What's new in human rights doctoral research

A collection of critical literature reviews Vol. IV

edited by

Pietro de Perini, Paolo De Stefani

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Introduction

Pietro de Perini and Paolo De Stefani

For the fourth time in a row we are pleased to edit this series of critical literature reviews by doctoral students at the early stage of their research careers in the complex and multifaceted field of human rights. From its first edition in 2017, *What's new in human rights doctoral research* has nurtured the ambition to getting young human rights researchers up to speed with the requirements and rigour of academic publishing while putting them in the position to provide concrete contributions to scholarship from the initial stage of their Ph.D. career. Besides providing updated and, thus, always necessary critical revisions of the state of the art in a wealth of scholarly fields related to human rights, each of these chapters already promises innovative and original perspectives on the existing literature, uncovering gaps and discussing further paths to research, bridging different conceptual debates and favouring new steps in consolidating multi-disciplinarity, an increasingly crucial requirement for meaningful and comprehensive understandings of human rights complexities. In other words, the books of this series aim to be the first (promising) step in the careers of new cohorts of young and well-equipped research students.

After three years during which publication in the volumes was, in fact, reserved to the doctoral students enrolled in the International Joint Ph.D. Programme in 'Human Rights, Society and Multi-level Governance' (a joint degree now promoted by the University of Padova – coordinator, the University of Western Sydney, the University of Zagreb and the University of Nicosia), we have decided to try and reach out to students from programmes carried out in other partner universities which, however, are not part of the Joint Ph.D. consortium. The contribution by Mr David Weiss, doctoral student at the University of Graz, Austria, is a first result of this attempt. In gradually extending this opportunity to other partner programmes and institutions we hope that this series can gradually become a 'reference database' of literature reviews for researches on human rights

themes and a tool to favour exchanges and, eventually, a fruitful debate within a growing transnational community of young scholars.

As in the previous volumes of this series, the themes, disciplines and conceptual approaches that are dealt with by the authors are very heterogenous. This is not by chance. Two doctoral programmes are represented in this book and, especially in the joint doctoral programme, there is no common theme or discipline to frame applicants' proposal. On the contrary, the programme provides a wealth of topics, research lines and disciplinary expertise to better support and guide students' research interests, passions and ambitions. In spite of this expected heterogeneity, though, a number of issues transversally intersect the range of literature reviews proposed in this volume. One is the complex nexus between religion and human rights which underlies the first three chapters of the book. The three articles also share a predominantly sociological perspective on these matters. Another theme regards the rights of "minorities", a common concern for the second chapter – with reference to religious minorities –, and the sixth and last chapter, on sexual and gender minorities in contexts of humanitarian crises.

We can notice that while some matters can be studied within the framework of a relatively consolidated human rights academic discourse and by applying to the social facts being observed an appropriate normative frame, in some other domains – including most of those explored in this volume – a comprehensive human rights theory or (more modestly) a human rights lens, is not yet available. The challenge that researchers had to undertake was therefore a double one: to seek in the academic literature what theoretical conceptualisations have been developed to investigate a given problem, but also – and maybe more significantly – to select, shape and pre-comprehend social and political dynamics (such as lobbying in the European Parliament, forms of congregationism in Europe, disasters' impact on gender and sexual minorities…) so as to make a human rights scholarly inquiry meaningful and productive.

More specifically, in Chapter 1 Asia Leofreddi aims to investigate the complex link between citizenship, religion and human rights from a sociological perspective. Besides discussing the three concepts and their interrelations, the author underlines the need for scholarship to develop a more robust theoretical and empirical conceptualisation of citizenship and religion with a view to better address, at national and global level, the conceptual and empirical challenges posed by these concepts to contemporary pluralistic societies. Chapter 2, by Teuta Stipišić, deals with these three concepts (citizenship, religion and rights) from the specific perspective of Croatian citizenship policies across a three-phased time frame. More specifically, the author analyses change and continuity in the con-

ceptualisation and implementation of citizenship in a changing socio-political context paying specific attention to the role of religion and of the Catholic Church specifically, in affecting Croatian identity and the position and status of religion minorities in the country in relation to the State and their rights. In Chapter 3, Martina Mignardi places the focus on religious congregations and their relations with religious diversity, stressing the opportunity to consider congregational studies as an approach to both assess religious diversity and effectively investigate the nexus between religion and human rights. Before discussing these points, the author investigates different understandings of the concept of congregation and provides a thorough review of congregational studies with a particular attention to the US and Europe. Chapter 4, authored by David Weiss, brought in the volume the disciplinary perspective of translation and interpreting studies. His research focuses on the pressing issues and challenges identified in the academic literature when it comes to the implementation of the right to the free assistance of an interpreter for foreign-language defendants in criminal proceedings. Mr Weiss's literature review exposes the need for interdisciplinarity in scholarship and collaborative practice among professionals. In Chapter 5, Abdollah Baei Lashaki deals with a specific sub-set of the literature on lobbying and interest representation in European policy- and decision-making. More specifically, the chapter analyses the informational lobbying agency of human rights NGOs, focusing in particular on their strategies, informational determinants and access opportunities to the European Parliament. Finally, in Chapter 6, Valentin Mahou-Hekinian addresses the implications of humanitarian crises for sexual and gender minorities, placing particular attention on the literature and data related to the consequences for LGBTQ+ minorities of contexts of natural disasters, pandemics, technological/industrial disasters and war/armed conflict.

Conceptualising Citizenship for Empirical Research on Religious Freedom

Asia Leofreddi
University of Padova

The aim of this article is to examine the dimensions of citizenship and assess the relationship among the concepts of human rights, religion and citizenship from a sociological perspective. It consists of four parts. In the first part, it will explore the contested and multidimensional concept of citizenship seeking to highlight the principal dimensions that emerge from theoretical perspectives on it. In the second part, by focusing on the relationships between citizenship and human rights, it will give account of one important transformation in citizenship studies - their so-called "global" turn. In the third part, it will consider different theoretical connections between citizenship and religion in sociological and political field, focusing above all on the challenges posed by secularism to equal citizenship in multi-religious societies. Finally, it will seek to draw some conclusions, stressing the importance to develop a more robust theoretical and empirical conceptualisation of citizenship and religion for better addressing, at national and global level, the scientific and practical challenges posed by them to contemporary pluralistic societies.

Key words: citizenship, religion, human rights, religious freedom

Introduction

Citizenship is an 'essentially contested concept' which means that it has many different meanings depending on the different perspectives of interpretation, and 'there is a feeling that dogmatism, skepticism and eclectism are none of them the appropriate attitude towards that variety of meanings' (Garver 1978). Citizenship is strictly connected with democracy (Delanty 2007) and equality (Janoski 1998), which, from a sociological per-

spective, means with 'the problem of unequal distribution of resources in society' (Turner 1997). Resources that are not only 'the traditional economic resources of housing, health, income, and employment', but also 'cultural resources such as education, knowledge, religion and language' (Tuner 1997, 6).

Traditionally object of philosophical and political research (e.g. Rawls 1971; Beiner 1995), since Marshall's work (1992 [1951]) on relationships between citizenship, social classes and capitalism, the concept of citizenship started to gain the attention of the sociological community. However, it was only in the 1990s that citizenship emerged as a '*de facto* field' (Isin and Turner 2002) of social sciences. In a world deeply challenged by global migrations, the rise of social movements and the emergence of new claims for inclusion by new and old minorities, scholars and activists saw the need to address these transformations, by studying no longer the legal dimensions of citizenship, but rather the rules and norms of inclusion and exclusion of individuals and groups, the struggles to expand and protect citizenship rights, and the emergence of claims for new types of rights in addition to the Marshallian civil, political and social ones. As Isin and Turner (2002, 4) wrote, in that period emerged 'a sociologically informed definition of citizenship in which the emphasis is less on legal rules and more on norms, practices, meanings, and identities'. Or, as Yuvas-Davis (1999, 94) stated, citizenship started to be conceived as 'a more total relationship, inflected by identity, social positioning, cultural assumptions, institutional practices and a sense of belonging'.

However, despite the proliferation of sociological studies on citizenship, little attention has been paid to relationships between citizenship and religion. The aim of this paper is to address this gap in literature. It consists of four parts. In the first part, it explores the contested and multidimensional concept of citizenship trying to highlight the principal dimensions that emerge from sociological theoretical perspectives on it. In the second part, it gives an account of one important transformation in citizenship studies, their 'global' turn (see Stokke 2017), by focusing on the relationship between citizenship and human rights. In the third part, it considers different theoretical connections between citizenship and religion in the sociological and political field, by highlighting on the challenges posed by secularism to equal citizenship in multi-religious societies. Finally, the conclusions stress the importance to develop a more robust theoretical and empirical conceptualisation of citizenship and religion to better address the scientific and practical challenges posed by them to contemporary pluralistic societies.

1. Dimensions of Citizenship in Sociological Perspective

1.1. Citizenship as a Set of Rights

In sociology, the first to conceptualise citizenship was Thomas H. Marshall, in his famous work *Citizenship and Social Class* (1992 [1951]). Marshall distinguished three forms of citizenship, each of which has developed during specific historical periods and corresponds to a set of specific rights and institutions protecting them. *Civil citizenship* has developed in the 18th century and corresponds to those rights necessary for individual freedom - such as freedom of expression, freedom of religion, the right to property and the right to justice - which are mainly protected by the courts. *Political citizenship* was built in the 19th century and can be summed up in the right to participate in political power, both as a member of its organs and as a voter. The institutions of reference are parliaments or local colleges. Finally, *social citizenship*, which emerged in the 20th century, refers to the rights to economic and social assistance that find expression in the modern European welfare system.

Marshall inaugurated the sociological study of citizenship, laying the foundations for the study of inequalities produced by capitalism (i.e. Barbalet 1989; Mann 1987). However, over the time, its classification of rights has been revised and extended. One of the most successful categories were cultural rights (Miller 2002), and then other forms of rights such as participation rights (Janoski and Gran 2002), multicultural rights (Kymlicka 1995), or environmental rights (Smith and Pangsapa 2008). Although Marshall's theory remains an important legacy for the sociology of citizenship, it has undergone a series of evolutions that have revised and expanded not only the Marshallian dimension of rights, but its entire conceptual framework.

1.2 Citizenship as Membership

First of all, greater attention has been paid to the dimension of membership. Scholars underline how its merging with that of nationality (see Arendt 1979 [1951], Heater 1999) has made citizenship not only an element of inclusion but also of exclusion of all those subjects who did not comply with the established criteria of belonging. As Stokke writes (2017) membership 'highlights that citizenship is based on a distinction between *insiders* and *outsiders* in a community, but the meaning of community and the criteria for inclusion vary over time and space' (Stokke 2017, 26).

According to Brubaker (1992), different ideas of nation - and different nation-building projects - have given shape to different definitions of citizenship in Europe. The author makes the example of France and Germany. While the French nation focuses more on the acceptance of common law within a defined territory, the German nation emphasises the idea of ethnic commonality, by replacing the concept of law and territory with that of blood. According to Janoski (2008, 9), there are two approaches that scholars can use when study the conditions of belonging: an *external approach* that means studying 'how aliens *from outside* the nation-state obtain entrée and then become naturalized as citizens with attendant rights and obligations'. Or also, an *internal approach* that consists in assessing 'how non-citizens *within* a nation state [...] – stigmatized ethnic, racial, gender, class, or disabled people – gain rights and recognition as citizens'.

1.3 Citizenship as Practice and Participation

In recent decades, new approaches have begun to expand the idea of citizenship, making it a dynamic rather than a static concept. Instead of being framed as a status obtained from state, it started to be defined as a practice through which the citizen put actively herself at the centre of democratic process.

Some sociologists, according to Somers (1993), citizenship had to be defined as an "instituted process" involving the law, national organisations and civil society and producing dramatic differences in the implementation of rights, even within the borders of the same nation-state. For Turner (2000, 2), citizenship was a 'set of practices (juridical, political, economic and cultural) which define a person as a competent member of society, and which as a consequence shape the flow of resources to person and social groups'. The emphasis on practices clearly underlines the idea of citizenship as historically shaped by political and social struggles (see also Turner 1992). Finally, Isin and Nielsen (2008) went even further, introducing the concept of 'acts of citizenship'. According to them, neither attention to status nor attention to practices can capture the forms and contents of those acts that break social and historical patterns, by producing new forms of citizenship. In their opinion, 'acts of citizenship' are 'those acts when, regardless of status and substance, subjects constitute themselves as citizens, or better still, as those to whom the right to have rights is due'.

Although the analysis of citizenship as a process or practice has had great support in sociology, it seems more useful for a theoretical than an empirical framework. In fact, processes and practices are more independent variables explaining citizenship (Janoski 1998, 11), than dimensions

of the concept, rather than the dimensions of its concept. In this perspective, the concept of active citizenship that looks at citizens as 'creators and model makers' rather than at 'users and service selectors (Cornwall and Gaventa 2000) is in fact more useful. In their conceptualisation of citizenship rights, Janoski and Gran (2002,14) divide also rights in *passive* and *active*: 'with *passive rights* alone, a beneficent dictator could rule with limited legal rights and extensive social rights in a redistributive system. *Active rights* bring citizens in a democracy to the foreground in politics and even the economy'.

1.4 Citizenship as Right to Recognition of Different Identities

In recent decades, the emergence of increasingly diverse and multicultural societies led scholars to re-think the inclusionary aspect of citizenship and to focus on exclusion of class, gender, ethnic, and cultural identities different from dominant ones (see e.g., Benhabib 1996; Fraser and Honnet 2003; Isin and Wood 1999; e.g. 2001). The central idea was that, despite its commitment to principles such as equality, participation and the rule of law, the ideals of liberal democracy have served as masks to disguise forms of discrimination, oppression and misconception based on class, gender, race, ethnicity, age and ability (Isin and Wood 1999, vii). The works of multicultural theorists (Kymlicka 1995; Taylor 1994; Young 1990) have been prominent on these issues, and even if they fall in the field of political theory, they have had relevant implications also for sociology. The basic assumption of first multiculturalists was that state's institutions which 'purport to be neutral among different groups ... are in fact implicitly tilted towards the needs, interests, and identities of the majority group; and this creates a range of burdens, barriers, stigmatizations, and exclusions of members of minority groups' (Kymlicka and Norman 2000, 4). Kymlicka (1995) moves within the liberal framework, in particular the one proposed by Rawls, who was particularly concerned about how to guarantee equal citizenship and democratic freedom to individuals of different faiths and convictions, thus avoiding that any one prevails over the other. However, although Kymlicka shares with Rawls 'the normative primacy of liberalism' (Modood 2013), he does not share his solution of neutral state towards every conception of good. By contrast, he argues that instead of being confined to the private sphere, in order to be treated as equal, bearers of ethnical and cultural diversities require protection, participation in the public sphere and institutional presence. As Roberts and Somers (2008, 404) state: 'living in a multicultural world challenges traditional understandings of the rights and obligations of citizenship' and 'whereas social inclusion has traditionally been a rights

claim under the principle of redistribution', today it is also under 'the right to recognition – the right to be acknowledge by others as moral equal'.

1.5 Towards a New Conceptualisation of the Concept

As this first approach shows, citizenship is a complex concept and a definition of it must take into account multiple dimensions, which in turn must be assessed at various levels of content, extent and depth. As Joppke (2007, 38) writes: 'there is a need for a comprehensive theory of citizenship that is capable of connecting developments in one dimension of citizenship with developments in other dimensions'. But while his solution is a tripartite model that interprets citizenship as *status*, *rights* and *identity*, ours cannot fail to include *membership* - in its double value, both internal and external - and above all *participation*, as we shall see in the debate on citizenship and religion.

2. The Global Turn: What is the Role of Human Rights?

In the first decade of 2000, in the light of major global changes, the concept of nation-state started to reveal itself inadequate to analyse social justice. Indeed, 'thanks to heightened awareness of globalization, and to post-Cold War geopolitical instabilities, many observe that the social processes shaping their lives routinely overflow territorial borders' (Fraser 2005). In particular, one of the most striking features of globalization has been the development of human rights. Since the Cold War, indeed, on the one hand, 'human rights become positive law rather than just universal moral principles or political aspirations' (Nash 2009, 1070), increasingly affecting both international law and domestic legislation. On the other hand, they became a 'hegemonic language for formulating claims to rights beyond national belonging' (Soysal 2012, 384). Thus, scholars began to question the relationship between the human rights of people and those of citizens who are part of a nation-state. In fact, although 'they share similar roots in liberal individualism' (Nash 2007, 1078), they substantially differ and pose new practical and theoretical challenges.

In *The Law of Peoples* (1999, 79), Rawls wrote that 'human rights are distinct from constitutional rights, or from the rights of liberal democratic citizenship'. Also according to Isin and Turner (2007, 12), citizenship rights can be called ‘contributory rights’ because effective claims against a society are made possible by contributions that citizens have made to society typically through work, war, or parenting. By contrast, human rights are rights enjoyed by individuals by virtue of being human, and as a consequence of

their shared vulnerability'. For Roberts and Somers (2008, 387), 'citizenship is a social artifact of law, politics, and the public sphere. Its hallmarks are membership; legal doctrines of exclusion; attachment to the nation-state; particularistic, limited freedoms; and territoriality'. By contrast, rights (human rights but also rights in their more abstract sense) 'are theorized to be found in a notional state of nature alleged to protect against coercive state power and political tyranny. Their hallmarks are universality; equal inclusion; freedom as autonomy; and presocial, antipolitical placelesness'.

In sociology, the debate on relationships between citizenship and human rights addresses two questions. On the one hand, how to build new analytical tools in order to approach the normative nature of human rights, making sociology capable of dealing with the great questions of the contemporary world[1]. On the other hand, how to approach the national model of citizenship in a world deeply globalized. Have human rights definitely transformed national citizenship and made it irrelevant for the contemporary world? Or has national citizenship remained a fundamental concept for evaluating democratic processes and making human rights meaningful and effective?

In what follows, we will explore how sociological literature has answered the second question. Indeed, for this contribution, to go into the field of sociology of rights would be too complex, even though its indisputable importance for scholars who want to study human rights from a sociological perspective. We will present, in particular, the sociological approaches to the issue that seem to us the most relevant to both formulate empirical hypotheses and give as much complete account as possible to different sociological perspectives on the subject.

2.1 National Citizenship as the Foundation of Human Rights

Some authors, despite acknowledging the importance of the globalization of human rights for citizenship, believe that its national dimension is still relevant for the enjoyment of human rights, especially in the absence of a global political community able to enforce them. However,whether for some citizenship and human rights are in a strict contraposition, for others they are mutually intertwined. The first to argue the priority of citizenship rights on human rights was Hannah Arendt. In her *The Origins of Totalitarianism* (1979 [1951], 296) she, in open criticism with the Rights of Man, famously stated: '[A] man who is nothing but a man has lost the very qualities which make it possible for other people to treat him as a fellow man'. In her view, indeed, rights are the product of membership in a political community, defined as a 'place in the world which makes opinions signifi-

[1] On sociology of rights see Frezzo (2015); Nash (2015); Morris (2006).

cant and actions effective'. Without citizenship rights, there are no human rights. According to Arendt, indeed, humanity is marked by vulnerability, and stateless people and minorities may be exposed to extreme forms of violence. In this perspective, the right to be a national citizen is the only right that enables to claim human rights, as she famously stated, it is 'the right to have rights'.

Roberts and Somers (2008) challenge the Arendtian dichotomy between human rights and citizenship, without, however, completely renouncing her model. Although embracing Arendt's position on the priority of the right to membership in a political community, they expand it by adding the Marshallian idea of social inclusion and the idea of human rights as remedies against human vulnerability and precariousness of social institutions (see Turner 2006). Thus, they write: (2008, 414): 'With political and social membership as the precondition for human recognition, human rights and citizenship rights are not in opposition but are both rooted in that which endows us with our humanity: the recognition that comes only from attachments and inclusion'.

Finally, according to Isin and Turner (2002, 6), 'although human rights and social rights often appear to be in conflict from a legal standpoint, in practice people typically claim human rights from the basis of a pre-existing or articulable citizenship rights'. In their view the problem is that there does not exist a global state able to make human rights 'justiciable'. However, the authors do not accept the contraposition between effective citizenship rights and vague human rights. And although they affirm (2007) that 'effective human rights regimes actually require state stability and the institutionalization of national citizenship' - defining this latter as the 'foundation of human rights'-, they conclude (2008, 6): 'human and social rights are more likely to be compatible than mutually exclusive. Where citizenship rights fail to provide protection of individuals from the state, the individuals will appeal to international courts for protection of human rights'.

2.2 Contemporary Citizenship at the Intersection between the Local and the Global

Another perspective in the analysis of relations between citizenship and human rights is that which sees national sovereignty, and the model of national citizenship based on it, strongly undermined by the imposition of human rights as a global discourse, as well as the model of multi-level governance (see Levey and Sznaider 2006). In political theory, Seyla Benhabib (2004) states that citizenship has become cosmopolitan through the

affirmation of human rights at a global level. On the one hand, this step was made necessary by the need to recognize rights also to immigrants, people not belonging to the national political community; on the other hand, by the transformation of human rights from moral norms to positive law, binding on states. Seyla Benhabib proposes the concept of 'democratic iteration' to describe the way in which the state, law and civil society 'challenge and contextualize' human rights, leading to the creation of a cosmopolitan political community in which the difference between citizens and non-citizens is made superfluous. However, from a sociological perspective, Benhabib's theory appears too abstract, particularly because of her optimistic interpretation of the development of positive law towards ever greater recognition of human rights by states and greater equality in the distribution of rights at the national level.

In sociology, Yasmine Soysal (1994, 2012) challenges the model of national citizenship, proposing that of post-national citizenship. According to her (1994, 1), 'in the post-war era a new and more universal concept of citizenship was developed, whose organisational and legitimising principles are based on universal personality rather than national belonging'. In her perspective, therefore, belonging is no longer based on notions of a common territory and culture, but on the more universal and deterritorialised concept of people's rights. However, it is worth to notice, that although rights are now separated from national belonging, identities acquire importance, becoming symbolic tools to build group solidarities and mobilizations. According to Soysal (2012, 386), it is precisely this 'decoupling of rights and identity' to be one of 'the most elemental characteristics of post-national citizenship'.

Soysal's post-national citizenship is the product, in one way, of the predominant role of human rights on evaluations of political legitimacy and on new language of rights claims; in another way, of 'the emergence of multilevel polities' that make 'political authority [...] increasingly dispersed among local, national and transnational political institutions' (Soysal 2012, 384). However, unlike Benhabib, Soysal's concept has neither the normative nature of cosmopolitanism, centred on the transformative power of universal rights in terms of inclusion and equality, nor does it imply a complete decay of national sovereignty in favour of transnationality. On the contrary, 'post-national rights are results of struggles, negotiations and arbitrations by actors at local, national and transnational levels and are contingent upon issues of distribution and equity. Like any form of rights, they are subject to retraction and negation' (Soysal 2012, 392).

Seyla Benhabib assumes that '*iterations* of human rights are actually democratic' (Nash 2009, 1069). By contrast, Kate Nash (2009), as sociologist, while taking for granted the impact of human rights on national

communities, asks *how* this development actually impacts relationships between citizens and non-citizens in nation-states. 'From a sociological perspective the enjoyment of rights is never simply a matter of legal entitlement; it also depends on social structures through which power, material resources and meanings are created and circulated'. According to Nash, instead of witnessing the emergence of a cosmopolitan ideal aimed to abolish the distinction between citizens and non-citizens, cosmopolitan law contributes 'to the complication of citizenship as a rights-bearing status, to the concretization of new forms of inequality between citizens and non-citizens, and even to violation of human rights as such' (Nash 2009, 1070). The result of this 'complication' is what Nash (2009, 1071) calls the 'actually existing' cosmopolitan citizenship, namely a proliferation of citizenship statuses where 'the members of each group enjoy a different package of formal and substantive rights according to their situation as citizens or non-citizens, the way in which states administer human rights, and their access to material and moral resources within that state'.

2.3 Local and Global as new Citizenship Axes

As this debate demonstrates, contemporary citizenship requires not only multidimensional but also multilevel analysis, in which the three fundamental axes mentioned by Isin and Turner (see paragraph 1) must be added to the 'spatial' dimensions of the local and global. This requires an even greater effort of conceptualisation and even less reliance on the formal aspects of citizenship. Moreover, the study of citizenship rights as composite and intersectional rights, formed by a complex interaction between the national plan of law, the domestic context of material and moral resources, and the global plan of international law and human rights, becomes more and more necessary.

3. Citizenship and Religion: New Challenge for Sociology

While the sociological literature on citizenship and its relations with human rights is extensive, the same is not true for its relations with religion. The relationship between citizenship and religion, in fact, has been more investigated in contemporary political theory (e.g., Laborde 2017, 132-143; Spinner-Halev 2000, Whiteman 2002) than in sociology, except for research

on Islam (i.e. Amiraux 2014; della Porta et al. 2020; Soysal 1997). Or rather, sociology has on several occasions contextualised some of the normative principles of political theory relevant for the study of citizenship and religion - such as neutrality of state (e.g.. Calhoun et al. 2011; Joppke 2015; Kosmin 2006; Stepan 2010) or multiculturalism (e.g. Voyer 2013) - but in these debates it has rarely openly addressed citizenship as such. The reason for this lack is that, in academic debate, it is tacitly assumed that citizenship is the result of secularisation, that 'it is *par excellence* a product of secularity' (Turner 2002, 263; see also Calhoun 2008). On the contrary, on the one hand, Turner (2002, 2017) has shown that the origins of Western citizenship can be found also in 'the theological division between faith and politics, in Protestant congregationalism, in religious notions of equality, and in religious objections to arbitrary power' (Turner 2002, 263); on the other hand, sociology has demonstrated the still alive public role of religions in Western public spheres (Casanova 1994), which is reflected in Western public debates increasingly divided on ethical issues ranging from abortion to euthanasia, from the role of women to the possibility of wearing the veil in public institutions (see Euchner 2019). Thus, despite the commitment of most liberal democracies to respect freedom of religion and conscience, and despite the fact that, at least in the West, most states have implemented forms of secularism, they often need to resolve, both politically and legally, conflicts due to differences in convictions and religions, with important consequences for citizenship of religious groups. The question that therefore arises is: is citizenship secular? And if we assume it is, what are the implications for religious citizens in terms of equality of all?

