclusion, and restriction that is discriminatory, and furthermore, leads to more discrimination in all spheres of life; political, social, educational, and cultural, thus leading to a further lack of protection of their other fundamental human rights.

6. Anti-discrimination principles

A foundational concept underlying minority protection is the recognition of the harm of discrimination and the subsequent prohibition of discrimination.

⁶ *Ibid.*, Page 48.

⁷ *Ibid.*, Page 48.

‘The prohibition of discrimination is a principle which has a long history of acceptance as one of the pillars for an adequate system of minority protection.’⁸

The founders and creators of jurisprudence based on principles of non-discrimination certainly understood the ethical and moral weight of the burden of eradicating the horrors of discrimination from humanity. Perhaps also history has shown us what discrimination has caused one human being to do to another, if we only look at the last century’s wars and ethnic conflicts ranging throughout the globe, from Northern Europe down to South Africa, the scars of discrimination as the roots for ethnic cleansing and racial hatred still remain with us today, and only a total commitment to non-discrimination and inclusion of every human being in the human rights discourse and human rights protection can ensure that what has happened historically cannot and does not ever occur again. It is a positive moral obligation that cannot be shirked.

What then is the value of formulated jurisprudence that prohibits discrimination against minorities in major realms like freedom of expression, assembly and political participation, but not formulating jurisprudence that prevents discrimination when these rights are fulfilled, in the case of marginalisation in society for being different, for expressing a different cultural identity, and the consequences of this marginalisation is the loss of very basic rights, like to access to work, adequate housing, food, health care and so on? In addition to this point, what also would be the value of formulating a law against discrimination of minorities based on their larger cultural identity, but preventing them from expressing and manifesting their religious identity, or not making provisions against any discrimination emanating as a result of that cultural or religious identity?

Minorities face a catch-22 situation in which if they do not have protection of their cultural identity, they are not receiving adequate human rights protection, and, if they do have their cultural identity protected, but are discriminated for it, they are also not receiving adequate human rights protection. In many cases, either one or the

⁸ *Ibid.*, Supra at. No.2.

other extreme situation are the norm, and it is precisely this problem that this paper seeks to address and remedy by proposing integration as a form of adequate inclusion and participation to solve the plight of minorities.

Identity for a minority means who they are. Erasing their cultural identity but giving them other rights is equivalent to cultural genocide; they no longer exist as who they are. Moreover, giving them their cultural identity at the cost of losing their other rights due to discrimination for who they are is also not feasible and is completely against the spirit of human rights. The starting point for minority rights is to have the right to exist as who they are, and to be free from discrimination, based on that unique identity, while all other rights protection stems from this fundamental concept. Without the right to identity and freedom from discrimination for having that identity, the minorities' right to life is essentially negated at the core level of what it means to exist.

'Freedom of expression, implying the effective protection of the expression of ideas and convictions divergent from the majorities, and the freedoms of association are essential for the protection and promotion of the separate identity of the minorities in society.'⁹

This is exactly what minorities need. But what value is freedom of expression, assembly and assertion of identity if it deprives minorities of general acceptance within the society? For these freedoms to have any tangible meaning, the individual to whom they apply to must be integrated into a society free from discrimination against them because of their cultural identity and expression of their cultural identity thereof.

Minority protection implies acceptance and inclusion into society based on that very same ethnic or cultural minority identity, so to discriminate against a person for having that identity goes completely against the spirit of minority protection and cultural rights of minorities. What is the value of having the right to have one's cultural identity protected, if as a result, one is further discriminated against, further marginalised and further deprived

⁹ *Ibid.*

of human rights protection in almost all other areas of life? Discrimination against minorities for being who they are is in fact a direct violation of the cultural right of minorities to maintain their separate cultural identity.

What value to minorities is it if their rights to life and right to their cultural identity are protected but because of discrimination in tangible reality, they are marginalised from having access to the fulfillment of their other rights, like equal opportunities for work and housing, and education, as well as health care and access to earning a living and having an adequate food supply and basic resources for living, which form the basis for a quality of life, indeed, for life itself.

