National Minority Rights

-A Case study of Croatia and the National Minority Croatian Serbs-

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Abstract

The Serbs are a national group which has been disliked by the Croats for hundreds of years. Even before Croatia became a part of Yugoslavia, the country wanted its independence. However, before and after the break up of Yugoslavia, there was a strong nationalism in the country which led to hatred towards the Serbs and the Serb minorities in Croatia. Studies have shown that minorities often are disfavoured by the majority decisions. This leads to a disadvantageous position for the minorities in the relation to the majority. The problem is how a state should compensate these groups for their disadvantageous position to be able to ensure justice and equality for all citizens within the country.

The aim of this thesis is to compare Croatia’s formal national minority rights with the actual national minority rights of the Serbs and to see whether they coincide with each other. The research questions are:

- What formal minority rights do Croatian Serbs have in Croatia?
- What minority rights do Croatian Serbs have in reality?

The method used in this study is the qualitative text analysis.

The conclusion of this thesis is that Croatia has a positive attitude towards minority rights and the Serb minority, as Croatia has allocated group-differentiated rights to its national minorities. The Croatian view upon national minority rights coincides to a large extent with Will Kymlicka’s theory. Furthermore, the formal rights and the virtual rights regarding education, language, culture and proportional representation coincides to a great extent if not precisely.

**Keywords:** Croatia, National Minority, Minority rights, Croatian Serbs, the Constitutional Law on the Rights of National Minorities
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CLNM- Constitutional Law on the Rights of National Minorities

HDZ- Hrvatska demokratska zajednica (Croatian Democratic Union)

HRT- Hrvatska Radio Televizija (Croatian Radio Television)

HSLS- Hrvatska Socijalno-Liberalna Stranka (Croatian Social Liberal Party)

IHF- International Helsinki Federation for Human Rights

OSCE- Organization for Cooperation and Security in Europe

PPS- Partija Podunavskih Srba (The Party of the Danube Serbs)

SDP- Socijaldemokratska Partija (Social Democratic Party of Croatia)

SDBS- Srpska Demokratska Baranjska Stranka (The Serb Democratic Party of Baranja)

SDSS- Samostalna Demokratska Srpska Stranka (The Serb Independent Democratic Party)

UNDP- United Nations Development Programme

UNHCR- United Nations High Commissioner for Refugees
1. Introduction

On the 25th June in 1991, the Republic of Croatia declared its independence. Regions such as Krajina and Eastern Slavonia were inhabited by a large number of Croatian Serbs.1 After “Operation Storm” (Oluja) in August 1995, when the Croats recaptured Krajina, the Serbian population fled to Bosnia and Serbia.2

According to an annual report from 2006, from the Swedish Foreign Ministry about Human Rights, Croatia still faces difficulties with the implementation of the constitution which gives the national minorities their rights in the country.

Discrimination of the Croatian Serbs can be seen in the sense that it is difficult for the national minority to find jobs in the judicial sector, public administration and minorities’ insufficient representation in elected assemblies on a local level because of their national background.3 These kinds of difficulties are just a few of those occurring in the Republic of Croatia with respect to minority rights. In December 2002, Croatia implemented a constitutional law on national minorities. The constitution states that:

“...no one shall be discriminated because of race, sexuality, language, religion, political or other view, nationality, education, social status...”4

The above mentioned facts are just some examples of difficulties that Croatian Serbs have to face and the evidence of how Croatia and its people respect their national minority. However, other interesting aspects are political rights and other freedoms which enable the Serb minority to preserve their cultural heritage and identity in the Republic of Croatia. It is these minority rights the study will discuss and analyze.

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1 Bartlett 2003:39
2 Ibid. 2003:47
3 http://www.manskligarattigheter.gov.se/dynamaster/file_archive/070306/d8bec587060e52a68f8032f99921b83c/Kroatien%5F%5F2006.pdf p.3
4 Ibid. 2006:11
1.1 Aim

The aim of this thesis is to investigate what formal minority rights Croatian Serbs have as well as what rights the Serb minority actually have in reality.

1.2 Questions to answer

1. What formal minority rights do Croatian Serbs have in Croatia?
2. What minority rights do Croatian Serbs have in reality?

1.3 Demarcation

The focus in this study will only be on the national minority Croatian Serbs as this national minority is the one, which according to annual reports from Organization for Co-operation and Security in Europe (OSCE), SIDA and the International Helsinki Federation for Human Rights (IHF), is the largest national minority group and has faced difficulties in Croatia. The study’s focus will be on the minority rights in Croatia where the aim is to investigate what formal minority rights for national minorities exist in Croatia and what rights Croatian Serbs have in reality. Reports chosen in the empirical part are reports from IHF and OSCE.

As the Croatian Serbs, according to reports from different organizations, have suffered the most, it is of relevance to investigate the rights of minorities in the Republic of Croatia and also to investigate if their rights are implemented in best possible way; doing this by holding a focus on the Croatian Serbs’ situation and not the others (Hungarians, Italians, Albanians, Romani people, Bosnians and Slovenes). The factors which will be in focus are education and language, culture and influence in the political sphere. Other factors will not be included in this research.

1.4 Outline of the study

The second chapter encompasses the method and the motivation for it as well as choice of material which will be followed by a discussion of criticism of the sources. Chapter three discusses the theory. The chapter begins with a theoretical discussion where the reader acquires an insight of different theoretical perspectives within the area of minority rights. Further on, Kymlicka’s theory will be discussed and in the end of this chapter the analysis frame will be illustrated. Chapter four encompasses the empirical research, beginning with
formal minority rights in the Republic of Croatia and continuing with the virtual minority rights in Croatia considering the national minority Croatian Serbs. Chapter five covers the analysis of the study, where the theoretical analysis frame will be illustrated and discussed with a beginning with Kymlicka’s theory followed by the formal minority rights of the Republic of Croatia and ending with the virtual minority rights in Croatia regarding the national minority Croatian Serbs. Finally, chapter six concludes the study and sums up the results of the analysis and illustrates a total table of the analysis frame together with the results.
2. Method and Material

2.1 Method

A qualitative text analysis has been used in this thesis to be able to reach the aim of the thesis and to answer the questions. There are a number of different arguments for using the qualitative text analysis as the method is appropriate in political studies. One argument would be that when using qualitative text analysis there is a possibility for an inclusion of previous studies. Analyzing and interpreting different texts which other authors have written together with their research efforts and thoughts are important components in order to achieve the aim of this study. Another argument on text analysis is that some passages in books are less important than others and therefore the sought-after information can only be found through intensive and close reading of texts.5

An alternative approach to this study would be a quantitative analysis. However, the problem with this approach is that it searches for the answer of how or how frequent different categories are repeated. It also tries to answer how large space in time and place that different categories receive. This would firstly take a lot of time and secondly not give the answer to the questions in this study. It would only be able to give an answer to which space national minority rights are given in Croatia.6

The drawback of this method is that it is only possible to make conclusions from the existing material.7 Nevertheless, this has been taken into consideration. On the other hand, even if the study would have been performed in a different way, the answer would probably be the same as the material that have been used in this study arrives from laws and reports from different organizations such as OSCE and IHF etc. These reports have been used to receive an insight to the formal and virtual facts of national minority rights in Croatia.

However, there were hardships to find any statistical data on how many of the national minorities work, how many schools offer education in the specific minority language etc.

5 Esaiasson et al. 2004:233
6 Ibid. 2004:219
7 Ibid. 2004:241


2.2 Material

Secondary sources have been used in this thesis to be able to reach the aim and answer the questions of the study. The secondary sources are composed of political documents, which treat minority rights in Croatia as well as legislation within the area as the Constitutional law on the rights of national minority rights in Croatia. However, literature has been used for the theoretical as well as for the historical part.

The reasons why the findings and the analysis build upon these sources are firstly because documents provide us with a more basic knowledge of formal and actual national minority rights in Croatia. Croatia’s Constitutional Law on National Minority Rights further contributes with information about the country’s legislation within this area. Secondly, reports from different organizations, OSCE and The International Helsinki Committee for Human Rights together with Croatian web pages provide with an insight into the actual situation of the Croatian Serbs and the respect of their rights in the republic of Croatia.

