

SOUTHEAST EUROPEAN STUDIES

CITIZENSHIP IN BOSNIA AND HERZEGOVINA, MACEDONIA AND MONTENEGRO

Effects of Statehood
and Identity Challenges

Jelena Džankić



ROUTLEDGE

CITIZENSHIP IN BOSNIA AND HERZEGOVINA, MACEDONIA AND MONTENEGRO

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Citizenship in Bosnia and Herzegovina, Macedonia and Montenegro

Effects of Statehood and Identity Challenges

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List of Abbreviations

BiH	Bosnia and Herzegovina
CoE	Council of Europe
DPS	<i>Demokratska partija socijalista</i> [Democratic Party of Socialists]
DUI	<i>Bashkimi Demokratik për Integrim</i> [Democratic Union for Integration]
EC	European Commission
ECN	European Convention on Nationality
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
FPR	Federal People's Republic
FRY	Federal Republic of Yugoslavia
HDZ	<i>Hrvatska demokratska zajednica Bosne i Hercegovine</i> [Croatian Democratic Union of Bosnia and Herzegovina]
ICTY	International Criminal Tribunal for the former Yugoslavia
ICG	International Crisis Group
IDP	Internally displaced persons
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
OFA	Ohrid Framework Agreement
OSCE	Organization for Security and Cooperation in Europe
OHR	Office of the High Representative in Bosnia and Herzegovina
RS	<i>Republika Srpska</i> [Serb Republic]
SDP	<i>Socijaldemokratska partija</i> [Social Democratic Party]
SDSM	<i>Socijaldemokratski savez na Makedonija</i> [Social Democratic Union of Macedonia]
SFRY	Socialist Federal Republic of Yugoslavia
SNP	<i>Socijalistička narodna partija</i> [Socialist People's Party]
SNSD	<i>Savez nezavisnih socijaldemokrata</i> [Alliance of Independent Social Democrats]
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
US	United States of America

VMRO-DPMNE *Vnatrešna makedonska revolucionerna organizacija –
Demokratska partija za makedonsko nacionalno edinstvo*
[Internal Macedonian Revolutionary Organization –
Democratic Party for Macedonian Unity]

Acknowledgements

Writing a book is an incredible and adventurous journey. Writing this book, I have sometimes felt like Alice in Wonderland – chasing a white rabbit, I fell down a hole right into a fantasy world, full of extraordinary creatures and astonishing situations that challenged my sense of logic. Indeed, quite a few times I drank the wrong potion, which made me shrink to the size of an ant, an insect so small that it sees even the tiniest obstacle coming across as frightening and insurmountable. And the burden it carries on its back seems often quite heavy. Yet the ant is a hard-working little buddy and trust me, if there is a cake to be eaten, it will find it. And eat it. So the cake I ate helped me grow. I did not become a giant, but I can now take up the advice from that caterpillar without having my neck growing high into trees, or play chess with the Queen of Hearts without getting my head chopped off.

As I am writing these acknowledgements, I realize that delving into academic exploration, similar to writing fiction, requires strength, persistence and above all – creativity. Indeed, writing a research-based book is far from being a fairy tale. Having started this journey in misty Edinburgh, I have glided through the wind and the rain but I have learned to appreciate the long days of sun and enjoy the little things that make our lives glitter, even if for a moment. My journey then took me to sunny Florence, Europe's renaissance capital, which gave me as much sunshine as it did rain. Yet during my journey, if I may quote the Liverpool FC anthem, I've never walked alone. Many people have been there for me and I know I will not be able to do justice to all of them on these pages. My family and friends have always been there for me and there is nothing that I can appreciate more in the world than that. They have helped me grow, helped me change and I wish to thank them all just in case I forget to mention either of their names in the following lines. We all tend to become forgetful with age, don't we?

Still, there are those people in our lives or work who leave a mark so deep, that we are simply unable to erase it. For me, one of those people has certainly been Jo Shaw (maybe I should say Professor Jo Shaw), who in addition to being an incredible scholar is also a dear friend. In 2010, when I was working as a researcher at her CITSEE project at the University of Edinburgh, she encouraged me to look into the citizenship regimes in weak and unconsolidated states. She then extended my original contract for a further six months for me to be able to start working on this book and commented on earlier drafts. Hence, I really have to say that 'this work was supported by funding from the CITSEE project (The Europeanization of Citizenship in the Successor States of the Former Yugoslavia), based at the University of Edinburgh, UK. CITSEE is funded by the European

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During my time at CITSEE, I have also benefitted from collaboration with and friendship of a number of young scholars. From among the Edinburgh bunch, the closest ones to me remain Ljubica Spaskovska and Gezim Krasniqi, the two people who have helped me settle in Edinburgh, find my way around CITSEE, and who have been an incredible wellspring of support and inspiration in my work. They know why. Igor Štiks has also been a lovely colleague and offered me guidance on my work, and I appreciate his friendship and that of his wife Jelena Vasiljević. And a big thanks to Mr Alf for making our academic days a bit less academic, and thus more fun.

