

Solidarity in Modern Liberal Societies

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Abstract

The question of the relation between the individual and society has recently gathered momentum in the debate on the universality of human rights. Communitarian critics like Charles Taylor – or more recently Otto Depenheuer – argue that due to emphasis on inalienable rights of individual freedom, solidarity between members of society is vanishing, as people no longer feel strong bonds that tie them together.

I will argue against this position, claiming that liberalism based on human rights does not necessarily result in a loss of solidarity. Liberal societies are rather structured by a complex arrangement of different forms of solidarity that permeate every area of social life. This view is in line with Émile Durkheim's concept of solidarity, as he argues that individual freedom rather creates new bonds of solidarity in modern societies than destroys them. I will show that the underlying definition of solidarity used by the critics of human rights does not conform to the complexity of pluralistic societies. This is mainly due to the fact that they are based on the idea of a common good, providing one and only moral basis for society.

Apart from this perspective of facticity, I will argue on a normative level that using such a mono-dimensional definition of solidarity supports antagonisms between social groups that promote intolerance and social exclusion. Therefore such a way of thinking leads to conflicts rather than to unity as originally intended.

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Introduction

Does the individual have special inalienable, pre-societal rights? Or are rights in a society always limited by group-interests? Is there even a conflict between the individual and the group?

At first glance most people in Europe would deny the primacy of the group, for we have seen the dangers that go along with such ideas regarding the totalitarian regimes in the last century, pretending to work for the common good in order to unify the masses behind them and so strengthen their own power. But even now, this question cannot be answered completely. Don't we all agree that we have to obey some rules if society is to work? Rules like we find them in the law books of our national states, such as the prohibition of murder, meaning that the individual has the right to physical integrity and therefore the duty to protect this right for the people next to him/her. What sounds simple here can become very difficult in some cases.

In January 2005 the German government passed a law called "Luftsicherheitsgesetz" (Aviation Security Act) [LuftSiG] which – in short – said: if a hijacked aircraft is – for example – heading for a nuclear power plant, the military is allowed to bring it down by any means necessary. This clause [§ 14 Para. 3 LuftSiG] was declared unconstitutional by the Federal Constitutional Court of Germany one year later claiming that the sacrifice of innocent lives to the benefit of another group violated the unconditionally protected human dignity under Article 1 of the German Constitution – an article deeply inspired by the first article of the Declaration of Human Rights.

Not everybody agreed with this interpretation. The German law professor Otto Depenheuer argued in his essay "Das Bürgeropfer im Rechtsstaat" (Civil Sacrifice in the Constitutional State) (Depenheuer 2007) that if we want to live in such a constitutional state and enjoy its benefits like social welfare, protection etc., we have to be prepared to make sacrifices to render this state possible. In everyday life this might only imply the duty to pay taxes, but in rare and special cases this may also mean to sacrifice oneself for the sake of the greater good. This is in Depenheuer's view an expression of one's solidarity towards the community and it is a duty one is bound to. We cannot feel a strong bond like *patriotism* that motivates us to make sacrifices for our community if we only focus on ourselves as legal owners of individual rights instead of our obligations towards the group. Therefore, the very idea of liberal rights, granted to every citizen or even every human being in the form of inalienable human rights is thought to be a problem for society as a whole.

This example touches on two points to which I am referring in the following argumentation: (1) The idea of *human dignity* and *freedom rights* as core principles of Human Rights and (2) the question on what solidarity means in modern societies. This kind of criticism on the idea of individual rights has been very popular in the last quarter of the 20th century and still has not lost its timeliness. Therefore I first have to outline the basic arguments, that have been brought up in this context.

The accusation of the atomized individual

One of the most important works in the 20th century focussing on the question of freedom rights is "A Theory of Justice" (Rawls 1971) by John Rawls. Here he

describes a hypothetical time and place called *original position* where people are placed behind a *veil of ignorance*, thus not knowing about their own social position. In this context they negotiate – hypothetically – the rules of justice of which one proves to be individual freedom as a core principle. In response to this theory that has been an important part of the so called *communitarims-liberalism-debate* we find the argument of the *unattached individual* brought up for example by Michael Sandel (Sandel 1982). He argues that the assumption of a *free self* leaves the individual alone and without any bondage. If everyone is thought to be free as Rawls claims in the context of his idea of an original position, how can there be any commitments to society? Any obligation towards other people can therefore only exist on a voluntary basis thus making duties in a binding sense very unlikely since one can always insist on his individual rights above all obligations.