The theoretical choice is based on obtaining the important elements which further on will be analyzed in the empirical chapter as well as in the analysis. As Kymlicka has developed a pioneering theory where he argues for group differentiated rights for minorities and also makes a distinction between national and ethnical minorities, this theory was the most appropriate for this study.\(^8\) It enables to sort out the important elements which will be illustrated in the findings and analysis.

2.3 Criticism of the Sources

To examine a source and to fulfil the traditional directions of criticism of the sources, there are four important criteria which have to be considered: authenticity, independence, contemporariness and tendency.\(^9\)

For these reasons the choice of material has been documents, legislation and other important reports. From this, it is believed that the authenticity criterion has been achieved. However, it is important to consider the independence factor, to check that the documents and reports have

\(^8\) Kymlicka 1995:26-32
\(^9\) Esaiasson et al. 2004:304
not been falsified. Therefore, the documents and reports have been critically examined and further on an assertion have been made to ensure that the material fulfils the criterion. The main data has been selected from OSCE and The International Helsinki Committee on Human Rights. However, one can ask to what extent the internet fulfils the authenticity criterion. Nevertheless, as Conny Svenning describes it; when the sender is an organization, it is up to the organization that the existing data on the internet is reliable. Therefore, organizations as OSCE and International Helsinki Committee on Human Rights are of high reliance. ¹⁰

Tendency is another important criterion which has been taken into consideration in the collection of actual minority rights. The Croatian web pages as well as Serbian have been cross-checked to make sure that the information agrees with both the Croats and the Serbs. The criteria of contemporariness have also played an important part as the aim is to examine the actual minority rights of the Croatian Serbs in Croatia. To conclude, all the criteria are of immense importance and the author should always consider these criteria.

¹⁰ Svenning 2003:290
3. Theory- National Minority Rights

3.1 Theoretical Perspectives on Minority Rights

There are a number of political theorists who have tried to develop valid theories on minority rights and tried to explain how the many can live as one. This is not a new question within political theory, rather an “old” question where both philosophical and political theorists have tried to give an answer to Multiculturalism. This phenomenon is a term which describes one particular way of responding to ethnic diversity. A definition describing multiculturalism would be:

“It is a position that rejects assimilation and the “melting pot” image as an imposition of the dominant culture, and instead prefers such metaphors as the “salad bowl” or the “glorious mosaic”, in which each ethnic and racial element in the population maintains its distinctiveness”.

Four theorists will be presented and discussed within the theoretical discussion; Will Kymlicka, Charles Taylor, Brian Barry and Bhikhu Parekh. These are well known authors who have had something to say about multiculturalism.

The first systematic theory was developed by Will Kymlicka in his two major works: Liberalism, Community and Culture (1989) and Multicultural Citizenship (1995). Kymlicka’s work was born out of discontent with the political theory of post-war liberalism, which according to Kymlicka was incorrectly assumed that the problem of national minorities could simply be resolved by guaranteeing the provision of basic individual rights. Kymlicka has developed a theory where he talks about group-differentiated rights for national respectively ethnical minorities in his book Multicultural Citizenship. Kymlicka argues that individual rights are not enough to protect minorities from majority oppression and therefore need special protection. Nevertheless, there are two claims about these group-differentiated rights; “internal restrictions” and “external restrictions”. The first one is aimed to protect the group from the destabilizing impact of what Kymlicka calls “internal dissent”. This means for

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11 Gaus & Kukathas 2004:250
12 Ibid. 2004:251
13 Ibid.
14 Kymlicka 1995:26-32
example that the decision of individual members not to follow traditional practices or customs. The second one is aimed to protect the group from “external decisions” such as economic and political decisions of the majority.\textsuperscript{15}

Taylor has written a well known essay, \textit{The Politics of Recognition}, where he discussed how important it is for a nation/group/culture to be recognized. He has developed a thesis which says:

\textit{“Identity is formed by others recognition, or the absence of it, and often its mis-recognition of it, so that one person or a group of people can suffer inconsiderably, suffer from a real distortion, if the people or the society surrounding them reflects a restricted or a degrading image of them”}.\textsuperscript{16}

Taylor further on argues that we, the individuals, have to accept that we are of same worth, regardless of culture, race etc. Individuals also have to realize that all cultures are of same worth, which also comprises the fact that we have to give them their recognition.\textsuperscript{17} What Taylor’s message here would be is that people, individuals, have to recognize each other’s cultures to be able to live in a society which stands for equality and freedom.

Barry is the one who criticizes multiculturalists all together. He argues that their theories are inconsistent with liberalism and that there is a lack of respect towards the liberal values.\textsuperscript{18} Barry further argues that “culture” can impossibly be used as a justification for anything.\textsuperscript{19} Barry believes that liberals are free to raise an objection towards the notion that the state is to encourage autonomy, however, without thereby being dedicated supporting the promotion of diversity.\textsuperscript{20} The liberal theory of minority rights that Barry introduces is that according to liberal views, groups should entail the greatest freedom to handle their business in agreement with the wishes of their members.\textsuperscript{21} The essential liberal position on group rights according to Barry is that all individuals should be free and have the right to associate together in whatever

\begin{thebibliography}{9}
\bibitem{Kymlicka1995} Kymlicka 1995:35
\bibitem{Taylor1994} Taylor 1994:37
\bibitem{Ibid1994} Ibid. 1994:67
\bibitem{Barry2001} Barry 2001:252
\bibitem{Ibid2001} Ibid. 2001:258-259
\bibitem{Ibid2001a} Ibid. 2001:146
\bibitem{Ibid2001b} Ibid. 2001:148
\end{thebibliography}
way they prefer. However, as long as they do not break laws which are intended to protect members outside the group.\textsuperscript{22} There are two conditions for this position on group rights, which are; all contestants should be adults of resonance and their participation in the group activities should be voluntary where they also have the freedom and right to cease the participation whenever they want to.\textsuperscript{23}

Barry believes that there should not be specific rights for minorities as it creates a larger diversity within a community. Further on, he argues that an individual should be free to choose whether he or she wants to stay within a group or to change over to another group which will benefit him or her additionally.\textsuperscript{24}

Parekh has in his book \textit{Rethinking Multiculturalism} (2000) discussed collective rights, where he argues that each culture has to accept others as equal conversational partners.\textsuperscript{25} He believes that a multicultural perception is composed of three complementary insights. The first one would be that human beings are culturally embedded, which means that they grow up and live within a culturally structured world. The second, diverse cultures symbolize different systems of meaning and visions of the good life to be able to enlarge its intellectual and moral perspective. Parekh further on argues that it is more likely to be wealthier if one benefit from others and that culturally self-contained life is almost impossible for most human beings in the modern world. The third and last insight says that most primordial cultures are internally plural and symbolize a continuing dialogue between their diverse traditions of strands and thoughts. According to Parekh, this implies that their identity is plural and fluid.\textsuperscript{26}

The differences between these four theorists are that Kymlicka has introduced group-differentiated rights, which differentiates ethnical and national minorities. Taylor believes that all individuals are equal and have the same freedom without making any difference between groups. Barry believes that there are groups, yet that individuals can choose whether to join or leave a group. Last but not least, Parekh believes that there are collective rights rather than

\textsuperscript{22} Barry 2001:148
\textsuperscript{23} Ibid.
\textsuperscript{24} Ibid. 2001:150-152
\textsuperscript{25} Parekh 2000:337
\textsuperscript{26} Ibid. 2000:336-338
group rights, as we are all individuals with different cultures, who nevertheless, have to live together and benefit from each other.