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have taken me. My family: Medo, Cuki, Bubica, and the newcomers – Tanja and David. Their love and encouragement keeps me alive and kicking.

So, this is the end of my first adventurous journey and I am keen on starting a new one. Maybe today. Maybe tomorrow. Maybe soon, and for the rest of my life.

Florence, 2015

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Chapter 1

Introduction

What happens to the citizen when states and nations come into being? How do the different ways in which states and nations are established make people feel towards their polity and towards ethnic groups living therein? And, last but not least, are all citizens equal in their rights and duties?

These questions lay the foundations for this book, which reinterprets the place of citizenship in the disintegration of Yugoslavia and the creation of new states in the Western Balkan region.¹ The book proposes an analytical grid, which locates the dynamics of political developments in these countries within the broader academic debates on citizenship, nationalism and state-building. This framework will help us to understand the contemporary citizenship governance and practices, taking into account not only the immediate political contexts that generated them, but also the historical trajectories and societal environments, as well as the transformative powers of international and European factors that affected them.

By encapsulating the construction of states and the relationship between the polity and the people living within its boundaries (whether real or imagined) at its core, citizenship is central for analysing the political developments after the fall of the Iron Curtain in 1989. The implosion of multinational socialist federations was followed by the rise of national movements, the re-creation of borders and the redefinition of citizenry in the new states. At these times, marked by tectonic political changes and viral national revivals, political entrepreneurs sought to engineer the ethnic balances in their fresh and institutionally feeble states (Kirk-Greene 1983; Štiks 2006). This would help them to legitimize policies of state-building, while strengthening their rule during the moments of national reawakening across post-communist Europe. In other words, the definition of citizenship in the post-communist space was not only a matter of *belonging* to a state. It was often a mechanism of *constructing* the state, its institutional framework and its day-to-day operation.

As Štiks (2006) noted, 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 aim of such policies was to reinforce the sense of appropriation of the state by the dominant ethnic group, who would then claim ownership of its institutions. Far from controversial, this initial determination of citizenry sparked numerous questions related to the rights

1 Western Balkan region is a term including Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro and Serbia. That is, the post-Yugoslav states minus Slovenia, but plus Albania.

of minorities and other ethnic communities in the new states. Occasionally, this ethnification caused some minority groups to refuse to identify with the newly established polity. The troubled relationship between such groups, or the 'self-excluded' (Stiks 2006), with the state defined along rigid ethnic lines resulted in group grievances, the desire for autonomy, or secessionist movements.

After almost 25 years since the socialist Yugoslav federation fell apart, seven states (Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Kosovo, Macedonia), occupy its geographical and political space. The post-Yugoslav states, despite being small in terms of inhabitants and territory, are populated by a wide variety of different groups exhibiting an incredible spectrum of, and variation in, intergroup relations. As such, they represent a true laboratory for understanding people's attitudes towards post-communist, post-partition and post-conflict states and the rights they have within them. Each of the post-Yugoslav countries displays a different dynamic between the state and the people. It is precisely this dynamic, which has a major role in shaping the legal, political, symbolic and ideational aspects of citizenship, that has remained unexplored in the academic work on this turbulent region.

