

The Impact of Group Rights on Fear and Trust: A Response to Offe

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According to Offe, much of the contemporary Western discourse on ethnic relations has been “enchanted” by ideas of multiculturalism, identity and group rights (Offe, this volume). He worries that defenders of these ideas have focused too much on identifying moral justifications for this or that particular group right, while ignoring more fundamental issues of “political culture”. In particular, defenders of group rights have not considered the impact of these rights on the norms and practices of trust, toleration and solidarity that are needed to sustain a viable democracy.

Offe argues that if we attend to these deeper issues of political culture, we will reach two conclusions. First, we will be skeptical of the application of group rights to the countries in Central Europe. Given the distinctive legacy of fear and mistrust in these post-communist and post-imperial countries, group rights - and federalism in particular - are likely to be an obstacle to democratic consolidation. Second, we will realize that group rights are not just problematic in countries with a particular history, they are problematic in general: it is part of their very “logic” to erode the basis of trust, tolerance and solidarity, even in the West.

In this short comment, I want to raise a few doubts about both of Offe's conclusions, but I should begin by saying that I agree entirely with the importance of evaluating the impact of group rights on the underlying political culture. Indeed, this was the goal of a recent volume I co-edited (Kymlicka and Norman, 2000), which attempted to explore the impact of minority rights on a range of virtues, norms and practices of democratic citizenship. In it, we developed a typology of different kinds of minority rights, and different ways in which these rights might impact negatively on the practices of democratic citizenship, and then examined these possible conflicts in a wide range of cases, including immigrant multiculturalism, language rights, indigenous peoples, multination federalism and religious exemptions. We viewed this as a tentative first step towards a more systematic evaluation of this

relationship, and I agree with Offe that more work needs to be done on this question.

In our case studies, we found that the alleged negative impact of minority rights on democratic citizenship was seriously overstated, and that in many cases the impact of minority rights on toleration, trust and solidarity was positive rather than negative. Offe evidently disagrees. However, it is interesting to note that he offers no *evidence* for the alleged harmful impact of group rights on democratic political culture. For example, he provides no evidence that there is a statistical correlation between adopting minority rights and a decline in trust, toleration or solidarity. Instead, he offers a kind of transcendental argument for the incompatibility of minority rights and a democratic political culture. He tries to show that there is an inherent “logic” to group rights claims which is destructive of democratic political culture, a logic we can identify by sitting back and examining the underlying concepts of “identity”, “groups” and “rights”.

I will discuss Offe’s transcendental argument below, and explain why I think its central claims are implausible, but I should add that I am skeptical of his underlying methodology. In my mind, the relationship between minority rights and political culture is an empirical question, for which we need empirical evidence, either from detailed case studies of particular conflicts in particular countries, of the sort we provide in our co-edited volume, or from large-scale statistical studies of many cases over many years, of the sort provided by Tedd Gurr, which I discuss below. Attempts to develop *a priori* arguments regarding the incompatibility of minority rights and democratic political culture are, I think, doomed to failure. The real world is simply too complicated to make the sorts of transcendental *a priori* claims that Offe offers about identity conflicts and group rights.

Group Rights in General

What then is Offe’s argument? His argument rests on the following series of claims about the logic of group rights:

- 1 Claims for group rights are rooted in “identity conflicts”, which are categorically distinct from conflicts over interests and ideologies. What distinguishes “identity conflicts” from other conflicts is that they are rooted in (a) a desire for “the absence or isolation of the bearers of other identities”; and (b) a belief that identity claims are “non-negotiable” and “non-arguable”;
- 2 Group rights involve assigning people to an ascriptive group from which they

cannot exit, and involve giving leaders of these ascriptive groups the power to restrict the civil rights of individual members;

- 3 Group rights “invalidate” any identities or loyalties that are larger than the ethnic group, and hence make any pan-ethnic sense of political community difficult to sustain;
- 4 Group rights inevitably give rise to a logic of “proliferation” and “escalation”. That is, whenever a group gets one right, they will inevitably demand more (escalation). Moreover, whenever one group gets a particular right, other groups will also demand that right, even if they lack the cultural, historical or demographic reasons which motivated the first group’s claims (proliferation). These risks of proliferation and escalation undermine democratic stability.

Taken together, Offe’s claims provide a damning indictment of group rights and, indeed, a dire warning for Western democracies, most of which have moved in the direction of recognizing more group rights. If Offe’s claims are true, then Western democracies are living on borrowed time, as minority rights gradually erode the stock of trust, toleration and solidarity that was built up over time prior to our current foolish infatuation with group rights.