These four men have totally different views upon minority rights. Kymlicka believes that the minority groups shall have group-specific rights, where he distinguishes between ethnic and national minorities. He argues that the basis and acts of all social groups are cultural. 27  Another man agreeing with Kymlicka, that the cultural aspect is of significance, is Taylor. Taylor argues that the liberal theory, introduced by Barry, is incapable of giving culture the acknowledgement it requires. Further on, Parekh argues that each individual has grown up in a culturally structured world, which means that individuals do not choose their culture. Nevertheless, individuals are enabled to adopt other cultures except their own. 28

Another objection by Taylor, regarding liberalism, is that liberalism identifies individuals as the bearers of rights and holders of dignity as equal citizens regarding each person as fundamentally the same. 29  However, Barry argues that the whole point of liberal institutions is to leave people with a great deal of prudence in their demeanour. One of the ways in which individuals can exercise prudence is to voluntarily pursue the orders issued by bodies they concede. 30  What Kymlicka believes regarding liberalism is that liberalism protects the individual’s capability for autonomous choice. 31  Yet, it does not provide specific groups, such as minorities, with special rights in a society that is governed by a majority.

The most important objection from Barry towards Kymlicka is that Barry believes that liberal values limit the power of groups (be that minority or majority) over its members. Barry also believes that group-specific rights, such as Kymlicka’s, strengthen groups against their members and that it creates a “diversity” which systematically would weaken those rights of individuals to protection against groups that liberal states have as their concern to guarantee. 32  Parekh criticizes Kymlicka for making divergence between national and ethnical minorities.

27 Barry 2001:21
28 Parekh 2000:336
29 Gaus & Kukathas 2004:255
30 Barry 2001:124
31 Gaus & Kukathas 2004:256
32 Barry 2001:125
He believes that all groups, ethnical and national, should have same rights.\textsuperscript{33} This aspect is central in Kymlicka´s theory, that immigrants are the ones who have chosen to come to a country, whereas national minorities have not immigrated, rather been there dating back in the history. However, when a minority is governed by a majority, they have to have special rights to “defend” themselves from the decisions made by the majority. Barry’s liberal theory does not really understand that there are large differences between groups in our world and that these groups need special protection. A liberal world is hard to achieve, where we are all equal and we all agree. For this reason, Kymlicka has introduced an important theory where he believes that minorities, both ethnic and national, should be given special rights to have a life similar to the majorities as well as to survive in such a society.

As Croatia consists of both ethnical and national minorities and the aim of this thesis is to shed light on the national minority group, Croatian Serbs, Kymlicka’s theory is the one which is most suitable to this case. As Kymlicka has introduced both ethnical and national minority rights and made a clear difference between them, it will be a helpful tool in this thesis. Kymlicka believes that group-specific rights are necessary to protect cultural minorities from being oppressed by the majority, as well as to enable minorities to live a life same to the majority’s. Let us not forget that Kymlicka’s aim with group-specific rights is to strengthen the rights of cultural minorities, rather than creating a larger division between groups within a society.\textsuperscript{34} The aim of this thesis is to investigate what formal rights Croatian Serbs have in Croatia and how it virtually is. Kymlicka’s theory will function as a help-tool to find the fundamental rights for national minorities in Croatia and to further on enable to make a comparison between the formal and virtual national minority rights for Croatian Serbs.

\textsuperscript{33} Parekh 2000:103
\textsuperscript{34} Kymlicka 1995:126
3.2 Group Differentiated Rights

A quotation made by Kymlicka in his book *Multicultural Citizenship*, gives a good view of how a multicultural society may look like:

“Minorities and majorities increasingly clash over such issues as language rights, regional autonomy, political representation, educational curriculum, land claims, immigration and naturalization policy, even national symbols, such as the choice of national anthem or public holidays.” 35

Throughout the history, many efforts have been made to protect cultural minorities and to resolve minority conflicts. After the Second World War many liberals hoped that the new stress would be put on human rights and that it would resolve minority conflicts.36

Ever since the Cold War’s end, ethno cultural conflicts have become the most common cause for political violence in the world. 37 However, after the Second World War it was obvious that a new approach was needed towards minority rights.38 It became clear that minority rights could not be categorized under human rights, as traditional human rights values impossibly can resolve some of the most important and divisive questions relating to cultural minorities. Some of these issues are for example: Which language should be standard in the parliaments, bureaucracies and courts? Should ethnic or national groups have publicly funded education on their mother tongue? Should political offices be distributed in accordance with a principle of ethnic or national proportionality?39 Kymlicka argues that the issue with traditional human rights principles is not that they give us the wrong answer, rather that they do not give as an answer at all. The consequence of these kinds of problems is that these questions usually, in the end, have been left to the hands of the majority to make the decision.40 Kymlicka further on argues that this has resulted in that the minorities have been vulnerable to considerable injustice in the hands of the majority and has further on aggravated ethno cultural conflicts.41

35 Kymlicka 1995:1
36 Ibid. 1995:2
37 Kymlicka 1995:1
38 Ibid. 1995:2
39 Ibid. 1995:4-5
40 Ibid. 1995:5
41 Ibid.
He further on argues that it is little hope that secure peace will ever be established or that human rights will ever be respected, until the minority issues are resolved.42

Kymlicka distinguishes between two minority groups in his theory about minority rights; National and Ethnical minorities. “National minorities” constitutes groups who previously have been self-governed and territorially concentrated cultures, yet, they have later on been incorporated into the larger state. Kymlicka argues that their wish is to sustain as distinct societies in conjunction with the majority culture. They are also known by their wish to have some sort of self-government to ensure their survival as a distinct society. An example of such a minority would be the Chicanos who are descendants of the Mexicans and are residing in the south-west of the United States.43

The other minority, “Ethnic groups”, starts through individual and familial immigration. Ethnic groups are typically known for their wish to integrate into the larger society; they want to become full members of it. They often seek for greater acknowledgment for their ethnic identity. Their purpose is not to become a self-governing nation, rather to moderate the institutions and laws of the society and to make the whole society more complaisant of cultural differences.44 The ethnic groups´ distinctiveness can only be noticed in their homes and associations.45 Demands that ethnic and national groups can put on the majority are different between the groups.

3.2.1 Three Forms of Group-Differentiated Rights

A multinational state which grants universal human rights to all its citizens, not considering which group membership one has, can appear to be “neutral”. However, this is not always the case, rather the state systematically privilege the majority nation in specific fundamental ways. One example of this is the language of schools, governments and courts.46 Decisions like these can radically decrease the political power and cultural feasibility of a national minority, while at the same time increases the same of the majority culture. This is why,

42 Kymlicka 1995:5
43 Ibid. 1995:10-11
44 Kymlicka 1995:11
46 Ibid. 1995:51-52
according to Kymlicka, group-specific rights considering education, language and local autonomy are important for national minorities to reimburse the inequalities between minorities and the majority. Group-specific rights also guarantee that the national minorities will not be treated unfairly by the majority.\textsuperscript{47}

Kymlicka argues about three group-specific rights, which are; \textit{self-government rights}, \textit{polyethnic rights} and \textit{special representation rights}, which are used by modern democracies to accommodate cultural differences.\textsuperscript{48}

1. \textit{Self-government rights}. In most of the multinational states, the different nations are disposed to claim some type of political autonomy to be able to guarantee a free development of their cultures and the interests of their people. The right to self-government demands that political power should be delegated to the national minorities such as indigenous people. However, this is not possible for other cultural minorities such as immigrants.\textsuperscript{49}

2. \textit{Polyethnic rights} aims to help ethnic groups and religious minorities to express their cultural distinctiveness and pride without impeding in the economic and political institutions. An example of such help would be the public funding of ethnic associations, magazines and festivals.\textsuperscript{50}

3. \textit{Special representations rights}. The under-representation of historically underprivileged groups is a general phenomenon. One way to reform the inequalities is to make political parties more inclusive and reduce the barriers which restrain women, ethnic minorities or the poor from becoming party candidates or partly leaders or to inaugurate some form of proportional representation.\textsuperscript{51}

Critics towards the group-differentiated rights for national minorities may appear discriminatory since they assign individual rights and political powers differentially among the different groups in the society. However, if the group-differentiated rights did not exist,

\textsuperscript{47} Kymlicka 1995:52
\textsuperscript{48} Ibid. 1995:27, 33
\textsuperscript{49} Ibid. 1995:27-30
\textsuperscript{50} Kymlicka 1995:30-31
\textsuperscript{51} Ibid.1995:32
members of minority cultures would be deprived their rights to live and work in their own language and culture, which are by the majority group taken for granted.\textsuperscript{52}

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<tr>
<th>Self-government rights</th>
<th>Political autonomy</th>
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<tbody>
<tr>
<td>Polyethnic rights</td>
<td>Public funding</td>
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<tr>
<td>Special representation rights</td>
<td>Proportional representation</td>
</tr>
</tbody>
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\textbf{Figure 1: Group-Differentiated rights}

\textsuperscript{52} Kymlicka 1995:126
3.2.2 Three Arguments for Group Differentiated Rights

The initiation of group-specific rights for minority groups is according to the liberal tradition motivated with three arguments; the equality argument, the role of historical agreements and the value of cultural diversity.