7. True integration

We cannot rely solely on politicians to define for us true integration. A more scholarly treatment of integration will prove more helpful. The *Handbook on the Social and Economic Integration Practices of Immigrants in Europe*, written by the CEFRE Organisation (Centro di Ricerca e Documentazione Febbraio) provides more useful guidelines than those of State rhetoric. The primary question one must ask is: what does becoming integrated mean? Scholarly contributions have contributed important findings. The literature has provided us with several important aspects. Migration is not an individual process. It must be viewed as a phenomenon structured in groups and networks of relatives, friends, or business relations or based on a common ethnic or religious background. (Boyd 1989; Dubet 1989; Fawcett 1989; Waldinger, Aldrich, Ward 1990; Noblet 1993, in d'Andrea et al., 1998.)¹⁰

Above all, in highly diversified societies, integration seems to occur through the "strengthening" of one's cultural diversity rather than through hiding or negating it. (Dubet, 1989; Collinson, 1993 in

¹⁰ d'Andrea, L.; d'Arca, R.; Mezzana, D., *Handbook on the Social and Economic Integration Practices of Immigrants in Europe*. (1998) Directed by CERFE with the Support of the European Commission DGV 'Employment; Industrial Relations and Social Affairs. . From the Chapter on Handbook on Immigrant Integration Practices, Integration: A Multidimensional Process, at p. 40. This Handbook is an excellent practical guide on integration of immigrants in Europe.

d'Andrea et al., 1998.)¹¹ Thus, the culture of origin is not a burden but as opportunity or a resource that legitimizes the new arrival in approach to a person from a different cultural background as an equal.

Bilaterality between immigrants and host society is another factor.¹² This attests to the two way aspect of integration, that immigrants integrate and influence the host society, while the host society integrates with them and influences them as well. It was found also that there are several ways of being integrated. (Abou, 1990; Entzinger, 1990; Hammar, 1990; Ambrosini, 1993; Werner, 1994; Baubock, 1994 in d'Andrea, 1998.)¹³

While "traditional" scholars believe integration does not entail significant changes in the host society but merely a process of adaptation and assimilation for the foreigner, contemporary writers are of the opinion that migration entails changes for both parties involved. (Brochmann, 1996 in d'Andrea et al, 1998.)¹⁴

In France for example, one can argue that the North African influence on the culture ranging from cuisine, to art, to architecture, just to name a few cultural representations, are clearly visible from the range of Moroccan restaurants, to many cultural aspects in French society.

True integration means the mutual exchange and influence of culture between the migrant and the host society. True integration appears to be a two way street.

This paper argues the integration is compatible with respect for diversity. It is perfectly possible to be fully integrated and still maintain one's cultural roots.

"The European Union must ensure fair treatment of third-country nationals who reside legally on the territory of its member states. A more vigorous integration policy should aim at granting these individuals rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia. (European Council, 1999.)¹⁵

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*, P110.

Ideally, social integration is a result of interaction and communication. Integration should not imply that one part gives up his or her own cultural luggage, and dissolves into something foreign. Neither does it mean that the individual remains isolated in her/his tradition. A necessary condition for communication leading to integration is that difference is tolerated. A successful communication process requires that representatives of the receiving society are able to see themselves from outside: what are the peculiarities of their own culture, and how are others likely to react? A basic supposition here is that "culture" is not static. It provides premises as well as products of social processes, and it changes in confrontation with other "cultures", and these confrontations make the contrasts more visible. Integration means changing all the involved parts, a process that develops through creating something new. In official documents and in "common knowledge" a "functional" concept of integration is usually applied. By and large, this means "immigrants" adaptation to the institutions, norms and culture of the majority society to the extent necessary for the group's members to function in the society while at the same time keeping intact its own ethnic identity. (Alund and Schierup (eds.) 1991:14). In other words, integration requires adaptation to the already defined functional demands of established institutions and organizations.¹⁶

Since we have seen throughout all the legal arguments in this paper that human rights are interconnected, it follows logically then that a policy that fulfills some human rights protection but not others is flawed, and only a policy that offers the protection of all human rights can be feasible within the human rights discourse. It is a zero sum game, in which decisions based on whether a policy follows all criteria should be pursued over a policy which follows none of the criteria or only some. Leaving gaps in the protection of human rights particularly in the field of minorities leaves dangerous opportunities for extremes. Since multiculturalism, and assimilation do not cover all the principles involved, they should

¹⁶ Sergio Carrera (2005) *Integration as a process of inclusion for migrants? The case of long term residents in the EU, .in Migration, Integration and Citizenship. A challenge for Europe's future.* Volume II. Edited by Hildegard Schneider. The position of third country nations in Europe. Forum Masstricht, at p. 109.