Fortunately, I think all of these claims are implausible. Let me respond to them in order:

(1) Identity Conflicts

According to Offe, group rights are rooted in “identity conflicts” that have certain pernicious features. First, claims deriving from identity conflicts embody illiberal and undemocratic motivations to exclude or assimilate others:

“identity conflict poses the most difficult type of conflict, in that the bearers and proponents of one identity make the absence or isolation of the bearers of other identities the benchmark of their well-being (as in “ethnic cleansing”) or else they demand the full assimilation of (linguistic, religious, ethnic) minorities to their own identity” (Offe, 1998: 120).

While this may be a plausible description of ethnic conflict in Serbia or Rwanda in the 1990s, I think it is a caricature of minority politics in the West. When minority ethnic and religious groups mobilize for particular group rights - whether it be

language rights, affirmative action, religious exemptions, political representation, multicultural education, self-government or land claims - it is only in rare cases that they are seeking to exclude or assimilate people with other identities. Indeed, in many cases, the goal is precisely to increase contact with people of other identities (e.g. affirmative action or guaranteed representation), and/or to increase mutual understanding between groups (e.g. including multicultural education in the core curriculums of public schools). Many of these rights are intended to make it easier for minority group members to gain access to, and be accepted within, mainstream institutions that bring people together from various groups.

Second, Offe says that identity claims are illiberal and undemocratic because they are not subject to democratic deliberation and negotiation. In identity conflicts, he says, "both sides tend to insist on both the non-negotiable as well as the non-arguable (that is, the absence of the possibility of inter-group rational debates) nature of their respective claims" (Offe, 1998: 120).

Really? In my experience, minority group leaders have no end of arguments that they offer in the media, the courts and the legislature in the hope of persuading members of the larger society. Indeed, this is precisely why minorities seek political representation in the legislature or in government advisory and regulatory bodies. If Offe were correct, there would be no point in minority groups seeking representation in decision-making bodies in which they would be a numerical minority. If their claims were non-arguable, they would have no hope of persuading others of their views, and no hope of affecting the ultimate outcome. In reality, minority groups believe that, even though they lack the votes or vetoes needed to win by themselves, they can use their presence to persuade members of other groups of their position. The "logic" of minority political representation presupposes that minority claims are arguable.

Similarly, minority demands for group rights are eminently "negotiable". Ethnic politics in the West is an unending series of such democratic negotiations. Consider a typical example regarding language rights. A national minority may start by claiming that all public services should be available in their mother-tongue; the state starts by refusing to provide any services in anything but the official language. They then discuss, argue, negotiate and bargain, and the result is some provisional compromise which provides certain mother-tongue services in certain regions. This is normal, everyday democratic politics, no different in its structure than decision-making about taxes or environmental regulation.

Or consider demands by national minorities or indigenous peoples regarding the

development of natural resources on their traditional territory. The minorities start by demanding the right to make all of the development decisions and keep all the royalties, the state starts by demanding the right to control resource development and to keep all the revenue. They discuss and negotiate, and arrive at some provisional agreement to share decision-making control and royalties.

Or consider the demand by immigrant minorities for the recognition of their religious holidays in schools. The minorities start by demanding that their holidays be recognized in the same way as Christian holidays – i.e., as public holidays. The state starts by refusing to change the traditional calendar. They discuss and negotiate, and end up with a provisional agreement to accommodate minority, religious holidays through personal exemptions.

Or consider the land claims of indigenous peoples around the world. The indigenous group starts by demanding that all of the land taken from it, historically, be returned; the state starts by saying that indigenous title is null and void. They then discuss and bargain, and the result is a provisional agreement that returns some, but not all of the land wrongfully taken from indigenous peoples.

I could go on and on listing such examples (consider political representation or affirmative action). The demands of ethnic groups for group rights are no more “non-negotiable” than any other issue. Both sides give reasons, and make compromises. In short, ethnic politics in the West is simply democratic politics. Offe’s assertion that class-based interest politics are subject to negotiation and trade-offs whereas ethnic-based identity claims are non-negotiable, is simply bizarre.¹ Even the most superficial familiarity with ethnic politics in the West would show that these claims are both “arguable” and “negotiable”.