According to the equality argument, group-specific rights for ethnic and national minorities are needed to guarantee that all citizens are treated equally in a society. Some groups who belong to the minorities are unfairly underprivileged in the larger society. This could be corrected by giving the minorities political recognition. However, group-differentiated rights such as territorial autonomy or language rights could decrease the disadvantage of the minority groups through alleviation of the vulnerability of the minority cultures in the larger society. This would further on ensure that members of minority groups could live and work in their own culture in the same way as the majority. Further on, Kymlicka states that the equality argument can be used to support national minorities, but only if they really are disadvantaged and that these rights can make up for the disadvantages.

The realization of historical agreements such as treaty rights of indigenous people, are important according to the equality principals. The way in which a certain national minority was integrated into a society gives rise to specific group-differentiated rights. If the integration of a national minority happened through a voluntary federation, the rights might be written down in treaties and agreements which give moral and legal arguments to respect these. However, if the integration happened involuntary, the national minorities have the right to claim self-determination. Kymlicka argues that it is important to respect these kinds of treaties, not only for the reason to respect the self-determination of the minority, but also to guarantee that citizens can have trust in their government.

The third argument for group-specific rights for national minorities is the one that is founded on the value of cultural diversity. Cultural diversity is something that many people find attractive as it avoids to solely rely on the interests of group members, but instead focuses on

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53 Kymlicka 1995:108
54 Ibid. 1995:109
55 Ibid.1995:109-110
56 Ibid.1995:109-110
57 Ibid. 1995:116-117
58 Ibid. 1995:119
how the larger society benefits from group-differentiated rights.\textsuperscript{58} One example which is worth mentioning here is the one where the indigenous peoples provided the society a model of sustainable relationship to the environment.\textsuperscript{59} However, Kymlicka argues that it is wrong to put too much weight on this argument as a defence of national minority rights, as the value of intra-cultural diversity has less application to an intercultural diversity.\textsuperscript{60} The reason for this is that when minorities are given group-specific rights, they automatically are given greater opportunities to develop within their own culture. This gives the minority group the opportunity to both develop in their own culture as well as in the culture of the majority. However, national minority rights do not extend the possibilities of choice for the majority group in the same way.\textsuperscript{61}

Even in a multicultural society, most of the people from the majority group do not choose to assimilate into a minority culture, but rather to keep its own culture. This means that the majority group has fewer opportunities to take part of the minority culture in the same way as the minority group has to the majority’s. The majority group cannot be favoured by a cultural diversity in the same way as the minorities. Kymlicka also argues that most majority groups have not had the interest in maintaining minority cultures and they probably never will have any interest in preserving their cultures on only the basis of their obligations of justice if they will not gain something in the process. Since the diversity argument only can extend individuals possibilities of choice to and extent, Kymlicka considers that only the diversity argument itself is insufficient to justify the rights of national minorities and should therefore be combined with some of the other two arguments.\textsuperscript{62}

As the two former arguments entreaty to the obligations of the majority, this third argument entreaties to the interests of the majority and defends rights in terms of self-interest not justice.\textsuperscript{63}

\textsuperscript{58} Kymlicka 1995:121
\textsuperscript{59} Ibid.
\textsuperscript{60} Ibid.
\textsuperscript{61} Kymlicka 11995:121
\textsuperscript{62} Ibid. 1995:121-123
\textsuperscript{63} Ibid. 1995:121
3.3 Analysis Frame

Kymlicka’s differentiates between national and ethnical minorities. National minorities are indigenous people or people who have been living in the country for decades. Ethnical minorities are minorities who have immigrated to a certain country and who have no intentions of self-governance, rather to integrate to the new society. According to Kymlicka these two groups should have access to different rights. Kymlicka argues that national minorities should have access to self-government whereas ethnical minorities have different rights from the national. Ethnical rights according to Kymlicka are rights to public funding where ethnic and religious groups can express their cultural distinctiveness and pride. The Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities does not differ between national minority rights and ethnical minority rights; yet, it talks about “minorities” as a unit, which constitutes national, ethnical, religious and linguistic minorities.

Kymlicka’s theory on national minority rights will in this thesis be used as a normative model of what minority rights a national minority should have in a country and how the majority should treat its national minorities in a democratic state. As earlier mentioned, the focus will be on the Croatian Serbs in Croatia and not the other national/ethnic minorities.

The reason for choosing Kymlicka’s theory is because he discusses minority rights, he distinguishes national minorities from ethnic and as he is the leading political philosopher in the area of multiculturalism and since he has developed a pioneering theory on minority

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64 Kymlicka 1995:30
66 Gaus & Kukathas 2004:255
This is the reason why this theory is interesting to apply in thesis, to give a view on what rights a national minority group should have according to Kymlicka and what formal minority rights are present in Croatia’s constitution and what rights do the national minority, Croatian Serbs actually have in reality. As Croatia implemented a constitution in December 2002 which gives national minority groups their rights, it is further on interesting to really see how it is in reality. Have the minority groups of Croatia been given group-differentiated rights?

The analysis frame which has been constructed and illustrated demonstrates the important elements of Kymlicka’s theory and will further on be illustrated in the analysis where the formal and actual minority rights will be discussed and compared.

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<thead>
<tr>
<th>Self-government rights</th>
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<td>Polyethnic rights</td>
<td>Public funding</td>
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<td>Special representation rights</td>
<td>Proportional representation</td>
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*Figure 3: Analysis frame*

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67 Gaus & Kukathas 2004:255
4. Findings

4.1 The Serb minority

The Croatian Serbs are not the only national minority in Croatia. There are a number of national minorities in the country, where the Serbs constitutes the largest national minority (4.5%). Other national minority groups are Bosnians (0.47%), Italians (0.44%) and 0.21% which includes Hungarians, Albanians, Slovenes and Romani people.\(^{68}\) The Serb minority groups were and are situated mostly in parts of the Krajina region as well as in Eastern Slavonia.\(^{69}\) The Serb minority has been present in Croatia for hundreds of years. In the end of 1800-century, Ante Starčević believed that everyone living in Croatia were Croats. Ethnical and religious aspects were what he called “other things”.\(^{70}\) The Croatian Serbs differs from Croats through their religion and culture, as they belong to the Orthodox Church and Croats to the Catholic Church.\(^{71}\) Serbs speak Serbian and Croats speak Croatian. The script of the Serb language is in Cyrillic.\(^{72}\)

4.2 Formal Minority Rights of the Republic of Croatia

On the 13\(^{th}\) December in 2002 Croatia adopted the Constitutional Law on the Rights of National Minorities (CLNM).\(^{73}\) In article 5, a national minority is defined as:

“A national minority in the sense of this Constitutional Law shall be a group of Croatian citizens (državljani), whose members have been traditionally settled in the territory of the republic of Croatia, and who have ethnic, linguistic, cultural and/or religious characteristics which are different than those of other citizens (gradani), and who are guided by the wish for the preservation of those characteristics”.\(^{74}\)