TABLE OF VARIATIONS IN THE SPECTRUM OF INTEGRATION

Models of on the spectrum of Integration ranging from total Integration to a complete lack of Integration. Range/Degrees of Extremes from Forced Assimilation to Genocide and the variants in between. How Much Do These Policies Honor Human Rights?

Does the Policy Honor the Legal Criteria and Prohibit Discrimination?	Cultural Identity?	Minority Rights	Participation	Inter-Connectedness	Prohibition of Discrimination
Forced Assimilation	NO	NO	YES	NO	YES
Adaptation	MAYBE	NO	MAYBE	NO	MAYBE
Biculturalism	YES	YES	YES	YES	YES
THE IDEAL					
Multiculturalism	YES	YES	MAYBE	MAYBE	NO
Marginalisation	MAYBE	NO	NO	NO	NO
Ghetto-isation	NO	NO	NO	NO	NO
Apartheid	NO	NO	NO	NO	NO
Genocide	NO	NO	NO	NO	NO

abandoned for a policy that actively encourages inter cultural citizenship. This means that people should be encouraged to maintain their unique cultural identity and fully participate in the host society as such, without facing discrimination against them. The table outlines the spectrum of extremes, none of which are compatible with human rights law. Biculturalism, as a means for integration and protection from discrimination, is proposed as the solution of these two extremes, between forced assimilation and its varieties on one hand, and genocide and all the social ills that lead up to it, on the other hand. Thus, we can see clearly how integration, in the form of biculturalism, is indeed the happy medium. Each of these concepts will be explored in more depth from a human rights standpoint.

Forced Assimilation

Forced assimilation, being on one extreme of the spectrum, is essentially the entire wiping out of the cultural heritage of a group of members of a group to take on all or only the host country's cultural values and identity. In fact, this is a form of forced cultural genocide. An example of forced assimilation is provided by French policy prior to 1974. This can cause one to be entirely isolated from one's roots or one's cultural heritage and to face discrimination if one's original culture, different from the mainstream, is expressed. This isolation is known to be a cause of psychosocial stress and mental illness. A recent publication describes assimilation in this way:

While the assimilation process can be used to describe the phenomena occurring when a dominant and minority culture enter into contact, the generic term "assimilation" can very often be substituted by terms such as "Americanisation" or "Europeanisation" which are considered more accurate in describing the two prevalent processes and models. According to this interpretation, assimilation is a process by which one or more groups of various ethnic, racial and cultural origins from outside Europe and North America abandon their native culture in order to assume the models of the western civilization with which they have come into contact. (Bastienier and Sassetto, 1993.) Since the beginning of the 19th century France has absorbed (and assimilated) immigrant minorities

from several different areas, including Belgians, Poles, and Italians. Assimilation was originally considered the only possible means of integration, with the only way for immigrants to live peacefully in the host country being to renounce their identity and become nationalized: an approach which, on the contrary, often exacerbated the tensions between minority groups and the host society. Indeed, a forced process of assimilation may provoke strong reactions from ethnic groups intent on saving their identities and values and may increase stereotypes, prejudice and rejection of the minority group by the host society. The repeated stereotyping of different groups is closely connected to the fact that countries of immigration tend to prefer certain groups of immigrants over others and helps to demonstrate the weakness of the assimilation model.¹⁷

Assimilation is therefore not integration. This interpretation of assimilation erasing or wiping out one's ethnic or cultural identity in order to fit in does not seem compatible with human rights discourse on cultural rights. It should be possible and is possible for integration to occur without passing through the process of assimilation.

9. Adaptation

Adjustment/conformism and adaptation can go both ways, in that the burden could be on the newcomer/migrant/immigrant/or minority to adjust and adapt, or on the host society. Usually, this burden is placed on the newcomer or minority group, and not on the host society and this causes difficulty when the society is not tolerant or welcoming of these people.