Perhaps Offe would say that when minority ethnic and religious groups are willing to engage in this sort of deliberation and compromise, then these are no longer “identity” conflicts, but rather are simply old-fashioned “interest” conflicts. If so, most ethnic mobilization for group rights in the West is a matter of interest not identity conflict and, hence, immune from Offe’s critique.

I share Offe’s concern to reject any group rights claims that are motivated by intolerance and advanced as non-arguable and non-negotiable. Indeed, every scholar who works in the field shares these concerns, and we have all made proposals for how to filter out such demands. However, we gain no insight into this problem by

1 Offe’s support for this claim is a citation to an article where Hirschman makes this claim. Unfortunately, Hirschman provides no evidence for the claim.

simply equating the demand for group rights with intolerant motivations and non-arguable beliefs.

(2) Group Rights and Individual Rights

According to Offe, group rights involve two distinctly illiberal features. First, group rights entail restrictions on individual rights: groups rights “are superior to and in fact constitutive of individuals” (2001: 177), so that “Group rights granted to religious groups imply that spiritual leaders or parents are permitted to impose rules on members, monitor their compliance and constrain their civil liberties” (Offe, 1998: 133).

Second, group rights involve “locking” people into involuntary ascriptive groups:

“Members of the target groups are categorically and authoritatively made the beneficiary in question, without being able to individually ‘opt out’ of the reach of the benefits attached, being able to give up the (by definition, ascriptive and ‘unchangeable’) characteristics that make up group membership. Group rights involve a strong quasi-corporatist status order: individuals are locked into group membership (whether they want it or not)” (1998: 127-8).

These are two more caricatures of minority demands. The idea that group-specific exemptions accorded to religious groups “imply” the right of group leaders to restrict the civil rights of individual members is false. Allowing Sikhs the right to wear a turban instead of a hardhat does not “imply” that Sikh leaders can restrict anyone’s civil rights. Allowing Muslims to leave work on Friday for their Sabbath does not “imply” that Muslim leaders can force anyone to go to the mosque. These religious exemptions give individuals a choice they otherwise lack, but do not empower group leaders to impose anything on anybody.²

The same is true about other group rights that Offe discusses. Consider affirmative action for blacks or guaranteed political representation of ethnic minorities. Neither of these enable group leaders to police the behavior or restrict the individual rights of group members. The fact is that most group rights do not involve the creation of a collective agency that is capable of restricting the rights of individual members.

2 Of course, religious leaders may decide to expel members who do not wear a turban or go to the mosque, but that is true whether or not there is a legal exemption. The power of churches to expel dissenters is part of the classical liberal freedom of association, and has nothing to do with the presence or absence of legal exemptions for certain religious practices.

To be sure, there are some cases where group rights take the form of constructing a governance structure with the capacity to impose legal restrictions on group members (e.g. some form of territorial autonomy), but even in these cases, the fact is that group rights in the West work within the constraints of liberal democratic constitutions. That is to say, territorial governments dominated by a national minority are typically subject to the same constitutional obligation to protect individual rights as the central government. Their laws and regulations must respect the same list of individual rights as the central government's laws and regulations. This is true of virtually all forms of territorial autonomy which exist in the West. Minority-dominated regional governments are no more or less "superior to individuals" than majority-dominated central governments.³

Perhaps Offe would say that if these forms of group rights do not include the power to restrict individual rights, then they are not really "group rights" after all, even if they are group-specific. It is not clear to me whether Offe's claim that group rights restrict individual rights is meant as a definitional stipulation or a testable empirical hypothesis. In either case, the key point is that most of the group-specific rights sought by and granted to minorities in the West do not involve the ability to restrict the civil and political rights of individuals.

The same problem arises with Offe's claim that group rights lock people into ascribed categories. This is simply not true of most group-specific rights in Western countries, which typically depend on voluntary self-identification, and which allow for rights of exit.⁴

Here again, I share Offe's concern to prevent groups from violating the rights of their members, and to uphold rights of exit. So does everyone else writing in this field. There are any number of proposals in the literature for how best to prevent rights-violations and to uphold rights of exit, and several of these mechanisms are in place in Western democracies and work well. No doubt we can still do better, but we gain no insight into this problem by simply equating group rights with the power to violate civil rights or to impose unchangeable ethnic identities.

(3) Group Rights and Larger Identities

3 The exception concerns some indigenous peoples, whose self-government is exempted from some constitutional provisions in some countries. I discuss this case in Kymlicka 2001a: Chapter 4.