\(^{68}\) http://www.manskligarattigheter.gov.se/dynamaster/file_archive/060131/3e83797c61e2c15035ea5d4881f48cc6/Kroatien_05.pdf p.10
\(^{69}\) Bartlett 2003:39
\(^{70}\) Fredborg 1994:82
\(^{71}\) Judah 1997:43
\(^{72}\) Ibid. 1997:44
\(^{73}\) http://www.manskligarattigheter.gov.se/dynamaster/file_archive/070306/dfbbe587060e52a68f8032f99921b83c/Kroatien%5f%5f2006.pdf p.7
Croatia has defined what characteristics constitute a national minority, however, not recognized which people are their national minorities. Yet, what we do know is that Croatian Serbs are the largest national minority in the Republic of Croatia.\textsuperscript{75}

The Constitutional Law further on argues that any discrimination based on affiliation to a national minority shall be forbidden. This Constitutional Law shall make it possible to exercise certain rights and freedoms for the national minorities in the Republic of Croatia.\textsuperscript{76}

4.2.1 Education and Language

In \textit{Article 10} it says that members of national minorities should have the right to freely use their language and script, privately and publicly, including the right to display signs, inscriptions and other information in the language and script they use. \textit{Article 11} argues that members of national minorities also should have the right to education in the language and script they use. The education of members of a national minority should be performed in pre-school institutions, primary and secondary schools and other institutions in the language and script they use. The law further on argues that school institutions with education in the language and script of a national minority may be established for a smaller number of scholars than exist in the schools where education is performed in the Croatian language and script. Nevertheless, scholars being educated in the language and script of national minorities should also learn the Croatian language and Latin script apart from their own language and script. Scholars who attend schools in the Croatian language and script should be enabled to also learn the language and script of their national minority.\textsuperscript{77} However, the equal official use of the language and script used by members of a national minority should be exercised in the area of a local self-government unit, however, only when the national minority consists of at least one third of the population of the unit.\textsuperscript{78}

\textsuperscript{75}http://www.manskligarattigheter.gov.se/dynamaster/file_archive/060131/3e83797c61e2c15035ea5d4881f48ce6/Kroatien_05.pdf p.10
\textsuperscript{76} http://www.osce.org/documents/me/2002/12/1921_en.pdf p. 2
\textsuperscript{77} http://www.osce.org/documents/me/2002/12/1921_en.pdf p.4-5
\textsuperscript{78} Ibid. 2002:5
4.2.2 Culture

*Article 14* argues that the use of signs and symbols of national minorities and the celebration of national minorities’ holidays should be free. National minorities also have the freedom to display signs along with signs and symbols of the Republic of Croatia. When the national or a solemn song of the minority is to be performed, the National anthem of the Republic Croatia should be performed beforehand.\(^9\)

Members of national minorities have the right to establish associations, endowments and foundations as well as institutions for the performance of public information activities, cultural, publishing, museum, archival, library and scientific activities to preserve their national and cultural identity. The local and regional self-government units have to finance these sorts of activities on their own. Associations of members of national minorities may also organize events where guest performances by professional and amateur cultural and art groups. Other cultural and art performances and exhibitions which contribute to the enrichment of the culture and identity of a national minority are also welcomed.\(^8\) The Constitutional Law further on argues in *Article 16, paragraph (4)*, that members of national minorities have the right to freely express their religious affiliation and to practice their faith as well as the right to belong to a religious community.\(^7\)

Media such as radio and television at the national, regional and local level have the task to promote understanding for members of national minorities and to produce and broadcast programmes which are intended for the information of members of national minorities in their languages. Such programmes and broadcasts are intended to preserve, develop and promote national minorities’ cultural and religious identity. Legal persons such as the press, radio and television, should enable associations of members of national minorities and institutions of national minorities to participate in the formation of the programme which is intended for national minorities.\(^8\)

\(^8\) Ibid. 2002:6
\(^7\) Ibid. 2002:6
\(^8\) Ibid. 2002:7
The state budget as well as the budgets of local and regional self-government units should provide funds for co-financing of programmes of radio and television stations which they own and which are intended for national minorities.\(^{83}\)

**4.2.3 Influence and Representation**

*Article 19* states that the Republic of Croatia should guarantee members of national minorities the right to representation in the Croatian Parliament. The Republic of Croatia should also guarantee members of national minorities the right to representation in the representative bodies of local and regional self-government units.\(^{84}\) However, the CLNM\(^{85}\) does not give national nor ethnical minorities the right of political-autonomy in any region of the country. Members of national minorities should be guaranteed representation in the state administration and judicial bodies. Members of national minorities should also be guaranteed representation in the administrative bodies of self-government units.\(^ {86}\)

In local self-government units in the area of which more than 200 members of an individual national minority are living and regional self-government units in the area of which more than 500 members of a national minority are living, can elect the Council of National Minority. However, ten members of a national minority shall be elected into the Council of National Minority of a municipality. 15 members can be elected into the Council of National Minority of a town and 25 members into the Council of National Minority of a county. The members of the Council of National Minority and minority representatives should be elected directly through secret ballots.\(^{87}\) To be represented in the Parliament a minority has to constitute at least 1, 5 per cent of the total population. Minorities that make up to at least 5-15 per cent of the whole population on the local level have the rights to at least one deputy in local councils. However, those minorities constituting more than 15 per cent have the right to proportional representation in the local councils.\(^ {88}\)

\(^{85}\) CLNM- Constitutional Law on National Minority Rights
\(^ {87}\) Ibid. 2002:10
The self-government units should provide funds for the work of the Council of National Minority. This also includes the funds for the performance of administration tasks for their needs. However, the funds for the exercise of certain programmes of the Council of National Minority, can also be provided from the state budget of the Republic of Croatia. The funds which the Council of National Minority gain from the state budget of the Republic of Croatia or the budget of a self-government unit, can only be used for the purposes determined by the Council for National Minorities.

According to Article 31, the Council of National Minority in a self-government unit should have the right to: Propose the bodies of a self-government unit in measures for the enhancement of the position of a national minority in the state or in an area thereof, including the submissions of proposals of general acts which regulate the issues of meaning for a national minority to the bodies which implement them; propose candidates for duties in state administrative bodies and bodies of self-government units; be informed about each issue which the working bodies of the representative body of a self-government unit will discuss, and which concerns the position of a national minority; provide opinions and proposals with regard to the programmes of radio and television stations at the local and regional level intended for national minorities or programmes which deal with minority issues.

Article 35 states that the Council for National Minorities should be established in order for national minorities to participate in the public life of the Republic of Croatia and particularly to discuss, propose, regulate and resolve issues related to the exercise and protection of rights and freedoms of national minorities. The tasks of the Council for National Minorities are the following: propose to the bodies of state authorities to discuss certain issues of importance for national minority, particularly the implementation of this Constitutional Law and special laws regulating minority rights and freedoms; propose to the bodies of state authorities measures to improve the position of a national minority in the state or in an area thereof; provide opinions and proposals about the programmes of public radio stations and public television intended for national minorities and about the manner in which minority issues are being treated in the programmes of public radio stations and public television and other media; propose the

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90 Ibid.
undertaking of economic, social and other measures in the areas that are traditionally or in
significant number inhabited by members of national minorities in order to preserve their
existence in those areas; the request and acquire from the bodies of state authorities and
bodies of local and regional self-government the data and reports required for discussing the
issues from its scope of activities; invite and request the presence of representatives of bodies
of state authorities and bodies of local and regional self-governments, which competence
includes the issues from the scope of activities of the council established by this
Constitutional Law and the Statute of the Council.92

The Council for National Minorities should also co-operate in the issues of interest for
national minorities in the Republic of Croatia with the competent bodies of international
organizations and institutions which deal with national minority issues. It is the Council for
National Minorities who has the task of allocating the funds which are provided from the state
budget for the needs of national minorities. The Council in turn has to inform the Government
of the Republic of Croatia and the Croatian Parliament in which way the money has been
spent.93