The countries born out of the painful death of the former Yugoslavia provide very fertile ground for the exploration of the interplay between the formal establishment of new states and their relationship to the population. While a full and systematic account of the abundant literature on the processes that followed the disintegration of Yugoslavia falls beyond the scope and length of this book, it is important to highlight that academic publications have thoroughly examined the conflicts in the 1990s (Woodward 1995; Cohen 1993) and the subsequent difficult transition to democracy of the newly established states (Cohen and Dragović-Soso 2005; Ramet 2010). This initial interest in the troubled post-Yugoslav space inspired further case studies of the politics, history, and nation-building in Croatia (Bellamy 2003; Kapović 2011; Kasapović 2012), Serbia (Gordy 1999; Miller 1997; Ramet 2006; Zuber 2013), and more recently in Macedonia (Graan 2013; Vangeli 2011a; Wagner 2014). Academic work on Montenegro has been very scarce and only a handful of studies exist on this state's political and social transformation (Bieber 2003a; Džankić 2014; Morrison 2009; Roberts 2007). By contrast, Bosnia and Herzegovina has provided copious academic puzzles, ranging from questions related to post-conflict reconstruction and consociation (Bell 2013; Bieber 2013b; Horowitz 2014; Stroschein 2014; Wolff 2013), ethnic politics (Kapidžić 2014; McClelland 2013; Šedo 2010), multinational federalism (Erk and Anderson 2009; Fleet 2014; Keil 2013), and transitional justice and reconciliation (Hayner 2010; Jones 2012; Rajković 2011). More recently, the focus of academic efforts on the Western Balkans has shifted to the examination of how the European Union (EU) has affected and potentially transformed the institutional, economic and societal dynamics in these countries (Bieber 2013; Džihic 2013; Elbasani 2013; Fagan 2011; Freyburg and Richter 2010; Juncos 2013; Noutcheva 2012).

However, in attempting to explain why the secession of the Yugoslav republics was followed by such intense conflict, what the problems of transition

to democracy were, or the effects and limitations of the transformative power of the EU, scholars of social and political science often neglected a whole range of issues, including citizenship. This has recently been highlighted in Sören Keil's (2013, 48) study of multinational federalism in Bosnia and Herzegovina, whereby he called for an examination of the ways in which 'citizenship policy can contribute to a strengthening of dual political loyalty and identification'. This is particularly relevant in political contexts in which the competition between territorial and group loyalties has an impact not only on the institutional, but also on the societal plane.

Citizenship, as it will be argued in this book, is a reflection of the dynamic between state and (mutually reinforcing or competing) nation-building projects. It is not simply a matter of the passport. Rather, it includes questions of the rights and duties, as well as the intricate symbolism of membership. Citizenship also tells us about how countries relate to each other, and how such relationships among states can reshape the way in which states relate to their population. As such, citizenship offers us unique lenses for understanding the continuing transformation of Europe's most troubled region.

In particular, looking at citizenship in the challenged and unconsolidated post-Yugoslav space unveils how national reawakening and state-building manifest themselves in the countries that have taken diverging transition routes. To that end, this book offers a comparison of the link between the state and individuals in Bosnia and Herzegovina, Macedonia, and Montenegro. As will be explained in more detail, these three ethnically heterogeneous countries have all once been republics in the former Yugoslavia, and thus share a similar pre-independence understanding of citizenship. However, the post-Yugoslav paths of Bosnia and Herzegovina, Macedonia, and Montenegro have diverged significantly. The three countries each had a unique experience of the disintegration of the federation: from the war in Bosnia and Herzegovina, to the creation of the mini-federation between Montenegro and Serbia, to the peaceful departure of Macedonia. This was followed by different and complex transitional routes that eventually shaped Bosnia and Herzegovina, Macedonia, and Montenegro as they are today: states in which the internal ethnic balances are governed through a federal, a consociational and a unitary state model. Moreover, each of these states is challenged either internally by a non-dominant ethnic community or externally by a neighbouring country. The combination of these two elements implies an incongruence of the processes of state and nation-building, which have been captured in the underlying countries citizenship regimes. The transformation of the governance and practices of citizenship in Bosnia and Herzegovina, Macedonia, and Montenegro, stretches far beyond being an exclusive question of legal status. Rather, this book understands citizenship as an array of rights, relations and statuses that the individuals have in their state of membership, as well as their identification with that state. The broad governance of citizenship is thus understood as 'citizenship regime', a concept that is further explored in Chapter 2.

Against this background and drawing on original research on Bosnia and Herzegovina, Macedonia and Montenegro, this book argues that in societies with manifest ethnic cleavages that are at the same time states internally unconsolidated or externally challenged, citizenship regimes are more likely to be restrictive as a result of the incoherent paths of state and nation-building, while citizenship as the collective identification with the state is virtually non-existent. In other words, while the regulation of citizenship may even be formally declared as ‘civic’, ‘territorial’, or even ‘inclusive’ the laws will contain provisions aimed at preserving the fragile ethnic balances. Keeping the ethnic composition stable through formally inclusive citizenship laws reduces the possibility for the competing ethnic communities to challenge the state. However, as these laws commonly contain provisions favouring one or more ethnic groups, they will ultimately lead to an uneven distribution of rights of citizenship among groups. The most common consequence of this dynamic is an imbalance in the different groups’ approval of the state and its contestation at the symbolic level.

Why Citizenship?