4 On the centrality of a right of exit to any liberal conception of minority rights, see Kymlicka 2001a: Chapter 2.

According to Offe, the adoption of group rights creates a cycle of fear and distrust because “it invalidates the ties and commonalities of the larger political community and its commitment to some shared identity beyond the particularisms and divisions of interest, ideology, and difference of tribes” (2001: 181)

It’s not clear what precisely the claim is here. Is it a claim about the motives of minority leaders - i.e. that they hope to erode any identity larger than the group? Or is it a claim about the unintended consequences of group rights i.e. that group rights which are intended simply to accommodate diversity inevitably erode larger identities?

As it happens, I think both of these possible claims are false. As I noted earlier, many group-specific rights are adopted precisely because groups feel excluded from the wider community and its national identity, and want to be included and recognized within the institutions of the larger society. This is true of claims for political representation, or religious exemptions, or for multicultural education, or official bilingualism, or for reforms to state symbols. All of these are precisely intended to make it easier for members of minority groups to feel at home in the institutions of the larger society. Moreover, many group rights have had this result. They have helped to *revalidate* larger identities that had been invalidated by a long history of exclusion or assimilation (Kymlicka, 2001a: chap. 8).

The case where Offe’s analysis is most plausible is the case of secessionist political mobilization, where minority group leaders really do wish to “invalidate” any feeling of attachment to the larger state amongst group members. This is an important case, particularly for Central Europe, and I will return to it below. Secessionist mobilization, however, reflects just a tiny fraction of the group rights being claimed in the West. Moreover, even in the case of secessionists, it is important not to confuse attempts to invalidate the existing nation-state with attempts to invalidate other notions of a larger identity. For example, if we look at supporters of secession in Scotland or Catalonia, they are typically in favor of European integration. Indeed, they are typically more in favor of the EU than members of the majority group. They are also more supportive of free trade and foreign aid to poor countries, and of the international monitoring and enforcement of principles of human rights and international law.

So even secessionists in the West need not, and typically do not, deny the need for some form of political structure beyond their own particular group, and the need to construct and sustain the sense of identity and solidarity that underlie these larger structures. Indeed, they are typically more aware of this need than the members of

dominant groups, who often resist any attempt to build larger political structures in which they would be a minority. The dispute, therefore, is not between minority secessionists, who believe only in their own “particularistic” identity, and majority defenders of the nation-state, who believe in the need to build identities larger than their own group. The situation is, in fact, usually the reverse. It is typically the secessionist minority which believes in building trans-national political communities like the EU, and members of the majority group that resist constructing any form of larger political community that they would be unable to dominate. (Consider Conservative defenders of common citizenship in the UK who reject both devolution to Scotland and Wales and European integration).

So here again, I agree with Offe that it is important to ensure that group rights are consistent with the construction of viable pan-ethnic political structures that govern more than one’s own group. But most claims for group rights in the West accept the legitimacy of the nation-state, and even those secessionists who question the existing nation-state accept the need for other, larger political structures. In very few cases do we see group rights that are concerned only with their own particularity, indifferent or hostile to all larger political identities.⁵

(4) Risk of escalation and proliferation

Offe’s final concern is, that because of the looseness of the term “group”, and the contestability of appeals to “culture” or “history”, granting group rights to one group will inevitably create a spiral of escalation and proliferation. Even groups that do not seem to observers to have a distinctive language or culture or a history of mistreatment will, nonetheless, invent a claim to be a victim of some cultural disadvantage or historic injustice, in order to jump on the bandwagon of group rights.

Offe’s claim presupposes that demanding group rights is costless for the group seeking them. If it costs nothing for a group to demand group rights, then indeed one would expect to see both the proliferation and escalation of group rights, as more and more groups begin to demand more and more group rights.

However, as Offe himself notes, claiming group rights is not costless. It often imposes significant costs on group members, in terms of reduced economy of scale, increased transaction costs, reduced mobility and economic opportunities, and the risk of backlash. Offe even suggests that these costs typically outweigh the alleged

5 The main exception is isolationist religious groups, like the Amish, whose claims predate, and are unrelated to, current ideas of multiculturalism.

benefits, and that minority groups are, therefore, making a prudential mistake in seeking group rights.

If so, then there is no danger of proliferation/escalation. The only groups that will seek group rights are those that are willing to pay the price of foregone opportunities and higher transaction costs in order to maintain their distinctiveness. Where there is no distinct identity to be cherished, no one will be willing to pay the extra costs involved in maintaining a language or administering separate institutions.

