

# Citizenship in the Post-Yugoslav States: States, Nations, Rights

Written by Jelena Dzankic

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JELENA DZANKIC, SEP 20 2014

After the fall of the Berlin Wall and followed by the disintegration of the multinational socialist federations, citizenship has gained a central role in the study of the transformation of societies east of the Bernauer Straße. The notion of citizenship epitomises the link between individuals and the state. Unpacking the fine tissue of citizenship, we first realise that we can view it as a legal status, or as a purely legal concept. Defining citizenship in legal terms explains which groups have been included in the state as its full members, and which may have been fully or partly excluded. Such a narrow understanding of citizenship has been much examined in political and socio-legal studies, particular in the context of the evolving and changing post-communist citizenship legislation. Then, we realise that the question of membership in a particular state is intimately related to the rights and duties that an individual has by virtue of his or her status of citizenship. And finally, the notion of citizenship can also be understood in broader, ideational terms because it encapsulates the social, political, and historical milieus of the state.

Hence citizenship reflects 'an identity' and this identity is twofold. It is the identity of the state itself, and this dimension of citizenship is captured in nationality laws. Yet, citizenship also mirrors the individuals' emotional link to the state whose documents they formally possess. As has commonly happened in the new European states, this individuals' emotional aspect of citizenship has brought about contestations of states, protests, and unrest. In other words, citizenship represents not only the person's legal relationship with the state, and the rights and duties inherent in such a relationship, but also their attachment to the state and the willingness to take part in the day-to-day functioning of the polity. In the post-communist world, therefore, citizenship has not only been a matter of *belonging* to a state, but also a tool for *constructing* the state.

The seven countries born out of the painful death of the former Yugoslavia (Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Kosovo, Macedonia) provide a highly fertile terrain for the academic exploration of the interplay between the creation of new states and their relationship to the people living within their boundaries. Despite being small in terms of population and territory, these post-Yugoslav states are inhabited by a broad spectrum of ethnicities, which exhibit a broad range of inter-group relations. These inter-group relations mirror the different dynamics between states and their people, dynamics which have had a strong effect on the regulation and practices of citizenship. As such, the post-Yugoslav states represent a true laboratory for understanding people's attitudes towards post-communist, post-partition, and post-conflict states and the rights that they have within them.

The tectonic changes in the political landscape of this geographical region brought about viral national revivals, the recreation of borders, and the redefinition of citizenry in the new states (see Woodward 1995; Cohen and Dragović-Soso 2005; Ramet 2010). As this redefinition of citizenry would also reflect upon the rights of citizenship, including not only electoral rights, but also social, political, and economic ones, the national political entrepreneurs sought to engineer the ethnic balances in their fresh and often institutionally feeble states. Štikš (2006) has explained that at the time of the initial determination of citizenry of the newly created states, ethnic engineers posed the rules for the inclusion, invitation, and exclusion of specific groups of people. The key objective of such policies was to reinforce the sense of 'ownership' of the state by the major ethnic community. This caused controversies vis-à-vis minority communities, who were commonly adversely affected by the uneven distribution of the rights of citizenship by the dominant to other ethnic groups. Examples of 'ethnic engineering' have occurred commonly among the post-

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Yugoslav states. Perhaps the most commonly cited one has been the case of the 'Erased' in Slovenia, where a group of people (ethnically non-Slovenes) remained without a legal status after the country became independent in 1991. Following the 2010 judgment of the European Court of Human Rights in Strasbourg on this case, Slovenia was required to change its regulation of membership and compensate the individuals affected by its original decision.