Ever since philosophers started deliberating the complex notion of the state, a plethora of attempts have been made to explain the meaning and underpinnings of citizenship (Aristotle 1941; Shafir 1998; Kymlicka and Norman 1994; Marshall 1965; Rousseau 1913; Brubaker 1996; Joppke 2007). Each historical period, each ideological movement, and each major change in the global outlook has led to its own visions of citizenship. However, the accumulation of a voluminous literature attempting to cast a light on this concept has only contributed to the deepening of the citizenship conundrum. The roots of this conundrum penetrate the scientific worlds of social, legal and political studies, where the notion of citizenship becomes the nexus of the triangle it forms with the concepts of the state and nation. The intimate relationship among these concepts has often led to the confusion between the meaning of the terms *nationality* and *citizenship* (Boll 2007, 57).

The term *citizenship*, apart from denoting the tenure of legally conferred rights and duties, coincides with the term *nationality* in that the latter designates the relationship between the individual and the state in international law (Boll 2007, 60). This particular relationship refers to those rights and duties that the individual possesses by virtue of his or her membership in a polity. Equally, the question of membership has generated another conceptual overlap between *citizenship* and *nationality* because both denote belonging to a particular state or ethnic/national group. The distinction between citizenship and nationality is particularly relevant in the post-Yugoslav context, due to the common conflation of the notion of ‘nationality’ with ethnic belonging, as opposed to the scholarly work that defines it in legal rather than identitarian terms. The latter is better represented by ‘citizenship’, which in addition to epitomizing the formal belonging of individuals to polities also includes symbolic and ideational elements that characterize such a belonging. Therefore, any

reference to citizenship, which is ‘an essential element of democracy and a universal feature of the modern state’ (Cohen 2009, 13), presupposes an understanding of the fine embroidery of links that relate it with the concepts of the state and nation.

The triangle between the citizenship, state, and nation gained paramount importance with the fall of socialism in eastern Europe, which brought along the disintegration of multinational federations, and the mushrooming of nation and state-building projects. These processes have revealed the multivalence of citizenship, which is defined as ‘a major feature of modern society: a simultaneous and interconnected struggle for membership or identity or both with the intention of ensuring access to rights that are distributed by the state (and occasionally local and international institutions)’ (Shafir 1998, 23–4). Building the state and defining its citizenry have thus become central to post-communist transitions. That is, states established their ‘citizenship regimes’. Adapting the term from gender studies, where the notion of ‘gender regimes’ explains how gender relations are regulated in different societies, Shaw and Štiks (2013, 3) define a citizenship regime as ‘a range of different legal statuses viewed in their wider political context, which are central to the exercise of civil rights, political rights and socioeconomic membership in particular territory’. The two authors bring the definition closer to the post-Yugoslav experience with citizenship, and narrow down Jenson’s (2007, 5) reflections on citizenship regimes as ‘institutional arrangements, rules and understandings that guide and shape concurrent policy decisions and expenditures of states, problem definitions by states and citizens, and claims making by citizens’. By doing so, they also place an emphasis on the lived dimensions of citizenship, which animate a deeper analysis of the social, political and legal factors that affect the link between individuals and polities.

A rich, interpretative investigation of citizenship can help us to understand how new states came into being, how they manage the different ethnic communities living in them, and how they adapt to the myriad of domestic and external pressures that they are constantly exposed to. The nexus of citizenship is the relationship between the individual and the state, which includes the rights and duties stemming from that relationship. On the one hand, we can look at citizenship as a purely legal concept, that is, as a legal status (Brubaker 1992). This narrow definition of citizenship has been much examined in political and socio-legal studies, particular in the context of the evolving and changing citizenship legislation after the fall of communism in Europe. On the other hand, citizenship can also be understood in broader, ideational, terms because it epitomizes social, political and historical milieu of the state.

Citizenship designates ‘the nature and quality of relations among presumed members of an assumed society’ (Bosniak 2008, 2). As such, it is inextricable from the notions of nation and state, which are essential for creating ‘moments of citizenship’, meaning citizens’ solidarity, or the collective identification of individuals with the political community that they are related to. The roots of the idea of citizens’ solidarity can be traced back to Rousseau (1913, 112–14), who defined it as moral solidarity and innate compassion towards humanity. Kant

(2001) further elaborated this idea of moral solidarity with humanity, considering it a moral obligation for individuals. Hence the normative understanding of solidarity is not related to a single political community, but extends to include all humankind. Bringing the concept of solidarity closer to that of citizenship, Hannah Arendt (1990, 98) defined it as ‘a principle that can define and guide the action’. As such, solidarity requires from an individual to assume the interests of other fellow citizens in participating in political life.