This is a central contradiction in Offe's analysis. If his account of the costs of group rights for group members is true, then his account of the risk of escalation and proliferation cannot be true (and vice versa). Now Offe might deny there is a contradiction here, by responding that unscrupulous ethnic entrepreneurs will be able to manipulate gullible group members into supporting group rights even when it is against their own interests. As he puts it, "group rights are susceptible to tribalistic political entrepreneurship" (1998: 139). Hence, he might say, there is an inevitable tendency towards the escalation and proliferation of claims even though it is not in the interests of group members to make these claims.

This sort of contempt for the democratic capacities of average group members runs throughout Offe's analysis. In his view, members of minority groups are incapable of recognizing when they are simply being manipulated into supporting policies that only help group leaders, while imposing costs on themselves.

Fortunately, there is no evidence for Offe's fear of unchecked ethnic entrepreneurship. Based on an exhaustive study of self-determination movements around the world, Tedd Gurr notes that there is little risk of proliferation of self-determination claims because "the pool of potential ethnic contenders is not infinite, and we have already heard from most of them" (Gurr, 2000b: 63-4). Similarly, Offe's claim that granting autonomy will escalate into demands for secession, "is not supported by the facts on the ground" (Gurr, 2000b: 56). The costs of group rights set powerful brakes on both their proliferation and escalation.

This is not a reason for complacency, and I share Offe's concern about the risks of escalation and proliferation, as indeed does everyone working in this field. We have all proposed various institutional mechanisms that would dampen the potential for "tribalistic political entrepreneurship", many of which are in place in Western democracies and work well.

In sum, I think Offe has exaggerated the dangers of group rights. To be sure, there are some cases where group rights claims are motivated by intolerance; and/or are advanced as non-negotiable; and/or where group rights conflict with individual rights;

and/or where the unintended consequences of group rights erode larger identities and create spirals of escalation and proliferation. However, these “problem cases” are only a fraction of the entire range of group rights claims that we see in the West. We must be vigilant to filter out these dangerous forms of group rights, but in order to do this, we need to descend from Offe’s sweeping generalizations and examine the realities of ethnic politics on the ground. Western democracies now have a great deal of experience in this area. There are many examples of group rights operating for many decades in ways that promote tolerance and trust, respect civil rights, and affirm and revalidate larger identities while upholding universal principles of human rights and international law. We have learned a great deal about the domestic and international safeguards that help to ensure this. We lose sight of all of this impressive body of experience if we assume, with Offe, that the impact of minority rights on political culture can simply be deduced *a priori* from abstract premises about the “logic” of “identity conflict” and “group rights”.

Group Rights in Central Europe

This leaves Offe’s second area of concern, namely, the exporting of Western models of multiculturalism, particular multinational federalism, to Central Europe. Offe argues that the history of successive empires has created a particular relationship of distrust between states and minorities in that region. Given this history, and the precarious state of democratic consolidation, we must be especially sensitive to questions of political culture, and in particular to the nurturing of trust.

I fully agree with Offe’s description of the striking level of mistrust between states and minorities in the region, and also with his explanation of this distrust in terms of the legacy of imperial policies. As Offe rightly says, the problem of “ethnic conflict” in the region is not ancient tribal hatreds as such, but rather the fear by dominant national groups that their internal minorities are in fact the (disloyal) remnants or allies of powerful external enemies and former imperial powers (2001: 169). Under these circumstances, Offe argues, minority demands for federalism or territorial autonomy will be perceived by the majority as a threat to their very survival as a state and a people (and may indeed pose such a threat). While the minority may demand autonomy in the name of fairness, tolerance and respect for diversity, this will be perceived as simply a camouflage for attempts to restore oppressive imperial power.

I fully agree with this analysis. I have elsewhere described this dynamic as the “securitization” of state-minority relations in post-communist Europe (Kymlicka,

2001b; Kymlicka and Opalski, 2001). It raises a series of issues that do not arise in the West, since (apart from Cyprus) minorities within Western democracies are not perceived as allies or collaborators with external enemies.

My only disagreement here is that Offe does not push his analysis far enough. For the problem of “securitization” does not just affect the implementation of group rights, it also affects the implementation of regimes of common citizenship. Under conditions of “securitization”, individual rights can also be a tool that is used by one group to oppress another and, hence, can generate a cycle of fear and mistrust.