10. Biculturalism

The idea of integration, presupposes biculturalism. It would start with the minority groups, by encouraging them to adopt biculturalism, such that they retain their own unique and different cultural identity that is different from the mainstream, but also

¹⁷ Guido Bolaffi, Raffaele Bracalenti, Peter Braham and Sandra Gindro (Eds) (2003) *Dictionary of Race, Ethnicity and Culture*. London: Sage Publications, at pp. 20-21.

maintain an identity within and shared values, norms, customs and cultural expressions with the mainstream culture, thus preserving their own cultural identity and being fully integrated as well into the host society. Perhaps this option can also be extended to the host society as well, to being more embracing of the values and culture that the newcomers, immigrants or minorities represent.

In fact, there is evidence that successful integration is a two way street, in which not only does the minority embrace both its own culture and that of the host society fully, but also the host society embraces aspects of the newcomer or minority culture. The idea of integration as biculturalism is a win-win compromise that must be respected by both the host country government in terms of its policies and also by members of the cultural group, without undue pressure on them to choose one cultural identity over another.

11. Multiculturalism

Multiculturalism can only be a fulfillment of human rights if it leads to total inclusion and participation of minorities. Only when it allows for integration and protects minorities for being who they are, while also protecting minorities against the discrimination that can occur against them for being who they are, can it be in line with international human rights law. A multiculturalism that leads to the further discrimination, isolation and marginalisation of immigrants is no different from other more extreme policies like apartheid and genocide. Multiculturalism only works when the different cultural groups all have the same equality, the same level of participation, the same rights protection and the same level of inclusion and protection from discrimination. Without all this, it is in violation of the spirit and principles of cultural rights and non-discrimination.

However, multiculturalism is not integration, and if no protective measures are put into place, multiculturalism carries with it the risk of alienation and marginalisation. It is very similar to the concept of "separate but equal" which was attempted in the US when African-American school children were put in separate schools

¹⁸ *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

and a landmark court case, *Brown v Board of Education*¹⁸, found it to be unconstitutional, on the basis that separate schools guaranteed inequality with disastrous consequences. The same type of argument has been used for children with disabilities and has also been noted to be exactly the most unhelpful policy in regard to schooling for disabled children, who need to be integrated. However, neither is integration forced assimilation. The goal must be to respect and to protect the cultural rights of members of different groups and still keep open the doors of society and opportunity to them, regardless of their cultural identity.

Indirect protection, such as multiculturalism, is not really protection, but a form of "tolerance" that neither ensures that minorities are allowed to express their own cultural identity fully, nor does it insure that they will not suffer discrimination for it, and that they will not suffer deprivation from their other human rights as a result. Multiculturalism as a policy is still better than a policy of forced assimilation, in that it allows people to retain their own cultural identity, but the risks inherent in a multicultural society are that minorities will be marginalised and forced to suffer discrimination as a result of their different cultural identity, and this fact can and usually does lead to the loss of protection of their other human rights.

12. Marginalisation

Marginalisation could be due to discrimination, or to a lack of access to resources or to both. Indeed, discrimination is the root factor behind all of these social ills. Discrimination is the basis of racism, and all other forms of discrimination and racism, like marginalisation, alienation, ghettoisation, apartheid and genocide all begin with discrimination, usually based on ethnicity, race, or cultural identity.

13. Ghettoisation

Ghettoisation is far from assimilation or integration, and closer to marginalisation. Marginalisation and ghettoisation cause severe psycho-social stress. Regardless of arguments that immigrant populations receive support from their in-group, to be totally marginalised within their in-group and without access to resources

and without the chance to be integrated into the larger mainstream society creates conditions of liminality, despair, loneliness, isolation, lowered self-esteem, poverty, and a lack of self-confidence, thus posing serious psycho-socially problems, as well as contributing further to the cycle of poverty, discrimination, lack of access to adequate resources such as health care, education, housing, and work, to name a few of the problems caused.

Ghettoisation would be described as a condition of being entirely isolated from the host country culture, living separately from the mainstream and only with one's in-group, experiencing only one's culture, facing discrimination and being cut off from resources.

14. Apartheid

An even more extreme example in the spectrum between marginalisation to ghettoisation would be apartheid, in which a policy of separation would be pursued, and in which total oppression and discrimination of the minority group would occur.