On top of that – Charles Taylor argues in his earlier works (Taylor 1985b) – there even cannot be any individual rights without society, for the individual is always part of the community he/she is born into. It is nothing else than society itself that is granting rights to its members, so there are no natural rights. The focus on personal freedom as an inborn right is in his view a bad influence on solidarity within the community for it dissolves social bonds by putting the individual in a position without any binding duties towards society and the freedom to leave the group whenever it seems opportune.¹

Another important debate that took place in the last quarter of the 20th century is the debate on the so-called Asian Values: the idea of a special mindset predominant in Asia that was said to be incompatible with the Western concept of Human Rights. Lee Kwan Yew, Prime Minister of Singapore from 1959 to 1990 and one of the main advocates for the existence of an Asian *nature*, stated that the Western principles of liberal Human Rights are a bad influence on society for it supports a form of anarchy or at least a society of egoistic and unbound individuals. In his view, "[...] Asian Societies are unlike Western ones. The fundamental difference between Western concepts of society and government and East Asian concepts [...] is that Eastern societies believe that the individual exists in the context of his family" (Zakaria 1994, p. 113). This family and in his view the East Asian form of governance is thought as inclusive and protective but also as authoritarian. The least can easily be demonstrated by the solution Yew proposes for the drug problems in the U.S. of the 1980s and 90s.² The uniqueness of East Asian societies claimed here is due to the influence of the prevalent confucian tradition positioning the individual always in the context of a group. Thus the idea of liberal Human Rights is claimed to be a Western concept, not prevailing in all societies of the world.³

¹ See Taylor 1985a.

² "America has a vicious drug problem. How does it solve it? It goes around the world helping other anti-narcotic agencies to try and stop the suppliers. [...] Singapore does not have that option. [...] What we can do is to pass a law which says that any customs officer or policeman who sees anybody in Singapore behaving suspiciously, leading him to suspect the person is under the influence of drugs, can require that man to have his urine tested. If the sample is found to contain drugs, the man immediately goes for treatment. In America if you did that it would be an invasion of the individual's rights and you would be sued." (Zakaria 1994, p. 111ff.)

³ See also Rosemont 1988, Peerenboom 1993, Sinha 1981.

Since the Asian Values Debate died down after the Asian Crisis in the late 1990s one might think the theoretical questions died with it. Also the debate on communitarianism and liberalism has calmed down during the last 20 years. But the question on the corrosive character of human rights still arises in political debates. In a quite recent interview with the German newspaper *Die Zeit*, Vladimir Yakunin – a member of the current Russian administration – was confronted with the accusation of homophobia in modern Russia and the outlawing of so called *homosexual propaganda*. He argues that this propaganda and the Western criticism on this particular law is "politically motivated to split humankind and destroy it's historical basis." (Zeit 2014, Translation by M.J.) So the very idea of a single basic human right that allows homosexuals to be treated equally to heterosexuals is declared as a political trick to destroy the bonds of traditional societies.

Regarding these examples, there are three main arguments against Human Rights. (1) Freedom Rights are a philosophical problem, for the idea of a free individual does not fit with duties and therefore with a common definition of solidarity. (2) The individual cannot be imagined without society which is the institution to grants rights. Hence there cannot be any natural, pre-societal rights. (3) Human Rights are a construct of Western liberalism that is not fitting into non-Western cultures. The Human Rights idea is thought to be corrosive for solidarity. I agree with some of these arguments but I want to show that the fear of societal corrosion through Human Rights is unfounded because of its limitation to a very narrow definition of solidarity.

A lack of complexity: the problems with a monocausal definition of solidarity

Taylor is one of the few thinkers who made an attempt to explain what he understood as solidarity and his definition is quite exemplarily for my discussion – keeping in mind that his position changed in the last years. In his essay "Cross-Purposes: The Liberal-Communitarian Debate" (Taylor 1989), he defines solidarity as a type of patriotism that is created by a common good, which indicates a common history, a common objective or moral standard. Therefore we need a good that is shared by all members of society in the same way. An abstract idea like Rawls' concept of justice for example will not work here, for this kind of justice is an individualistic and thus relativistic concept. Taylor rather suggests the idea of freedom as a candidate for a common good being able to create solidarity. There are two problems with this definition and its limitation to a single common good. I like to call this definition *monocausal*:

(1) *The factuality problem*: We live in modern, pluralistic or at least functionally differentiated societies where in every subgroup we can find different lifestyles, opinions and thus also different virtues and norms. In my opinion it is hard to think of a common good that is shared in every way by everyone in that society. Of course there are some norms we all agree on as I mentioned before. But is this really enough to build up a form of solidarity that binds together whole societies? Even Taylor would probably agree that almost universal norms like the prohibition of murder cannot function as an adequate common good, for it does not meet the criteria of a common history or a specific idea. Taylor's suggestion of freedom as a common good also carries the factuality problem for it is hard to believe, everyone in a particular society shares this idea in the same way. If this were the case we would not have so many debates on that topic both in politics and in literature and philosophy. The question on what the term freedom means and how far it goes did not occupy

philosophers in the last 2000 years for no reason.