Article 36 states that the Government of the Republic of Croatia has the task of appointing
members of the Council for National Minorities for a four-year-term. Seven members of
national minorities, from among the members who are proposed by Councils of National
Minorities can be elected. Five members of national minorities from among the ranks of
differentiated cultural, scientific, expert, religious employees, from the ranks of persons who
have been proposed by minority associations and other minority organizations, religious
communities, legal persons and citizens and members of national minorities.94

92 http://www.osce.org/documents/me/2002/12/1921_en.pdf p.15
93 Ibid.
94 Ibid. 2002:16
<table>
<thead>
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<th>Kymlicka</th>
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<th>Formal Minority Rights</th>
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<tbody>
<tr>
<td>Self-government rights</td>
<td>Political autonomy</td>
<td>No such right</td>
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<td></td>
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<td>Not included in CLNM</td>
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<tr>
<td>Polyethnic rights</td>
<td>Public funding</td>
<td>State budget and regional</td>
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<td>self-government funding</td>
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<td>Special representation rights</td>
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<td>Parliament: 1, 5 % and</td>
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<td></td>
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<td>Local level: 5-15 %</td>
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*Figure 4: Analysis Frame comparing Kymlicka’s minority rights and the formal minority rights of the Republic of Croatia.*
4.3 Virtual Facts

4.3.1 Education and Language

It is not enough to only implement national minority rights. The most important aspect is to respect the rights of national minorities and to really implement them. Not until year 2001 did the Croatian government and people become more tolerant towards the Serb minority. However, the rights of the Serb minority were still not respected and realized, rights as using their language in administrative affairs in municipalities and the right of Serb children to a special curriculum. However, later on they started to enhance their rights to education in the minority language. Education and language are two different rights minorities should be allotted in order to have an intercultural dialogue. This promotes educational and social unity among different minorities. As stated in Article 11, paragraph 5, that children belonging to national minorities should have the right to education in their language and script. Several minority schools have already been established even before the adoption of CLNM, one Hungarian minority school in Eastern Slavonia and Italian minority schools in Istria.

Nevertheless, the Serb minorities in Eastern Slavonia, to be more specific, in Vukovar, were educated in the Serbian language even before any Serbian schools were established. The education was provided according to model “A” in Serbian, which is the “beginning” level of the language. The education was mixed with both Croatian language and Serbian. The second and fifth grades were taught in both Croatian and Serbian, while the fourth grade was taught only in Serbian. The third and seventh grades are taught in only Croatian. However, the children of Serb minority who are being educated in only Croatian have the possibility of attending education in Serbian.

In Vukovar-Sirmium area, there are 3500 scholars who are being taught in the Serb minority language. The literature for the schools is imported from the origin country of the minorities, where the Serb minority imports their books from Serbia. However, the literature has to be examined and verified by the Croatian Ministry of Verification. Its responsibility is to make

97 www.culturalpolicies.net/web/croatia.php?aid=421
99 Ibid.
100 http://www.vukovarske-novine.com/novine/256/05.pdf
sure that the literature imported is according to the educational curriculum of the Republic of Croatia.\textsuperscript{101}

Teachers of these schools have to either be members of the Serbian minority or persons who acquire the knowledge of the language and possess the level of the language. As the education is performed in both Croatian and Serbian, teachers originate from both the Serb minority and the majority.\textsuperscript{102}

A parental association in Vukovar has taken action to integrate the school classes to create a multiethnic environment in the schools. Today there are some schools where segregated classes exist between children belonging to the Serb minority and children belonging to the Croatian majority. The schools have two shifts where Croatian children sometimes attend school in the morning while the Serb minority children attend in the afternoon, or the other way around.\textsuperscript{103} The project is called “\textit{Nova Škola}” (The New School), which aims to integrate children from different ethnic backgrounds and to build a multiethnic environment. The project is being performed by parents, tutors, as well as other citizens of Vukovar. “\textit{Nova Škola}” will also have its own curricula, already developed by the Institution for Education of the Republic of Croatia in Osijek together with tutors, parents and children.\textsuperscript{104}

Today there is a total amount of two upper secondary schools for Serb minority children in Croatia, where one is in Vukovar and one in Beli Manastir.\textsuperscript{105} There is one upper secondary school in Zagreb, “\textit{Kantakuzina- Katarina Brankovic}”, which has been established by the Serb Orthodox church in Zagreb.\textsuperscript{106} Apart from these schools there are four schools of senior level and seventeen compulsory schools where education is only performed in Serbian. There is also one technical school and three kinder gardens for the national minority Serbs.\textsuperscript{107} In March 2007 another Serb minority pre school has been established in the municipality of Erdut.\textsuperscript{108} The Serb minority children in the Krajina region (Municipality of Knin) attend

\begin{thebibliography}{99}
\bibitem{101} http://www.vukovarske-novine.com/novine/256/05.pdf
\bibitem{102} Ibid.
\bibitem{103} http://www.ndcosijek.hr/nova%20skola/inicijativa.html
\bibitem{104} Ibid.
\bibitem{105} http://www.sdss.hr/vijesti/linkovi.htm
\bibitem{106} www.carnet.hr/clanice/skole/rz
\bibitem{107} http://www.sdss.hr/vijesti/linkovi.htm
\bibitem{108} http://www.opcina-erdut.hr/novosti/
\end{thebibliography}
education in Croatian; however, they have possibilities of learning their minority language as well.\textsuperscript{109}

The schools receive money from the local self-government unit, which in turn has received money from the state budget.\textsuperscript{110} However, the Government’s Council for National Minorities has a special fund for supporting activities and projects by national minorities. This would include cultural projects in the fields of media, arts and heritage and other events and festivals as well as projects promoting educational and social unity and intercultural dialogue.\textsuperscript{111}

4.3.2 Culture

Culture is another important right minorities should be allotted. Through culture, minorities can enhance their cultural heritage and art through different associations. Culture does not only include art and history, but also religion and media. Article 14 states that national minorities are allowed to use signs and symbols. The municipality of Erdut would be a good example, where the municipality has a flag and the script is both in Latin and Cyrillic.\textsuperscript{112}

There are also a large number of Serb minority associations. The largest cultural association “Prosvjeta” is situated in Zagreb.\textsuperscript{113} There are about twenty cultural associations named “Prosvjeta” in the Republic of Croatia who promote the Serb culture.\textsuperscript{114} The cultural association “Prosvjeta” in Zagreb have an own library which has been funded by the Ministry of Culture. When CLNM was implemented the association started to have extra

\begin{footnotesize}
\begin{itemize}
\item\textsuperscript{109} http://www.palmecenter.se/RegionerOchLander/VastraBalkan/Kroatien/Artiklar/P_Konfliktenmellandeetniska grupperna.aspx?tipsa=true
\item\textsuperscript{110} http://www.vukovarske-novine.com/novine/256/05.pdf
\item\textsuperscript{111} http://www.unhchr.ch/html/menu3/b/d_minor.htm
\item\textsuperscript{112} www.opcina-erdut.hr
\item\textsuperscript{113} http://www.skdprosvjeta.com/page.php?id=3
\item\textsuperscript{114} http://www.sdss.hr/vijesti/linkovi.htm
\end{itemize}
\end{footnotesize}
education in the Serbian. This education programme received funding from the Council for National Minorities. Not only Serbian is being taught, also Serbian history, literature, art, geography and music are subjects which are educated.\textsuperscript{115} The association also has a drama group whose aim is to teach the young people how to communicate with their surrounding, to teach the youth to develop a democratic society in the Republic of Croatia, to co-operate with other drama groups of different ethnical backgrounds as well as performing humanitarian aid.\textsuperscript{116}

There are also other kinds of associations such as hunting associations. There are four registered Serb minority hunting’s associations in Croatia, whereas the most of them are located in Eastern Slavonia.\textsuperscript{117} Sport associations such as football and chess exist in Eastern Slavonia. There are four football clubs and one chess club.\textsuperscript{118}

Not only cultural associations exist, there are a number of other organizations such as “The association of disappeared people of Vukovar”, “The association of Serbian language and literature”, “The association for alternative civil and ethnic relations” etc.\textsuperscript{119} Most of these associations are established and located in Eastern Slavonia around the Vukovar-Sirmium area. The Serb minority associations receive funding from the Council for National Minorities and the Ministry of Culture.