In the following paragraphs, we will highlight some aspects of the theory, first political and then sociological, on the relationship between citizenship and religion. In particular, we will explore the implications of the liberal concept of state neutrality towards religion for the equal citizenship of religious minorities, highlighting the way the topic has been conceptualised by sociological theory.

3.1 Secularism and its Challenges to Equal Citizenship

As Calhoun (2008, 7) writes: [t]he main issue was once religious diversity ... Today the issue is often faith itself ... the question of whether religious arguments have a legitimate place in public debates'. As we stressed above, participation in the public sphere is one of the central dimensions of citizenship, therefore taking into account constraints placed on religious arguments to be part of the public debate is extremely relevant in every analysis of equal citizenship in multi-religious societies. As Calhoun (2008,

8) writes: 'Regardless of one's opinion about the truth of religious convictions, this is a big issue for democratic citizenship. It bears directly on the extent to which one of the most fundamental of all citizenship rights is open to all citizens'.

In political theory the work of John Rawls (1971, 1993) has been prominent on these issues and has also had a relevant influence in other fields and in the wider debate about state neutrality and secularism. According to Rawls, equality between citizens and their democratic freedom would only be protected if the state remains neutral towards any particular cultural, ethnic or religious belief. Only if the state, therefore, had remained neutral with regard to 'all conceptions of good' (Rawls 1971). Rawls was aware that Western democracies were characterised by a deep pluralism, so he believed that justice, in order to function, had to be independent from any comprehensive doctrine and supported by what he called an 'overlapping consensus', namely 'a consensus that includes all the opposing philosophical and religious doctrines likely to persist and to gain adherents in a more or less just constitutional democracy' (Rawls 1985, 225-226; Rawls 1993). Rawls' liberalism recognises a certain degree of legitimacy to religious identities and practices in public life, but only if they are translated in secular language. His idea of public reason, as regulative idea of society, presupposes that all comprehensive doctrines may be accepted in public discussions 'provided that in due course proper political reasons — and not reasons given solely by comprehensive doctrines — are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support' (Rawls 2005, 462). Although Rawls seems 'to show his sympathy for religion as a source of values that can inform people's conceptions of the good' (Wagenvoorde 2015, 34), his idea of public reason and overlapping consensus re-proposes the distinction typical of political liberalism between the public and private spheres and *de facto* excludes religious arguments from the former to relegate them to the latter.

As we have seen when discussing the role of identity in citizenship theories, the liberal idea of neutrality of State has been widely criticised by multiculturalists such as Kymlicka, Norman or Young. However, unlike Rawls, they did not pay much attention to religious minorities, 'lumping' them together with ethnic minorities and immigrants (Shachar 2001). According to Modood (2013), Kymlicka's theory (1995), although fundamental for his criticism of Rawlsian neutrality, is characterised by (liberal) secularist bias. As Modood points out, indeed, although Kymlicka recognizes in the Rawlsian liberal neutrality a source of discrimination and an objective impossible to pursue politically, he believes that it is unfair only to equal citizenship of ethno-cultural minorities. Matters related to religious minorities 'seem for him to fall within the ambit of the tradition-

al freedoms of worship, association and conscience. The only additional questions, for Kymlicka, that political multiculturalism has to consider in relation to religious minorities are exemptions, rather than, as in the case of other cultural groups, demands for democratic participation, for public resources or institutional presence' (Modood 2013, 26). Thus, the point is: 'For, if neutrality is incoherent, how can we apply it to religious groups? If it is unfair to ethnocultural groups, then is it not unfair to ethno-religious groups?' (Modood 2013, 24). According to Modood (2013, 61), whether political multiculturalism has to take in consideration identities, regardless of any moral consideration, only because 'they are important to the bearers of those identities', it has to recognize also 'the normative significance of religion, namely, it offers identities that matter to people' (Modood 2013, 73). Therefore, he (2013; see also Levey and Modood 2009) expands the criticism to liberal neutrality, adding the analysis of the implications of liberal conception of secularism[2] for equality of religious minorities. Discussing the condition of Muslim minorities in Britain, Modood states with Kastoryano (2007) that the normative secular distinction between 'public' and 'private' is a source of discrimination and marginalisation of religious minorities. Considering the public sphere as morally neutral means to draw a distinction between politics/law and culture that does not exist in reality: 'no regime is outside culture, ethnicity or nationality, and changes in the latter will have to be reflected in the political arrangements of the regime'. This blindness means that citizens who share the national religious culture that has historically shaped the public sphere will find their identity more adequately reflected in the 'political identity of the regime', a disadvantage of religious minorities who will feel excluded. Therefore, in Modood's view (2013, 28): 'The state may need to desist from exclusively promoting one religious community but this does not imply the privatization of religion or a separation between religion and the state but may require forging a new, positive relationship with a marginalized religious minority'.

As for Modood and Kastoryano, also according to Casanova (2009, 2014) some forms of secularism may have relevant implications for the achievement of multicultural equality. Casanova distinguishes between two secularisms (2012, 28-32): 1) secularism as a statecraft principle; 2) secularism as ideology. The former refers to 'some principle of separation between religious and political authority either for the sake of the neutrality of the state vis-à-vis each and all religions, or for the sake of protecting

[2] It is worth distinguishing between neutrality and secularism. As C. Laborde (2017, 114) writes: 'liberal egalitarians have suggested that liberal states should not be secular: they should instead be neutral. That is, states should not endorse any conception of the good, religious or not. On this view religion is not special: it is only a subset of a broader category of conceptions of the good; and secularism is only a subset of liberal neutrality'.

the freedom of conscience of each individual, or for the sake of facilitating the equal access of all citizens, religious as well as non-religious, to democratic participation'. It is worth noticing that it does not encompass any substantive definition of religion. Indeed, this is its elemental difference with the second concept, secularism as ideology. According to Casanova:

> Secularism becomes an ideology the moment it entails a theory of what 'religion' is or does. It is this assumption that 'religion', in the abstract, is a thing that has an essence or that produces certain particular and predictable effects, which is the defining characteristic of modern secularism. It is the essentialising of 'the religious', based on problematic assumptions of what 'religion' is or does, which is in my view the fundamental problem of secularism as ideology.

The ideology of secularism may be divided in two types. In the first type, called 'philosophical-historical' secularism, fall all secularist theories on religion that ' are manifested in the assumption that to be secular means to leave religion behind, to emancipate oneself from religion, thus overcoming the non-rational forms of being, thinking and feeling associated with religion'. By contrast, the second type, defined as 'political' secularism refers to the moment when '"the political" arrogates for itself an absolute, sovereign, quasi-sacred, quasi-transcendent character or when 'the secular' arrogates for itself the mantle of rationality and universality, while claiming that "religion" [is] dangerous and a threat to democratic politics once it enters the public sphere'.

Casanova urges us to become aware of such prejudices and to avoid any binary - religious or secular -interpretation of the history of religion and Western world. In fact, it is precisely this awareness that will succeed in guaranteeing the equal citizenship of all. A purpose which is the same as that of Calhoun, who writes (2008, 21):

> Rethinking the implicit secularism in conceptions of citizenship is important for a variety of reasons from academic soundness to practical fairness. It is all the more important because continuing to articulate norms of citizen participation that seem biased against religious views will needlessly drive a wedge between religious and nonreligious citizens. This would be most unfortunate at a time when religious engagement in public life is particularly active, and when globalization, migration, economic stresses and insecurity all make strengthening commitments to citizenship and participation in shared public discourse vital.

3.2 Empirical Researches on Citizenship and Religion

The lack of theoretical studies linking citizenship and religion is also reflected in empirical research. Even in this field we find works addressing topics relevant for the study of citizenship (see, for example, Putnam and Lim, 2010), but only few cite it directly. Therefore, we have decided to focus on two researches that have dealt more closely with the relationship between citizenship and religion in the public domain, leaving to future contributions to connect this topic with others developed in other fields.

The questions of secularism and multicultural citizenship of religious minorities finds a place in the Breskaya and Giordan's quantitative research (2019) on the social perception of religious freedom (SPRF). In order to understand the intergroup dynamics of the SPRF, the two authors include in their questionnaire three independent variables referring to citizenship and to citizenship and religion: 'citizenship status', 'political secularist view' and 'equal citizenship and cultural assimilation'. On the one hand, they conceptualize secularism by using the theoretical perspective of Ahmet T. Kuru (2009) on *active* and *passive* secularism[3]. They translate the two categories into the two statements: 'State should be neutral, treat equally all religions, and allow them to be present in the public spheres' (*passive* secularism) and 'State should be neutral treat equally all religions, and confine religious expression to private sphere' (*assertive* secularism). On the other hand, they describe the relationship between equal citizenship and cultural assimilation by using the theoretical model proposed by Modood and Kastoryano (2009, 23), who have identified two different conceptions of equal citizenship. Whereas in the 1960s it was conceived as 'the right to assimilate to the majority/dominant culture in the public sphere; and toleration of "difference" in the private sphere', after the 1990s it started to be seen as 'the right to have one's "difference" (minority ethnicity, etc.) recognised and supported in the public and private spheres'. These two conceptions have been translated into the two statements: 'We should tolerate differences in private sphere but assimilate "different culture or religion" to major/dominant culture' and 'One should have the right to have one's "difference" (minority ethnicity, etc.) recognised and supported in the public and the private spheres'. Tested on 1035 students of the University of Padua, the findings show that 'while citizenship status has no predictive power for religious freedom perception', 'passive political view' and 'diversity-oriented model' of citizenship have 'predictive power for mostly all dimensions of religious freedom' (Breskaya and Giordan 2019, 13).

[3] According to Kuru, secularism embraced by States can have two forms: it can be *assertive*, demanding States to actively exclude religion from public sphere; or *passive*, requiring States to allow religious expressions in the public sphere.

By contextualizing the normative debate in political theory, R.A. Wagenvoorde (2015) conducts an empirical mixed methods research in the Netherlands on relationships between citizenship and religion. Her research questions regard the analysis of the concept of citizenship and the investigation of both *how* interpretations of citizenship influence thinking about the public role of religion and *how* religious beliefs influence thinking about citizenship and religion. She identified five dimensions of relationships between citizenship and religion in Dutch society: *social engagement*, *political engagement*, *law-abidingness*, *tolerance* and *Dutch identity*. The sample of the study was composed by eighteen people, five females and thirteen males. The highest correlations found were those between *tolerance* and *embracing religious diversity* and between *social engagement* and *religion as a value basis for society*.

By contrast, the most apparent differences between religious and non-religious people were found in the categories of *social engagement* and *law-abidingness*: while 'for religious people, the significance of social engagement is associated with less negative attitudes towards religion and with the possibility of religion to engage in the public domain and to form a value basis for society. For non-religious people, the emphasis on social engagement is associated with a greater emphasis on the restriction of religion to the private domain'.

Conclusions

As we have seen, although sociological literature has devoted considerable space to the concept of citizenship and its functioning in different geographical, national and transnational contexts, little sociological research has been done on relationship between citizenship and religion. On the contrary, in the plural and multi-religious societies of the contemporary world, conceptualizing their relations and verifying them is of extreme importance not only for theoretical, but also practical reasons. Citizenship and religion, in fact, open up a long series of questions ranging from the different forms of secularism to historical State-Church relations; from relations between dominant and minority groups within the nation-state to tensions between particularisms and common values; from the increasing substitution of national identities with supranational identities to the influence of different nation-building projects on the conceptions of citizenship. In this perspective, it is possible to suggest some directions of research on the relations between citizenship and religion.

First of all, it would be necessary to develop a more robust sociological conceptualisation of the relations between secularism and equal citizen-

ship. An analysis that, therefore, goes beyond the normative dimension of the debate and succeeds in verifying its empirical dimensions, evaluating, for example, on a practical level the discriminations in terms of citizenship generated by the different conceptions of secularism towards different religious minorities, in different geographical and political contexts.

Secondly, it would be important to integrate religion with the different dimensions of citizenship, both theoretically and empirically. As Joppke (2007, 38) states: 'the notion of citizenship studies ... suggests the existence of a joint (if naturally contested) frame of reference, which in reality does not exist ... there is need for a comprehensive theory of citizenship that is capable of connecting developments in one dimension of citizenship with developments in other dimensions'. Seen in this perspective, the lack in the studies of citizenship and religion may be an opportunity to find other approaches not only to citizenship and religion, but also to citizenship itself. It would be important to address not only the dimension of identity or participation but also other definitions of citizenship, proposing for example comparative research to understand whether certain religious identities can become an obstacle to the substantive enjoyment of certain (political or social) rights of citizenship, and if so, which ones. Or, for developing empirical research on interpretations of citizenship obligations in religious and non-religious citizens.

Thirdly, it would be useful to conceptualise more deeply the relationship between citizenship and religious freedom, overcoming barriers due to the political and normative nature of the latter. One line of research could be to analyse how different national definitions of citizenship affect the enjoyment of religious freedom by some minorities. Another would be to examine whether different degrees of implementation of the right to religious freedom affect different levels of political and social participation of religious minorities in democratic life of different countries. Fourthly, it would be desirable to carry out comparative research on relationships between different conceptions of citizenship and different conceptions of religious freedom, in order to verify which dimensions of citizenship have the greatest impact on different interpretations of religious freedom.

Finally, careful sociological research, both theoretical and empirical, is necessary to understand how the connections between the different levels of contemporary citizenship are reflected in its relations with religion. That is, instead of being confined to the nation-state, it will be necessary to develop a conceptual framework capable of integrating the different dimensions of citizenship and religion with the new framework of globalisation and human rights. This is actually the objective of the broader research to which this literature review is connected. It will add to the analysis of SPRF, started by Breskaya and Giordan (2019), the variable of citizenship and

aimed to compare the relationship between citizenship and religious freedom in two countries, Italy and Cyprus. The SPRF reference to religious freedom as an international right and its multidimensional conceptualization aspire to hold together social and individual factors of context, with others related to human rights, thus being able to see *within* and *beyond* the nation-state. Moreover, its comparative approach aims at verifying this relationship in different socio-religious and socio-political contexts, making the results useful not only for the empirical verification of the theory on the relationship between citizenship and religion, but also for their new multidimensional and multifactorial conceptualisation.

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Croatian Context of Citizenship and Religious Rights

Teuta Stipišić
University of Padova

Abstract: This paper aims to analyse citizenship policies, role of Catholic Church and positioning of religious minorities through three different periods in the recent history of Croatia – the Socialist Federal Republic of Yugoslavia era, the nation building era in the 90s, and the EU-influenced years, after 2000. Drawing attention to the changes that marked the citizenship system, we firstly focus on how the specific context of the fall of Yugoslavia and forming of an independent state changed the structure of Croatian society and its citizenship policies. Secondly, we emphasize the role of religion and Catholic Church, that firmly established its status as the religion of the State and stood as one of the main elements that influenced the strengthening and preservation of Croatian identity. Finally, we explore the position and status of religious minorities throughout these changes, their relation with the State and the issues concerning their rights in the Croatian society.

Keywords: Croatia, nation building, citizenship, religion, Catholic Church, religious minorities, rights

Introduction

This paper aims to analyse how the process of nation building affected citizenship policies, the role of the Catholic Church in those processes and the position of religious minorities in the specific historical, social and political context of Croatia. In order to do this, firstly, we will illustrate some historical moments that marked Croatia's transition from Communism to Democracy and the effect of international pressures on directing Croatia's path to Europe. This transition was shaped by awakening of radical nationalist ideas, war happenings, insecurities and putting force on creating

a new Croatian identity. These circumstances situated the question of national identity as the main political issue, brought exclusion of minorities by narrowing down citizenship rights and producing citizenship regimes with a purpose to create a country of one ethnic nation and with that the religious homogenisation of Croatia. Secondly, we will explore the role of Catholic Church in the moment of nation building and the change of status from being oppressed by the State to full liberalization. Focusing on what were the consequences of this liberation and how the new system influenced on strengthening the role of religion in shaping and preserving the identity of Croatian people, we tend to see the connection between recreating the national identity of the newly formed State and the new role of religion (namely the Catholic Church) in the Croatian society. Thirdly, we will focus on the religious image of Croatia, considering the religious minorities' relations in this specific context and by exploring how much these transitional changes and international pressures affected the position of religious minorities and the status of their rights in Croatia. Finally, we give a short insight on the empirical research concerning citizenship and religion in Croatia inside the framework of human rights.

When we explore the topic of citizenship and religion in Croatia, we should have in mind that in the territory of former Yugoslavia was present the coexistence of three major religions, Catholicism, Orthodoxy and Islam. All three religions affected differently the processes of nation building and claimed their roles in the societies of the newly born states depending on their capabilities to do so. Most of the literature dealing with the topic of Croatian citizenship policies and issues cannot depart from tracing back to the war for independence in the 1990s, and the transition from the Socialist Federal Republic of Yugoslavia to the independent democratic Republic of Croatia. Authors discussing citizenship questions within the frame of minority issues and discrimination, usually debate on issues concerning national minorities, especially Serbs, since this was the most affected minority during the war. Even though nationality and religion are closely linked and intertwined, as we will explain through this paper, there is no specific research done concerning the topic of citizenship and religious minorities in Croatia. Academic literature and research done on religion in Croatia, analyses the role of the Church in pre/post Communist era, Church-State relations, the intensity of religiosity among people according to the dynamics of these changes, and the context of *revitalization of religion*. International pressures and the process for entering the EU (2004-2013) changed the State policies towards minorities, and opened new forms of opportunities for minorities to acknowledge and establish their status in the society. All of these elements, within the social and political context pose the question of the position of religious minorities and citizenship rights nowadays, and

whether a more "European" Croatia is just a *pro forma* stance, or there is a real move towards minimizing minority issues in everyday life.

1. Citizenship Practices in Pre/post-Communist Era and in the Nation Building Period – Turning Citizens into Foreigners

Before going further into the concept and complex narrative of Croatian citizenship, which is produced out of legacies of the failed system and creation of the State, it is important to emphasize that individuals as social and political beings are shaped by citizenship, by the status, privileges and restrictions that are drawn inside of this right. In fact, being born in one place and not the other, in a particular period of time is highly significant when it comes to enjoying citizenship rights (Stiks 2015, 7). 'Socialist era constitutions had placed all citizens on formally equal footing, guaranteeing the rights and proportional representation of national minorities' (Verdery 1998, 4), as was the case of the Federative Republic of Yugoslavia (SFRY), whose collapse ended those constitutional guarantees and changed the dynamics of citizenship rights. In Yugoslavia, the federative citizenship had priority over republican citizenship for obtaining citizenship rights. With the coming changes, and stepping into democracy, republican citizenship will appear to be one of the main aspects in determining citizenship status and the only strong criterion for political inclusion or exclusion. The citizenship system in Yugoslavia was supposed to create and prioritise one single Yugoslav identity and promote integration of all nations in a single state. Accordingly, citizenship was a tool for ensuring equality of all Yugoslavian people regardless of their residence or nationality. Over the time, it became clear that it was easier to create Yugoslavia, than Yugoslavs. Citizenship back then was a tool of cooperation among nations but it failed to produce a strong sense of Yugoslav political identity and culture, and it became obvious that ethno-national fragmentation was stronger than the idea of common Yugoslav identity (Stiks 2015). This complex identity of people in Yugoslavia (what Joppke called a 'complex citizenship constellation') made out of federative and republic citizenships, in legal sense was not an issue nor provoked problems during the time of Yugoslavia, but later on, with the breakup of the federation, many citizens found themselves realizing they were foreigners in their own state (Koska and Matan 2017, 126).

The awakening of radical nationalist ideas in the public sphere and a call for independence all over the region provoked the war for the independence of Croatia, that lasted from 1991 to 1995, mostly led against the Yugoslavian National Army, later Serbian Army, that was occupying Croa-

tian territories. Stiks (2015) detects citizenship as a trigger for conflict, as citizens were in search of a political community in which they would secure their rights and of a State that would guarantee their protection. This resulted in massive internal displacements, estimated between 250,000 and 500,000, occurred in 1991, while larger military actions in 1995 mainly targeted Serbian population, resulting in massive exodus of more than 200,000 Serbs (Stubbs and Zrinscak 2015, 401). Almost everywhere in Post-Communist Europe, likewise in Croatia, citizenship legislation and administrative practices created three different categories of individuals: the included, the excluded and the invited. These constitutional redefinitions of the state and enactments of new citizenship laws created situations in which yesterday's citizens were turned into today's aliens or second-class citizens. Rogers Brubaker distinguishes between three models of citizenship policies adopted by the newly formed post-communist states. The first one is the 'new state model', where the new state simply included all residents on its territory, examples are the most of former Soviet republics. The second one is the 'restored state model'- citizenship was granted only to the citizens of the inter-war independent republics and their descendants, the others were excluded. And the last one is a combination of the two - restored citizenship and inclusiveness. However, none of these models can be applied to the citizenship policies of the former Yugoslavian states, since each one had its own laws on citizenship and its own registers (Brubaker in Stiks 2015, 155). Accordingly, constitutions and citizenship laws were used as an effective tool for nation building and ethnic engineering, in order to influence the ethnic composition of the new states' population. Citizenship laws and policies often had a hidden purpose: on one hand they were organized to satisfy the minimal international standards, while on the other they served as a tool of ethnic cleansing and discrimination took place in real life (Stiks 2010, 1626). Former Yugoslav republics used their republican citizenship laws to establish their initial citizenries. The change of citizenship status was particularly difficult for those living in zones of conflict, those of mixed origins and different ethnic backgrounds (Stiks 2015, 3). During the period of transforming Croatia into a one ethnically homogeneous country, a significant part of Croatia's population had no connection to Croatian central authorities and no access to Croatian citizenship and could not participate in the law making; the practice of relevant institutions and the issuing of complicate administrative requirements significantly lingered the process of obtaining citizenship, broadening the importance of belonging to the core ethnic group (Koska in: Stubbs and Zrinscak 2015, 401). An applicant for citizenship in Croatia had to satisfy the following criteria: continuous residency in Croatia for at least five years; proof of termination of any foreign citizenship; proficiency in Croa-

tian language (including competences in the Latin script); attachments to the legal system and customs of the Republic of Croatia and acceptance of Croatian Culture. For many non-ethnically Croatian, fulfilling this type of criteria became close to impossible, while the Ministry of Internal Affairs had the final word without any obligation to explain in case of refusal (this was practice until 1993). As to the connection of citizenship with religion, which we will discuss later on, it is interesting that Roman Catholic Church certificates were also accepted as a ground proof of ethnicity to obtain citizenship rights (Stiks 2010, 1631).

The practices of the Croatian state of the 90s and its citizenship regimes, marked by the exclusion of the Serb minority and the promotion of the Croat ethnic community, was often defined as a model of 'constitutional nationalism', which Robert Hayden describes as constitutional redefinition of new states as national states of their ethnic core groups. The same term could be used for other post-communist countries, and it is clear that these constitutional redefinitions had a direct impact on citizenship policies (Hayden 1992, 655; Stiks 2015). Croatia's Constitutions from 1990 declared the Republic of Croatia as 'the national state of the Croatian people and the state of members of other nations and minorities who are its citizens'; in the SFRY Constitution of 1974, Croatia was instead 'a national state of the Croatian people, state of the Serbian people in Croatia and state of nationalities living on its territory'. Comparing these two provisions, it is visible why people of Serbian nationality felt jeopardized by the new Constitution and how the Croatian Constitution turned them from a group expressly included as citizens of the republic into a group excluded from core citizenship. As Verdery (1998, 294) states, 'the process of writing new constitutions enabled ambitious politicians to manipulate the very definition of citizenship'. All these citizenship puzzles and the enhanced status of the Croatian national group, caused severe difficulties among the population in securing their citizenship status, as they realised that citizenship brought about the acquisition of the unwanted status of minority. The common (federative) citizenship that all across Yugoslavia once granted freedom of movement and equal rights to all, in the newly formed state(s), as in Croatia, transformed the old majority into a new minority. 'New foreigners' - mostly people of Serbian nationality, and others who were not ethnic Croats, found themselves in a sphere of limited rights, with a threat to their residence rights and in a status of temporary or fullly illegal immigrants, without a clear sign of possible solution (Stiks 2015; Zlatkovic 2015).

1.1. EU Pressures – A More Open and Less Discriminatory Croatia?

By the end of the 90s, it was visible that not only due to war, but also because of its autocratic political regime, Croatia's transition to democracy was falling behind in comparison to other post-Communist countries. It was evident that the balance between national interest and the principles of democracy was not an easy thing (Spajic-Vrkas 2003, 34). The system in many ways maintained double standards, leaving thousands of people with their citizenship status unresolved[4]. The European Union however seemed to be one of the most significant economic and political factors in shaping post-Yugoslav citizenship regimes and influencing the lives of citizens. It is important to note that the EU is not the sole international body to operate in this field. Indeed, there is a broad spectrum of organizations and bodies that may intervene, by supervising the implementation of adopted conventions and regulations, and actively embodying them within a national political, social and economical framework (Stiks 2015, 174). As Stiks (2010) explains, when it comes to citizenship policies in post-independence Croatia, there is a significant difference between the political and administrative practices in the 90s and those after 2000, i.e. in the years when Croatia prepared to enter the EU. One of those changes was visible on the political scene, namely in the discourses presidential candidates used for their campaigns. Pauperization and the lack of a clear guidance for future were probably the main reasons why Croatians lost their trust in the nation-state-centred government; in the elections of 2000, citizens shifted their vote to the pro-Europe opposition parties (Spajic-Vrkas 2003, 35). Wishing to become an EU member, the Croatian government had to respond to pressures from the international community to reduce the ethnic element in its constitution. Croatia started working on involving its minorities in the affairs of state through electoral laws and different political coalitions, witnessing a greater inclusiveness, less discrimination and increased political sensitivity. This mostly affected the Serbian minority, although a great deal of Serbs had left the country during the 90s, The Croatian state needed to arrange the poor relations with this minority group. In this sense, the radical and explicit constitutional nationalistic ideas were abandoned under the pressure of external factors and the international community, but also as a result of the practical reduction of minorities to a manageable size. Because of this, the majority found a more convenient way to deal with the minorities within the legal framework (Dimitrijevic 2012, 20-24).