Hence, thinking of citizenship as a multidimensional concept is key for understanding the objectives and the contents of this book. Citizenship is defined here not only as the people’s legal relationship with the state, giving rise to the rights and duties inherent in such a link, but also as their emotional attachment to the state and the willingness to take part in the day-to-day functioning of the polity. In other words, this book conceives citizenship as a state identity along the following lines:

1. Citizenship policies are created by political elites who a) transform their visions of the state into laws and b) are affected by external factors (other states, international and transnational organizations, for example).
2. Citizenship practices reflect how individuals envision the state and practice solidarity with other members of community.

In a metaphorical sense, 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. While this identitarian aspect of citizenship is very much connected to the idea of the nation, the two are not coterminous. Traditionally, citizenship, similar to nation, is viewed either as civic, whereby the primary link of the individual is with the state, or as ethnic, whereby people relate among themselves and with the state on grounds of the perceived kinship bonds. In his seminal work *Citizenship and Nationhood in France and Germany*, Brubaker (1996) explored these two characteristics of citizenship by counterposing the state and nation formation in these two European states in the nineteenth century. Yet, the traditional ‘civic’ vs. ‘ethnic’ dichotomy of citizenship is of a limited value in the post-communist space, particular in those countries in which state and/or nation-building processes were weak, or challenged internally (by groups with claims to power) or externally (by kin-states of different groups, or regional stakeholders). To avoid contestation of membership boundaries of the state, policymakers in these unconsolidated and contested countries have opted to define citizenship exclusively as the legal bond between individuals and the state, circumventing overt references to kinship bonds. As there are no explicit ethnic elements in it, this variant of citizenship formally appears as ‘civic’. As is the case with the studied countries, the regulation of citizenship becomes a mechanism

for ensuring the viability of the state, and managing the ethnic relations therein. However, it would be erroneous to claim that the substance of the citizenship regimes in the unconsolidated states in the Western Balkans is free from 'ethnic' elements. Since the population of such states is fragmented into differentiated and competing groups, collective citizenship as belonging to the state is rather loose. The group that claims ownership over the state will acquire a strong state-oriented identity based on the ethnic principle. By contrast, the identification of the competing groups is more likely to be with their ethnic kin, or another kin-state, and thus citizenship in terms of such groups' belonging to the state is much weaker. This implies that there is no clear dividing line between 'civic' and 'ethnic' citizenship, which has most recently been supported by the empirical work of Vink and Bauböck (2013). As a result, this book approaches the citizenship regimes in the unconsolidated and challenged Balkan states not as 'ethnic', but, following Spaskovska (2012), as citizenship regimes 'fractured' along ethnonational lines.² A citizenship regime that is fractured along ethnonational lines does not contain elements in the citizenship policy aimed at preferential access for co-ethnics. However, the distribution of citizenship rights is based on ethnonational cleavages, which are further mirrored in the different groups' attitudes towards the state.

Even so, when looking at the place of citizenship in the new Balkan states, we need to be fully aware of the fluidity of the concept. Citizenship, similar to nationhood and statehood, is by no means fixed, but is transformed to reflect the changes in the link between the people and the state. Joppke (2007) argues that the three dimensions of citizenship (status, rights, and identity) have undergone significant alterations in the last century. While the boundaries of membership have expanded, minority rights have superseded social rights in the political arena of citizenship, and identities have become universalistic rather than ethnically exclusive (Joppke 2007, 37–48). While on the one hand this dynamic of citizenship transformation has characterized the Western democratic societies, crises and conflicts have had a different effect on the challenged and unconsolidated post-Yugoslav states. Even though minority rights lay at the core of citizenship regimes of the countries examined in this book, we see the toughening of access to citizenship and a departure from universalism for the sake of ethnic identification. In other words, not only does democracy transform citizenship, but so does instability. The cases of Bosnia and Herzegovina, Macedonia and Montenegro reveal that the interplay between the governance and practices of citizenship generates outcomes different to those described in the scholarly literature (Joppke 2007; Bosniak 2001; Susen 2010).

The very governance of citizenship is a broad umbrella concept. It refers to the citizenship policy of a country, contained not only in nationality laws, but also in related legislation including minority policy, electoral laws, education, and so on.

2 While Spaskovska (2012, 383) uses the concept 'fractured citizenship', for purposes of clarity this book specifies that these citizenship regimes are 'fractured along ethnonational lines'.