The Roman Catholic Church in Croatia was not very tolerant towards other religious affiliations in the beginning of this century. The church joined the right wing parties and supported speeches against minorities where expressions of intolerance and xenophobia were uttered.\textsuperscript{120} In year 2002, the Croatian Parliament passed a law, \textit{the Law on the Legal Position of Religious Communities}, which allowed other religious affiliations to practice their faith and to establish schools and humanitarian organizations.\textsuperscript{121} Today there are a number of Orthodox

\textsuperscript{115} http://www.skdprosvjeta.com/page.php?id=
\textsuperscript{116} http://www.skdprosvjeta.com/page.php?id=56
\textsuperscript{117} http://www.sdss.hr/vijesti/linkovi.htm
\textsuperscript{118} Ibid.
\textsuperscript{119} http://www.sdss.hr/vijesti/linkovi.htm
\textsuperscript{120} http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=1782
\textsuperscript{121} http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=1322
churches around the country. Some to mention would be the Orthodox community in Karlovac, Slavonia-Sirmium-Baranja area, Krajina area, Dalmatia as well as in Zagreb.\footnote{http://www.sdss.hr/vijesti/linkovi.htm, http://www.veritas.org.yu/publikacije/Bljesak/tekstovi/8.htm} In the beginning of 2000, the media was dominated by HDZ. The Croatian TV, \textit{HRT}, was highly dependent on the governing party.\footnote{www.ifh-hr.org/documents/doc_summary.php?sec_id=3&d_id=2010} The following year, year 2001, Tuđman held a monopoly of the media market and manipulation of information occurred continuously. Hate speeches towards the Serb minority was a common occurrence.\footnote{http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=1782} Not until 2003-2004 did the media change its attitudes towards the Serb minority. In 2004 a new TV channel came to Croatia, \textit{TV Nova}, which allowed for more cultural pluralism and slowly transformed itself to a public TV broadcast.\footnote{http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860} A year later, in 2005, another TV channel came to Croatia, the German TV channel \textit{RTL}. Same year the Council for Electronic Media was established, which allocates funds to encourage cultural pluralism among electronic media.\footnote{http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057} Today \textit{HRT} broadcast Serb minority’s cultural and religious events. However, the broadcast of minorities can still be improved.\footnote{http://vijesti.hrt.hr/ShowArticles.aspx?ArticleId=42685} Today there are three Serb minority radio stations in Croatia, \textit{Radio Dunav, Radio Borovo and Radio Banjska Kosa}.\footnote{http://www.sdss.hr/vijesti/linkovi.htm}

### 4.3.3 Influence and Representation

The minorities have right to proportional representation in both the Parliament and on local levels. The first elections for national minorities were held in Croatia in 2003.\footnote{http://www.gong.hr/eng/Downloads/Elections_Minority_2003.pdf} In the beginning of 2004 the Croatian Government marked that it wanted to improve the situation for the minorities and formalized a co-operation with the Serb party the Serb Independent Democratic Party (SDSS). They gained three seats in the parliament and the minority issues gained more importance than before.\footnote{http://www.manskligarattigheter.gov.se/dynamaster/file_archive/070306/dfbfe587060e52a68f8032f99921b83c/Kroatien%5f%5f2006.pdf} However, in 2005 when elections were held, the Croatian Government decided in secret to found the election for the national minorities on year 2001’s census of population instead of 2005’s. This resulted in a lower share of
representatives of the national minorities, especially the Serbs. The share of Serbian representatives was lower in accordance to the actual population.\footnote{http://www.manskligarattigheter.gov.se/dynamaster/file_archive/070306/dfbfe587060e52a68f8032f99921b83c/Kroatien\%5F\%5F2006.pdf}

In some cases there may be multiple minority councils. In Vukovar-Sirmium area there are about eleven minorities who are entitled to form a council.\footnote{http://www.osce.org/documents/mc/2003/05/1920_en.pdf}

Today Croatia has enormous pressure from EU to implement all rights for minorities in the country. On the 15\textsuperscript{th} of June 2007 \textit{“Ista Ekipa- Različite Boje”} (Same Team but Different Colours); where representatives of the Republic of Croatia, representatives of the national minorities and a number of associations gathered in the city of Zagreb. President Mesić held a speech this day where he stated:

\begin{quote}
\textit{“As President of all citizens of Croatia I would like to invite you to the elections of your representatives of the Councils of National Minorities! This will with no doubts be an important step towards future improvements in the protection of national minorities in the Republic of Croatia, and to our democratic development and solid community and safety”}\footnote{http://www.gong.hr/hr/gong.asp?cat=6&cl=1003}
\end{quote}

On the 17\textsuperscript{th} of June 2007, minority elections were held in twenty counties and 175 towns and municipalities.\footnote{Ibid.} There are today a total number of 320 Councils of National Minorities with 69 representatives in the Republic of Croatia.\footnote{www.ljudskaprava-vladarh.hr/default.asp?ru=1&gl=200702150000001&sid=&jezik=1} Serb minority Councils of National minorities can be found in Knin, Beli Manastir, Pakrac, Lipik, Okučani, Požega, Rijeka, Zagreb, Osijek with others.\footnote{http://sdss.hr/vijesti/linkovi.htm , www.knin.hr/stranice/o_kninu/nacionalne_manjine.asp}

Today Croatia has three Serb political parties, SDSS, PPS (Partija Podunavskih Srba/ The Party of the Danube Serbs) and SDBS (Srpska Demokratska Baranjska Stranka/ The Serb Democratic Party of Baranja), where SDSS is the one which is representing the Serb minority in the Parliament. Its representatives are Ratko Gajica, Milorad Pupovač and Vojislav
Apart from political parties, there is also a Serb non-governmental association in Croatia, the Serb Democratic Forum. This NGO works for human rights and rights of national minorities and has its office in Zagreb.

The municipality of Erdut is an example of a municipality in Croatia where the majority in the local-self-government unit is constituted by Serbs. As the Serbs constitute 53.91 percent of the population in the municipality and the Croats constitute 37.03 percent. The local government Councillor is Serb and a member of the SDSS party. The local council is constituted of nine seats for SDSS members and six seats for Croatian representatives.

<table>
<thead>
<tr>
<th>Formal Minority Rights</th>
<th>Virtual Minority Rights</th>
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<tbody>
<tr>
<td>State budget and regional</td>
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</tr>
<tr>
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</tr>
<tr>
<td>Proportional representation</td>
<td>3 representatives in the Parliament</td>
</tr>
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<td></td>
<td>Local Councils</td>
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</tbody>
</table>

*Figure 5: Comparison of the Formal Minority Rights and Virtual.*
5. Answer to the questions

The purpose of this study has been to investigate the national minority rights in the Republic of Croatia by analyzing Croatia’s *Constitutional Law for National Minority Rights*. Further on, to compare the formal national minority rights with the virtual national minority rights regarding the Croatian Serbs. Since Kymlicka’s theory, the formal national minority rights and the virtual national minority rights have been discussed in the previous chapters, the questions of the study will now be answered.

**What formal minority rights do Croatian Serbs have in Croatia?**

In 2002 Croatia implemented a *Constitutional Law on the Rights for National Minorities*, which extended the rights of the minorities than they have had before. The constitution has not defined who the national minorities are; however, the Serbs are not regarded as an ethnic minority in the country, rather as a national. Education, language and culture are three areas which have been considered in this thesis as they demand public funding as well as they enlarge the freedom of minorities and the maintenance of their cultural heritage.

The CLNM says that national minorities should have the right to freely use their language and script both privately and publicly. The minority also has the right to display signs and information in their own language and script. Furthermore, that members of national minorities should have the right to education in the language and script they use. Nevertheless, scholars being educated in the language and script of national minorities should also learn the Croatian language and Latin script apart from their own language and script. The article further on argues that the equal official use of the language and script used by members of a national minority should be exercised in the area of a local self-government unit. However, this might only occur when the national minority consists of at least one third of the population of the unit.