[4] United States Department of State, *Annual Report on International Religious Freedom for 1999 - Croatia* , 9 September 1999, retrieved from: https://www.refworld.org/docid/3ae6a88527.html (accessed: 09/06/2020).

International pressures brought about new regulations and procedures, and more transparency. They also formed new relations with specific minority groups. One example of this is that the main political party representing the Serbian community was part of a the coalition government from 2003 to 2011, and succeeded in changing some discriminatory policies in the legal framework. It had however only a little impact on the everyday life of the Serbian minority, that continued to face discrimination. Furthermore, additional funds were distributed for various projects concerning minority groups (especially for the Roma community), partially, to secure the votes of minority members of the Parliament (Stiks 2015; Stubbs and Zrinscak 2015, 402). Evan though, generally speaking, citizenship policies were more inclusive than in the 90s, there were still divisions on the playground of political power. Another point that Stiks (2015) emphasizes is the EU's limited influence when it comes to citizenship policies.

In order to explain more precisely the case of Croatia, we have to focus on the scenarios before and after the accession to the EU (in 2014). The EU certainly influenced Croatian (citizenship) policies, but this has not resulted in profound reforms. Policies and legislation changed, but only in some less sensitive areas. Some articles in the Citizenship Law have indeed been amended, including articles concerning obtaining of the Croatian citizenship[5]. However, Croatia still has not adopted the European Convention on Nationality[6]. Regardless of the changes in citizenship policies, it is questionable to what extent the Croatian accession to EU and the international pressures have actually affected the ethnocentric character of the State. Indeed, as Stiks (2015) claims, Croatia succeeded in satisfying the general criteria for entering the EU, without engaging in profound reforms. However, even though national citizenship still has primacy, we should not forget that the accession to the EU brought about a new level of citizenship rights, namely those related to the European citizenship.

2. The Role of Religion and the Catholic Church – From Repression to Liberalization

When Croatia was a part of Yugoslavia, membership in the religious community strongly intertwined with ethnic belonging. Historical and political events occurred after the collapse of the SFRY and the specific geopolitical position of the region have created new migrant flows and pro-

[5] The text of the Croatian citizenship act is available at: https://www.zakon.hr/z/446/Zakon-o-hrvatskom-dr%C5%BEavljanstvu (accessed: 16/09/2020).

[6] European Convention on nationality, 1997, ETS 166. Available at https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166/signatures (accessed: 16/09/2020).

ducing additional turbulences which have affected the established communities of religious and national minorities. In the context of the former SFRY countries, the concept of citizenship is deeply (although maybe not directly) connected to religion, in terms of nationalism and identity transformation. In countries such as Croatia (mostly Catholic), Serbia (Orthodox) and Bosnia (Muslim), that once existed as parts of a single community (the SFRY), the concept of 'citizenship' is intertwined with other concepts like multi-ethnic, ethnocentric and civic. As a result, religion was set as the main indicator of ethnic identity and a tool for nation-building (Radovic 2013, 18). The communist system claimed ignorance towards all religious communities and religion in general. The religious freedom of the communities was suppressed and religious communities became hermetic to each other, as if they lived in parallel worlds, not side to side. The communist repression supported this kind of isolation (Zrinscak 2006). Although there are no systematic research findings, because religious affiliation was not registered in the official census data until 1991, general data and literature on religion of former Yugoslav countries show that Serbs (Orthodoxy) were less religious than catholic Croatians. Some data from the 80s showed that 12,3% of atheists had Croatian nationality, while they were around 42% with Serbian nationality. Research on young people in the whole territory of the former Yugoslavia in the mid 80s showed significant differences in religiosity based on nationality: Croats, Slovenians and Albanians were predominantly religious, while Serbs and Montenegrins (Orthodoxy) were not so much religious. This difference could be traced back to doctrinal differences between the Catholic Church and the Serbian Orthodox Church, and to the fact that people of Serbia were more identified with the former system (Zuparic-Iljic 2013, 60; Jerolimov and Zrinscak 2006, 285). Regional differences in religiosity are influenced by various factors, as for example, if areas were affected by the war, the ethnicity of the population living on this area, and the effect of dominant religion of the bordering country (in the case of Croatia, Italy and Slovenia with Catholicism, Serbia with Orthodoxy and Bosnia with Islam, Catholicism and Orthodoxy) (Jerolimov and Zrinscak 2006, 286).

The Croatian society in the late 90s was under the effect of various factors – war, transition, privatisation, strong social differentiation and high level of insecurities, poverty, with a remaarkable incidence of jeopardized and excluded population. The space for religious freedom was compromised by the war between different ethnic and religious communities, with social consequences in terms of different historical and religious legacies (Zrinscak 1998, 340). The effect of the war and related suffering created a social and psychological need of belonging to a collective identity and prompted people to identify with a nation and religion (Maldini 2016). The

state of war led to a linkage of religious communities with their national background, which created mutual alienation and temporarily shut down the interreligious dialogue. After the war ended, the relations between religious communities became a mirror of the political cleavages (Marianski 2006, 81). The Catholic Church and its institutions significantly influenced the concept of political membership in Croatia, becoming one of the strongest elements in motivating people to fight for Croatian independence and supporting the formation and preservation of a Croatian identity (Jerolimov and Zrinscak 2006, 281), situating the question of national identity as one of the main political issues. One of the main goals of the 'Croatisation' (among others such as language, national symbols, demographic renewal) was indeed the return to traditional cultural values and customs inspired to Catholicism, including family and authority (Spajic-Vrkas, 2003). In this sense, the 'rise of religion' (Zrinscak 2006, 71) was manifested: people were attempting to save their national identity, in contrast to the times when that identity was threatened by the enemy; the identity crisis was overcome through a 'rebirth' of religion (Marianski 2006). Religion had a crucial role in the conceptualization of the identities of post-Yugoslav political communities and influenced widely the understandings of political membership, status and rights. Membership in a specific political community was defined by ethnicity, based on citizenship status inside of the majority, and has been often expressed through religious symbols that were embedded as state symbols (Radovic 2013, 2). The end of socialism and the creation of the new State were seen by the Church as national and religious liberation (Maldini 2016, 1115), which gave religion the capability to define collective identity (Zrinscak 1998, 343). Religion existed as a system apart from state; shortly after the war, the relations between religious communities replicated the political relations, indicating a gap much deeper than it was thought. These factors affected the construction of the cultural and national Croatian identity and further strengthened the active role of the Church in the social life of Croatia as nurturing national spirit during the transitional period.

In the case of Croatia, the Church-State relationship reflects the European general patterns, while featuring some specific circumstances (Jerolimov and Zrinscak, 2006). The connection of ethnic and religious identities has been enhanced by the unfavourable social-historical context and the extremely negative attitude vis-à-vis religions of the previous regime (Jakulj 2016). All those social and political processes conditioned the changes in the Church-State relation during the transition. Unlike in the pre-transitional period, the way in which people expressed their religiosity became more open and visible, and the intensity of confessional affiliation and religious practices became higher. In this sense confessional affiliation

was not strictly connected to religiosity, but rather a way of expressing one's identification with the nation, culture, tradition and the nation-building process. Religious practice increased, thanks to the withdrawal of former social obstacles to it, to more freedom of public expression and social acceptance of religion (Maldini 2016, 1110). The comparison of empirical data available for 1991 and for 1996 indicate an increase of the prevailing religion (Catholicism) and a generalised revitalization of religion. In 1991, 76.5% of population was Catholic, 11.1% Orthodox, 1.2% Muslim and 3.9% non-religious. Five years laters, in 1996, the Croatian society was 90% Catholic, 2% Orthodox, 2% Muslim and 5% non-religious.

According to the latest census, carried out in 2011, 86.3% of Croatians are Catholic, 4.4% Orthodox, 1.6% Muslim and there are 4.6% of non-religious people. In the period of the nation building, from the 1991 until 2000, the Orthodox Serbian Church suffered significant decrease in the number of affiliations, which corresponds to the number of general decrease of Serbian population in Croatia (Zrinscak 1998, 344; Kompes 2018, 214; Zuparic-Iljic 2013, 60). In the first decade of post-socialism, the political elites used the identification of national and religious affiliatoin for their own benefits; the Catholiic Church enthusiastically endorsed this stance, as a way to gain and keep new freedoms and rights. Social and political actors, ideas and values gained religious characters, becoming sacralised. In this sense, a political act could be purported as a religious act. Public political manifestations were attached liturgical meanings, not only by use of religious discourse, but also by the attendance of Church officials. As mentioned earlier, the intertwining of religious and national identity, tradition and culture strongly strongly characterised this period with the increase of religiosity and public expression of religion (Maldini 2016, 1115-1116). With the forming of the Republic of Croatia, the position of the Catholic Church was defined by the 1990 Constitution. All religious communities were recognized as equal before the law, free to act publicly, perform religious rituals and establish educational and social institutions according to the law of the Republic of Croatia[7]. The main model grounded in the 1990 fundamental law was the separation between Church and the State, but also the idea of cooperation between the two was endorsed. An important step in building the legal framework was the signing of international agreements between Croatia and the Holy See, not so different from agreements (concordats) signed between the Holy See and many oth-

[7] In the law of Republic of Croatia, a Church or religious community (named differently) is a community of persons that realizes their religious freedom as equals via public performance of religious rituals, ceremonies and other manifestations of their religion, and is recorded in the Register of Religious Communities of the Republic of Croatia (Republic of Croatia, Law on the legal status of religious communities, NN 83/02, 73/13).

er European countries with similar constitutional principles. These treaties regulate the relations between the State and the Church, creating an institutional basis for the relationship between these two institutions. The transition in Croatia set the change of positioning and status of the Catholic Church, and paved the way to a transformation of the Croatian society into a more democratic one. The changed religious situation created a new setting in which national belonging (the state dimension) increasingly resembled religious belonging (to the Catholic Church) (Mihaljevic 2005, 12; Crpic and Tanjic 2015, 27).

3. Religious Minorities – Positioning and Issues in the Time of Changes and Today

In former Yugoslavia, religious minority communities experienced a double discrimination, one by the society and another by the State and under the law. The society generally viewed religion with a negative connotation, and this especially aaffected the religious minorities. Some adherents to rerligious minorities had to breach some state laws, ad they were incompatible with deep and strictly observed religious and moral values. This contributed to perceiving religious minorities as a political problem, which resulted in strict legislation and strengthened the prohibition of their activities (Marinovic-Bobinac 1996, 402). In the 1970s and 80s there were no significant religious movements or communities in former Yugoslavia, but some small religious groups existed that usually operate at the margins of the society. Back then, the revitalization of religions was seen as the attempt of slowing down the process of secularization and separation of people from religion (Mihaljevic 2005, 10). An adjustment to new social circumstances, and access to rights and freedom by religious communities was conditioned by the social events and the conflict in the 1990s, which led to political conditioning of religious rights and religious freedom (Zrinscak 1998, 343). Radical ideas about establishing Catholicism and state religion and excluding from the society any other religious affiliation created a gap at the national level between religious majority and the minorities, which additionally emphasized the atmosphere of intolerance and mistrust. In the Balkans, new religions had historically been brought by foreigners, and formed local believers that had abandoned the religion of their parents, which resulted in communities feeling jeopardized by the arrival of new religious groups and prompting hostility towards them (Marinovic-Bobinac 1996, 402).

The establishment of relations between the State and a church conditions various aspects of the religion's status. In particular, the signing of

agreements between independent Croatia and the Holy See put in question the position and legal status of all the other religious communities. In this sense it is useful to remind that, except the Catholic Church, Croatia has signed agreements with only 19 religious communities, out of 54 religions formally registered in the country. After the breakup of socialism, a new wave of possibilities was offered to religious communities. The Catholic Church was systematically encouraged by the political power to find its place within the new state, which undermined the opportunities for integration and development of other religious communities (Zrinscak 1998, 347). The regulation of the relations between the Catholic Church and the state in most post Communist countries was established in a more or less acceptable way; the position of religious minority groups, whether new or traditional, not so much (Zrinscak 2005, 79). In Croatia, until 2002 (when the law on religious communities was enacted) the registration of new religious communities different from the historical ones was not possible, and along with the registration, also their claims for religious rights were denied. The position of such new religious movements and of other religious communities was marked by non-acceptance and misunderstanding in the transition period, not only under the law, but also in society. Besides 54 registered religious communities, and at least 40 more are still waiting to be legally recognized by the state[8]. The Croatian Parliament, in an attempt to create a legal framework for all religious communities, adopted a framework legislation according to which, in order to be officially registered, a religious community first has to exist for at least five years as an association with legal personality, to have at least 500 members, hold valid documentation that proves its religious character and practices, area of presence and means of their religious activity. The most widespread model accepted in Europe is that religious groups have the possibility, but not the duty, to register as legal entities (associations with legal personality), which indicates that the Croatian law is not fully in line with the European standards (Stanicic and Ofak 2011, 21).

A legal Act of 2004 (*Conclusion 23 December 2004*) elaborates that for signing a legal agreement between the State of Croatia and religious communities, they have to fulfil at least one of two main conditions. Firstly, they have to prove that they have been active on the territory of Croatia since 6th of April, 1941 in legal and social ways till today. We might say that an alternative criterium is belonging to European historical religious communities, such as the Orthodox, Evangelical, Jewish, Islam and Protestant religious groups. Secondly, the number of members of the community

[8] Information retrieved from https://www.slobodnaevropa.org/a/1374971.html [accessed 16 September 2020]

overcomes six thousand people[9]. Indeed, the problem in the Croatian practice is that religious communities do need an agreement with the Republic of Croatia, in order to gain certain benefits – recognition of the civil effects of the religious marriage, possibility to impart religious education in public schools, etc. A lawsuit was brought against the Republic of Croatia before the European Court of Human Rights, filed by the Alliance of Churches 'Word of Life', the 'Church of the Whole Gospel' and the 'Protestant Reformed Christian Church' in the Republic of Croatia. The Commission for Relations with Religious Communities refused to conclude agreements with the plaintiffs, because they did not meet the historical or membership criteria set in the 2004 Conclusions. The Government of the Republic of Croatia however had concluded similar agreement with the Bulgarian Orthodox Church, the Croatian Old Catholic Church and the Macedonian Orthodox Church, even though they did not meet the criterion of 6000 members. The Croatian Government explained that this was because these churches met the alternative criterion, since they represented historical religious communities of the European cultural circle. The Court therefore concluded that the 2004 Conclusions did not apply on an equal basis to all religious communities, which led to a different treatment between the plaintiffs and those religious communities that could enter into an agreement with the Government, and that such treatment had no objective or reasonable justification and was therefore a violation of articles 9 and 14 of the European Convenstion of human rights[10].

The 2003 Report of the Minority Rights Group International, reported that the Archbishop of the Roman Catholic Church, Josip Bozanic, who in 1999 played an active role publicly promoting reconciliation and the return of refugees[11], expressed his disagreement with the former government (right wing), and Croat Catholic Bishops Conference showed its support to a change in government in the 2000 elections. Representatives of religious communities claimed that the shift occurred in the government of Croatia aftert the 2000 elections was a positive step towards a more tolerant society and more respect of religious rights. Indeed, inequalities were largely present. For example, in the Ministry of Defence, a number of Roman Catholic priests which employed, but none Orthodox or Muslim. Only in

[9] Zakljucak Vlade Republike Hrvatske, klasa 070-01/03-03/03, ur. br. 5030104-04-3 od 23. prosinca 2004.

[10] *Savez crkava "Riječ života" and Others v. Croatia*, no. 7798/08, 9 December 2010._ SUDSKA I UPRAVNA PRAKSA / Europski sud za ljudska prava HRVATSKA JAVNA UPRAVA, god. 9. (2009.), br. 1., str. 207-230 (eds Frane Stanicic, Lana Ofak), retrieved from https://hrcak.srce.hr [accessed 16 September 2020].

[11] United States Department of State, *U.S. Department of State Annual Report on International Religious Freedom for 1999 - Croatia* , 9 September 1999, retrieved from: https://www.refworld.org/docid/3ae6a88527.html [accessed 9 June 2020]

2002 an agreement was reached to allow one Muslim and five Orthodox priests as chaplains in the army[12]. It is questionable if nowadays this issue is properly settled, since reports show that there are still no adequate personnel supporting the religious practice of other communities inside the military institutions. According to the 2018 International Religion Freedom Report, and other nongovernmental and international organizations, Croatian border police has imposed on migrants treatments inconsistent with their religious beliefs and have offensively commented their religious affiliation. Atheist, Jewish and Serbian Orthodox organizations complained that non-Catholic children were discriminated against in public schools and that, in practice, most public schools do not offer viable alternatives to Catholic catechism; the media reported a few specific cases of child harassment motivated by their religious affiliation. Catholic symbols remain prevalent in government buildings, such as schools, hospitals and public institutions, which clearly shows the nonexistence of the separation between the State and the Church, despite what declares the Constitution. The report maintains that some medical institutions refused to treat members of Jehovah Witnesses, since they refuse blood transfusion, as inconsistent with their religious belief. The Ombudswoman for human rights claims that Jehovah witnesses are constantly encountered with discriminations when it comes to hospital facilities and treatments. A report states that in 2017 there were 24 cases of hospitals refusing to treat patients because of their religious beliefs. In 15 out of 24 cases, at the end the patient received medical care in private hospitals abroad, financed by the Jehovah community. Leaders of Jewish communities claimed that the Government has not implemented concrete measures in order to return the properties taken during the Holocaust. Some of the religious minority groups state that the Catholic Church in Croatia still enjoys a special most favourable status, in comparison to other religious communities, partly because of the signed agreement with the Government, and partly because of its cultural and political influence, being the dominant religion in the society. The Council of Europe and the Croatian ombudswoman for human rights expressed their concern for the rising of religious intolerance towards Jewish communities, especially in the Internet and in social networks. On the other hand, members of Islam and Serbian Orthodox communities acknowledged their good relations with the Government and constant progress achieved towards better inclusion of diversity in Croatian society, even though the Serbian Orthodox community is experiencing a stagnation in the number of believers, while the Muslims have increased since 2011. In the list of issues submitted in

[12] Minority Rights Group International (MRG). Minorities in Croatia Report, retrieved from https://minorityrights.org/publications/minorities-in-croatia/ [accessed 9 June 2020]

November 2019. within the framework of the International Covenant on Civil and Political Rights (ICCPR), the Human Rights Committee expressed its concern vis-à-vis cases of harassment of members of the Serbian Orthodox Community, attacks on Jewish Communities and vandalism of the Churches[13]. These attacks occurred especially in Eastern Slavonia, in places close to the border with Serbia[14], which points out that this dimension of intolerance and discrimination is double directed, targeting not only ethnic groups, but also religious minorities. Since religion and ethnicity are so closely intertwined, it is difficult to distinguish between ethnic and religious discrimination, hence discrimination is based on both reasons.

3.1. Citizenship, Religion and Human Rights - Short Insight on Empirical Research in Croatia

A sociological perspective on human rights and religion introduces new approaches for studying religious freedom and religious minorities. The analysis of religious minorities within the human rights perspective highlights the issue of sociological sensitivity to law and political context (Breskaya, Giordan, Richardson 2018, 427). Certainly, human rights is a broad concept which requires particular attention, specifically in relation to citizenship and religion. Here we propose a short insight on some empirical research done in Croatia in relation to human rights, religion and citizenship.

'Connection of religiosity, attitudes and experiences of religious freedom among young people in Croatia declared as religious' is a research done in Croatia as a part of quantitative research on 'Religion and Human Rights' conducted in 2014. This research forms part of the international empirical program 'Religion and Human Rights (2012-2019)' that involved 25 countries and 25,000 young people as participants in the survey. In Croatia, the research was conducted in 2014 on aa sample of 17-19-year old young people. The results, among many other findings, brought evidence that personal religiosity and religiosity inside one's own community has a positive effect on the attitude toward religious freedom. Those who attend religious services more often have a more positive view toward religious freedom. On the other hand, those who are more included in the activities of their religious communities and spend time with people from other communities, were more often treated unfairly because of their religious affiliation (Kompes 2018).

[13] ICCPR (2019) Human Rights Committee. List of issues prior to submission of the fourth periodic report of Croatia, retrieved from https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=CRO&Lang=EN, [accessed 9 June 2020]

[14] Minority Rights Group International (MRG). Minorities in Croatia Report, retrieved from https://minorityrights.org/publications/minorities-in-croatia/ [accessed 9 June 2020]

In the quantitative research 'Attitudes towards cultural differences of Croatian citizens' (Mesic and Bagic 2011), the authors have measured the 'resistance' of Croatian citizens towards multicultural societies by questioning different statements on the topic of ethnic and religious diversity. According to the findings of this research, there are three main statistical predictors: sex, level of religiosity and nationality. When it comes to ethnic and religious diversity, around 30% of respondents think that the existence of ethnic and religious minorities in Croatia is neither bad nor good, and 21% of citizens consider it is very good. Moreover, 60% of the studied population believe that Croatia should be an open and tolerant society, while more than half think that Croatia should be constitutionally formed as a 'State of all citizens regardless of their nationality'. From this last point it seems we have to infer that respondents are not well informed, as indeed the Croatian constitution does not base citizenship on ethnicity; or maybe they are not aware of the meaning of the question. All in all, according to the results of this research, Croatian citizens have shown a positive attitude towards national and ethnic minorities, openness and tolerance of cultural differences, but are not that supportive of legal guarantees.

In the research 'The Role of Value Orientations and Political Preference on Political and Judicial Human Rights Among the Croatian Youth', the authors (Milos and Novak 2018, 71) examine the relationship between value orientations and attitudes towards political issues and rights among the Croatian youth and how political preference influence that relationship. Looking at the levels of agreement with human rights statements, the highest support goes with socio-economic rights, followed by civil, political and finally judicial rights. Among many other concepts, the authors discuss the concept of 'tradition', referring to it in the sense of the traditional Catholic faith and Christian democratic dispositions nurtured under Catholic Church. The results of their research show that the impact of such 'tradition' tradition' is negatively correlated with attitudes toward civil rights. As the authors explain, 'to be traditional in Croatia means to be Catholic, heterosexual, polite, peaceful, servile and to show love for the young nation state. It is not difficult to imagine that such an exclusive traditional identity implies the thought that not everyone should have the same rights in a legal sense'.

Conclusion

We have seen through this paper, although briefly, how the citizenship system has changed throughout the time in specific social and political contexts, and how various factors have affected the creation of new citizenship practices, and with them, new related social issues. In order to

understand this complex construction of citizenship rights (or wrongs) in Croatia, it is of high importance to investigate the citizenship system of the SFRY, since this system and its fall redirected the changes in citizenship policies and affected the demographic structure of Croatian society, by changing former citizens into today's foreigners. One of the significant factors in shaping Croatian society, and strengthening the idea of nationhood, certainly is the Catholic Church. The liberation from the SFRY regime and detaching from everything that resembled the former system, was seen as a chance to develop all those aspects that were repressed under the socialist regime. Indeed, when Croatia claimed its independence, Catholicism claimed its role as the religion of the State and the religion of Croatian citizens. In the 1990s. nationalism and the idea of ethno-religious identity had an impact on the citizenship legal regime, serving as a tool for creating a country for a single ethnic nation. The impact of the Catholic Church on the Croatian national identity made religious minorities to face additional discrimination. The governmental change in 2000 and the preparation for Croatia's membership in the EU formally redirected the policies towards a more liberal path, which was welcomed not only by Catholic Church but also by other religious minorities. This path was however burdened not only with the legacy of the communist regime, but also with nationalism and the bitter consequences of the war waged in the 1990s. Pushed by the international community, Croatia set as its top priority the democratization of its institutions, undertook and experienced reforms, including in the field of human rights by signing various conventions and granting freedom to minorities, emphasizing its European identity with a focus of being seen as a European country of liberal values.

All observations and research point at the strong link between national identity and religious affiliation of Croatian people, and this begs the question of whether the liberal European path has had a real impact on the Croatian society, making it an open and tolerant one, or reforms were purely superficial, unlikely to challenge the deep-rooted patterns of national identity.

In 2020, the Croatian government has strived to implement reconciliation initiatives, by visiting and commemorating places marked by killings of innocent civilians of Serbian nationality in the after war period, and returning to the religious communities properties confiscated. However, the ghosts of the unresolved past are still here. Croatia is still facing unanswered problems and discriminatory practices, such as constant attacks of religious minority leaders, institutions and churches; damages of monuments and memorial grounds of the fallen victims belonging to national minorities; issues involving the returnees and obtainment of citizenship rights; discriminations in education and in the labour system affecting members

of national and religious minorities. Because of the peculiar socio-historical background and the complexity of the Croatian identity, it is difficult to distinguish whether these are instances of ethnic or religious-based intolerance, and to which extent ethno-religious bigotry is infringing the rights.

Most influential theories on citizenship and nationalism (Stiks 2010, 2015; Hayden 1992; Koska and Matan 2017) indicate that important changes have affected citizenship policies in the pre/post Communist era and especially in the period of Croatia's preparation for the EU, while theories concerning religion in Croatia (Radovic 2013; Jerolimov-Zrinscak 2006; Zrinscak 1998, 2005) indicates the coalescence of nation/State and religion, setting the Catholic Church as the main actor in blending this amalgam. Even though there is a broad academic interest in the concept of citizenship in former Yugoslavian countries after the fall of Communism, not much scholarly attention has been paid to the concept of citizenship in relation to religious minorities and religious freedom in contemporary post-SFRY states. In a way, citizenship literature stayed tied to the concept of nationality and to the issues of national minorities, leaving behind the issue of religious minorities. Although this literature frequently debates the connection of national and religious groups, there is a certain academic gap in providing research strictly concerning citizenship and religious minorities. It would be of great value for the academic community to explore deeply and more directly the relations between those concepts and their effects, in particular, within the specific socio-political context of Croatia.

