

Comment on Joanna Pfaff-Czarnecka, "Collective minority rights in Switzerland"

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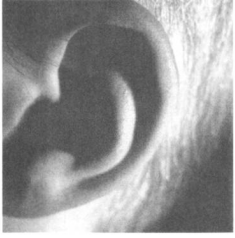
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Comment on Joanna Pfaff-Czarnecka, «Collective minority rights in Switzerland»

Ellen Hertz

¹ *Tsantsa* 4: 199-203, 1999.

In «Collective minority rights in Switzerland»¹, Joanna Pfaff-Czarnecka lays out the framework for research she is currently conducting on the integration of Muslim, Buddhist and Hindu religious minorities within Swiss society. Her focus is on interactions between Swiss institutions – schools, workplaces, prisons, municipal administrations – and minority spokespeople, with a special emphasis on the strategies minorities adopt to maintain religious and community practices in the host society. Funded by the Swiss National Science Foundation, this research touches on topics central to the future of Swiss multiculturalism. It is reassuring to see that anthropologists are participating in this public debate, thereby bringing the insights of the discipline to the task of rethinking models of social integration at a time when previously accepted models are experiencing considerable political strain. Precisely because this topic is so important, I wish to raise here certain questions I have about the scientific and political implications of the author's research design.

The starting point for Pfaff-Czarnecka's analysis is that with the arrival of new religious minorities in Switzerland, «Swiss institutions and the value systems they represent are [...] called upon to respond to pressures which are new to them» (p. 199). There results a «confrontation» or «collision», revolving around the fact that religious minorities require forms of *collective* rights and protection while the Swiss legal framework that must accommodate them is «clearly *individualist* in nature» (p. 199, my italics). Emphasis is placed on the «stress» and «pressures» which these radically different demands might occasion for Swiss legal and political institutions.

A contradiction is apparent in this formulation. While Pfaff-Czarnecka argues that the Swiss legal-political framework is essentially individualist, she admits that «collective rights exist in Switzerland with regard to political units, to property held by collectivities and to linguistic recognition for what Swiss citizens considered their "own" minorities» (p. 200). This contradiction is resolved by the limits the author imposes on



her research questions: collective rights for Switzerland's «own» minorities «are not at issue here» (p. 200). Pfaff-Czarnecka then re-asserts the conflict of principle with which she began, concluding nonetheless that «in most cases [...] collective categories have been reconciled with the individualist legal framework» (p. 200).

This exclusion of «Swiss» collective rights from the author's research design dehistoricizes a complex legal-political evolution, and perpetuates the notion that the difficulties posed by the integration of «alien» minorities in Switzerland are the result of culture and not of politics. More precisely, while «alien» minorities are thought of in collective terms, «Swiss» are naturalized as individuals. In her discussion of cases involving issues of civic duty, for example, Pfaff-Czarnecka implies that allowing Muslim women not to participate in school swimming lessons or excusing Jewish children from attending school on Saturdays would amount to granting collective rights to certain citizens while requiring Swiss children to adhere to the rules of the game as individuals. But, majority practices, precisely because they accommodate the majority, simply do not appear as collective. School on Saturdays, for example, reflects the reality of Christian religious customs which are collective, not individual, in nature.

It would seem that Pfaff-Czarnecka must address the (admittedly complex) relations between individual and collective rights in a far more nuanced and historicized manner. The author takes a preliminary step in this direction when she admits that excusing religious minority groups from certain civic duties in no way implies «a form of political autonomy but rather [an accommodation] of one particular dimension of social life for minorities» (p. 202). An analysis of the immense variety of forms in which collective rights, responsibilities, identity, practices and property *can be and are already recognized* in the Swiss context is crucial if Pfaff-Czarnecka wishes to avoid playing into the hands of political ideologues all too ready to read a complex reality in simplistic and polarized terms.

The risk of polarization is present in Pfaff-Czarnecka's distinction between «own» and «alien» minorities, a distinction which she borrows from H.-R. Wicker (1997). Wicker argues that Swiss society is structured by two distinct models of multiculturalism: the first, applicable to Swiss citizens, seeks to guarantee equal opportunity along universalist lines while permitting certain forms of «multiculturalism» in the private sphere; the second, applied to «alien» minorities, presumes ethnic difference as the starting point for public and private rights and obligations. However, where Wicker demonstrates that this double model is both historically determined and ideological, Pfaff-Czarnecka appears to essentialize it.

Here, the problem seems to lie with the author's understanding of law. In her account, legal and political institutions embody «traditional central value systems» and a «common moral standpoint» rendering them, in essence, static and coherent². How is it then that, by the author's own evidence, Swiss authorities have acted so quickly to find solutions to minority demands. The reason, according to the author, is that these solutions are merely «pragmatic», and thus do not resolve «the question of principle» (p. 202). But what are these new principles which Pfaff-Czarnecka wishes to see brought forth and debated? Clearly, the Swiss legal framework *does* provide avenues for the protection of collective rights through the principles of religious tolerance and freedom of worship. While these rights adhere in *individuals*, they necessarily accommodate concepts of *collective* identity as constructed through membership in religious communities. Pfaff-Czarnecka appears to fall victim here to a form of «harmony ideology» (Nader 1990) in which contestation, litigation and collective demands are taken as signs of an incoherent «system» and not as the normal processes of individual and collective expression in democratic society.

Furthermore, and more importantly from a political perspective, her research question does not sufficiently highlight the fact that the demands for collective protection which «alien» minorities formulate are necessarily «Swiss» in character. It is to *Swiss*

² Indeed, there is a fascinating reversal underlying the ideological terms in which Pfaff-Czarnecka depicts «our» legal system as opposed to «their» legal demands. Whereas «traditional» societies – those producing the current waves of «alien» immigration – were once considered static, in contrast to the dynamic character of modern democratic societies, it is now Switzerland, with its «ingrained notions of justice and justification» and its «established procedures» (p. 199) which is portrayed as strained by change. Foreign minorities, on the other hand, appear to be equipped with «dynamic» cultural-religious systems (p. 199) that allow them to adapt their practices to the possibilities offered to them in their host societies.



principles of religious freedom and constitutionality that minorities must appeal if they wish to arrive at legally binding solutions to their disputes with local authorities. Indeed, the fact that we are witnessing «an increasing tendency for minority organizations to [appeal] to courts and legislatures for the re-interpretation of existing laws and provisions» (p. 203) could be read as a sign of their increasing integration within Swiss society. Granted, the general public and many Swiss authorities might not perceive this phenomenon in these terms. But surely it is the anthropologist's task to point out the *a priori* conceptions and blindspots which re-enforce the ideological polarities behind common sense perceptions. Indeed, in the end – and this strikes me as the outstanding contribution of this research – what Pfaff-Czarnecka seems to demonstrate is that, through their demands for collective recognition, religious minorities are challenging the historical line which separates «our» from «alien» minorities on the Swiss political landscape.

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