The Constitution allows members of national minorities to establish their own associations and cultural activities which will preserve their national and cultural identity. These sorts of cultural activities should be financed by the regional self-government unit. The minorities
have the right to religious affiliation and to practice their faith and to belong to a religious community with no restrictions.

Media such as radio and television at the national, regional and local levels have the task to promote understanding for members of national minorities and to produce and broadcast programmes which are intended for the information of members of national minorities in their languages. Further on, press, radio and television should enable their associations of members of national minorities to participate in the formation of the programmes which are intended for national minorities. Funding should be provided from the state budget as well as the budgets of local and regional self-government units.

National minorities in Croatia do not have the right of political autonomy in any region of the country as it is not stated in CLNM. However, national minorities do have the right to proportional representation in the local self-government as well as in the Croatian Parliament. The amount of representatives for the minorities in the local self-government units depends on the number of minorities.

The self-government units should be provided with funding from the Council for National Minorities for their performance of administration tasks for national minority’s needs. The Council for National Minorities should also co-operate in the issues of interest for national minorities in the Republic of Croatia with the competent bodies of international organizations and institutions which deal with national minority issues. The Government of the Republic of Croatia appoints members of the Council for National Minorities for a four-year-term. However, Croatia’s Constitutional Law on the Rights of National Minorities does not provide political autonomy for its minorities.

The comparison between Kymlicka’s group-specific rights and the formal national minority rights of the Republic of Croatia are illustrated further on in figure 5.
**Kymlicka** | **Kymlicka** | **Formal Minority Rights** |
---|---|---|
Self-government rights | *Political autonomy* | No such right |
 |  | Not included in CLNM |
Polyethnic rights | *Public funding* | State budget and regional self-government funding |
Special representation rights | *Proportional representation* | Parliament: 1, 5 % and Local Level: 5-15 % |

**Figure 6:** Analysis Frame comparing Kymlicka’s minority rights and the formal minority rights of the Republic of Croatia.

**What minority rights do Croatian Serbs have in reality?**

To be able to compare the formal national minority rights in Croatia with the virtual, an investigation of today’s virtual national minority rights for the Croatian Serbs has been made.

The Serb minority have several schools established where their children attend classes in Serbian and learn their script Cyrillic. Most of the schools are established in Eastern Slavonia in Vukovar as a large number of Serbs live there. In some schools education is provided in both Croatian and Serbian. However, today it is estimated that about 3500 children of the Serb minority in the Vukovar-Sirmium area attend education in Serbian. However, there are still schools where the classes are segregated.

There are a large number of Serb minority associations in the country where the largest one is situated in Zagreb. They are all called “Prosvjeta” and have different activities like drama groups, education about Serbian history and literature and dancing. There are not only cultural associations, yet, also sport associations such as hunting and football.

Today there are a number of Orthodox churches around the country. Some to mention would be the Orthodox community in Karlovac, Slavonia-Sirmium-Baranja area, Krajina area, Dalmatia as well as in Zagreb. During religious holidays one can see broadcasts from ceremonies held in Orthodox churches.
The Serb minority has three radio stations in Croatia, Radio Dunav, Radio Borovo and Radio Banjska Kosa where both Croatian news as well as Serbian are broadcasted. Funding for associations is received from the Council of National Minorities and from the Ministry of Culture.

There is a total number of 320 Councils of National Minority in the country, whereas Serb minority Councils of National Minority can be found for instance in Rijeka, Osijek, Beli Manastir and Knin.

The analysis frame illustrated the comparison between the formal and virtual national minority rights of the Serb minority:

<table>
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</tbody>
</table>

*Figure 7: Comparing the Formal Minority Rights and Virtual.*

To sum up, Croatia has good intentions of preserving the Serb minority in the country. The study has shown that the Croatian minority politics have touches of Kymlicka’s group-specific rights, rights to education, language, culture and proportional representation. However, according to reports the minorities still face other difficulties.
6. Conclusion

As a result of the multicultural societies of today, researchers have been eager to find solutions to the problems that multicultural societies around the world face. Minority issues gained a lot of attention after the end of the Second World War. It has been stated that minorities have been discriminated and subjugated by the majority through the history in both Croatia as well as in the rest of the world. However, the problem still remains in what ways a democratic state should compensate minorities’ disadvantageous position in a majority society, which will ensure all individuals’ equal rights and equivalence.

The aim of this thesis was to investigate what formal minority rights Croatian Serbs have as well as what rights the Serb minority actually have in reality. To be able to reach this aim, two questions were formulated; what formal minority rights do Croatian Serbs have in Croatia? What minority rights do Croatian Serbs have in reality?

A survey of Kymlicka’s theory on minority rights showed that Kymlicka believed that a state has to provide its minorities with group-specific rights like the right to education and language as well as the right to proportional representation. He believes that this will compensate the disadvantageous position of the minorities in a majority. However, Kymlicka makes a distinction between national minorities, which for example consist of indigenous people, whereas ethnic minorities consists of immigrants. Kymlicka argues that these groups can claim different rights.

Croatia has not defined which minorities are regarded as national minorities. However, the Serbs are being spoken of as a national minority. The national minorities have been allotted group-specific rights which are stated in The Constitutional Law on the Rights of National Minorities. These rights are rights to education and language, proportional representation in both the Parliament as well as in the local self-government units. The study has shown that even though Croatia has a positive view of the Serb minority, it sometimes lacks in practice. Explanations to this can either be that the Government of Croatia has not taken the opinions of the minorities seriously or that the old nationalism still is present in the country or that the minorities do not participate enough. However, which answer is the right one will remain unsaid in this study.
A comparison between Kymlicka’s normative theory and the formal national minority rights in Croatia showed that there are some similarities between them. Nevertheless, there are also some differences. However, the similarities are to be found in the arguments that Kymlicka has developed as a defence for the group-differentiated rights. Regarding the equality argument, I consider that Croatia has shown, by providing the national minorities with some group-differentiated rights must have a perception that the national minorities are more or less neglected in the Croatian society. These rights help to compensate the inequalities between the minority and the majority population. One can state that the Croatian approach to minority rights on this point is in accordance with Kymlicka.

The second argument, historical agreements, is to be granted to indigenous people. However, the Serb minority is not regarded as indigenous people of the Republic of Croatia, yet, rather as the largest national minority in the country. The Croatian perception of minority rights does not coincide with Kymlicka on this point as there is no political autonomy for national nor ethnical minorities.

The third argument, the value of cultural diversity, can be attached to the Croatian minority policy. According to Kymlicka, many are attracted to this argument as it does not only see to the interests of group members, yet, how the whole society is advantaged of group-specific rights. This can be seen in the Constitutional Law on the Rights of National Minorities in Article 3 (paragraph 2), that ethnic and multicultural diversity should contribute to the development of the Republic of Croatia. This has also been shown with the large number of different Serb minority associations in the country, which are promoting their cultural heritage in different ways.

Serbs are granted public funding for their cultural promotion and development from different bodies, such as the Councils of National Minority and the Ministry of Culture. Further on, proportional representation in both the Parliament and in local self-government units has been shown. There are today three Serb minority representatives belonging to the SDSS party who represent the Serb minority in the Parliament. Further on, there are some municipalities where the Serbs constitute a majority. An example would be Erdut where the local council consists of a Serb majority. A number of Councils of National Minorities have been established. From
here, one can conclude that Croatia somewhat respects its national Serb minority, however, one also has to realize that conditions always can be improved.

Croatia has a reasonably good perception of minority rights as well as towards the Serb minority, as they have been allotted group-specific rights. I believe that Croatia’s formal minority rights (*Constitutional Law on the Rights of National Minorities*) are to a high extent in accordance with Kymlicka’s normative theory only differentiating on the point of political autonomy. Moreover, Croatia has shown that they have improved their perception of the Serb minority as well as the respect towards them.
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