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Congregational Studies: A Perspective on Religious Diversity and Human Rights

Martina Mignardi
University of Padua

martina.mignardi@studenti.unipd.it

Abstract: This literature review focuses on congregational studies, describing the relevance of this approach from a double perspective: religious diversity and human rights. This paper first analyses the concept of *congregation* and provides an excursus on American and European congregational studies, focusing on the most significant researches in this field. Second, this contribution investigates the relevance of congregational studies to better assess religious diversity and to further deepen the relationship between religion and human rights.

Keywords: Congregational studies, *congregations*, *human rights*, *religious diversity*, *National Congregation Studies.*

Introduction

Religion can be considered as a dynamic social phenomenon conceptualized in terms of practices of worship, contemplation, socialization,

and involvement in religious groups' activities. In Western societies, these practices and interactions occur mainly within the social form of congregations or local religious communities (Monnot and Stolz 2020). Congregations vary according to the different religious traditions, size, age, involvement of participants, social status, types of activities, etc.

In recent decades, there has been a considerable increase of scholarly attention for the meso-level phenomenon of the religious congregations (Chaves 2004; Ammerman 1997; Pepper et al. 2015; Harris 1995; Monnot and Stolz 2020). The scholarly study of the dynamics of congregational life has developed into a separate academic discipline of study called congregational studies (Carroll et al. 1986; Ammerman et al. 1998). This approach applies quantitative methods of research and focuses on religious communities instead of individuals and their specific beliefs and practices. Congregational studies provide representative data revealing many aspects of religious congregations, including clergy characteristics, social composition, norms and values, social and political activities, worship services, and social dynamics in collective religious life.

This literature review focuses on the field of congregational studies, and explores the contribution of this approach to the sociology of religion, to better assess religious diversity and to further deepen the relationship between religion and human rights.

The first part of this contribution, after having defined and analysed the concept of congregation, provides an excursus on American congregational studies, focusing on the most significant research in this field, the National Congregation Studies (NCS). Second, it analyses the arising European congregational studies with a focus on the first European NCS conducted in Switzerland.

The second part discusses the relevance of congregational studies from a double perspective: religious diversity and human rights. Religious diversity is a peculiar feature of the contemporary Western societies that characterizes both the private sphere of individuals and the broader public, political and social contexts. It can be also interpreted through the observation of the contemporary process of global mobility that has triggered a transformation from the social, cultural and religious homogeneity of societies to multicultural and multireligious ones (Pace and Da Silva Moreira 2018). This paper takes Italy as an example of increasing religious diversity, and congregational studies as a privileged approach to better understand this condition. From a human rights perspective, the relevance of congregational studies is grounded in the contribution that this discipline can provide to further investigate the relationship between religion and human rights.

1. Defining Congregations

In congregational studies, scholars must define and operationalize their unit of observation by specifying what counts as a congregation and what should be excluded from observation (Monnot and Stolz 2018). The term *congregation* has been defined in different ways. Harris (1996), for example, defines *congregations* as 'local institutions in which people regularly gather for what they feel to be religious purposes'. Ammerman (1998) describes *congregations* as 'local, voluntary, lay-led, religious assemblies' and as 'places where ordinary people gather (...). If congregations do nothing else, they provide a way for people to worship' (Ammerman 2009). Cnaan and Bodie (2001) are the first researchers who have employed an operational definition of congregation to create a census of religious congregations. They defined *congregations* as:

> any religious gathering that meets the following seven criteria: (1) a cohesive group of people with a shared identity; (2) a group that meets regularly on an ongoing basis; (3) a group that comes together primarily for worship and has accepted teachings, rituals, and practices; (4) a group that meets and worships at a designated place; (5) a group that gathers for worship outside the regular purposes and location of a living or work space; (6) a group with an identified religious leader; and (7) a group with an official name and some formal structure that conveys its purpose and identity'.

A more transversal and adaptable definition to both the European and the American contexts is the one given by Chaves[15] (2004). He defines *congregation* as:

> a social institution in which individuals who are not all religious specialists gather in physical proximity to one another, frequently and at regularly scheduled intervals, for activities and events with explicitly religious content and purpose, and in which there is continuity over time in the individuals who gather, the location of the gathering, and the nature of the activities and events at each gathering. This distinguishes congregations from other religious social forms such as monasteries or denominational agencies, which are constituted mainly, perhaps exclusively, by religious specialists; religious television and radio productions, whose audiences are not in physical proximity to one another; seasonal celebrations, holiday gatherings, and other religious assemblies that may occur at regular but infrequent intervals; rites of passage, corroborees, and other events that occur neither frequently nor at regular intervals; and camp meetings, post-game prayer circles, pilgrimages, religious rock concerts, passion plays, revivals, and other religious social forms that lack continuity across gatherings in participants, location, or content of activities.

[15] This definition has been used by the National Congregation Studies (NCS) and by the National Congregation Studies - Switzerland to discriminate what should be included and excluded by the domain of observation.

This definition enables to make a distinction between congregations and other social forms of religion, and does not differentiate groups according to a typology, but as specific organizational units regardless of the religious tradition (Monnot and Stolz 2020). Moreover, this definition fits many religious traditions aside from Christianity, Judaism and Islam (Chaves, 2004). It should be therefore stressed out that even religious traditions that are not organized congregationally elsewhere, such as Hindu traditions or Buddhism, tend to take the congregational form in Western countries (Bankston III and Zhou 2000; Ammerman et al. 1998) when they attempt to survive in the diaspora. Monnot and Stolz (2018) operationalized Chaves definition for the census of Swiss religious congregations, giving rules of how empirically include a certain number of phenomena into the domain of observation, thereby excluding other phenomena, as explained in Table 1.

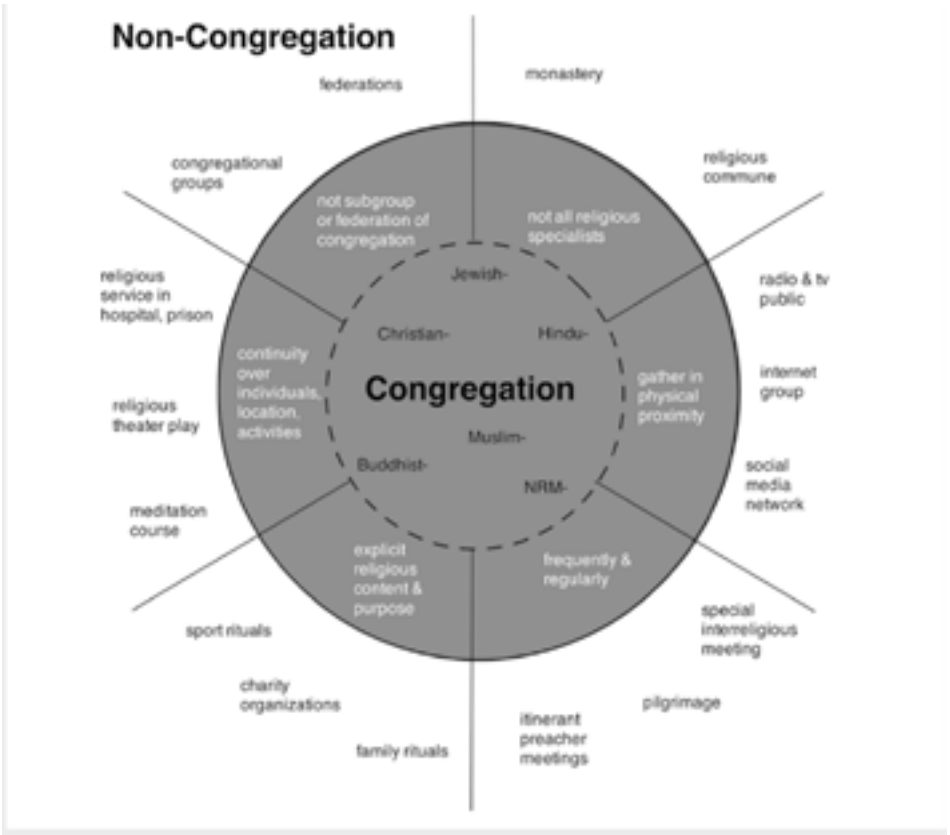

Table 1: How Chaves' definition excludes different phenomena, according to Monnot and Stolz (2018).

1.1 The Concept of Congregation: from USA to Europe

The term *congregation* has appeared rather exclusively suited to the American religion field (Ammerman 2018). The diverse and voluntary character of American religious life, where people from all sorts of religious traditions voluntarily organize religious groups and expect to have a say in how things run (Ammerman 2017), is what Warner defined 'de facto congregationalism' (1993). According to Warner, congregations constituted 'by those who assemble together rather than by the geographic units into which higher church authorities divide their constituents' (1994) are the norm in American religious life. This voluntarily self-organizing form of religious communities in the USA, offers a different picture from the one provided by the parochial model in Europe (Wegner 2017), and this is the reason behind the doubts of the cross-national validity of the concept of *congregation*.

Due to the social and cultural changes in the European religious field, the assumption that the concept of *congregation* is only suitable to the American context, seems to be no longer well founded. There is indeed some reason to wonder whether the religious basis of European societies are shaking enough to open space for the kind of local autonomy and voluntary character that would make some catholic parishes – and religious communities in general – more like congregations (Ammerman 2018).

In Europe, the established majority churches have suffered two generations of constant vertiginous decline. As the number of worshippers has reached record lows, attendance is progressively seen as a voluntary choice, instead of a social convention or family tradition (Davie 2000; 2015).

Together with this decline phenomena, is the presence of significant numbers of immigrants that is changing the European religious field.

In Europe, scholars have recognized the tendency toward a 'congregationalization' of immigrants as a consequence of the diasporas (Monnot and Stolz, 2020). Religious traditions and communities are crucial in supporting immigrants in their new countries, and in order to maintain traditions and transmit rituals, they tend to congregate.

Over the last few decades, in parallel with the decline in participation in established majority churches and with immigration, alternative spiritualities with collective expressions (e.g. yoga groups for meditation) have emerged alongside the historic minorities (Ammerman, 2018). As voluntarily established local spiritual groups, their occurrence reinforces the assumption that the use of the term *congregation* in Europe is no longer incorrect and that this conceptual category has a substantial cross-national validity (Chaves, 2018).

2. Congregational Studies in USA

In recent years, few topics in the sociology of religion in the USA have enjoyed more attention than congregations (Demerath and Farnsley 2007).

Congregations – the local organizations in and through which people engage in religious activity – are a basic unit of American religious life (Chaves et al. 1999), and the principal spot of religious ritual activity. Congregations provide an organizational model, sociability and community, opportunities for political action and voluntarism, support of religious identities and traditions through education, and engage in a variety of community and social service activities (Warner 1994; Wuthnow 1991).

Sociologists have long acknowledged congregations' relevance as an organizational population and their potential as a research area (Chaves et al. 1999). With two thirds of the US population declaring affiliation with a local congregation, and almost 40% claiming to attend with some frequency, the organizational forms and dynamics of the groups to which they belonged were not irrelevant (Monnot and Stolz 2020). There was good reason to believe that congregations were deeply diversified and that the differences might have real and interesting implications (Chaves 2004).

The study of congregations as units of analysis initiated in the prominent work of H. Paul Douglass and Edmund deS. Brunner, by combining case studies with surveys of large numbers of congregations in a variety of denominations (Douglass and deS. Brurmer 1935; Morse and deS. Brunner 1923). Latest studies on congregations can be mainly split into two groups (Chaves et al. 1999). On one side, scholars and journalists have conducted case studies of limited numbers of congregations to investigate many issues, such as fundamentalism, conflict, adaptations to changing communities, and leadership. On the other side, sociologists have studied broader numbers of congregations conducting surveys mainly within one (or small number) denomination, within a single (or several) limited geographic area, selecting congregations randomly. These studies provided information about many topics concerning congregations as growth and decline, finances, leadership dynamics, and social service activities. The major gap in these works and in the study of congregations in general, has been the absence of a nationally representative sample of congregations. This gap has been fulfilled by the National Congregation Study.

2.1 The National Congregation Study

The National Congregation Study (NCS) has been the first systematic survey and a major step forward in congregational studies and sociology of religion in general (Stolz et al. 2011). Besides other significant interfaith studies, this is considered a decisive methodological breakthrough (Körs

2018). Focusing on congregations instead of individuals, it has provided representative data on a variety of topics that were never available before about American collective religious life.

NCS was conducted in the USA by Mark Chaves and team, and produced results on a representative sample of America's churches, synagogues, mosques, and other local places of worship. Based on four nationally representative surveys of congregations from across the religious spectrum – the NCS' waves were conducted in 1998, 2006 - 07, 2012, and the last wave in 2018-19 [16] – NCS allowed to collect information about many aspects of American religious congregations.

The National Congregation Study (NCS) was conducted in conjunction with the General Social Survey[17] (GSS), and between the four waves, the NCS findings involved 3,815 congregations. Before 1998, a national snapshot of American congregations did not exist because there was no good way to create a representative national sample (NCSIII Final Report 2015). The problem was that no official register of all congregations subsisted. The National Congregations Study (NCS) employed an innovation in organizational sampling technology to create a nationally representative sample of congregations. NCS gathered data about congregations in this sample by an interview with a key informant from each religious community. The generated dataset filled a gap in the sociological study of congregations by providing data that has been used to draw a national picture of congregations (Chaves et al. 1999).

2.1.1 Making the NCS Sample

The methodological innovation behind the NCS sampling strategy is the insight that organizations attached to a random sample of individuals represent a random sample of organizations. Consequently it is possible to create a representative sample of religious congregations despite the absence of a sampling frame that entirely lists the existing religious congregations (Chaves et al. 1999). This procedure is called 'hypernetwork sampling' (McPherson 1982), and the NCS is the first study implementing this method for religious congregations. It is therefore possible to create a hypernetwork sample of congregations starting with a random sample of individuals and invite them to name the religious congregation to which they are affiliated. The General Social Survey asked respondents who said they attend religious services at least once a year, to report the name and location of their religious congregation[18]. The congregations named

[16] Results available at: https://sites.duke.edu/ncsweb/
[17] A national survey conducted by NORC at the University of Chicago
[18] The possibility that a congregation will appear in this sample is proportional to its size.

by these people constituted a representative cross-section of American congregations (Chaves et al. 1999).

2.1.2 Collecting NCS Data

The NCS collected congregational data using a one-hour interview with a clergy-person or other leader from each nominated congregation. The majority of the interviews were conducted by telephone, gathering information about multiple aspects of the congregation, including social composition, structure, programs, activities, clergy characteristics, worship services, etc. The four waves of NCS, enabled statements on continuity and change as well as on expected future trends in the USA (Chaves 2015). The NCS examines what people do together in congregations, and what religious communities do together tells something significant about the condition of religion in the USA, whatever the specific beliefs and practices of individuals in those congregations (Chaves 2004). In general, the National Congregations Study provides a broad and varied cross-section of American collective religious life, and offers some grounded observations about the state of congregational life. NCS findings allow to discriminate the truth from false myths about American religious communities, and help to assess the extent to which certain features of congregational life permeate the religious landscape (NCSIII Final Report 2015)[19].

3. Congregational Studies in Europe

In Europe, research on the meso-level of social forms of religion, including local religious groups, remained underestimated and greatly neglected for a long time (Monnot and Stolz, 2018). On the other hand, theories of secularization, and the great trends of religious developments in a macro-perspective or with individual religiosity in a micro-perspective have dominated the field for decades.

A significant increase of interest in local religious groups and in congregational studies has begun only recently. Monnot and Stolz (2018) described how this renewal of interest has its roots in many areas of research.

A first area of research identified by the authors resides in the so-called 'religious mapping studies' that began in the 1980s, when researchers started regularly counting, describing, and locating all the existing places of worship in a specific territory. This type of research especially concerned

Because congregations are nominated by their affiliates, larger congregations have more possibilities to be in the sample than the smaller ones.

[19] Available at https://sites.duke.edu/ncsweb/files/2019/02/NCSIII_report_final.pdf.

religious studies focused on religious diversity and its impact on the socio-religious landscape. This area of research was initially focused on new or immigrant religions[20], but now is progressively including traditional local religious groups. On an international level, one of the first significant studies of this kind was guided by Cnaan and Boddie in Philadelphia[21].

A second area of research is grounded in the studies of Margaret Harris. In a series of studies begun in the 1990s, she started to guess that local congregations of different religious traditions in the UK behaved in an analogous way to other non profit associations (Harris 1995, 1996).

The last area of research that has encouraged interest in congregation studies, is grounded on the organizational theories (Scheitle and Dougherty, 2008).

According to Monnot and Stolz, congregations started to be mainly considered as an organizational unit due to sociology of organizations (2018). These studies place emphasis on congregations' characteristics such as their size, membership and activities. The leading research in this field is the National Congregations Study (Chaves 1999; Chaves et al. 2014; Chaves and Anderson 2008). The attention towards religious communities in the USA has contributed to an intensive shift in the perspective of the religious field, by describing its transformations and continuities (Monnot and Stolz 2018).

3.1 The National Congregations Study – Switzerland

The first survey that looks at the congregation as the basic unit of analysis, compares congregations across religions, and permits to capture the social/organizational diversity of religious groups in a comprehensive way in an European state, has been developed by Stolz and team (Monnot and Stolz 2018).

Drawing on the experience of and largely replicating the National Congregations Studies conducted in the United States in 1998, 2006-07, 2012 and 2018-19 (Chaves et al. 1999; Chaves 2004; Chaves and Anderson 2008, 2014), the National Congregations Study – Switzerland (NCS-S) was conducted in 2008-2009 (Stolz et al. 2011), by combining a census and the quantitative NCS methodology in order to map and analyse the religious diversity of Switzerland in a comprehensive way.

In the first step of this research, Stolz and team operationalized the definition of *congregation* given by Chaves and conducted a census from

[20] A significant part of the research is specifically interested in Islam in Europe.
[21] In 2001 these researchers made the first attempt to identify all of the congregations in Philadelphia and their social services.

September 2008 to September 2009, counting all local religious groups in Switzerland. Starting from the census dataset, the second phase of NCS - Switzerland consisted in drawing a representative sample of 1040 religious communities. For every chosen congregation, one key informant[22] was interviewed by telephone (CATI). [23] The interviewer used a closed question questionnaire that was adapted from the NCS to the Swiss context.

This research has been able to detect: *(a)* the main activities of congregations in Switzerland concerning worship, social, political, cultural and other activities; *(b)* how much success do congregations have in terms of membership growth and attractiveness of their collective activities, services and individual positions; *(c)* how are activity foci, vitality and structure shaped by structural and cultural determinants; and *(d)* how the activities differ across congregations in Switzerland and the USA, analysing the similarities and differences with the findings that were produced with NCS in the USA (Stolz et al. 2011).

4. Congregational Studies and Religious Diversity

The migration process that Europe has been witnessing for decades has radically transformed the European socio-cultural landscape. Such process has caused a transformation from the cultural and religious homogeneity, to the acknowledgement of diversity (Giordan and Pace 2014). Under the influence of increasing migration, Europe recorded an impressive proliferation of multi-religious presence even in countries such as Italy. The Italian case is a good example of how, and to what extent, a symbolically monopolistic religious system can be transformed exogenously (Pace 2014).

4.1 The Challenges of Italian Religious Diversity

In Italy, the non-Catholic religious communities are becoming increasingly visible at the local level (Giordan and Pace 2012). In 2019 foreign citizens with a regular residence in Italy were 5,255,503 (8.7 % of the population). The 53.6% of them were Christians (1,560,000 are Orthodox and 1,000,000 are Catholic) and the 30.1% were Muslims (1,580,000)[24]. The rest were mainly Hindus, Buddhists, Sikh, Jewish and Baha'i (Giorda 2015). The unexpected differentiation of the religious field in Italy, where the belief system is still dominated by Catholicism (Pace 2014), have provoked

[22] As in the NCS in most cases the key informant was a clergy person or the religious leader.
[23] CATI is the acronym of Computer Assisted Telephone Interviewing.
[24] Report Caritas-Migrantes 2013, https://inmigration.caritas.it/documenti/immigrazione-in-italia

politically salient issues in current public debate (Ferrari, S. and Frerrari, A. 2010), especially due to Muslim immigrants. The presence of many people of Islamic faith have prompted debates about immigration and security policies and has raised questions about the current and future number of Muslims. The Pew Research Center estimated that in Italy, the size of muslim population in 2050 under a (improbable) zero migration scenario will be equal to 4,350,000 (8,3% of the population)[25].

These estimates demonstrate the extent to which the Italian socio-religious geography is destined to change irreversibly.

This unexpected condition poses new challenges to the political system, which is called upon to rethink the pluralistic dynamics and the way the State has traditionally managed the relations with the Catholic Church and with the religious minorities (Zrinščak 2014).

Moreover, the Italian religious diversity raises many issues questioning the studies of sociology of religion, the governments and the society itself. Among these, the levels of religious freedom of religious minorities; the interreligious dialogue practises; and the conditions and factors affecting ways and forms of the public and social acceptance of religious diversity.

4.2 The Perspective of an Italian NCS

There are numerous researches that in recent years have attempted to describe the Italian religious heterogeneity. These studies mainly analysed the evolution of religious diversity concerning specific religious traditions, as the survey on the spread of Christian Orthodox congregations in Italy lead by Giordan and Guglielmi (2018) and the researches regarded the presence of Islam in Italy (Allievi 2008, 2009, 2015; Bombardieri 2010, 2011). Another significant study that attempted to depict the Italian religious heterogeneity is the mapping of the new places of worship by region and by religious confession (respectively Islam, Orthodox Christianity, Sikhism, Buddhism, Hinduism, and Neo-Pentecostalism) lead by Pace (2013). This study enabled to go beyond mere generic estimates of the presence of other non-Catholic religions in Italy, and to gain an idea of the areas where the immigrants' different religions tend to concentrate (Pace 2014).

While not underestimating the usefulness and the importance of these researches, in Italy there is a lack of an organic study capable of detecting and understanding religious diversity in a comprehensive way across all religious traditions; interpreting a rapidly and radically changing social-religious scenario; collecting data on organizational, geographic, structural,

[25] https://www.pewforum.org/2017/11/29/europes-growing-muslim-population/

and cultural dimensions of different religious communities; and assessing the issues raised by religious diversity above mentioned. As claimed by Monnot and Stolz (2018), it is possible to improve the study of religious diversity by using a new methodology that combines a full census and a national congregation study. According to these scholars, the methodology used in the NCS-S, enables to compare all the different religious traditions in an extended geographic area and to deepen the significance and social consequences of the differentiation of religious fields. The data thus collected may illuminate both diversity and pluralism and allow for description and explanation of the phenomena observed (Monnot and Stolz 2018). In this perspective, an Italian NCS would be of primary importance to address the challenges of religious diversity, and to give an accurate overall picture of Italy's socio-religious landscape, capable of realistically illustrating people's spiritual experiences and their ways of belonging to a given religion.

5. Religion and Human Rights

The study of human rights emerged in the post-World War II era (Donnelly 1999). The resulting human rights academic agenda has been mainly ruled by legal analyses and largely neglected a sociological perspective (Deflem and Chicoine 2011). As the larger literature on human rights, also the studies of human rights and religion failed to include a sociological approach. Nevertheless, during the last decade a sociological analysis of human rights and religion has become more prominent, due to the empirical studies on human rights culture and religious freedom regulations (Breskaya et al. 2018). Such sociological analysis have at their core the contemporary challenges, tensions, and debates on human rights and religion within the nationals and global scenario, and cannot disregard the ambivalent relationships between religion and human rights (Witte and Green 2012). Banchoff and Wuthnow (2011) proposed two antithetical approaches structuring the relationship between religion and human rights. The approach of opposition of these two concepts suggests that the «modern conception of human rights triumphed only as traditional religious authorities eroded» (Banchoff and Wuthnow 2011) and it is not possible to reconcile religious precepts with individual freedoms and rights. The alternative approach highlights a possibility of cooperation of religions with human rights fundamentals by 'providing a transcendental foundation for the concept of human dignity or by practicing human rights principles' (Giordan and Zrinščak 2018). One particular aspect of this relationship is that religion has to be considered as a dynamic social phenomenon conceptualized in terms of practices of worship, contemplation, socialization,

and involvement in religious groups' activities including human rights and humanitarian action. The internal patterns of religious traditions in their relationship toward human rights should become an actual sociological topic for research. This process requests to be examined at the level of religious communities and their internal conceptualization of human rights, as well as at the level of application of human rights practices within congregations (Breskaya et al. 2018). In this perspective, congregational studies could be considered as a privileged sociological approach to further deepen the sociological analysis of human rights and religion.

5.1 Congregational Studies: a Sociological Approach to Investigate the Relationship between Religion and Human Rights

Congregational studies approach enables to investigate what kind of human rights (civil, economic, social, cultural rights, rights of the child, women's rights, environmental rights, or other) are mostly addressed in religious congregations and how various structural conditions in congregations relate to the support of particular human rights.

The NCS findings have been able to describe key features of congregational involvement in social service programs and projects, (Chaves et al. 1999; Chaves 2004; Chaves and Anderson 2008, 2014) and what issues politically active congregations address (Chaves et al. 1999; Chaves 2004; Chaves and Anderson 2008, 2014). Therefore, the questionnaire submitted to the key informants included specific sections capable to deepen: (a) the social activities carried out throughout programs focused on topics such as health, substance abuse, housing\shelter, domestic violence, employment, education (not religious), poverty, and immigrants' support; and (b) political activities related to issues such as immigration, abortion and LGBT rights (NCSIII Final Report 2015).