The example of Slovenia regarding the management of the rules of inclusion and exclusion to favour a certain group is not an isolated case in the post-Yugoslav space. Montenegro, the smallest from among the underlying states and a current candidate for membership in the European Union, is also the case that shows the many intricacies of the link between individuals and states. Prior to becoming an independent state after a referendum held in May 2006, Montenegro was a part of two federations and one state union. During the wars of Yugoslav disintegration (1991–1996), Montenegro entered a federal arrangement with Serbia, and the two former Yugoslav republics established the Federal Republic of Yugoslavia. At that time, the political life in Montenegro was marked by the continuation of the rule of the former communists who, as of 1991, renamed the country's dominant party to the Democratic Party of Socialists (DPS). The leadership of the DPS was close to the nationalist and expansionist politics of Slobodan Milošević Montenegro, who delayed the adoption of the federal citizenship law until 1996 in order to manipulate the ethnic composition of the country by resettlement of the Serb refugees from Croatia and Bosnia and Herzegovina. At the level of the people in Montenegro, it is significant to note that in the early 1990s, the general population was consumed by the wave of Serbian nationalism, the difference between the Serbs and Montenegrins was not pronounced. That is, at this time, it was not impossible for an individual to simultaneously identify both as a Serb and as a Montenegrin.

It was precisely the transformation of the Montenegrin political milieu in 1997, caused by the split in the ruling DPS, that triggered a number of questions related to citizenship status and the distribution of membership rights. While the ruling wing of the DPS started detaching from Milošević and the federal institutions, the other, which eventually became Montenegro's opposition, remained loyal to the common state with Serbia. As a consequence, from the DPS split until the country became independent in 2006, Montenegrin politics were dominated by strong internal divisions over whether Montenegro should be an independent state or not, and an equally intense discord over whether Montenegrins were a separate nation or a sub-group of Serbs. The intensity of this discord was mirrored in the 2003 census, whereby 43.2 per cent of people in Montenegro declared their national identity as 'Montenegrin', while 32 per cent professed it as 'Serb', opposed to the 1991 census in which 61.9 per cent of the population defined themselves as Montenegrins, 9.4 per cent as Serbs (Monstat 2003; FSO 1991); and the 2006 referendum on independence, whereby independent statehood was supported by 55.5 per cent of those who went to the polls, while the preservation of the union with Serbia was supported by 44.5 per cent. This divide was further reinforced by the challenges to Montenegrin nationhood and statehood stemming from Serbia in the pre-independence period.

The tense political environment in Montenegro has been reflected in its citizenship policy, which became not only a determinant of membership and rights but also a *sui generis* foreign policy tool. In principle, for as long as Montenegro was a constituent party in the common state with Serbia, its citizenship policy was supposed to be the second-tier citizenship within a federal model. However, as a part of its detachment from the FRY in 1999, Montenegro adopted a citizenship law with provisions conflicting with that of the federal Yugoslavia. This led many international observers to note that the 1999 Montenegrin Citizenship Act read as a law of an independent state, which has been caused by the DPS's mounting independence drive and the party's aspiration to remain in power (Džankić 2012).

Indeed, as a result of the deep political and societal divisions, the post-independence politics in Montenegro exhibit a strongly 'nationalizing' character. In the desire of the political entrepreneurs to consolidate the Montenegrin identity after independence, the Montenegrin citizenship pendulum oscillates between the ethnic and civic principles. While exclusively defined as the link between the individuals and the state, the Montenegrin citizenship regime exhibits strong protectionism through its restrictive provisions. A restrictive approach to membership and the intolerance of dual citizenship allowed the DPS not only to manage the fragile ethnic balances between the Serbs and the Montenegrins in Montenegro, but also to manage the number of people who were granted the right to vote. The latter case of 'electoral engineering' has further been underpinned by the country's approach to franchise, which effectively related the possession of the status of citizenship, compulsory residence of two years on Montenegro's territory, and

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voting rights. Simply put, Montenegrin ethnics, or even citizens, residing in Serbia (or elsewhere) do not have voting rights in Montenegro, which has commonly been seen as a barrier to the potential votes for the opposition. This linking of rights to the status of citizenship has been criticised by the international community, and above all the EU, which Montenegro aspires to join in the future.

To finish off with a Gellnerian-style metaphor, citizenship is born out of the marriage of the people and the state. It precedes the state, because it represents the community of people and their association to a particular territory. At the same time, citizenship reinforces the state by creating the legal link between the individual and the polity, by establishing prerogatives for the individual's participation in the polity, and by engendering his or her identification with the state. All of these dynamics have been present in the post-Yugoslav laboratory of citizenship, where the case of Montenegro shows us how political entrepreneurs can mix and 'unmix' different aspects of the regulation of membership to strengthen the rule of an ethnic community or political faction.

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