(2) *The normative problem* is directly connected to the factuality problem but is even more serious: we absolutely cannot want solidarity to be monocausal for a particular reason. When you think of solidarity only constructed by a common good, that everybody has to share, then there definitely *will* be people, who do not agree and thus *will* be excluded from solidarity. I do not argue that the common good is *not* a strong means of binding people together but if it is thought of as *the only* one, you cannot prevent dealing with ostracism. This again is a problem in pluralistic or at least functional differentiated societies, which again are a social fact we have to deal with. To use a polemic term: in Taylors example of freedom as a common good, people have to be forced to accept a special idea of freedom as the highest value to be able to live freely.

So it does not matter if the common good is thought of as freedom like Taylor does is or as family, like the advocates of Asian Values do. We run into the same problems. I think that solidarity can be more than this; also, an admittance of individual rights does not necessarily replace those forms of solidarity but even complements them.

A more complex definition of solidarity

In his first book "The Division of Labour" (Durkheim 1930) Émile Durkheim describes two different forms of solidarity. The first one – *mechanical solidarity* – is similar to the one I described before as monocausal. Here, people are bound together by a common mindset – a nearly identical idea of morals. Durkheim argues that this form is only prevalent in primitive societies with almost no division of labour. But as society is developing, social functions are differentiated and so every group develops it's own morals. There is a specific moral within priests, craftsmen, farmers, and so on. So within these (secondary) groups inside a society there is again a specific mindset that creates mechanical solidarity between it's members. If this was the only form of solidarity, complex societies would hardly be possible, for we would then only have a closed society of farmers and the same for every other occupational group. Thus, there has to be a different kind of solidarity at work here which Durkheim calls *organic solidarity*. Here it is not similarity that binds people together but rather their differences. "Tout le monde sait que nous aimons qui nous ressemble, quiconce pense et sent comme nous. Mais le phénomène contraire ne se rencontre pas moins fréquemment. Il arrive très souvent que nous nous sentons portés vers des personnes qui ne nous ressemblent pas, précisément parce qu'elles ne nous ressemblent pas." (Durkheim 1930, p. 17) The reasons for this attraction of differences is that people perceive themselves as an important part of society, for they do a special task that is crucial for the whole group. So according to Durkheim the sayings *birds of a feather flock together* and *opposites attract* are true at the same time because both phenomena are able to create their own particular form of solidarity which are both important for the existence of modern societies based on the division of labour.

In his lectures on morals and law (Durkheim 1950) – held in the early years of the 20th century – he elaborates this theory even further and describes a highly complex structure of different solidarities: solidarity with the family, solidarity with the occupational group, solidarity with the national state, and finally solidarity with humankind as a whole. Even though these different solidarities are all based on a

common moral, there is still organic solidarity between them, partly present in the solidarity with the national state. All these solidarities exist side by side and even if societies are always changing, solidarity for example with the family will not vanish completely. That is the basis on which a modern concept of solidarity can be founded. So what does this theory of Durkheim have to do with Human Rights and the idea of an individual equipped with freedom rights?

When critics of Human Rights talk about the problems of liberalism, they obviously think of a liberalism that goes hand in hand with egoism and the idea of a Human Rights regime that is similar to the presocietal state Hobbes had in mind. This is not the kind of liberalism Human Rights stand for and that is also not the kind of liberalism and individualism Durkheim had in mind. (Durkheim 2002b).

I am not arguing for a natural or metaphysical basis of Human Rights here, for I am not able to prove that.⁴ I therefore think, the problem of the unattached individual is not a problem at all, for of course he/she is always attached to the group it belongs to. The interesting question to ask here is: how close is this attachment and does it necessarily end in a normative primacy of the group over the individual? This is also the question Durkheim asks and his answer is: it depends on how society is structured. His idea is that in the development of most societies the individual eventually gains more and more freedom and individualism because he/she becomes a member in various groups which are all able to mutually control each other and which bring along their specific solidarities, mentioned earlier. If you are a scientist, you are part of your scientific community with its moral codes, rules and habits and therefore: solidarities. But you are still part of a family, a state, perhaps you are member of a club, and so on. Durkheim's idea is that one can become more individualistic by being part of different groups and therefore being less connected to only one group that would – if it were the only one – play a great part in one's personal life. If you only have your family as your identifying group, it will become your one and only reference point for morals and action. Stratifying the memberships thus increases the options by widening the intellectual and moral horizon. These various groups on the other hand tend to control the individual as they differentiate: the smaller the group, the greater its possibilities of control. Hence, the state above all guarantees individual freedom by giving a legal framework to which every group is bound. Stratification inside society thus serves two purposes: (1) increasing the complexity of societies and its solidarities and thus (2) liberating the individual from social constraints, *without* destroying solidarities.