The analysis of NCS data, allowed to depict a detailed picture of American congregations' attitude toward human rights.

Regarding social activities, data analysis of the third wave showed how the vast majority of American congregations (83%) reported some involvement in social\human services; highlighting how the most common kind of helping activities are primarily oriented to food assistance, health needs, clothing, and housing provision, with less involvement in some of the more intense and long-term interventions such as drug abuse rehabilitation, jail programs, or immigrant services (NCSIII Final Report 2015).

Moreover, the NCS data from the first three waves were elaborated to assess how congregations' participation patterns in social services activities changed between 1998 and 2012 (Fulton 2016). Additional re-

searches based on NCS findings, have been able to examine how different factors, such as religious tradition, ethnoracial composition, theological orientation, economic resources and education, influence congregations' involvement in social activities and their attitude towards certain human rights (Chaves and Higgins, 1992; Chaves and Tsitsos, 2001; Tsitsos, 2003).

Concerning political activities, NCS findings showed how approximately one third of the American congregations are politically active, engaging in efforts to promote or prevent social and cultural change (NCSIII Final Report 2015).

NCS data analysis explored the different attitudes towards the issues for which congregations had marched on or lobbied for, which regarded in approximately equal measure poverty, abortion, and same-sex marriage, and less so immigration (NCSIII Final Report 2015).

The observations drawn from the analysis of NCS data, demonstrate Congregational studies' potential to further explore congregations' involvement in the application of human rights principles.

Conclusions

First, this literature review explored the congregational studies approach, focusing on NCS methodology as the major step forward in this field. The NSC - Switzerland is considered in this contribution, as the further step ahead, due to the combination of a census and quantitative NCS methodology, capable of assessing the social/organizational diversity of religious groups in a comprehensive way. Moreover, the NSC - Switzerland experience paves the way for future NCS surveys in other European states. The transnational validity of the conceptual category of congregation presents a potential application of congregational findings collected in various countries to pursue systematic comparative analyses. Such analyses could be applied to investigate how transnational variations in the social, political, and cultural fields connect to transnational differences in local religious congregations.

Second, this paper assessed the relevance of congregational studies approach from a double perspective - human rights and religious diversity - with the aim of illustrating how a research agenda that includes this approach can provide support to policymakers who are attempting to articulate the management of religion in modern societies; and at the same time can further develop the sociological perspective on human rights and religion.

In a scenario where the religious diversity is increasing, and where the social acceptance of diversity is rather ambiguous, questions of religious

diversity and pluralism are of great importance and policies of diversity and pluralism should be based on a thorough empirical knowledge (Beckford 2003). In this perspective, congregational studies could represent a way, for sociology of religion, to contribute empirically and informatively to urgent debates regarding the social and political integration of immigrants, and the ways in which congregations promote or prevent that integration.

From a human rights point of view, the relevance of congregational studies is grounded in the contribution that this discipline can provide to the sociological analysis of human rights and religion.

A research agenda that includes congregational studies might enable to examine whether, how and under which circumstances religious congregations practise human rights principles. This also could allow to explore how religious congregations cooperate with the state and other social institutions in human rights implementation and identify good practices of human rights enforcement.

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From Legal Norms to Practical Considerations: A Literature Review on Interpreting in Criminal Proceedings

David C. Weiss

University of Graz

david.weiss@uni-graz.at

Abstract: The free assistance of an interpreter for foreign-language-speaking defendants in criminal proceedings is a guaranteed human right under the provisions of the right to a fair trial. Moreover, EU legislation strengthened the right among member states and also grants it to victims and witnesses. However, as this literature review points out, various factors impacting on the realisation of the right need to be considered from a translation and interpreting studies perspective. The review discusses pressing issues and challenges identified in academic literature, such as the role and standing of the interpreter in the criminal justice system, trust, cooperation and collaboration between the different professional groups, and qualification and training activities for both interpreters and the respective authorities. In so doing, the review draws attention to the importance of comprehensive, interdisciplinary approaches in research and collaborative interprofessional practice.

Fair trial, *court interpreting*, *police interpreting*, *criminal proceedings*, *translation policy*, *translation culture*

Introduction

Due to globalized societies and global migration phenomena (flight, displacement, professional or private mobility), language diversity has become an increasingly important issue for states and societies. Given the growing proportion of people who live in a state of which they do not (sufficiently) speak the official language, public authorities and institutions are confronted with the question of how to communicate effectively with their citizens and uphold the rule of law. Vice versa, citizens are confronted with the question of how to communicate their needs, demand their rights, and claim their access to justice vis-à-vis the state. The remedy for these problems is often the assistance of translators and interpreters, who help overcome linguistic barriers and ensure effective communication.

The work of interpreters is of great importance in many institutional contexts. This literature review focuses on interpreting in criminal proceedings and the respective institutions involved, i.e. the police, public prosecutors, and courts. In the context of criminal proceedings, interpretation may have substantial effects on the course and fairness of the proceedings, the proper functioning of the judicial system, and the process of reaching a verdict which in turn has an influence on the lives of the people concerned.

The review points to the various factors influencing the realization of translation and interpreting from an interdisciplinary point of view. In doing so, it first lays out the foundations of the right to translation and interpretation from a legal perspective, starting from fundamental guarantees in international human rights law, such as the right to a fair trial. The paper then moves on to EU legislative documents and their binding provisions for member states. With regard to this legal framework, the paper then switches to a translation and interpreting studies perspective and discusses some of the most pressing issues regarding the work of interpreters in the criminal justice system. It covers questions of cooperation and collaboration between the different professional groups, trust issues, the role of the interpreter in the institutional context of criminal proceedings, and the required qualifications for both interpreters and legal professionals. Finally, the paper briefly presents contemporary research issues and conceptual considerations in this research area.

1. The Legal Perspective

Language, as a fundamental means of communication and an important part of individual and collective identity, is related to human rights in various ways. As de Varennes (2007, 116) points out, although mostly focusing on national minorities, language rights can and should not be seen

in isolation but are mostly part of fundamental human rights guarantees, such as 'non-discrimination, freedom of expression, right to private life, and the right of members of a linguistic minority to use their language with other members of their community'. It is therefore important to make a clear connection between language rights and superordinate human rights standards in order to understand that language rights are in most cases not only granted to legally recognized minority groups but to all foreign-language-speaking residents of a country. In the case of language use in criminal proceedings, this becomes even clearer, as the right to use a language one speaks and understands before court – and the associated right to the assistance of an interpreter – is part of the fundamental right to a fair trial and can therefore not be seen as an isolated language right (de Varennes 2007, 118-119).

1.1 The Right to Translation and Interpretation in Criminal Proceedings

The right to interpreting and translation in criminal proceedings is part of the superordinate right to a fair trial. As laid down in Article 6 § 3 of the European Convention on Human Rights (ECHR):

(3) Everyone charged with a criminal offence has the following minimum rights: [...]

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

The International Covenant on Civil and Political Rights (ICCPR) includes similar provisions under Article 14. Here, the assistance of an interpreter for foreign-language-speaking persons is already considered a basic requirement for the fairness of proceedings. It can be seen as part of the right to be heard, which is essential to fair trials; if a person is not understood, they cannot be heard (Trechsel 2006, 328). Moreover, the assistance of an interpreter is not only in the interest of the accused but also an important factor for the functioning and the administration of the judicial system, as judges, prosecutors, or other persons involved in the trial are also dependent on interpreters in order to effectively carry out their work in the proceedings (Trechsel 2006, 328). However, there are several points of discussion regarding the relation between the right to the assistance of an interpreter and the right to a fair trial or the fairness of the proceedings as a whole. At first, there is the question of whether this is an absolute or a relative right, and whether a trial can still be fair even though there was a breach of the right to an interpreter. Trechsel (2018, 23) considers the relation between the right to a fair trial as a superordinate concept and the specific guarantees under Article 6 § 3 ECHR to be of a *lex generalis*

and *leges speciales* nature. In this regard, he explicitly mentions the English formulation 'minimum rights' and even more the French formulation 'notamment' in Article 6 § 3, indicating that the guarantees can be seen as constitutive examples for elements of a fair trial. This, in turn, would mean that a breach of the specific guarantees under Article 6 § 3, including the right to an interpreter, automatically implies a breach of the right to a fair trial. However, Trechsel (2018, 25) points to the fact that the decisions of the European Court of Human Rights sometimes confirm the fairness of a trial even though there was a breach of the specific guarantees. The question is thus 'how can a trial be fair if a minimum right was disregarded?' (Trechsel 2018, 25). The Court's decisions would lead to the assumption, as also stated elsewhere by Trechsel (2006, 332), that the right to an interpreter is not of an absolute nature and that defendants would have to declare precisely how they were impaired in effectively exercising their right to defense. This could be the case if, for example, specific documents or parts of documents were not translated or if specific parts of a trial were not interpreted. On the other hand, Stavros (1993, 256) states that the guarantees under Article 6 § 3 (e) 'appear to be sufficiently clear as to prohibit the operation of the "actual harm" doctrine'.

On the contrary, the right to an interpreter can be seen as an absolute right with regard to the costs for interpretation. A foreign-language-speaking defendant would be put at a serious disadvantage if they would have to bear the costs for the assistance of an interpreter; therefore, interpretation always has to be provided free of charge, irrespective of the outcome of the proceedings and of the financial means of the accused (Trechsel 2006, 332; Stavros 1993, 253-254; Harris et. al. 2014, 490).

Another important issue is the scope and applicability of Article 6 and the right to free assistance of an interpreter. Harris et. al. (2014) note that the right does only apply once a person is charged with a criminal offence and thus not during police questioning when the person is still considered a suspect. This would mean, for example, that the right does generally apply to a pre-trial investigation by the police but not to initial questioning that may lead to the 'charged' status. This view is contested by Trechsel (2006) who considers police investigations to be a part of the proceedings and thus argues that preliminary investigations are covered by the right; even more so, as a foreign-language-speaking suspect would be put at a serious disadvantage, which would go against the underlying aim of the right. The same opinion is advocated by Stavros (1993, 66), who sees confirmation in the ECHR's decisions in *Luedicke, Belkacem and Koç v. Germany* and *Kamasinski v. Austria*.

Dingfelder Stone (2018) analyses the provisions of the ICCPR on the right to a fair trial, which are almost identical to the text of the ECHR, with

regard to their relationship to interpreters. His examination demonstrates that almost all the rights enshrined in Article 14 require the assistance of an interpreter in order to be guaranteed to foreign-language-speaking persons. However, it is not the mere presence of an interpreter that ensures the guarantee of the rights. The interpretation also needs to be comprehensive and of sufficient quality. For example, equality before the court, including equal access and the equality of arms as enshrined in Article 14 § 1, cannot be guaranteed if the interpretation does not help eliminate the differences caused by linguistic barriers in the best possible way (Dingfelder Stone 2018, 110-111). The same holds true for the right to adversarial proceedings, where the effective participation of the defendant in the trial plays a major role (Dingfelder Stone 2018, 113-114), as well as for the right to an oral hearing, for which the mere orality is not sufficient if the defendant does not have the chance to present and question witnesses (Dingfelder Stone 2018, 115). The right to be informed of the charge as well as the right to have adequate time and facilities to prepare a defence are intertwined in this regard, as the full understanding of the charge is the first step for the preparation of defense (Dingfelder Stone 2018, 118). The access to evidence and witnesses, another crucial factor for the defense, is also dependent on a competent interpreter. Moreover, if an interpreter is required for the preparation of the defence, this most certainly requires more time, which may have an influence on the 'adequate time' provision (Dingfelder Stone 2018, 122-123). The factor of time is also in the focus of the right to be tried without undue delay. It is not clear whether or not the participation of an interpreter is considered a complexity of the trial that would justify a delay. Furthermore, there is a risk for officials to resort to less qualified interpreters, if a qualified interpreter is not available in due time (Dingfelder Stone 2018, 130). Article 14 also guarantees the right to be present at trial. Presence, in this regard, should ensure effective defense and examination of witnesses and evidence, which means that physical presence alone cannot be sufficient. Instead, 'linguistic presence' is key to exercising fair trial rights (Dingfelder Stone 2018, 132-133). Other rights for which interpreters are important are the right to counsel, not least for the communication between defendant and counsel (Dingfelder Stone 2018, 138), and the right to examine witnesses for both non-native speaking witnesses and defendants, as even minor differences between the statements of witnesses and defendants may have an important weight (Dingfelder Stone 2018, 144).

In addition to the right to a fair trial, the regulations of the right to liberty and security also indicate a potential need for the assistance of an interpreter. Article 5 § 2 of the ECHR states: 'Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons

for his arrest and of any charge against him'. This formulation implies that in the case of foreign-language-speaking persons, the officials, e.g. police officers, might not be in a position to inform the person in a language they understand, and therefore resort to translation or interpreting services.

1.2 European Union Legislation

In addition to the overarching human rights provisions, there has been a comprehensive development and standardisation process at EU-level during the last two decades, which led to legislative measures in the area of translation and interpreting in criminal proceedings. Following the intention of establishing an *area of freedom, security and justice*, the European Union put a strong focus on establishing common minimum standards, fostering judicial cooperation, and safeguarding fundamental rights and the rule of law for citizens across its member states. This process culminated in the adoption of Directive 2010/64/EU; the fact that this Directive was the first legislative document at EU level in the area of criminal proceedings shows that language -, translation -, and interpreting-related issues were central considerations regarding EU judicial policy. The Directive lays down the minimum standards for translation and interpretation in criminal proceedings. It sets out, for example, that member states need to ensure the provision of interpretation during all stages of criminal proceedings, thus also for police questioning and interim hearings, as well as for communication with legal counsel during all stages of the proceedings. Moreover, the Directive obliges member states to establish a procedure or mechanism 'to ascertain whether suspected or accused persons speak and understand the language of the criminal proceedings and whether they need the assistance of an interpreter' (Art. 2 § 4). It is thus not the defendant's obligation to demand interpreting services but the respective authority's duty to assess whether the foreign-language-speaking person is able to understand and follow the proceedings. Regarding the quality of interpretation, the Directive states that it should be 'sufficient to safeguard the fairness of the proceedings, in particular by ensuring that suspected or accused persons have knowledge of the case against them and are able to exercise their right to defence' (Art. 2 § 8). This issue is addressed again under Article 5 stating that member states need to take measures to ensure the aforementioned quality standard, and that 'a register or registers of independent translators and interpreters who are appropriately qualified' shall be established. The Directive further states once again that the member states have to bear the costs of interpretation and translation (Art. 4), and that special training measures for judges, prosecutors, and judicial staff shall be established in

order to 'pay special attention to the particularities of communicating with the assistance of an interpreter so as to ensure efficient and effective communication' (Art. 6). The Directive thus provides wide-ranging standards and regulations and also answers the above-mentioned question whether police interrogations are covered by the right to interpretation.

During the following years, other Directives related to the criminal justice system were adopted, some of them also having implications for translation and interpreting. Directive 2012/29/EU, for example, addresses the rights of victims of crime and grants them the right to translation and interpreting services, free of charge, for their questioning, interviews, and all parts of the proceedings in which they actively participate (Art. 7). Directive 2012/13/EU on the right to information in criminal proceedings grants suspects and accused persons the right to be provided with information about their procedural rights, including the right to interpretation and translation (Art. 3). Moreover, a Letter of Rights must be handed out in a language the accused or suspected person understands; if written information is not available, the information can be given orally in a language the person understands. In this case, a written Letter of Rights must be handed out without undue delay (Art. 4 § 5).

The above-mentioned Directives provide EU member states with a comprehensive legal framework for interpreting and translation in criminal proceedings. As Directives are binding documents for member states, their provisions had to be implemented into the national legislations. This process is evaluated by the European Commission. The respective report for the Victims Directive, for example, finds that 'shortcomings regarding the transposition of Article 7 [i.e. the regulations regarding translation and interpretation] were found in the majority of Member States' (European Commission 2020, 5). These shortcomings are, among others, related to missing translations of essential documents, the provision of interpreting only during court proceedings, or a missing possibility for objection if no interpretation or translation is provided. Regarding Directive 2012/13/EU on the right to information, the Commission report states that the majority of the member states comply with the provision to inform suspected or accused persons about their right to translation and interpretation (European Commission 2018, 6). However, the provisions regarding the Letter of Rights were only transposed correctly by thirteen member states, while three did not transpose them, and others did not fully transpose them (European Commission 2018, 10). Thus, some work still needs to be done in order to safeguard the legal provisions and human rights standards among all member states. This is, of course, also highly dependent on the respective national legislations, which may differ from country to country.

2. The Translation and Interpreting Studies Perspective

Considering the aforementioned legal regulations and human rights guarantees, the question arises of how they are realized in practice. Despite the comprehensive legislative provisions, a number of additional factors need to be considered. As much as fair criminal proceedings require state officials and legal professionals (police officers, prosecutors, lawyers, and judges) to abide by the law and exert their duties with respect to human rights guarantees, they require interpreters who are qualified enough but also find the best possible working conditions in order to contribute to the fairness of the proceedings in the best possible way.

A bibliometric analysis of publications on legal interpreting by Monteoliva-García (2018), including 'the courtroom, police settings, prison, asylum, immigration, and military settings' (Monteoliva-García 2018, 39), shows that recently there has been increasing research interest in this field. According to the analysis, which includes publications from 2008 to 2017, the average number of publications per year has tripled compared to the preceding ten years (Monteoliva-García 2018, 44). The majority of publications were to be found in the area of court interpreting (around 54 %), followed by publications generically labelled 'legal interpreting' (around 24 %), and by publications on police interpreting (around 12 %) (Monteoliva-García 2018, 47). The publications mainly addressed the following themes: the role of interpreters in legal settings, the quality of interpreting, guidelines for interpreting users, training, certification and professionalization, 'atypical' interpreting formats, and specific participants in interpreter-mediated encounters (Monteoliva-García 2018, 48-54). This broad range of issues indicates that there are a number of relevant factors to consider beyond legal regulations, some of which are discussed in the following sections. As described above, most of the publications on interpreting in legal contexts focus on court interpreting. However, other settings such as the police, prisons, etc. gained importance in recent years. This is not surprising, as these settings also concern integral parts of the criminal justice system and, 'as far as interpreting is concerned, the chain is only as strong as its weakest link' (Hertog 2015, 20). As Hertog further points out, 'interpreting in the police station has the same weight and importance and should be carried out according to the same quality standards as interpreting at the final stage of sentencing, say before a judge and jury in a trial court'.

There are, of course, some differences among states in the realization of translation and interpreting in criminal proceedings, which are due to differences in national legislations, legal systems, offers for translator and interpreter training, and also in the linguistic composition of societies. However, some recurrent issues are relevant for all different contexts.

2.1 The Interpreter's Role and Standing in the Criminal Justice System

Interpreting in criminal proceedings is embedded in the organizational context of state institutions, which can be described as highly formalized. The circumstances of the interaction are shaped by the respective superordinate institutional context, which influences specific communication situations (Pöchhacker 2008, 58). However, interpreting, although it has become a crucial activity for criminal proceedings in an increasingly multicultural societal environment, is not always (or rather rarely) institutionalized, and interpreters as central actors of the proceedings only rarely participate in the regulated and formalized work processes of the institutions. Therefore, they have to renegotiate and reconstruct their working conditions and the way interpreting is carried out for each new assignment (Kinnunen 2010, 245; Kinnunen 2013, 85). The status and recognition of interpreters and their work in the criminal justice context – as well as their salaries - are generally low. Moreover, the appointment of interpreters without any formal training is a common phenomenon; as a result, interpreting users may not always know what to expect from interpreters, as they experience different levels of professionality and skills (Hale 2008, 100). This leads to the observation that there is no shared understanding and definition of the role of interpreters, neither between legal and translation/interpreting professionals, nor among the members of the respective groups. For a long time, a view of interpreters as invisible transcoders or conduits has been widely spread, together with the idea that word-by-word translation would be the most faithful and accurate rendering of a text or an utterance. This idea of invisibility, however, does not meet the actual practice, as the presence of interpreters always brings consequences with it, e.g. regarding the duration of proceedings or the fact that an additional person is present and needs to be accommodated in the courtroom (Fowler 1997, 196). Moreover, interventions by the interpreter such as requests for clarification or the clearing up of misunderstandings may be necessary (Mikkelson 2008, 84). As a result, the actual roles and expectations are often not clearly defined. According to Hale (2008), the expectations by other participants may include the roles of an advocator for the foreign-language-speaking person or for the institution, a gatekeeper, or a facilitator in the communication. The best option would be diligently conveying all utterances and messages for all parties. However, other roles are regularly ascribed to interpreters and the expectations may change, even during the proceedings. Some studies show, for example, that the freedom and agency given to interpreters depend on 'interpersonal dynamics' between the interpreter and the judge (Morris 2008). Tryuk's (2012) study on court interpreting in Poland similarly finds that interpreters are granted a large amount of freedom in their

actions if the judges see a benefit in doing so. At the same time, many judges refuse the idea of an active role of interpreters. A questionnaire study by Kadric (2010) among Austrian criminal courts points out that conflicting roles are ascribed to the interpreter by the judiciary, e.g. assistant of the court, neutral intermediary, and assistant of the foreign-language-speaking party. Nartowska's (2018) observations of court proceedings in Austria and Poland further show that interpreters are 'active and visible participants in the interaction and, at the same time, power figures in the courtroom' (Nartowska 2018, 117). Their interventions and decisions changed the course of the proceedings, yet not always fully guaranteeing human rights standards and putting the defendants on equal footing.

2.2 Cooperation, Trust, and Working Conditions

Conducting legal proceedings and negotiating cases in a multilingual environment can be seen as a highly complex activity that requires interprofessional cooperation and collaboration. As Kinnunen (2011, 95-96) points out, shared/collective expertise needs to be established by the professional groups involved, i.e. legal and translation/interpreting professionals. This can be done, for example, by reorganizing the organizational structures of institutions regarding the work with interpreters, i.e. by establishing regular exchange with interpreters and better integrating them into the activity system of the institution. However, shared expertise may go beyond mere exchange. Just like interpreters in legal contexts need a certain degree of legal background knowledge, Kinnunen and Vik-Tuovinen (2013, 250) state that legal professionals need a certain degree of linguistic knowledge (and knowledge about translation and interpreting) too, in order to effectively exert their duties in a multilingual context.

Cooperation and collaboration in legal interpreting also include the provision of preparation material (e.g. case files) for interpreters. Preparation for interpreting assignments is a crucial component of the interpreter's work. However, interpreters are often denied access to preparation material. In the legal field, this is frequently justified by the fact that case files are confidential, which implies a lack of trust towards the interpreters, their professional status, and confidentiality (cf. Martonova 2003). Furthermore, Kinnunen and Vik-Tuovinen (2013) point out that some judges assume that interpreters could be biased when knowing too much about the case beforehand, and that this could threaten the fairness of the proceedings. The same is observed for police officers and their lack of trust towards interpreters if they have received too much information beforehand (Ahrens and Kalina 2014, 187). However, judges, as professionals in their

field, also know about the cases beforehand and nevertheless manage to maintain their impartiality. Another reason for not providing material can be a lack of understanding about why preparation material is needed and thus about the practice of interpreting itself. On the other hand, if untrained interpreters are assigned in legal cases, they might not even ask for preparation material, as they might be unaware of the importance of preparation and their right to access preparation material (Kinnunen and Vik-Tuovinen 2013, 258-261).

Working conditions and cooperation generally are a recurrent issue in the debate about interpreting in criminal proceedings. There is a longstanding call for improvements in this regard, including appointment procedures leaving enough time for preparation, the provision of preparation material, and potential participation in preliminary meetings (see e.g. Rasmussen and Martinsen 2001). Other important factors that may have an influence on trust, cooperation, and the professional perception of interpreters are, for example, the introduction of the interpreter through the judge (or police officer) at the beginning of the proceedings (questioning), their positioning in the room, which may have an influence on the dynamics of the interaction, or practical issues such as regular breaks, providing the interpreters with water and other facilities (e.g. a table for note-taking), or the speaking habits of the actors involved (pace, clarity, avoiding muttering, complexity etc.) (Hale and Napier 2016). In any case, an interplay of the skills and professionality of interpreters and the awareness of legal professionals and their willingness to cooperate and collaborate can be assumed, requiring special training and qualification for both professional groups.

2.3 Qualified Interpreters

The notions of 'quality' and 'qualified interpreters' are regularly used in legislative documents. However, the exact meaning of these terms is not always clear to all the actors involved. An excellent command of both languages involved in the translation/interpreting process is a fundamental requirement. As a matter of fact, though, this is by far not enough. Translation/interpreting competence, in any setting, comprises specific skills that need to be acquired through professional training. In addition, highly specialized areas, such as the legal field, require specialist knowledge. Hale (2019, 49) defines four core areas of competence for legal interpreters: '(1) Linguistic and discursive, (2) Contextual, (3) Interpreting (theoretical, technical and professional), and (4) Interactional'.

The first category includes not only 'specialist legal terminology, with accompanying knowledge of the legal system in which they occur' (Hale

2019, 49), but also the 'knowledge of the discourse of legal settings' (Hale 2019, 50). This means that interpreters need to understand the strategies behind questions and utterances in the legal context, and thus not only convey the content, but also make sure that the interpretation has the same effect as the original. The second category, contextual competence, is closely related to discursive competence, as the context and practices of a setting are determinant for the (discourse) strategies applied. Moreover, preparation work and the availability of preparation material are important for contextual competence. The provision of preparation material (e.g. case files) for interpreters is a crucial factor for the quality of interpreting and can be seen as one of the core elements of the above-mentioned interprofessional cooperation. Interpreting competence as the third area includes theoretical competence, such as the knowledge of interpreters about the underlying research and theories of their professional activity in order to make informed decisions and justify their approaches (e.g. not to interpret word-by-word). Moreover, technical competence is needed in order to choose the appropriate mode of interpreting (simultaneous, consecutive, sight translation, etc.) and approach to interpreting, thus making informed decisions about which working style best suits the situation and ensures effective communication between the actors involved. Another important part of interpreting competence is professional competence, including the awareness about the ethics of the profession and their implications on the role of the interpreter (e.g. not taking sides, not omitting anything in the interpretation if this would put one of the interlocutors at a disadvantage, etc.). The last category, interactional competence, refers to the management of the interaction, for example to the use of metalanguage for clarifications, to introductions and explanations by the interpreters, or also to body language, the management of turn-taking, and switching modes of interpreting (Hale 2019, 49-61).