This raises a problem with Offe’s claim that a regime of universal common citizenship has a different “logic” than group rights. According to Offe, regimes of common citizenship, unlike regimes of group rights, are motivated by a commitment to co-existence, strengthen overarching identities, respect individual rights and avoid the dangers of proliferation and escalation.

This is a very naive view of the politics of common citizenship in Central Europe. In many cases, the ideal of common citizenship is adopted by majority nationalists as a camouflage for intolerance and oppression. Leaders of dominant groups do not invoke the ideal of equal citizenship rights because they have a commitment to individual rights (many are ex-Communists). Rather, they invoke it because it provides a justification for abolishing any pre-existing forms of minority autonomy, or minority language rights, minority separate educational or media institutions. The rhetoric of common citizenship allows illiberal majority nationalists to centralize all important decisions in forums where the dominant group possesses a numerical majority, and which operate solely in the dominant group’s language. Having disempowered minorities in the name of common citizenship, the dominant group is then free to fashion the state as “its” national state. Minorities are viewed as disloyal fifth-columns who do not “belong” in the state, but rather should “return” to their kin-state. Minorities who choose to stay are then subject to a wide range of quasi-official discrimination in the newly-centralized “common” national institutions, such as the media, schools, police, army and so on.

We see this dynamic throughout post-communist Europe. The most forceful advocates of “common citizenship” in Central and Eastern Europe were Tudjman in Croatia, Milosevic in Serbia and Meciar in Slovakia, all of whom used this rhetoric to strip power from their minorities.

So the rhetoric of common citizenship can have malicious motivations. It can also have unintended pernicious consequences. Indeed, it led to civil war in several countries, as minorities rebelled against what they perceived (often correctly) as an

assault both on their autonomy and indeed on their very right to exist. Minorities worry that the rhetoric of common citizenship will be the first step on an escalating path to homogenization. Having insisted on commonality of legal rights, minorities worry (often correctly) that this will be the first step towards a more comprehensive homogenization of language, culture, and ideology.

Under conditions of “securitization”, all political concepts and models are subject to pervasive problems of distortion, abuse and escalation. The majority fears that minorities will use the language of group rights to attack their right to exist as a distinct state and a distinct people; the minority fears that majorities will use the language of common citizenship to attack their right to self-government and to exist as a distinct community within the state. To focus solely on the way that “securitization” leads to the abuse of group rights is simplistic and one-sided; it equally leads to the abuse of common citizenship as a tool of ethnic oppression.

In short, while concerns about the “securitization” of ethnic relations in post-communist Europe are absolutely valid, they simply put us back at square one. Both group rights and common citizenship can be used as tools of ethnic oppression and, hence, both can generate mistrust.

Offe is aware of the danger that dominant groups will use the rhetoric of common citizenship to entrench the dominance of their own ethnic group (Elster, Offe and Preuss, 1997: chap. 7). He emphasizes that his model of common citizenship presupposes and requires that state leaders have a genuine commitment to respecting individual rights of people from all groups, and that without firm protections of individual rights, the common citizenship model will not create bonds of trust.

But to assume this is just to wish away the problem of securitization. To assume that state leaders from the dominant group have a sincere commitment to respecting the equal citizenship and individual rights of minority group members is hopelessly naive. (And if they did feel this way, they would not be worried about according group rights to the minorities.)

In short, both the group rights approach and the common citizenship approach require a level of trust that is often lacking in the region. How do we get out of this bind? Offe’s solution is to invoke international pressure: international organizations can step in to protect minorities from the threat that the state will invoke common citizenship as a tool against them. As Offe puts it, identical citizenship rights are sufficient “with the proviso that governments are effectively hindered (if need be, through the supervisory role performed by international juridical institution) from curtailing the individual rights of categories of their citizens for the sake of fostering

‘national unity’” (1998: 140).

This is a reasonable solution to overcome the trust problem. However, of course, defenders of group rights can (and do) make precisely the same proposal. If international supervision can be invoked to reassure minorities that majority nationalism is kept in check within a regime of common citizenship, it can equally be invoked to reassure majorities that minority disloyalty will be kept in check within a regime of group rights. Offe gives no reason for thinking that international supervision can work in the former case, and not the latter case. And, indeed, we have clear cases in Eastern and Central Europe in the 1990s where international supervision has promoted trust in group rights arrangements.