Towards a Human Rights based solidarity

With individualism becoming more and more important and common in functionally differentiated societies, according to Durkheim, they tend to develop individualism as a virtue for itself. He calls it the *cult de l'individu* (Durkheim 1930) (Durkheim 1968) (Durkheim 1970) (Durkheim 2002b) which can be seen as the basis for solidarity in plural societies and also for solidarity with mankind since it is not limited to any group membership but focuses on the individual as such. People in those societies treasure the virtue of individualism and freedom of every other person because of

⁴ So does Durkheim: "La question de savoir si l'homme est libre ou non a sans doute son intérêt, mais c'est en métaphysique qu'elle a sa place et les sciences positives peuvent et doivent s'en désintéresser." (Durkheim 1970, p. 90f)

their own request to be respected as a free individual. At first glance this may sound like a common good that everybody is sharing as we have seen it in the theory of Charles Taylor. The difference is that this common good – if we would like to call it that way, even though it does not match the terms Taylor had in mind – does not ostracize for two reasons: (1) The motivation for this solidarity is partly egoistic so Taylor would probably call it a convergent good. (2) This form of solidarity is – as we have seen in Durkheim's theory – only one part of the complex structure of solidarities in modern societies. The individual is very unlikely to be excluded only on the basis of one little part of those structures.

There are two limitations to Durkheim's theory which have to be mentioned in this context. (1) The term *cult* of the individual seems a little improper in the modern world for it is too easily associated with religious contexts. Durkheim's definition of religion is a very broad one so it seems only logical for him to use that term here.⁵ But in the context of Human Rights it is highly preferable to talk about the appreciation of individual rights as an important virtue, for Human Rights should not be confused with religious contexts which they do not want to compete with. (2) I would not agree with Durkheim's idea of a kind of determinism that directs every society towards this goal like the Hegelian *Weltgeist* and similar to the modernization theories popular in the 20th century. The premise of a *normal* development of societies which is inherent in all of Durkheim's works⁶ but it brings with it the problem of ethnocentrism. The fact that Western societies mostly ran through the same steps in their development does not mean that this is the only development possible or normal.⁷

But apart from those limitations, the essence of the *cult of the individual* is quite similar to the idea of Human Rights: guarding the individual from external harm and suppression. Even if we cannot assume that the emergence of such ethical norms are a mandatory development in the modernization of societies and thus every society eventually will come to this point, we can see that Human Rights did emerge and that they were able to create solidarities manifesting from the work of NGOs like Amnesty International to questionable humanitarian missions, where sometimes, solidarity is only an excuse to follow completely different interests.

More importantly I think that we desperately need a real Human Rights solidarity for fundamental reasons. Organic solidarity is – according to Durkheim – a product of the division of labour. Transferring his theory into our modern world we see that this division is not restricted to one society. Labour is divided all over the planet and hence, so should be solidarity. But it is a fact that our Western economy could not function without cheap labour in countries like India, Pakistan or China. It would seem cynical to talk about solidarity through the division of labour in this context, for in most of the cases we are not dealing with fair and just situations, based on the special skills of each participant and a mutual benefit here.

⁵ See Durkheim 1968.

⁶ See the last chapter of the *Division* where he shows the abnormal forms of the division of labour. The idea that there is a *normal* form of societies and solidarities, is also an important part in the concept of *Le suicide* (Durkheim 1960).

⁷ See also the works of the critics on modernization theory in the 20th century like Andre Gunder Frank (Frank 1969) or Immanuel Wallerstein (Wallerstein 1983).

Without the idea of justice and fairness and the granting of equal rights to all participants of this deal, we will eventually run into grave problems that are not limited to economics. We are facing great challenges with global warming, the pollution of our oceans, the question on how to feed the world and produce the energy needed whilst we experience a decline of natural resources. If we do not respect the rights of every party involved this will not work without conflict. So the idea of solidarity through cooperation – in my view – can only function when we combine organic solidarity with a Human Rights solidarity that is inspired by Durkheim's idea of the *cult of the individual*. We cherish the respective other, for in cherishing her or his rights, we cherish our own rights as well. In doing so, we also respect the merits of each and every individual and therefore strengthen the idea of cooperation on a global level.

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