The issue of improving the quality of court interpreters is also addressed by Dingfelder Stone (2018). He sees 'increased quantity and quality of court interpreter training', better remuneration of interpreters, mandatory certification standards, and the use of remote video interpreting as possible measures to be taken. However, the latter has its limitations and may even cause more problems in some cases, as the personal interaction is completely missing in remote video interpreting (Dingfelder Stone 2018, 316-322).

In the light of the factors that are relevant for the interpreter's work, it seems legitimate to argue that the quality of interpreting cannot be the sole responsibility of the interpreters themselves. Many of the factors depend on the awareness and knowledge of other actors and their willingness to cooperate. Thus, it is crucial to shed light on the responsibility of

the different actors and on the areas in which their cooperation is most needed.

2.4 Qualified Legal Professionals?

Regarding the role and responsibilities of the police or judiciary in ensuring effective communication through interpreters, the Directive 2010/64/EU acknowledges the need for raising awareness and for a certain degree of expertise among these professional groups by demanding member states to put a focus on training activities in this area. It is, however, not always clear how this provision can be put into practice. One of the main aims is to raise awareness among all actors involved of how interpreting processes work. In this regard, various scholarly works, mostly from translation and interpreting studies, elaborated on the importance of specific training for the police and judiciary. Some of them also present specific training courses. Perez and Wilson (2007) consider training to be a fundamental measure for increasing the professionalization of interpreting in police settings and for forming a professional team. Tackling pressing issues (according to police officers) such as accuracy of interpretation, trust in interpreters, conversation flow, knowledge of the interpreters about police procedures, skills and role of the interpreters, role of the police officers, and the successful outcome of the interpreted communication can best be done by a collaborative approach to training (Perez and Wilson 2007, 84-87). They further elaborate on this matter by describing the 'interlinked approach' to training (Perez and Wilson 2011), advocating for joint training activities involving both police officers and interpreters or interpreting students already during their studies. This approach should include both interactive lectures and realistic simulations, in order to give the participants an impression of what interpreting/working with interpreters means in the context of police investigations beyond merely following legal regulations or written guidelines.

Hale (2015) lays out the design for a training program for prospective judges, lawyers, and also law students. The course discusses expectations and experiences of the participants and actively involves them in activities of, for example, speech rendering in their own language in order to raise awareness for the factors facilitating or hindering the accurate rendering of a message. Moreover, possible improvements of the working conditions of interpreters are discussed with the participants. The evaluation of the workshops regularly showed that the participants found it very helpful, interesting, and revealing. As stated by Hale, legal/judicial staff should not be blamed for not being aware of the problems involved in translation and

interpreting, 'given they are not linguists or language professionals' (Hale 2015, 166). Thus, actively approaching legal professionals and providing suitable training programs can be a key factor for launching or fostering interprofessional cooperation.

A recent work by Del-Pozo-Triviño (2020) describes a training course for police officers in Spain based on five modules: 'legislation and provision of translation and interpreting services', 'language and culture', 'translation and interpreting as a profession', 'working with interpreters', and 'resources, projects, associations and useful information' (Del-Pozo-Triviño 2020, 197). The activities include exercises that require active participation, such as role-plays, interpreting by (bilingual) participants for other participants (Del-Pozo-Triviño 2020, 198), and shadowing exercises, i.e. rendering speech in the same language (Del-Pozo-Triviño 2020, 201). This may help the participants understand the difficulties inherent in the activity of interpreting. The overall feedback of the participants was positive and especially showed that much of the information conveyed was new to them. All of the participants would recommend the course to their colleagues (Del-Pozo-Triviño 2020, 203-204).

Recommendations for 'better informed courtroom actors' are also to be found in Dingfelder Stone (2018). He advocates for better working conditions, including placement, infrastructure, the provision of preparation material'; and 'increased cooperation and assistance on the part of the judiciary, reduction in problematic actions, such as speech-related issues, problematic language, or harming the impartiality of interpreters; revised judicial control over problematic actions, meaning instruction of the parties to specific rules, explaining the role of the interpreter, etc.; combating fatigue, e.g. making sure that there are enough breaks or using team interpreting; and finally, better appointment procedures, i.e. awareness about the need for qualified interpreters (Dingfelder Stone 2018, 311-315).

Overall, the issues discussed in this chapter clearly underline the complexity of interpreting in criminal proceedings and demonstrate the need for comprehensive and interdisciplinary approaches and collaborations in both research and practice.

3. Ways Forward: Research Issues and Conceptual Considerations

Research on interpreting in criminal proceedings gained strong momentum during the last decades, important legislative steps were taken, and training and professionalization activities were developed. However, a lot of work still needs to be done and some areas, such as police interpreting, are still underexplored. Moreover, new developments and areas of research constantly emerge. A recent paper, for example, focuses on dif-

ferent forms of language support used by police officers. Besides interpreting in its traditional sense, the study addresses language and translation apps, telephone interpreting, bilingual police officers, family and friends, communication in broken English, or posters and cards written in different languages (Monteoliva-García 2020a). Another study by Monteoliva-García (2020b) focuses on stand-by interpreting, i.e. interpreting for persons who have limited command of a language and thus need language support in specific situations (but not throughout the communication). The use of technologies, such as remote video-interpreting, and their implications for interpreting in criminal proceedings is another recent field of research (see for example Braun and Taylor 2012; Braun 2018; Napier, Skinner, and Braun 2018) that requires further attention, not least with regard to the abovementioned issues in the context of criminal proceedings. However, this is not further elaborated, as it would exceed the scope of this literature review.

Furthermore, translation and interpreting studies provide useful frameworks for the study of interpreting in criminal proceedings at the conceptual level. The notion of translation/interpreting culture, for example, offers a comprehensive approach to translation and interpreting in different contexts, considering the

> socially established, controlled and controllable norms, conventions, expectations, value propositions and naturalized behavioral patterns shared by all actors actually or potentially involved in the translation processes within the relevant culture (Prunč 2012, 340; English translation in Hebenstreit 2019)

A translation/interpreting culture, in this regard, is not to be identified on a global or national level; according to Prunč (2012, 358), it is more likely to assume the existence of 'regional or sectoral' translation/interpreting cultures. However, these translation/interpreting cultures may still have national or transnational dimensions, e.g. through legislation that affects them. This idea could also be applied to the criminal justice system, for example by trying to identify the relevant factors of translation/interpreting culture within the judicial and police sectors. Prunč's (2008) prototypical model of a democratic translation culture may be of particular interest in this regard. The model is based on the four principles of cooperativeness, reciprocal loyalty, transparency, and ecologicality, thus offering a reference framework that addresses some of the most pressing issues as described above. The concept of a democratic translation/interpreting culture and its implications on balancing power differentials has already been used as an explanatory tool in a study on the cooperative courtroom by Martinsen and Dubslaff (2010) and could be a promising theoretical approach to further comprehensive studies on translation and interpreting in criminal procee-

dings.

In close connection to translation culture, the study of translation policies may also provide promising insights in the area of translation and interpreting in criminal proceedings. The notion of translation policy was first introduced by James Holmes, who sees the task of translation studies in this area 'in defining the place and role of translators, translating, and translations in society at large' (Holmes 1988, 78). Based on this assumption, a broader understanding of translation policy could be used for a comprehensive investigation of translation and interpreting in criminal proceedings and its surrounding organizational factors. González Núñez (2016a, 92) operationalizes the concept by defining three dimensions of translation policy: (1) translation management, meaning norms, regulations, and the organization of translation and interpreting, (2) translation practice, meaning what is translated/interpreted, where this takes place, how it is done, etc., and (3) translation beliefs, meaning the attitudes of relevant actors towards translation/interpreting. He fruitfully applies this concept in his comprehensive study of translation policy in the United Kingdom, including government, healthcare, and judicial settings (González Núñez 2016b), showing its potential for further application in the area of criminal proceedings.

Conclusion

This literature review gave an overview of the right to translation and interpreting in criminal proceedings, its human rights and supranational legal foundations, and their implications in practice. After sketching out the legal provisions in international human rights law and EU-law as well as discussing the relevance of interpreters in criminal proceedings, the article took the perspective of translation and interpreting studies and focused on challenges and difficulties in the practical implementation of the right to interpretation. The existing research shows that interpreting in criminal proceedings is a highly complex task that requires qualified interpreters, as well as awareness, expertise, and collaboration by the other actors involved in the proceedings. Specific professional training activities should thus not only be fostered among interpreters, but also among the judiciary and police, as common efforts are needed to guarantee fair trials and equal access to justice across linguistic barriers. It is thus an important task for research to shed light on all the relevant factors that impact the provision of interpreting in criminal proceedings, and on the different actors involved in order to identify areas for improvement. The author of this review aims at contributing to this task with his dissertation project by trying to iden-

tify guiding principles of a translation/interpreting culture that best contribute to the safeguard of human rights and investigating the underlying translation/interpreting policies that would lead to the establishment of a translation/interpreting culture of this type.

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Informational Lobbying Strategies and Human Rights NGO Access to the European Parliament: A Critical Review

Abdollah Baei Lashaki
University of Padova

Abstract: The current literature on lobbying and interest representation has been examined to indicate this literature review's theoretical relevance. This examination will allow researchers to check where there is room for new or additional research. The present study is necessarily incomplete, as it doesn't claim to cover the entire body of literature written on the subject. Nevertheless, it does cover the works of leading scholars in this field. The focus is on how human rights NGOs can access the decision-making process concerning human rights issues in the European Parliament. Many studies have been conducted on non-governmental actors' access to different EU decision-making bodies' decision-making. An exchange of information model defines lobbying in the EU: Groups with adequate information supply understaffed decision-makers with relevant information and receive authorised access to the EU decision-making process. While we know quite a bit about decision-makers' informational needs, NGO capability to meet these needs remains somewhat unclear. This literature review examines the informational determinants of human rights NGOs in connection with the EP: what type of information and what tactics to convey such information are best suited to grant access to MEPs?

Keywords: Information types, Information tactics, Access, Lobbying, supply and demand, Inside tactics, Outside tactics, Human Rights NGOs

Introduction

Globalisation has provided an opportunity for non-governmental actors to play a central role in the process of strengthening the protection of human rights (Marcinkutė 2012, 52). The emergence of new actors in hu-

man rights matters raises many questions regarding human rights' conceptualisation and stresses the theme of how they can influence the process of decision-making in international organisations or other entities when addressing human rights issues. This paper examines the role these actors play in the EU decision-making process in such areas. There is not much information about how these actors do lobbying in the EU. Still, non-governmental actors' ability to influence the EU decision-making bodies has attracted many researchers. Measuring influence is a somewhat problematic enterprise in political studies. Based on that, Pieter Bouwen (2002) introduced an alternative approach which studies the access of interest groups to the EU institutions, instead of focusing on their influence. Access does not fundamentally mean influence. Some lobbying groups or political actors might gain access to decision-making bodies of the EU without translating this position into actual policy outcomes.

However, gaining access to the EU decision-making bodies is a pre-condition to exert influence in the EU, on any issues. Hence, access is a good indicator of influence (Bouwen 2004a, 337-338). This paper argues that, based on an exchange logic, NGO access to the decision-making process on human rights issues is related to the goods they provide to the decision-makers. Information is the basis of all access goods that decision-makers need (Bouwen 2002). Chalmers (2013, 39) calls 'information' the 'currency of lobbying in the EU'. The theory maintains that decision-makers are uncertain about their policy's potential consequences, and demand information about the possible effects of alternative proposals and the likely reactions from constituency interests. Some Human Rights NGOs (HR NGOs) are attractive to decision-makers because they provide this kind of information. They tend to be experts on the policy issues that most affect their interests and frequently collect politically salient information on constituencies' views (Tallberg et al. 2018, 215). In turn, what non-governmental actors lack and request is access to decision-makers – they need such access to influence decisions on human rights issues. The question is: how informational lobbying operates to grant NGOs access to the EU decision-making bodies?

In this paper, I try to discuss, based on the existing literature, the NGO ability to provide information to decision-makers. I start with considering the broad range of strategic NGOs' choices regarding how to handle the information they possess. Significantly, two critical supply-side factors are the type of information, and the tactics used to convey their data to the members of the European Parliament (MEPs) (Chalmers 2013, 40).

1. Theory on Access for HR NGOs

To understand the lobbying activities of HR NGOs in the European institutions, especially in the European Parliament (EP), the key is to analyse the relationship as an exchange relation involving two interdependent groups. Like lobbying on other political or business issues in the EP, it is a mistake to consider human rights lobbying as a unidirectional activity of HR NGOs *vis-à-vis* the MEP (Bouwen 2004b, 476). MEPs are keen to collaborate because they need close contact with the HR NGOs to fulfill their institutional functions on human rights issues, both in the EU and worldwide. Especially because MEPs are uncertain about the consequences of their decisions and the likely reactions from constituency interests (Klüver 2012, 491; Tallberg et al. 2018, 215).

Based on 'administrative science, organisation theory and organisation sociology,' Pieter Bouwen (2002) founded a new theory of access that can be used to study the relationship between HR NGOs and MEPs. An exchange theory and the notion of resource dependence are the core of the framework he introduced. The exchange model and resource dependence theory are closely related to each other; however, both dispositives focus on the organisations' role in exchanging resources; resource dependence takes a closer look at the ensuing interdependence between the interacting organisations (Leblebici 1999). Based on the resource dependence perspective, organisations need multiple resources that they cannot adequately generate to fulfil their duties. The theory is based on a social exchange model to study inter-organisational relationships. This overall approach offers an excellent framework to study the interaction between HR NGOs and MEPs concerning the decision-making process on human rights issues. Some researchers have already used exchange theories to analyse relationships between interest groups active in business and EU institutions (Eising 2007b; Chalmers 2011; Klüver 2012). According to this model, NGOs and EU institutions' interaction can be conceptualised as a series of inter-organisational exchanges (Bouwen 2002). Based on a cost and benefit analysis, the exchange process actors decide with whom to interact. The exchange relation will continue until the exchange is reciprocal, and both sides of the interaction receive benefits (Tallberg et al. 2018). However, the groups involved in the exchange process do not benefit equally from the process (Bouwen 2004a).

Based on the impossibility of being self-sufficient in a given domain, organisations interact with those actors that control the resources they need. They seek to obtain such resources from the environment and interact with those organisations that can supply the resources they need. A necessary consequence of this setting is that interacting organisations become

mutually interdependent (Bouwen 2002). As Bouwen put it, 'organisations can become subject to pressures from those organisations that control the resources they need (Bouwen 2002, 368).' In the EU decision-making process on human rights issues, NGOs and the EP are interdependent, because they need resources from each other. The crucial resource required by HR NGOs is access to the EP decision-making process. On the other hand, MEPs need the goods necessary for them to function as decision-makers.

To understand the process of resource exchange between HR NGOs and the EP, we should study what goods the two groups involved in the process exchange. In exchange to provide HR NGOs access to the EP decision-making process in human rights matters, MEPs demand 'certain goods'. Bouwen calls them 'access goods', and the essence of such goods is information (Bouwen 2002, 2004a, 2004b).

Bouwen (2002, 370) defines access goods as:

> 'goods provided by private actors to the EU institutions in order to gain access. Each access good concerns a specific kind of information that is important in the EU decision-making process. The criticality of access good for an EU institution's functioning determines the degree of access that the institution will grant to the private interest representatives.'

In recent public choice approaches to lobbying in the EU (Crombez 2002) and in studies about interest group politics in general, information plays a central role. Assuming that HR NGOs are better informed on human rights issues than decision-makers, as these are their core-business, this literature argues that HR NGOs have a prominent role in such interaction. However, access goods are also vital for HR NGO, as they wish to access the EP decision-making process in such matters and condition its outputs. The degree of access granted to the HR NGOs is correlated to how critical are the goods they provide. The criticality of a resource for an organisation is a function of its importance in ensuring its operation to continue. The criticality of access good for MEPs determines the degree of access that the EP will provide to the HR NGOs in exchange (Bouwen 2002).

I argue that the Pieter Bouwen's model, as developed to explain the dynamic of the resource exchange between the EU institutions and interest groups in general, can be used to analyse the resource exchange in the relationship between HR NGOs and the EP. The model describes a supply-and-demand scheme (Bouwen 2004b; Bouwen and McCown 2007). In this scheme, HR NGOs are responsible for supplying the access goods that the Parliament demands. Therefore, MEPs's demand has a direct relationship with the access of HR NGOs to the decision-making process concerning human rights issues. HR NGOs can access the EP only if MEPs also demand the access goods they provide.

Some researchers maintain that MEPs are less in seek of expert knowledge than of 'political capital' to ensure re-election (Chalmers 2013). Concern for re-election makes MEPs keen to show consideration for the interests of broad segments of a society. By creating a communication flow with NGOs and groups that protect largely shared interests, such as human rights or the environment, MEPs seek to secure themselves the political capital they cherish (Tallberg et al. 2018). Indeed, if one looks at the EP's legislative role on worldwide human rights issues, it comes with no surprise that the MEPs' demand for expert knowledge on global human rights issues is somewhat limited. This can be explained in several ways. In the EU legislative and decision-making processes, the Commission has the task of drafting detailed proposals to be submitted to the Council and the EP; this also applies to bills and acts concerning human rights issues outside the EU. Therefore, although some expert knowledge is required for the MEPs to decide on such issues, the amount of expertise needed to amend and eventually support or reject it is relatively low. The MEPs' task consists of evaluating the normative (or other) proposals drafted by the Commission, making sure that they fit a European perspective, as the EP is a directly elected supranational European assembly. What the EP needs is expert information about the implications for the EU of the human rights issues affecting the third country or countries targeted by the Commission's proposal. This kind of information represents the critical access good that the institution needs.

Another reason why MEPs may be interested in acquiring the access goods concerning human rights issues that HR NGOs possess, is the supranational scope and character of such assembly and its political and decision-making dynamics. Given the rules concerning the formation of majorities within the EP, MEPs are encouraged to think beyond the single nation dimension. To obtain a voting majority, MEPs elected in different member states need to reconcile their positions. Indeed, the mediation between different national positions is forged within the Parliament through transnational political groups. As seen, the critical access goods MEPs are looking for concern information embedding a European perspective; since the political actors in the EP are transnational political groups, the European dimension tends to prime the national ones. EU-fitting access goods on their turn reinforce the transnational coalition-building within the supranational assembly.

On the other hand, however, to understand the EP's role in the legislative process, the MEPs' constituency orientation must also be considered. The European supranational assembly in nevertheless elected nationally and locally. The EU Member States have slightly different rules governing the European elections. Such differences impact on the relationship

between the MEP and her/his constituency (Farrell and Bowler 1993, 52). All MEPs in the supranational assembly are elected at the national level and retain essential links with their electorate back home. MEPs, therefore, need information about their national electorate opinion on human rights issues, as this may be crucial to increase their chances of re-election. MEPs therefore also ask for information about the feeling of national public opinion about human rights issues, and HR NGOs or other interest groups are valuable interlocutors as far as they can provide them with such information. The access good in this case consists of information about the needs and preferences of their (potential) voters.

2. Informational Determinants of Access to HR NGOs

Lobbying is an inherently interactive process between actors with distinct goals. An active relationship with decision-makers is a prerequisite for NGOs to exert an influence on the decision-making process. Crucial is, therefore, the 'access' of NGOs to the right people, in the right places, and at the right time (Bouwen 2004a). Existing literature on informational lobbying of interest groups explains access in an exchange between NGOs and decision-makers on varying issues. The NGO literature describes this exchange in terms of 'pressure and purchase' tactics (Chalmers 2011). These studies point out that pressure groups' influence relies on providing a supply, that then lobbyists can take or reject. Informational lobbying is based on the partisan provision of information and the strategic handling of such information.

Decision-makers reduce their own misinformation by thoroughly selecting the interest representatives whose information they take into account, and by rewarding or penalising fallacious data. In the EU context, the specialised literature explains lobbying in terms of information exchange based on the interests of both parties involved in the process. In fact, in the EU, the key to successful lobbying is directly related to the NGO ability to convey valuable information, rather than on their ability to mobilise political support or campaign assistance (Broscheid and Coen 2003, 170).

Information defines how NGOs interact with MEPs on different issues. HR NGOs have expertise on human rights-related matters and have both technical and politically salient information. MEPs, pressed by time and lack of expert staff in relevant areas, draw on this information to reduce uncertainties about their decision's outcomes (Lehmann 2009). Therefore, HR NGOs find themselves ideally positioned to take advantage of this informational shortage. They can supply to MEPs their information in exchange of access to the decision-making process the human rights

issues on their concern and have their voices heard at the EU level. Ultimately, they have the chance of effectively steering the EP decision-making (Beyers 2004; Eising 2007b).

In the scholar literature on lobbying in the EU as an information exchange, we can find considerable support to this reconstruction (Bouwen 2002; Hall and Deardorff 2006). However, while some models try to predict when and at which stage of the decision-making process NGOs play their role, and other models try to have an insight into NGOs' vast informational repertoires, the issue of how informational lobbying is performed by HR NGOs remains relatively unclear. The little work that has addressed the issue does so almost exclusively considering factors on the demand side. In other words, access is recognised as a function of decision-makers' informational needs (Chalmers 2013). The original capacity of NGOs to intercept such needs is mostly ignored. To assess this point, the focus has to shift from the institutional side (the EP) to the NGO side and consider NGO interests and organisational structure (Weiler and Brändli 2015). If we also embed this perspective, the informational exchange looks an entirely automatic process.

A demand-led definition of access does not cover all parts of the informational lobbying in the EU, especially lobbying with the MEPs. The existing literature on informational lobbying does not give us a clear picture of the other side of the lobbying process, the supply side. Such a description is essential to achieve a more accurate picture of how HR NGOs get access to the MEPs.

The analysis of an NGO's capacity to supply information to decision-makers on particular issues begins with considering the full range of strategic choices the NGO makes concerning information provision (De Bruycker and Beyers 2019). More specifically, two supply-side factors are relevant, that is the type of information NGOs typically exchange with the decision-makers, and the tactics NGOs use to do so.

Regarding information, types range from technical information on human rights-related facts and field knowledge to legal expertise and data on how the public opinion may respond to decisions in a given matter. Information tactics can include outside tactics, like public events or mobilising citizen support for a human rights issues, and inside tactics, like sending emails or letters to MEPs, having face-to-face meetings or phone calls (Chalmers 2011). It is not easy to grasp the essence of the relationship between MEPs and HR NGOs, because the extent to which access is provided by MEPs to HR NGOs varies depending on the types of information that MEPs need (the demand). However, the tactics HR NGOs adopt to convey their information to MEPs are a crucial factor. Content-related and tactical factors substantially determine if, when and how MEPs provide

access to HR NGOs to discuss human rights issues in all countries.

From the existing studies on NGOs' access to the EP, it appears critically important the type of information MEPs need. As noticed above, Bouwen (2002, 2004b, 2004a) strongly suggests that a specific type of information determines the EP-NGOs' relationship. Theories based on the exchange of information and access show that the more HR NGOs provide information about what MEPs needs, the more chances they have to obtain what MEPs control, that is access to the EU decision-making process (Tallberg et al. 2018). HR NGOs specialised in collecting from the field information relevant to their cause are certainly appealing in this perspective.

According to Tallberg et al. (2018), 'while co-operative rather than antagonistic, this relationship is not innocent.' HR NGOs have a strategic incentive to present specific information to MEPs in such a way that it benefits their interests. Decision-makers are also knowledgeable that NGOs seek their objectives, which do not necessarily correspond with their own (Weiler and Brändli 2015, 747). Therefore, decision-makers will attempt to establish mechanisms to evaluate the reliability of HR NGOs and their information. Such screening mechanisms, however, may be imperfect for many reasons, like for example, the costs they may entail, or time constraints. MEPs are likely to accept a certain risk of bias, against the benefit of outsourcing the service of collecting information to HR NGOs. The outcome, in any case, is that HR NGOs, through MEPs, have a role in the decision-making process on human rights issues (Tallberg et al. 2018, 215).

Along with the types and quality of the information, also tactics are relevant, as we said, that is the methods HR NGO use to convince MEPs that the "good" they provide is worthwhile. Depending on time pressure, types of information and other factors, tactics may vary. They may aim at increasing the salience of a message, sending a signal about the importance of a particular human rights case, and showing the NGO's commitment. Researchers have divided tactics into inside and outside tactics (Chalmers 2011, 2013). The inside tactics targeting the inner world of the Council's advisory bodies and committees, the EP committees and sub-committees, and in general EU institutions and body, are not visible to the broader audience. NGO outside tactics potentially target the public at large and rely on the media and the media's scrutiny (Kollman 1998). Dellmuth and Tallberg (2017) qualify inside tactics as influence tactics, as they require a direct interaction with their target. Outside tactics aim at influencing decision-makers indirectly, through the mobilisation of the public opinion. HR NGOs, on the one hand, target the MEPs who need the information they possess and, on the other hand, engage all those who want to effectively sensitise the legislators on a given issue (Dellmuth and Tallberg 2017). By organising public events or media campaigns, however, it is hard to tran-

smit technical details and complex information (Beyers 2004, 215).

Examining the information that HR NGOs provide based on MEPs need in terms of types and tactics, researchers have addressed a series of questions relevant in the study of informational lobbying. Namely: in exchange for which types of information MEPs grant HR NGOs access the decision-making on human rights issues? Which tactics grant HR NGOs the most access to the MEPs? Are inside or outside tactics most effective when it comes to HR NGOs? Based on which informational determinants MEPs are most likely to provide HR NGOs access to the decision-making process in human rights matters?