So here, again, we need to move away from abstract generalities about the “logic” of common citizenship versus the “logic” of group rights. Whether the “logic” of common citizenship promotes trust or distrust depends on the circumstances, including the presence of international supervision. The same is true about the “logic” of group rights.

In my view, international supervision can indeed work to reduce the distrust we see in the region, and thereby make a range of group rights more feasible, including perhaps forms of federalism or territorial autonomy. Offe, however, insists that there are factors in Central Europe that make federalism in particular unsuitable. As I understand his argument, it rests on three claims:

(i) According to Offe, federalism only works in “highly homogenous regions” in which the minority group “should ideally be the only population settling there” (2001: 179), whereas national groups are inter-mixed in Central Europe, and do not inhabit discrete, ethnically-pure homelands. No matter where the boundaries of a self-determining territory are drawn in the region, there will be some people who live on the territory who do not belong to the minority asserting rights of self-government (“internal minorities”), and also members of the national minority who live outside the self-governing territory (“minority diaspora”). Given the size of both internal minorities and minority diasporas in Central Europe, territorial autonomy will not work. As Offe puts it, territorial solutions “won’t do given the mixed and dispersed pattern of settlement of ethnic groups in Eastern Europe... These peculiarities preclude the Spanish solution of granting the ethnic minorities inhabiting the Basque Lands, Galicia and Catalonia a statute of limited autonomy” (Offe, 1993: 34).

This is seriously misleading. The inter-mixing of national groups exists in the West as well. In some cases, like Catalonia, there is only a small minority diaspora, but a very large internal minority (i.e. there are few ethnic Catalans outside Catalonia, but

ethnic Catalans formed a bare 52% majority within Catalonia when autonomy was adopted). In other cases, such as Puerto Rico, there are few internal minorities, but an enormous minority diaspora (around 50% of Puerto Ricans have moved to the continental United States, but there are few minorities within Puerto Rico). And in yet other cases, in Quebec, for example, there are both sizeable internal minorities and a sizeable minority diaspora (there are over a million non-francophones within Quebec and one million francophones outside Quebec). One could give many other examples. Consider the sizeable internal minorities in Flanders, the sizeable Swedish population in Finland living outside the autonomous area of the Åland Islands, or the native Indian population in North America, 50% of whom live outside the self-governing reserves.

Indeed, internal minorities and minority diasporas can be found in virtually every Western example of territorial autonomy. Central Europe is not so different in this respect. If territorial autonomy were given to the Hungarian-populated areas of southern Slovakia, or the Albanian-populated areas of Western Macedonia, the size of the resulting internal minorities and minority diaspora (either as an absolute number or as a proportion of the population) is well within the range we find in Western examples of territorial autonomy. Indeed, it would be less than in many Western examples. Offe's claim that the intermixing of peoples in Central Europe is radically different from that of the West is simply not true.⁶

(ii) Second, Offe claims that granting territorial autonomy almost inevitably leads to secessionist mobilization, and this is inconsistent with the presuppositions of a viable democracy. As he puts it, "The democratic regime form is a viable arrangement only if, and as long as... borders are accepted as given and lasting, recognized from within as well as by neighbours and the wider international community (1998: 118-19).

I think Offe is right to assume that once territorial autonomy is granted, there will be some members of the minority group who will want to push further for secession. However, it is simply false that the presence of secessionist politics undermines the viability of a democracy. There are any number of viable democracies which contain secessionist movements: Canada, the UK, Belgium. All have viable democracies despite the presence of secessionist parties that receive significant popular support. These are, in fact, three of the most peaceful and long-lasting democracies in the world. In these countries, secessionist parties are just one of many types of parties, all

6 For a more detailed discussion of the way Western models of territorial autonomy deal with internal minorities and minority diasporas, see Kymlicka and Opalski, 2001.

of which compete peacefully and democratically for popular support. In fact, I would argue that the long-term viability of any multination state depends largely on its ability to peacefully manage such secessionist movements. Any state whose viability depends on suppressing secessionist movements is in deep trouble, and unlikely to remain democratic for long.

For that matter, Offe's claim that democracy is only viable if "borders are accepted as given and lasting" is refuted by the experience of West Germany, which was a viable democracy even though most citizens wanted (reasonably enough) to abolish the international border and reunify with East Germany.

Of course, there may be reasons why movements seeking border changes in Central Europe are more difficult to manage than in the West and I will discuss this below. However, we gain no insight into this problem by claiming *a priori* that a viable democracy requires agreement on borders. It is just not true. We now have ample experience in several countries with secessionist (or reunificationist) parties competing peacefully and democratically for political power.