The South African regime in which the government pursued a policy of militant discrimination is another example of governments separating and dividing people based on ethnic lines, and discriminating against them, in fact, pursuing an active policy of institutionalised discrimination. In practice, a lack of integration has the exact same effect as apartheid and racial segregation in terms of psycho-social consequences of damaging mental health and depriving those who are segregated from social, political, educational and economic opportunity.

Clearly, on the ground, a lack of integration essentially has the same effect as apartheid. It is a form of racial segregation and brings with it discrimination leading to further violations of other human rights related to the quality of life. When lack of integration is more visible, such as in the form of ghettoisation, it more closely resembles apartheid and can be more readily identified. However, any lack of integration whether in the form of ghettoisation or otherwise is a form of apartheid. It may be hidden, or unofficially sanctioned, but it is still occurring with the same disastrous effects because it is based on racial segregation and leads to the same effects as apartheid. Genocide, then, would not be so far off from apartheid. The seeds of genocide are sown by a lack of integration, and by discrimination, leading to a lack of integration.

15. Genocide

The next step after this would be genocide, as history has clearly demonstrated, that the separation of groups based on ethnicity, as separate but not equal, and the discrimination found therein leads to genocide. The Nazi regime leading to the Holocaust is one example, in which Jews were first isolated in ghettos, then placed in concentration camps and then killed. Logical reasoning demonstrates that discrimination taken to its extremes leads to genocide. Indeed, it follows a pattern: discrimination, marginalisation, separation/isolation, ghettoisation, discrimination, and then genocide. History has proven this. The examples of Hitler's Germany and Milosevic's Greater Serbia, and the case of Rwanda demonstrate quite clearly the extreme effects of discrimination based on ethnic origins. There are many other historical cases proving this as well. This is precisely why Minority Rights as a field is concerned with the protection of minority groups while simultaneously preserving their unique cultural identity, and as both sides of the spectrum come together, assimilation is indeed a form of cultural genocide. The spectrum comes full circle, and this is why integration, particularly in the form of biculturalism, is the model most likely to resolve all the issues around the assimilation/integration debate.

The protection of cultural differences together with promoting integration is not optional, it is necessary, and it is the only way to prevent the end result of discrimination; which can lead to genocide, apartheid or ethnic cleansing, as history has shown to be the case.¹⁹ The fact also that these cases happened in Europe, Africa and the Balkans, spanning three major and different world regions shows that there is a pattern leading up to genocide and apartheid, and that pattern always begins with discrimination based on cultural differences. It also shows that no region of the world, no continent, and no country, is immune to such extremes.

Preventing true integration, integration that mutually influences and is influenced by both the host society and the migrants, because of the fear of "being tainted" culturally or ethnically is the same

¹⁹ Jacques Semlin (2007) *Purify and Destroy. The political uses of massacre and genocide*. London: C. Hurst and Co.

type of false reasoning that underpins racism, ethnic cleansing, and genocide.

The concept of cultural genocide has also been presented in this paper. It is important to understand what denying the rights of a person to manifest their cultural identity, or to deprive them of their basic human rights for doing so, amounts to.

Genocide can occur by causing serious bodily or mental harm to members of a particular group, or deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.²⁰ The end result of genocide, taken to its extreme, would be that a group ceases to exist. When forced assimilation occurs to a cultural or ethnic group, such that their original culture is wiped out, they cease to exist as they once were and this is a form of genocide.

Genocide also means any deliberate act committed with the intent to destroy the language, religion, or culture of a national, racial, or religious group on the grounds of the national or racial origin or religious belief of its members. Cultural genocide may not destroy the group physically but it insidiously abolishes all its differentiating cultural characteristics and is therefore just as effective in the long term. (McKean, 1983.)²¹ The definition of cultural genocide in Article 1 of the Convention on Genocide is as follows:

'Destroying the specific characteristics of the group by

- (a) forced transfer of children to another human group; or
- (b) forced and systematic exile of individuals representing the culture of the group; or
- (c) prohibition of the use of the national language even in private; or
- (d) systematic destruction of books printed in the national language or of religious works or prohibition of new publications; or

²⁰ Patrick Thornberry (1991) *International Law and the Rights of Minorities*. Chapter Six. The Convention on Genocide and the Protection of Minorities. Oxford: Clarendon Press, Thornberry provides an excellent discussion on cultural genocide and its implications.