These questions are addressed in the next two sections of this paper. Information types and information tactics will be discussed separately.

3. Types of information

Information is a key factor based on which MEPs provide access to the EP's decision-making process on different issues. Chalmers described information as the currency of lobbying (Chalmers 2013). Some research has been conducted focused on the EU decision-making bodies. As seen, Pieter Bouwen (2002, 2004a, 2004b, 2007) published a serious of papers on the subject, based on the exchange model. According to Bouwen, the type of information that EU decision-makers need to legislate on different issues determines the access patterns. The Commission has the mandate to initiate legislation and is responsible for drafting legislative proposals. The drafting of proposals occurs in the first stage of the overall process and presumably requires a considerable amount of technical and expert information. In human rights matters, a particular expertise is key requisite to draft a proposal. Expert knowledge is, consequently, a valuable resource to spend with the Commission (Bouwen 2002, 379). The European Commission is also an executive body of the Union, although it lacks the necessary human resources to implement all the policies. To this purpose, it relies – along with agencies, states and sub-state public entities – also on non-governmental actors, including HR NGOs. Based on their experience and information, they can provide advice and solutions to the Commission's committees and units that work on the human rights agenda. HR NGOs may also use this opportunity to influence the drafting of plans and bills, according to their resources and capacities, and even draft plans and proposals and submit them to specialised working groups set up within the EU. HR NGOs, building on their expertise and the type of technical information they hold, and that is required by the Commission, have a chance to access the Commission.

The Council, as a wholly intergovernmental institution, is completely different (Chalmers 2013, 42). As one of the main pillars in the law-making process and representing the national governments' interests, the Council is a forum where states' specific purposes and powers may reconcile. National interests largely control the Council. Therefore, Council members need information that can enhance their bargain power *vis-à-vis* their partners. This means that member states have a specific demand for information focused on their national interests (Bouwen 2002, 381). Groups that provide information about the 'national encompassing interest' to the Council have more chance to access to the Council. We should consider that as a collective entity, members of the Council are usually reluctant to establish relations with these groups. The indirect way is usually the only way a non-governmental actor in the form of an interest group can hope to reach out to the Council of Ministers. That is the government or EU member states that support the issue act on their behalf in the EU institutions (Panke 2012, 145).

In the literature on EU interest politics, however, the EC has been identified as the first target of lobbying groups; the additional powers acquired by the EP over the last decade have enhanced the importance of the supranational assembly as a lobbying target. Since the Treaty of Maastricht, the EP has gained a real veto power in the EU's decision-making process. The Parliament's upgrading has coincided with a relative decline of the Council's influence (Bouwen and McCown 2007, 424). As the only directly elected assembly of the EU, the EP is encouraged to adopt a genuine European perspective when assessing the Commission's proposals. As seen, MEP's lack of expertise on some issues makes their work dependent on access to information from external sources such as NGOs.

Some researchers expand Bouwen's logic to examine NGOs' access to single EU institutions. Michalowitz (2004, 89) shows that holding technical information is less fundamental to grant access to the EP than to the Commission, information about public support and public opinion on a certain issue being a more valuable asset.

Eising (2007a), drawing on a survey, sought to explain why interest groups like NGOs lobby the EU institutions and what make them successful. Based on organisation theory, he found that four main dimensions characterise NGOs' access patterns: 'institutional context, resource dependencies, interest group organisation and strategic choices.' However, no consistent picture has yet emerged as to what determines NGOs' access to the EU institutions. The Bouwen exchange model emphasises NGOs' organisational features, particularly their information policy. Eising seeks to integrate these studies. Drawing on the organisational theory of resource dependencies, he suggests that the EU institutional context, resource

dependencies between actors involved in the exchange process, and the NGOs' structures and strategies shape access to EU policy-makers'. The findings of his survey evidence that indeed the ability to provide information to the EU decision-makers improves an NGO's chance to access the decision-making process in matters of its interest (Eising 2007b, 352). Eising, however, focuses on a range of information types: political, legal, and technical, which limits his model's capacity to explain which types of information grant NGOs the most access, and in which EU institution.

Dür and de Bièvre observe that to capture the attention of decision-makers, NGOs are induced to emphasise in their reports 'general principles like equity, social justice, and environmental protection,' making their informational contribution of 'little value' to the EU decision-makers in different EU institutions (Dür and de Bièvre 2007, 82).

A literature review on lobbying has not disclosed a comprehensive list of what types of information decision-makers need at the different EU levels, namely in the EP. For example, the information that MEPs need to decide on economic issues will differ from the information they need to deliberate on human rights issues in some third country. Hence, a distinction has been introduced between 'specialised/technical information' on the one hand, and 'outstanding political information' on the other (Chalmers 2013, 46).

Expert/technical information can be described as highly technical, scientific, objective and data-driven, while politically salient information relates to convey details about public support and normative claims. MEPs need the information on human rights issues must be 'technical' and 'data-driven,' 'concrete,' and built on 'confidential arguments;' they should be framed using 'legislative language' or 'legal language.' In some cases, the MEPs, due to lack of expertise and time pressures, need information that can translate a situation into 'clear' or 'technical' details and make it understandable and comparable. Finally, MEPs need context information, information on how public opinion would react to a decision in human rights matters, and on the public support for a proposal or a resolution on human rights violators (Chalmers 2013, 46).

For example, HR NGOs tried to draw the international community's attention, especially in the EU, on what happened at Camp Ashraf in Iraq (the camp housed an Iranian exile group, the People's Mujahedin Organization of Iran – PMOI, and was attacked by Iraqi troops in 2011). Human Rights Watch called for an impartial investigation into the use of force against an unarmed group and expressed concern about the camp residents' safety. Amnesty International issued a statement expressing concern that some Camp Ashraf residents were reportedly beaten and tortured by Iraqi forces during the occupation. The organisation also expressed concern about the

high risk of forced return of the PMOI members to Iran, with a high probability of being subject to torture or execution (Wills 2010). HR NGOs did not only submit political statements; Amnesty International, particular, provided legal and professional reasons demonstrating that PMOI members were 'protected persons' under international humanitarian law. Following the expert and political information on Camp Ashraf's issued by HR NGOs, the EP adopted a detailed resolution stigmatising the facts based on the Geneva Conventions and notably the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War.

4. Information Tactics

There are few studies on the types of information that best provide NGOs access to the EP; much more research is done on NGO information tactics employed to gain access to the decision-making process. To understand how NGOs choose their lobbying tactics, a distinction between inside and outside tactics can apply. Based on Scholzman and Tierney (1986), Chalmers describes the tactics used by interest groups for lobbying as follows: direct and informal contact with decision-makers; providing research results; using journalists' potential; sending letters; giving testimony; organising protests and public events; helping draft legislation; agenda-setting, to campaign work (Chalmers 2011, 2013). Analysis has articulated them as outside and inside access tactics (Caldeira et al. 2000; Beyers 2004; Hanegraaff et al. 2016; Dellmuth and Tallberg 2017; De Bruycker and Beyers, 2019). Outside lobbying indirectly addresses decision-makers in different institutions. Instead of seeking direct access to decision-makers, NGOs mobilise and increase the public's awareness by communicating their political message through various public media outlets. Outside tactics engage the community and address a broad audience (Hanegraaff et al. 2016, 2). Inside tactics, instead, aim to directly engage decision-makers so that they support – and possibly adopt – the preferred course of action. Inside tactics 'privatise' the conflict and limit its scope, while outside tactics set pressure on decision-makers via media campaigns or public events. The core of inside tactics is the information that NGOs control and use in the lobbying. MEPs are generally keener of such inside methods than of outside lobbying tactics. Chalmers considers inside tactics more effective than outside tactics (Chalmers 2013, 43). His conclusion is based on the idea that inside tactics are better suitable to submit technical information, are less costly and do not carry the same reputational costs as the outside tactics (Beyers 2004, 215). The latter, that in essence consists in publicly putting pressure on decision-makers, are not an excellent way to make MEPs your

friends. Some analyses have found that outside tactics tend to reduce the NGOs' chances of accessing; some other studies, however, show that both strategies may be successful and that they are commonly used in combination (Beyers 2004; Binderkrantz 2005).

Generally, MEPs appreciate the information provided by NGOs. The latter, therefore, do play an important role in the EU decision-making process. MEPs are also aware that NGOs pursue their goals, that do not necessarily match those of political parties and institutions (Hansen 1991). MEPs may engage NGOs based on their different views and respond to the challenge that NGOs pose when they recur to outside tactics (Beyers, 2004). NGOs are aware of this. Kriesi et al. (2007) note that attempts to influence the decision-making process are most effective when NGOs use a variety of tactics and lobbying strategies.

Many NGOs use a combination of inside and outside tactics, and this is a pragmatic response to an important point, namely that the EP and its environment condition the NGO lobbying behaviour. This fact has received relatively little attention in the literature. Broscheid and Coen (2003) theorise that decision-makers build institutional structures that may facilitate or, conversely, discourage lobbyists and/or NGO representatives to participate, based on whether they share or not their political agenda and goals. EU institutions influence NGOs' performance (Dür 2008). Beyers (2004) has shown that selective institutional choices matter for lobby groups at the EU level.

When developing lobbying tactics, HR NGOs select which channels they will use to make their message heard by decision-makers. Some channels are more open and aim at involving the public; others are private, not subject to public scrutiny. HR NGOs can transmit the information they possess directly to the decision-makers through ad hoc EU channels, or by engaging the media and the broader public. Inside lobbying tactics allow them to keep some level of confidentiality, that is especially relevant when human rights violations are reported. Whether HR NGOs use outside or inside tactics, the channel they use may affect the message's content. Inside tactics are preferred when HR NGOs share technical and complex information strictly related to the issue that decision-makers have to settle. This tactic tends to be more influential during the early phases of the decision-making process (Chalmers 2013; Austen-Smith 1995).

In outside tactics, HR NGOs have to abide by journalistic and media procedures and standards about news value. Public statements have to be less complicated and more provocative; they have to emphasise instead of downscaling the political and general/normative sides of a given issue, rather than its technical and expert details. In the EU, HR NGOs mostly prefer direct interaction with decision-makers (Eising 2007b). Recurring to

indirect actions is sometimes considered evidence of weakness and is kept as the last option (De Bruycker and Beyers 2019, 2).

When lobbyists choose to use outside tactics is to remind to decision-makers in institutions like the EP the outcomes of their deeds and demonstrate the power they have of mobilising the public opinion. Outside tactics also send the message that an interest group – even and NGO – can influence the legislator. They do not look friendly to the decision-makers, and they should, therefore, be minimised. Empirical literature, however, proves that not all actors ignore them (Beyers 2004; Weiler and Brändli 2015; De Bruycker and Beyers 2019). Indeed, the added value of outside tactics lies on the direct political costs that decision-makers incur vis-à-vis the public opinion in opposing NGOs campaigning for human rights, especially if a protest campaign amalgamate with other political conflicts.

Greenpeace, for example, often uses outside tactics to achieve its goals. It comprises tactics such as contacting journalists, issuing press releases, establishing public campaigns, and organising protest demonstrations. FORATOM, on the contrary, mostly uses inside tactics: face-to-face meetings, telephone calls, or email exchanges, behind the scenes and away from the public (De Bruycker and Beyers 2019).

HR NGOs have adopted a wide range of lobbying practices. Some HR NGOs primarily engage in direct lobbying, providing information and arguments to their target group or individuals. Others mobilise the large public in order to influence the actions of the MEPs. The rationale of such a choice has not been systematically considered by researchers at the EU scale, while lobbying strategies have received some attention in connection with the work of global organisations and fora (Hanegraaff et al. 2016; Dellmuth and Tallberg 2017).

Conclusion

The literature review I have conducted shows that the theory of access, introduced by Pieter Bouwen, can aptly describe how HR NGOs struggle for access to the EP. An effort should be made to generate specific and testable hypotheses about such a dynamic. The proposed framework proved suitable to explain the differential access of HR NGOs to the EP multi-level system, based on the supply and demand for access goods. The framework allows to discuss the diversity in ability and facility to access in the interaction between HR NGOs and MEPs. The paper tried to shed some light on the informational determinants of the HR NGOs access to MEPs by focusing on the supply-side of the informational lobbying. Informational lobbying was analysed in terms of both information types and information

tactics. The concern is not just about the information HR NGOs provided to MEPs, but also on how this information determines access to the decision-making process. The literature on the interest groups' access to the EU decision-making bodies focuses on a broad range of business lobbying issues. The challenge is now to develop a theoretical framework that could nurture ideas and practice on how HR NGOs may influence the EU policies in the field of global human rights, an area known for its complexity and on which the EU is still striving to elaborate an effective common stance. The literature is rich in studying the access factors to the EU's central decision-making bodies in the case of business actors. Scholar research is still scarce as regards how HR NGOs manage to use their information resources to access the EU institutions.

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Sexual and Gender Minorities in Humanitarian Crisis Contexts

Valentin Mahou-Hekinian,
University of Padova

Email: valentinpierrefrancois.mahou@studenti.unipd.it

Abstract: This literature review focuses on data and sources available regarding sexual and gender minorities during humanitarian crises. Scholarship and mainstream sources on natural disasters, pandemics and other cases of crises such as technological/industrial disasters or war/armed conflict will be discussed from an LGBTQ+ perspective. The result of this state-of-the-art shows that in all humanitarian crises, LGBTQ+ are facing additional challenges, such as deprivation of human rights, physical and sexual abuses, difficult resilience process, and psychological traumas. It also reveals that national authorities and the international community as a whole lack willingness and operational commitment to face the needs of those communities adequately. Such issues are almost universally documented, although at different intensity levels, depending on geographical and contextual factors.

Keywords: LGBTQ+ - Humanitarian Crisis – Resilience – Human Right- Discrimination

Introduction

In the past decades, we have witnessed a high number of humanitarian crises, from international conflicts to civil wars, and a growth of major natural disasters. Their impacts are global and cause migration, instability, and economic losses and therefore triggered diverse resilience types (Cutter *et al*., 2008). Those events affect all kind of populations regardless of their ethnicity, wealth, gender, sexual orientation or age. Indeed, '[t]imes of crises and disaster are extraordinary moments that can bring people and cultures that would otherwise never have met into contact' (Ong, 2017). Nevertheless, the resilience and the way of being impacted is different for everyone and every location. The recent 2020 COVID-19 pandemic is the first disaster in recent history that affects the world's population without directly causing material damages, thus reshaping the approach to disasters and crises.

An abundance of papers and research address gender, ethnicity, age, wealth and social classes matter in those crisis contexts. Still, very few are about sexual and gender minorities (LGBTQ+: Lesbian, Gays, Bisexuals, Transgenders, Queer, Intersex). Sexual and gender minorities are present in all the layers of a society and all the categories cited above (Frable, 1997). Meanwhile, everywhere LGBTQ+ people, are considered more vulnerable and experience discrimination in different fields such as employment, access to health, family rights and enjoyment of human rights in general, at varying levels of intensity depending on geography, sexual orientation and gender identity (Harper & Schneider, 2003).

Matthew *et al.* demonstrated in *Global Environmental Change and Human Security* (2010) how natural disasters exacerbate all the weaknesses, inequalities, tensions, and segregational patterns existing in the impacted society. Recent studies show how the COVID-19 crisis has increased the racist and xenophobic behaviours, especially in social media (Ziems et al., 2020) and homophobia in general (Forbes.com, 2020). It is very common that during severe emergencies (natural disasters, pandemics and wars) religious groups and xenophobic components of the affected population would blame sexual and gender minorities. After the Haiti earthquake in 2010, for example, many local churches followed by a majority of the population blamed gays, promoting the idea that the disaster was god punishment against gay Haitians (Migraine-George, 2014). Same phenomenon arises in the aftermath of the 2008 Katrina hurricane (Richards, 2010) and during the AIDS pandemic in the 80s and 90s. Those individuals are more vulnerable during crises, and there are extra obstacles for them to activate a resilience process.

This literature review focuses on data and sources regarding sexual and gender minorities during humanitarian crises, presenting works and highlighting problematics surfacing in academic journals and mainstream media contents, and in international organisations' and NGOs' reports. It is important to precise that data on this topic are minimal. For this reason, we decided to broaden the scope of this literature review beyond strictly academic sources to include publications from different fields and different supports. We will use references and data treating events starting from the 20th Century.

The first part of this literature review will present the main definitions and concepts relevant in this kind of research; the second one reviews studies providing data on sexual and gender minorities during natural disasters. The third part will focus on pandemics, while the fourth will address studies on gender minorities' predicament during other kinds of emergencies, including armed conflicts and industrial disasters.

1. Concepts and Definitions

For a literature review on LGBTQ+ in humanitarian crises, it is essential to clarify what these two expressions mean, namely sexual and gender minorities and humanitarian crises.

1.1 Defining LGBTQ+, or Sexual and Gender Minorities

There is plenty of definitions regarding LGBT, LGBTI, LGBTQ, LGBTQ+ and sexual and gender minorities. In this paper, when referring to LGBTQ+ or sexual and gender minorities we follow the UNDP (United Nation Development Program) definition outlined in *The Sustainable Development Goals Sexual and Gender Minorities*, which is the following:

> There is no universally accepted English language word, phrase or acronym for people whose biological sex, sexuality, gender identity and/or gender expression depart from majority norms. In this paper, the term 'sexual and gender minorities' will be used. There are also references herein to 'sexual and gender diversity' and to 'sexual orientation, gender identity or expression and sex characteristics.' These phrases are meant to include lesbians, gay men, bisexuals and transgender people (LGBT); intersex people (people whose bodies do not have typically male or female sex characteristics due to variations in chromosomes, gonads, sex hormones and/or genitals); gender non-conforming people who may not see themselves as transgender; and people involved in same-sex relations who may not see themselves as lesbian, gay or bisexual, possibly preferring another word to self-identify (such as polyamorous, queer or two-spirited)

> or possibly preferring no label at all. As appropriate, attention has been drawn to specific sub-populations, such as 'men who have sex with men (MSM)' (who are disproportionately affected by HIV) or 'intersex, transgender and gender-nonconforming people'.

If in this paper a quotation or a reference is made to a source using a different wording or another definition, a precision will be made.

1.2 Defining Humanitarian Crisis or Emergency

We chose to precede 'humanitarian' to 'crisis', even if it is a wording almost exclusively used by NGOs and international organisations and not by scholars. The word *crisis*, alone, is used in nearly all academic fields, from Medical studies to Psychology, from Management to Economics, from Geography to Human Rights. Still, it is also used in non-academic publications, by media, organisations, governments, and the common language. Koselleck in *crisis* (2006) wrote that "Crisis' is often used interchangeably with 'unrest,' 'conflict,' 'revolution,' and to describe vaguely disturbing moods or situations. Every one of such uses is ambivalent.' There are many definitions for it as there are research fields, and none is unanimously accepted yet. The broadness of this concept does not allow enough precision to frame a literature review. Hence, we will use the following definition of Humanitarian Crisis/emergency as provided by Humanitarian Coalition (humanitariancoalition.ca, an alliance of international aid agencies in partnership with the Canadian government and Canada-based business actors):

> A humanitarian emergency is an event or series of events that represents a critical threat to the health, safety, security or wellbeing of a community or other large group of people, usually over a wide area. [...] A humanitarian emergency arises when such an event affects vulnerable populations who are unable to withstand the negative consequences by themselves. [...] Humanitarian crises can be grouped under the following headings:
>
> Natural disasters, which can be geophysical (e.g. earthquakes, tsunamis and volcanic eruptions), hydrological (e.g. floods, avalanches), climatological (e.g. droughts), meteorological (e.g. storms, cyclones), or biological (e.g. epidemics, plagues).
>
> Man-made emergencies, such as armed conflicts, plane and train crashes, fires and industrial accidents.
>
> Complex emergencies, which often have a combination of natural and man-made elements, and different causes of vulnerability and a combination of factors leads to a humanitarian crisis. Examples include food insecurity, armed conflicts, and displaced populations.

To create an even stricter frame for this paper, we added the requirements that UNEP-APELL made for a disaster to be entered into their database. At least one of the following criteria has to be fulfilled: 25 or more fatalities; 125 or more injuries; 10,000 or more persons evacuated; 10,000 or more persons deprived of water; US$ 10 million or more damage to their parties.

All the cases presented related to a humanitarian crisis in this review have been selected having regard to these definitions and criteria. It is important to notice that economic crises alone, even if directly or indirectly meeting the said criteria won't be considered. However, most of the survey cases have an economic dimension, as the background or a side effect of the humanitarian crisis, and economic factors play an important role during such events. The same is true for 'migration crises'. A migration crisis is not per se a humanitarian crisis, because it results from factors that are not always linked to a crisis, ranging from economic motivations to family reasons, from LGBTQ+ rights deprivation to seeking protection from political persecution, etc.). However, migration phenomena will be considered as side effects of a humanitarian crisis, and examples taken from such events will be used if migration is the immediate consequence of a humanitarian crisis fitting to the definition above.

1.3 Sexual and Gender Minorities during Natural Disasters

Humanitarian crises due to natural disasters are the situations in which issues concerning LGBTQ+ communities are most often documented. Natural disasters induce both physical and mental traumas and can lead to massive destructions and population displacements. The literature and cases presented below mainly come from the Geography scholarship. Geographers traditionally study natural disasters in both social and physic geography.

Accessible data on this subject are collected by scholars of the Asia-Pacific region, principally Australians and New Zealanders, but also Americans. The results document decades of discrimination and abuse towards the LGBTQ+ communities occurring on the event of natural disasters. Even if the phenomenon was known for many years, this research field is still considered new, exploratory, and in expansion (Dominey-Howes et al., 2014). The methodology is mainly quantitative or mixt, but sometimes single individual cases are also reported and analysed. When quantitative, the subjects involved are never more than 200.

Data collected in this research highlight that access to emergency relief is not equal to everyone, and especially the LGBTQ+ community is di-

scriminated, mainly due to religious and legal issues and lack of inclusive policies. The resilience process is, therefore, harder for those communities. Studies also show that within the LGBTQ+ group, trans people face additional stigmatisation and exclusion. Emergency shelters and relief services and compensation programmes happen to be highly problematic inducing psychological traumas in some cases. In the following paragraphs, some of such studies are mentioned and briefly commented.

1.4 Physical, Moral, Verbal and Sexual Abuses

The literature on LGBTQ+ situation in natural disasters reports different types of abuses. They are mostly about specific disasters, address individual cases and adopt quantitative methods. In Japan, during the post-earthquake/tsunami/nuclear accident in 2011, a trans woman underwent transphobe insults by a volunteer staff worker (Yamashita, 2012). 'Third gender' groups worldwide, mainly in South-East Asian Countries such as India, Indonesia, Nepal, Philippines but also in the Pacific (Balgos et al., 2012; Le De et al., 2014; McSherry et al., 2015; Gaillard, 2019) during seismic, volcanic and extreme climatic events experienced severe difficulties during their stay in emergency shelters. They 'were denied food and suffered verbal and/or physical abuse, while others assigned to 'male' accommodation were verbally harassed' (Gorman-Murray et al. 2017). The International Gay and Lesbian Human Rights Commission, in 2011, reported case of corrective rape regarding trans people in evacuation centres during the post-Haitian earthquake period, in 2010.

1.5 Discrimination before the Law, Absence of Special Facilities and Protections

D'Ooge (2008) and Richards (2010), documenting the Katrina disaster in the US in 2005, reported a few relevant cases. Law enforcement officers arrested two trans women as using the female bathroom, instead of being in the male section. Homo-parental families were not legally recognised as such, and some of them had even been separated during resettlement. In South-East Asian Countries it has been reported that, during natural disasters, lacking any ad hoc facilities, third gender groups faced many difficulties in getting included in the evacuation and dispatching process, as shelters were only organised for male or female individuals (Balgos et al., 2012; McSherry et al., 2015). Issues also emerge when aid providers belong to a religious organisation. Documented cases show that access to relief has been refused to transgender or openly gay men, based on religious

grounds. In Australia, for example, religious NGOs are allowed by the law to discriminate between individuals based on their religious convictions, even while mandated to distribute emergency relief (Dominey-Howes et al., 2016). This form of legally tolerated discrimination in emergencies can be particularly problematic. Sometimes, in small communities, the local religious congregation or local faith-based organisations are the only relief provider after a disaster.

2.3 Resilience Process and Psychological Traumas

The question of trust between relief and aid providers and the LGBTQ+ communities also emerged as an issue. Mainstream aid providers are non-trusted by those communities (for they fear to be abused, segregated or outed publicly) and replaced by trusted mutual community support. Especially in homophobic contexts, the digital world plays a vital role in providing communication facilities and acts as a virtual exchange space of solidarity in emergencies (McKenna & Chughtai, 2019). However, this process risks to isolate even more those communities. They prefer self-isolation rather than potentially being abused or outed publicly. This was the case during the 2011 floods in Brisbane, Australia (Gorman-Murray et al., 2017) and in the 2011 Great East-Japan earthquake (Yamashita et al., 2017). This examples also show that, even if rescue and safety is provided, some LGBTQ+ people fear to apply in compensation programs or ask for emergency relief. The resilience process in such communities is, therefore, negatively impacted.

Due to a natural disaster, the destruction of 'safe spaces' or space of tolerance is a significant fact that impede the resilience process. When an LGBTQ+ friendly district is destroyed or evacuated, the whole community is impacted, as job, household, and socialisation opportunities depend on the existence of such areas where assuming one's gender or sexual orientation is not an issue. McKinnon et al. (2016) documented this process of losing LGBTQ+ heritage and historical sites in a quantitative study following natural disasters in Australia. Besides destroying infrastructure and houses, natural disasters are also the cause of substantial loss of immaterial goods. When this occurs, sexual and gender communities may be deprived of their specific cultural spaces and events, bringing them to the public space (museums, monuments, community centres, cultural centres, venues etc.).