(iii) Third, Offe argues that even if federalism can work in the West despite the inter-mixing of peoples and the presence of secessionist parties, it cannot work in Eastern Europe because these are "divided societies". According to Offe, federalism is "not a viable prescription for deeply divided societies, because in order for federalism to provide the stability, the divisions must not be very deep" (2001: 181).

Here, as elsewhere, one wishes Offe had provided some evidence for his empirical claims. As I understand it, virtually all of the research on ethnic conflict done in the 1990s has emphasized the potential benefits of federal or quasi-federal forms of territorial autonomy in divided societies. As Tedd Gurr notes, we see an emerging consensus amongst both scholars and policy-makers on "a set of principles about how to handle intergroup relations in heterogeneous states, a common repertoire of strategies for handling crises, and an emerging domestic and international consensus on how to respond to ethnic repression and violence". According to Gurr, this new paradigm for dealing with divided societies involves three basic elements: (a) protecting the collective rights of minorities; (b) promoting democracy, since "European-style democracy is widely held to be the most reliable guarantee of minority rights"; and (c) settling disputes over self-determination by negotiation and mutual accommodation (Gurr, 2000b: 58). He suggests that "the first and most basic principle of this emerging regime is recognizing and actively protecting minority peoples' rights", and that "a corollary is the right of national peoples to exercise some autonomy within existing states. After all, it follows that if minorities who make up a

majority of one region of a multiethnic democracy have the right to protect and promote their collective interests, they should have the right to local or regional self-governance" (Gurr, 2000b: 55-56). As Gurr notes, we see an increasing trend for territorial autonomy arrangements to be adopted in divided societies around the world.

This is not to suggest that federalism is appropriate in any particular Central European country. This is an issue on which I am agnostic, and which cannot be resolved with examining the details of each particular country. It is certainly true that any viable regime of territorial autonomy in the region would require significant domestic and international safeguards of democracy and individual rights, some of which I have discussed elsewhere (Kymlicka and Opalksi, 2001). However, simplistic claims such as "federalism requires homogeneity" or "federalism will not work in divided societies" preclude rather than invite the sort of detailed analysis we require.

Conclusion

Offe is raising all of the right questions about group rights. We need to look carefully and critically at how such rights affect the underlying political culture of a democracy. And we must be particularly cautious in examining this impact in post-communist countries undergoing difficult transitions with a legacy of fear and distrust. We cannot let sentimental attachment to particular groups or causes blind us to the real difficulties of establishing trust, toleration and solidarity.

My main complaint is simply that Offe himself is neither careful nor cautious in his own analysis of this question. He makes a number of sweeping generalizations about the goals, content and consequences of group rights without any empirical evidence. These generalizations are controversial, and I think deeply implausible.

Our disagreement over the evidence may be rooted in part in differences in personal background. My own background, in Canada, undoubtedly inclines me to a more optimistic view of group rights, which have played an important role in enabling Canada to deal with an extraordinary level of ethnocultural diversity in what I believe to be an inclusive, peaceful and democratic way. People from countries with a more troubled history may be inclined to have a more pessimistic view about the dangers of identity politics, and its tendency towards exclusion, violence and authoritarianism. It is a standard complaint in the literature that what purport to be general theories are really just over-generalizations of the author's own personal experiences or preferred case studies. This is certainly a common complaint that has been raised against my own work, and I confess there is some truth in it.

What we need, therefore, is more systematic evidence, examining many cases over a long period of time, not just isolated anecdotes or selective cases. As it happens, we have this sort of evidence. Tedd Gurr has conducted the most systematic international study of state-minority relations ever undertaken, tracking over 300 ethnic movements, in 160 countries, over 50 years. And I have already cited his basic findings. According to Gurr, the "facts on the ground" as revealed by this mammoth study do not support Offe's claims about escalation, proliferation or federalism (Gurr, 1993; 2000a; 2000b). By contrast, Offe's claims seem to be based entirely on intuitions and anecdotes, often anecdotes from German academic life (see Offe, this volume, and 1998:128n25, 129n29, 134n38). Offe may be right that German academia deals with diversity in an authoritarian and semi-feudal way, but I do not think this provides a good basis for evaluating the impact of minority rights on democratic political culture. There is better evidence available, for those who want to look it up.

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