²¹ Warwick McKean (1983) *Equality and Discrimination under International Law*. Oxford: Clarendon Press., p. 109.

- (e) systematic destruction of historical or religious monuments or their diversion to alien uses, destruction or dispersal of documents and objects of historical, artistic or religious value and of objects used in religious worship.²²

It is easy to see then, how policies that prevent minority children from learning in their own language, or wearing symbols of their religion, like the ban on headscarves in public schools in France, or even forced assimilation that destroys the specific cultural traits of a group, or segregation and ghettoisation akin to exile can be steps on the path towards cultural genocide.

16. Conclusion

This paper argues that the fundamental problem minorities face is the inability to be free from discrimination. Either they cannot express their cultural identity at all, or if they do so, they suffer discrimination and are marginalised for it. The author has formulated a new theory to resolve this dilemma caused by an either/or situation. In the first case the member of the minority group is forced to assimilate, thereby losing his or her cultural right to maintain a unique cultural identity. In the second case they are marginalised as a result of expressing their cultural identity. The answer proposed in this paper is that of integration, namely, in the form of biculturalism, to resolve the dilemma between assimilation on one hand and marginalisation on the other, allowing integration to occur. The Mediterranean is the new melting pot where minorities and immigrants must integrate, and the expression of their bicultural identity solves the integration dilemma and allows their societies to also benefit from their cultural expressions, contributing to true integration, as a two way street.

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²²Ibid, Supra at No. 21.

The authors have set forth a theory of Bicultural Identity Integration which helps clarify the experience of being bicultural. A major contribution of these authors is that they have identified lacunae in the literature of bicultural studies and cognitive psychology when they correctly state that biculturalism as a phenomenon is not fully understood, even with the BII theory. Further studies need to be undertaken in this area in order to promote full integration and human rights protection. The BII theory is the degree to which a bicultural individual perceives his or her two cultural identities harmoniously or in conflict, the more harmonious the perception means the person is more bicultural and well adjusted. The study links adjustment with biculturalism. People who score high on the BII see themselves as an integral part of two cultures, or within a third, emerging culture and find it easier to integrate both the original and adapted culture into their lives. People without this perception have difficulty in incorporating both cultures and lack a cohesive sense of identity; they are sensitive to specific tensions between the two cultural orientations and this incompatibility is a source of internal conflict. They feel compelled to choose on culture. One of the weaknesses in this theory is that it views one of a bicultural person's other cultures as an appendage or adapted culture, and not as an intrinsic aspect of who the person is. These authors cite Berry's 1990 study in which four distinct acculturation stages are taken incorrectly as biculturalism: assimilation (identification with dominant culture), integration (high identification with both cultures), separation (identification predominantly with the ethnic culture), or marginalisation (low identification with both)

Berry, J.W., Kim, U., Minde, T., Mok, D. (1987) Migration and Health. *International Migration Review*, 21(3), 491-511.

The authors explain the relationship between mental health and migration, maintaining that bicultural identity is associated with mental health and wellbeing. These authors elaborate on the process of acculturation to a detailed degree. As a result of their analysis of acculturation, it is clear that it is entirely a different process from biculturalism. However, the process of acculturation can occur in the case of a bicultural person adjusting to the culture they are less familiar with. The authors identify five marked changes that occur during the acculturation process; environmental (physical changes), nutritional and disease (biological changes), political, economic, linguistic, religious and social (cultural changes), behavioural (daily schedule changes, dress codes, etc, and finally alterations in mental health (psychological changes). The model proposed by these authors is incomplete. The sixth change should be integration into society where one is influenced and

influences society in turn, and this would apply to anyone living in a second culture. Acculturative stress is manifested as reduction in the health status of individuals, including physical, psychological and social aspects; to qualify as acculturative stress these changes should be systematically related to the acculturative process. This model is still helpful in that it gives a clear image of the obstacles that people face in adjusting to a new society, and how this is linked to most of the human rights since acculturation affects the sum total of a person's life. Additionally, a lowered mental health status with a specific set of stress behaviours occurring during the acculturation process include feeling marginalised and alienated, experiences of confusion, anxiety, depression with heightened psychosomatic symptoms and identity confusion. These authors cite studies that put forth arguments and evidence that mental health problems may be less among immigrants in pluralist societies than those practising assimilation.

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This guide was foundational to the research design.

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