Moreover, the heritage of an LGBTQ+ community is for a large part preserved personally by individual members of it, as photos, documents, memorabilia, etc., maintained and safeguarded in their private spaces. The-

refore, homes or LGBTQ+ centres' destruction affects the memory and the overall heritage of an often small and isolated community and can break its solidarity ties. In a research in Australia and New Zealand, the term *LGBT Domicide* was used to illustrate this phenomenon, linking the words domicile and homicide (Gorman-Murray et al., 2014; Gorman-Murray et al., 2017).

After disasters, scholars also found a higher rate of depression and other psychologic issues within the LGBTQ+ communities. The example of the 2011 Queensland floods in Australia (Gorman-Murray et al., 2016) and the 2008 Japan earthquake (Yamashita et al., 2017) illustrate this issue by showing an increase of isolation heading to psychological disorders. The rise of LGBTQ+-phobia triggered by a disastrous event may also explain psychological consequences. Many religious institutions, followed by the faithful, blamed LGBTQ+ people for being the cause of the hurricanes hitting Haiti in 2008 (Migraine-George, 2014) and Hurricane Katrina in New Orleans in 2005 (Richards, 2010). Escalation in homophobia also negatively impacts the victims' psychology, increasing their feeling of guilt and lowering their self-esteem.

The frustration experienced in trying to reintegrate in the work market is another issue that undermine the resilience process of LGBTQ+ communities. After the 2015 earthquake in Nepal, International Alert documented in a paper the difficulties faced by LGBTQ+ people in the aftermath of the disaster, forcing some of them to prostitution (Naujoks & Myrttinen, 2014).

2.4 Toward Progress and Inclusion

Two cases were found in the literature, reporting a positive shift in actions towards LGBTQ+ correlated with natural disasters. McSherry et al. (2015) studied the integration of Baklas persons in the context of a disaster risk reduction (DRR) project led by the Integrated Rural Development Fund (IRDF) in the Philippines. Baklas are assigned as males at birth, but they endorse female roles: they can be considered a third gender. Baklas were systematically involved in municipal meetings, participated in the drafting of maps and evacuation trainings. These inclusive measures prompted more tolerance in the village life and more understanding of the needs of a Bakla. However, the authors point out that this policy is far from being implemented at a national scale. Another example of a positive consequence arising for LGBTQ+ people from disaster was documented by Ong (2017) with the case of Tacloban (Philippines) after the Haiyan hurricane in 2013. He explained that the intense deployment of 'relatively' open-minded international aid providers and humanitarian workers representing a Western

homonormativity[26] regarding LGBTQ+ allowed increased tolerance in the area and freedom for the local LGBTQ+. However, these results are at odds with the findings of scholars cited above, who documented a lack of trust among LGBTQ+ people towards aid providers.

3. Sexual and Gender Minorities during Pandemics

This specific context of bio-related crises is mostly documented in the Psychological and Medical studies and sociology. Pandemics are a disaster not involving material destructions; they significantly impact health and social behaviours. The methods used in scholarly research include quantitative surveys at large scale (more than 1,000 subjects) and qualitative research, through interviews and sometimes in-depth interviews or psychological analysis. The COVID-19 pandemic has had a worldwide impact. All populations have been affected either by the coronavirus or by the measures adopted by state authorities to contrast its spread, or by both. Academic studies addressing the coronavirus pandemic as a humanitarian crisis are being published as this paper is being drafted; the topic is also discussed in reports issued by International Organisations and NGOs. A few studies mention or focus on the LGBTQ+ population. Even if collected data are still scarce and analyses still at an early stage, some elements seem to emerge.

The worldwide AIDS crisis[27], especially in the Eighties and Nineties of last Century, is a well-documented example of a pandemic. At its inception, the HIV/AIDS disease was not perceived as likely to impact the global population, as it was with other virus-induced diseases and especially with the COVID-19. HIV/AIDS was initially thought to be an epidemic affecting the African continent and mostly targeting gay and bi-men, transgenders and intravenous drugs users. It even got the name of 'gay plague'. Gradually, however, the characters of a pandemic surfaced.

During the Ebola pandemic, the condition of LGBTQ+ was broadly approached or cited (Gronke, 2015; Whiteside, 2015) but without giving any kind of analysis or concrete data.

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[26] Refer to the representation of homosexuality coming from more progressive countries, usually Western countries where diverse sexual orientation are relatively accepted.

[27] It can be argued that, considering the duration of the AIDS pandemic and the fact that (except in the Sub-Saharan and some South-East Asian countries) it has principally impacted some marginalised communities (gay, bi-sex men, trans, intravenous and inhale practice drugs users, as well as sex workers), it does not features some dimension to a humanitarian crisis. However, if we focus on the years when the pandemic reached its pick (1980-2005) and on some African and Asian countries, the HIV/AIDS pandemic can well be considered a humanitarian crisis.

We will hence mainly focus on the AIDS and COVID-19 pandemics. Data found in literature almost exclusively concern the US, Australia and Europe.

The OHCHR publication' Topics In Focus: COVID-19 And The Human Rights Of LGBTI People' (2020), expresses concern for the impact of the pandemics on sexual and gender minorities. It highlights five key points: Access to health services; de-prioritisation of required health services; stigmatisation, discrimination, hate speech, attacks on the LGBTI community; domestic violence and abuse; and access to work and livelihood. The literature surveyed and available data also show that in both the HIV/AIDS case and the COVID-19 emergency, the same kind of consequences affected LGBTQ+ people.

3.1 Increased LGBTQ+-phobia and Exclusion

Similar to what is documented in natural disasters, a literature review reveals an increasing in LGBTQ+ phobia during pandemics. The Forbes media agency reported a Korean case where a man positive to the COVID-19 was tracked (using an app provided by the government) in a gay venue in Seoul during the quarantine period and was immediately accused of spreading the disease. Through the media, the South Korean authorities publicly outed the person's identity and, arguably, sexual orientation; his name was disclosed in the mainstream media worldwide. The fact prompted a homophobic reaction in the country, and many started blaming gays as COVID-19 super-spreaders (Forbes, 2020). The Council of Europe, through the Commissioner for Human Right, on a joint statement (2020), addressed its concern regarding the risk of increasing homophobia and stigmatisation of LGBTQ+ communities during COVID-19 pandemic, urging member states to take appropriate measures to face these issues.

Treichler (2006) collected the explanations given, in the US, as the causes of the AIDS in the media, in scientific reports and public communications at the beginning of the pandemics; he found that many of them were homophobic: 'a gay plague, probably emanating from San Francisco'; 'a fascist plot to destroy homosexuals'; 'The price paid for anal intercourse'... Even if Ruel & Campbell (2006) noticed a decreasing of homophobia linked to the pandemic after the 1990s, their data confirmed a substantial increase of homophobia in the years corresponding with the pick of contaminations in the US. Psychologists too (Bouton et al. 1989) signalled phenomenon and came to the same conclusion.

3.2 Deprivation of Basic Human Rights

Access to Economic Stability

In a research brief reporting on 1,000 LGBTQ+ individuals (HRC Foundation, 2020), the Human Rights Campaign Foundation compared the economic vulnerability of sexual and gender minorities and that of the general population. The results show that '20 per cent of LGBTQ people say their personal finances are 'much worse off' than they were a year ago, compared to only 11% of the general population'. This research showed that the economic vulnerability is proportionally more important for sexual and gender minorities than for the general population. In Australia, Equality Australia shares the same concerns in its special report on COVID-19 and the LGBTQ+ (2020). For this NGO, the Australian government has failed to provide any measure adequate to prevent such phenomenon.

At the beginning of the AIDS pandemic, due to increasing homophobia and lack of legal protection, LGBTQ+ people affected by the virus and the non-infected ones – faced discriminations in employment and consequent economic instability. Not all studies dedicated to HIV/AIDS's discriminatory effects have a focus on the LGBTQ+ community. However, as it initially impacted mostly gays, bi-, and trans males, it is *de facto* such community that bear the shock (Gostin, 2004). The impact on employment was documented since the beginning of the pandemic and research highlighted a strong discrimination case, initially due to the fear of the virus and its transmission, but then also correlated to the work inability due to medical treatment and its coast for the company (Leonard, 1985). The same problem is documented regarding access to housing in the US (Gostin, 1990) and South Africa (Cloete et al., 2008). *In* 1993, *Philadelphia* was the first Hollywood movie depicting the tragic story of a gay man infected by the virus dealing with employment issue. It is also one of the first movies where a gay man character had the central role. The Netflix series *Pose* (2018) also documents the exclusion of transgender individuals AIDS-affected people during the 1990s in New-York. Even if based on fictional characters and stories, the production revendicates a trustful representation of the historical context and illustrates what the academic literature reported.

Access to Healthcare

In the US and in other countries where social security is privatised and mainly depends on one's employment status, it is harder to finance health issues in case of job loss, unemployment, or long-time incapacity to work. Salerno et al. (2020) explain that LGBTQ+ are considered a disadvantaged

population in the work market and the COVID-19 pandemic has worsened their condition in this connection. An Australian case study shows the same pattern (equalityaustralia.org.au, 2020). It goes even further, adding that specific target groups, such as LGBTQ+ people affected by the HIV or AIDS or following hormonotherapy have had severe difficulties in continuing their treatments or accessing the medical facilities during the pandemic. A paper on LGBTQ+ people in Tasmania (Grant et al., 2020) reports the results of a survey showing that sexual and gender minorities are not trustful on mainstream aid providers and would feel more comfortable if the support could come from LGBTQ+ NGOs, associations and groups. The research demonstrates that even in Australia, that is generally considered an LGBTQ+-friendly society, sexual and gender minorities may feel unsafe.

In the early years of the AIDS pandemic, scholars reported that due to the lack of an efficient treatment and to homophobia, positive patients were often isolated in the less modern and less comfortable areas of hospitals and health centres and were discriminated by the medical staff (Kelly et al. 1987; Sherman & Ouellette 2000). Due to economic vulnerability, most patients couldn't afford medical treatments or renounced to seek medical support fearing discrimination (Schatz, 1989). Access to general health procedures was sometimes denied due to the HIV status. African-American and Latinos in the US suffered intersectional discriminations (Schuster et al., 2005). LGBTQ+ associations and NGOs (ActUp[28], ILGA[29]) reported that during the 1980s, and 1990s some governments and the international community did not invest enough in medical research to find a cure for the HIV/AIDS pandemic, allegedly due to a prejudice based on homophobia. The movie *120 beats per Minute* (2017), based on real facts, illustrates this phenomenon narrating the struggle of ActUp in France.

Freedom of Movement and Social Interactions

The COVID-19 pandemic has led almost all states to enact and enforce laws prescribing quarantine periods, forced isolation and travel restrictions. Australia is considered to have implemented one of the strictest legislation (ABC Australia news, 2020). The Equality Australia report (2020) explained how it is tough for LGBTQ+ couples to meet if partners live in different provinces – similar hardships have to face heterosexual couples if mem-

[28] ActUp (AIDS Coalition to Unleash Power) is an international LGBTQ+ association aiming to end the AIDS pandemic through advocacy, improvement of people with AIDS lives and medical research. It was created in 1987 in New York City.

[29] ILGA (International Lesbian, Gay, Bisexual, Trans and Intersex Association) is an international organisation fighting for equal human right civil rights of LGBTQ+ people through advocacy and lobbying. It was created in 1978 in Coventry, England. They are in 2020 present in more than 140 countries worldwide.

bers are in two different Countries. Family reunion was more challenging to prove as an admissible justification. The report results, corroborated by Grant et al. (2020), is that sexual and gender minority communities since they are primarily accustomed to rely on mutual support within their own acquaintances, are gravely hit in case of lockdown and similar measures. However, the research shows that communication technologies have mitigated these issues, even though their extensive use may lead to psychological problems to arise.

HIV/AIDS had different impacts on mobility and freedom of movement, as restrictions were not universally implemented. However, some limits to international movements appeared since the beginning of the pandemic. In the 1980s, the US administration retained its right to reject an entry visa to HIV-positive tourists or migrants, and this measure was indirectly impacting the LGBTQ+ individuals' freedom of movement (Nelson, 1987).UNAIDS (2019) reported the 'around 48 Countries and Territories still have restrictions that include mandatory HIV testing and disclosure as part of requirements for entry, residence, work and/or study permits'. Such Countries include Russia, Singapore, Saudi Arabia, Egypt and other Middle-Eastern States.

Increasing of Psychological Issues

Cohen & Bosk (2020) argue that the COVID-19 pandemic in the USA induced an increase in mental issues, self-harms and abuses in young LGBTQ+ people in self-isolation, mostly with family members or foster care providers who don't always guarantee a safe and inclusive environment. Indeed,

> [i]t is likely that stay-at-home orders, combined with increased economic instability and family pressures, will increase their risks for harm and, in some cases, may make it untenable (and potentially dangerous) for them to shelter in place. Simultaneously, safety nets that protect youth (child protective services, medical and mental health providers, and educators) have fewer staff available or are inaccessible because of the COVID-19 crisis. These conditions highlight how morbidity and mortality in vulnerable paediatric populations will likely extend beyond the pandemic itself.

On top of reporting cases of unsafeness of persons in the family home or public facilities due to LGBTQ+-phobia, the report of Equality Australia (2020) highlighted that the Australian special governmental funds for mental health allocated to counter COVID-19 mental consequences on vulnerable groups didn't include LGBTQ+ people among their target, although a request was made by the LGBTQ+ communities, claiming their extra vulnerability in this period.

LGBTQ+ with HIV or AIDS are also more vulnerable to psychological traumas and mental illnesses. From the beginning of the HIV/AIDS pandemic, medical and psychological scholars exposed the psychological consequences of being positive to the virus and the associated psychological and mental disorders. Morin et al. (1984) reported an increase of depression, anxiety and stress due to the fear of death, isolation and stigmatisation. Others reported psychological traumas among survivors due to a feeling of guiltiness or self -blaming, lack of self-acceptance, and stigmatisation (Kemeny et al., 1994).

3.3. Can Pandemics Contribute to Enhance LGBTQ+ Rights?

With the COVID-19 crisis, International Organisations and NGOs soon started to highlight the need to integrate LGBTQ+ issues in the pandemic management scheme. Since April 2020, OHCHR (2020) and the Human Rights Campaign Foundation (2020) expressed their concerns and the necessity for states to provide necessary assistance to these vulnerable communities. Even if it cannot be considered a definitive step forward, the fact that LGBTQ+ organisations are talking about these issues may still be considered a progress.

Yang (2000) shows that the AIDS pandemic triggered some positive changes in civil rights awareness regarding the LGBTQ+ communities from 1992 to 2000. Moreover, since the end of the 1980s, the HIV/AIDS crisis contributed to unify the LGBTQ+ communities. Even if lesbians were much less concerned by the virus, they fought together with the Gay and Trans communities to highlight a common issue of concern: the right to access sexual medical care services (Doyal et al.,1994). The HIV/AIDS pandemic had a consequence of establishing a worldwide network of organisations with the mandate of tackling the crisis and supporting those affected by the disease: ACT UP (established in 1987) and the International AIDS Society (created in 1988) are just examples. Few years later, in 1994, as the epidemic what impacting also heterosexuals, the UN started a special body, UNAIDS, in charge of preventing, researching, promoting treatment and cure, and helping infected individuals, including the LGBTQ+ people. Those events paved the way to the establishment of a unified global network of LGBTQ+ organisations (mainly based in North America, Western and Northern Europe and Oceania) advocating for more inclusive policies and rights. In 1990 the WHO dropped homosexuality from its list of illness and many States eventually depenalised homosexuality (2003 in the USA), recognised same-sex partnership (1999 in France) and same-sex marriage (in 2001 in the Netherlands, in 2003 in Belgium and Canada, in 2006 in South

Africa, in 2013 France, in 2015 some of the USA, etc.) HIV treatments are provided mostly for free everywhere, or compensation programs exist, and the AIDS pandemic is hopefully decreasing worldwide.

4. Sexual and Gender Minorities in Other Kinds of Humanitarian Crises

This section provides references and data regarding other kinds of humanitarian crises, disasters and catastrophes where scholars, media and reports are mentioning LGBTQ+ issues. The limited amount of targeted data suggested to group such instances in a miscellaneous chapter. We include here war/armed conflict situations and industrial disasters. No references have been found for other kinds of humanitarian crisis such as famines or terrorist attacks. Sources are often in-depth journalistic reports; they also include studies in fields like History and Psychology, adopting qualitative and quantitative methods.

4.1 Industrial and Technological Disasters

No academic sources have been detected focusing on LGBTQ+ people's conditions and rights connected with industrial or technological disasters (Chernobyl, Bhopal, AZF, etc.). The Fukushima nuclear incident case has been studied with an LGBTQ+ focus. Still, data have been reported as referring to a natural disaster, since the triggering events were an earthquake and a tsunami.

On the mainstream media, another recent case has been documented: the Beirut explosion of August 2020. Beirut is considered one of the few open-minded spaces in the MENA (Middle East and North Africa) region where the multicultural contexts and the influence of an international diaspora allowed a relative tolerance and acceptance of sexual and gender minorities. The district of Mar Mickhael was representative of this open-mindedness, with its concentration of bars, clubs, art galleries and LGBTQ+ organisations headquarters. The blast severely damaged the whole area and heavily impacted the communities living and working there, including a large part of LGBTQ+ community in Lebanon (NBCnews, 2020; ABC.net, 2020; Independent, 2020; Washington Blade, 2020; Reuters, 2020). Journalistic sources report that many LGBTQ+ people lost their jobs, their homes, and some got injured and were forced back to family homes in sometimes homophobic contexts. An LGBTQ+ solidarity movement arose to face the total absence of state policies and actions, as the only support for the most vulnerable segments of the population hit by the disaster. They also document the loss of the Beirut LGBTQ+ community cultural heritage

and that a 'domicide' occurs. The psychological consequences of the disaster were also highlighted in emotional collapse, psychological trauma and depression.

4.2 War and Armed Conflict

Wars and armed conflicts are traumatic events for societies and lead to economic instabilities, human and material losses and traumas for every individual of the impacted population. However, regarding LGBTQ+ during these types of crisis, very little academic research has been conducted, and few data have been found, mostly referred to post-war/conflict situations, and rarely to what LGBTQ+ communities experience during the crisis.

Riseman (2019) presents the psychological traumas of the Vietnam War (1955-1975) LGBTQ+ veterans in the US, Australia and New-Zealand. He explained that, arguably due to homophobia, LGBTQ+ soldiers were not out or open about their gender identity and/or sexual orientation and therefore faced a double trauma, being psychologically affected by the war and the lack of recognition of their gender identity. According to the author, this may explain the higher incidence of mental illness among LGBTQ+ veterans and their higher level of alcohol dependency compared with other veterans.

Scholars have extensively studied the condition of LGBTQ+ members of the Army. Through a mixed quantitative and qualitative study on 290 active LGBTQ+ service members of the US army, McNamara et al. (2020) found that even if progress has been made on disclosing one's gender and sexual orientation in the military, still stigmatisation and discomfort characterise their experience both vis-à-vis their colleagues in the army and the relation with medical personnel.

Hampf (2004) documented lesbian experiences in the US Woman Army Corps during World War II. She explained how the general public conceived of women in the army as prostitutes at the service of male soldiers' needs. The military authorities were well aware that several female soldiers where lesbian, but thought that engaging them in the army would have usefully canalised their sexual attitudes into the struggle to protect the nation. The fact was notorious; nevertheless, orders were issued not to disclose any information regarding female homosexuality, to preserve the US army's reputation. Lesbians, unlike gay men, were denied access to sexual health services (including STDs prevention treatments), based on the assumption that they were required to strictly observe the moral values of a respectable woman (abstinence, no sex before marriage etc.).

Regarding men soldiers, Jackson (2004) vastly documents the gay men

experiences within the Canadian Army during WWII. He found that homosexually and male-to-male intercourses were widespread in the army and well known by the officials. Mechanisms were set up to keep this information reserved and avoid this tarnished the reputation of the Army. To prevent gay or queer men's presence, police and surveillance mechanisms were established, including correspondence censorship or investigation into suspected soldiers' private lives. If found guilty, they were dismissed, lose their salaries and military compensations and seen as deserters. Even if in a context like the army, filled with homophobic attitudes and language, homosexuality was tolerated, provided it was hidden. Any LGBTQ+ member of the army was however exposed to pressures during situations of tension. Every homosexual relationship or intercourses had to be hidden and communication coded to avoid trouble.

As regards civilians in wartime, Kiss et al. collected data on conflict-related sexual violence focusing on LGBTQ+. They presented how sexual abuses are used in conflict and war as weapons primarily used against sexual and gender minorities, using the cases of Democratic Republic of Congo, Ethiopia, Kenya, Rwanda, Republic of the Congo, Liberia, Sierra Leone, Burundi, Central African Republic, Iraq, Jordan, Thailand, Nepal, Afghanistan, Burma and Bosnia. When they disclose their sexual orientation or gender, individuals have increasing chances to be sexually abused. The authors explain that sexual abuse often brings about a double trauma: first, the abuse itself and the social stigma and isolation from the victim's family. Especially men sexually abused by other men can be stigmatised and isolated by their family circle (in traditional or religious families, for example). They highlight other likely implications such as drug addiction, depression, a fall in self-esteem and suicide. Finally, they found that even if both genders present the same symptoms, males are less likely to talk about it or seek medical or psychological help, due to a stronger feeling of shame induced on them by masculine heteronormative societies.

Another case documented in academic literature was the persecution of European LGBTQ+ people by the Nazi regime during the Second World War. Sexual and gender minority members were singled-out, imprisoned, deported in concentration camps, tortured and exterminated. On top of the usual number tattooed on the forearm, LGBTQ+ prisoners had a pink triangle sewn onto their uniform, to further humiliate them and isolate them from the Jewish and the Roma inmates (Grau, 1993).

Conclusion

The definitions outlined in the first section of this paper provide a necessary contextualisation and frame to selecting scholarship productions

and data cited in this literature review.

The literature review regarding LGBTQ+ people's rights in the context of natural disasters (section two) has documented all kinds of abuses, discriminatory laws and exclusion practices, and an absence of adequate emergency infrastructures. No matter the level of development of a country, crisis and emergency plans and post-disaster measures, carried out by both public and non-governmental entities, are rarely taking into consideration the needs of sexual and gender minorities. Flaws in designing emergency response hinder the resilience process and cause psychologic traumas, loss of cultural and community heritage, and exclusion from compensation and job reintegration programmes; it is also likely to contribute to a pattern of physical and sexual abuses.

In the third section, bio-hazard crises such as pandemics are addressed, as far as they impact sexual and gender minorities. The two COVID-19 (2020) cases and HIV/AIDS (between 1980 and the end f the 1990s) were addressed. The Examples show that LGBTQ+-phobia and stigmatisation increase systematically in times of pandemics. The pandemic's economic and social impacts bring about exclusion and human right deprivation: isolation, discriminations in accessing health services, unemployment and denied access to housing. This entails psychological consequences such as depression and sometimes suicide. It appeared that within the LGBTQ+, trans and ethnic minorities are even more vulnerable. Governmental failures in responding to the needs of those communities. However, data mainly come from Western countries, and as regards the COVID-19, the crisis is very recent, and data do not consent a deep understanding. Nevertheless, the HIV/AIDS case also prompted many positive changes for the LGBTQ+ communities worldwide. Traumatic events can indeed entail awareness-raising and progress.

The last part of this paper addresses the case of man-made disasters. Even if scarcely documented, industrial disasters seem to follow the same patterns as natural disasters: loss of homes, cultural identity, a rise of homophobic attitudes, weakened community resilience, and psychological issues are the consequences that ordinarily affect survivors in LGBTQ+ communities.

During armed conflicts, even if some progress has taken place in the global North regarding the inclusion of LGBTQ+ people in the armed forces, homophobia and injustices still characterise sexual and gender minorities' experience. The military has always known that LGBTQ+ individuals were and are a component of their troops, but the issue is still largely taboo. Homosexuality has to be hidden and was punished in the past. Lesbians are more tolerated but still face stigmatisation. The LGBTQ+ civilian population are often explicitly targeted and sometimes sexually abused,

especially in the global South. They also face a double trauma, especially men. WW II was the theatre of a systematic deportation, exploitation and extermination process of the LGBTQ+ people in Europe. War and conflict are hence the most dangerous situation a LGBTQ+ community may face.

Every humanitarian crisis presents a set of challenges for the human rights of LGBTQ+ persons, including physical abuse and psychological trauma. Considering the legal framework, too little has been done to protect and respond to this population's particular needs.

The survey has also shown that scholarship and data mainly come from authors of the global North. Africa and South America are dramatically underrepresented in the literature. Within the LGBTQ+ communities, the case of lesbians and bisexual females are less studied. Moreover, no studies have been found addressing multi or complex humanitarian crises (that is situations featuring more than one disaster simultaneously): only the Fukushima case has been discussed with a multidimensional lens. Only a little percentage of humanitarian crises have been yet documented by scholars or by the media adopting the peculiar perspective of sexual and gender minority members, leaving this research field still in need of more data and research.

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This book collects six state-of-the-art analyses prepared by students enrolled in two human rights doctoral programmes. In most of the domains explored in this volume, a comprehensive human rights theory or a human rights lens, is not yet available. The challenge that researchers had to undertake was therefore dual: to seek in the academic literature what theoretical conceptualisations have been developed to investigate a given problem, but also – and maybe more significantly – to select, shape and pre-comprehend social and political dynamics so as to make a human rights scholarly inquiry meaningful and productive.

Pietro de Perini, Ph.D in International Politics (City, University of London) is a research fellow at the University of Padova where he teaches Human Rights in International Politics in the Master's Degree Programme in Human Rights and Multi-level Governance.

Paolo De Stefani is lecturer in International Law of Human Rights at the University of Padova, vice-coordinator of the International Joint Doctorate in Human Rights, Society and Multi-level Governance, national director for Italy of the European master's programme in Human Rights and Democratisation, and editor in chief of the Italian Yearbook of Human Rights.

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