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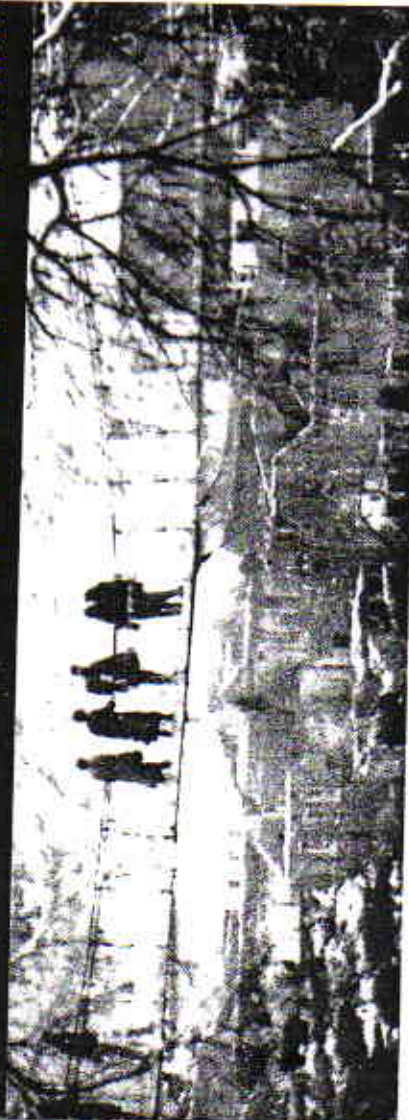
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# Neighbors at War

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## National Minorities under the Dayton Accord

Lessons from History

Julie Mertus

After the First World War, the victorious allies used international law to rearrange the European landscape, parceling out the losses of Germany, the Ottoman Empire, Bulgaria, and the successor states of the Hapsburg empire, Austria and Hungary. "The principle 'one nation, one state' was not realized to the full extent permitted by the ethnographic configuration of Europe, but it was approximated more closely than ever before" (Claude 1955: 12). Protections for religious, cultural, linguistic, and ethno-national minorities<sup>1</sup> within the newly created nation-states were designed as a compensation for national self-determination for the millions of people left out of "their" nation-states. Under the interwar agreements, "the victors took the spoils, but with the stipulations often clothed in the idealistic language of national self-determination and justice" (Jelavich 1983: 122).

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1. The terms "ethno-national" minorities and members of "national" minority groups to refer to groups united not necessarily by geography, but by a sense of identity based on their common history, language, and tradition.

More than half a century later, the peace settlement negotiated for the former Yugoslavia at Dayton, Ohio, made a similar compromise: the territorial victors were rewarded in a peace process that trumpeted self-determination and justice. Through formal affirmation of the legal integrity of the internationally recognized state of Bosnia and Herzegovina,<sup>2</sup> the Dayton Accord claimed to respect that state's earlier act of self-determination. Yet the peace settlement also took steps to eviscerate that act. It divided Bosnia and Herzegovina roughly in two, giving the Serbs what they had wanted all along, a semi-autonomous state, and paving the way for what the Croats had long desired, the securing of their borders and political and military inroads into Herzegovina.

Under the Dayton Accord, post-World War II international human rights provisions constitute a corollary and corrective to well-worn attempts to address the tensions between states, ethno-national groups, and nationalisms. Nevertheless, despite changes in international law and policy, the grand scheme to protect ethno-national groups embodied in the Dayton Accord is remarkably similar to the guarantees for minority rights created after the First World War. The "minorities treaties"<sup>3</sup> concluded under the auspices of the League of Nations and other interwar minority rights measures failed both to protect the rights of ethnic, religious, and linguistic minorities and to create lasting peace. The Dayton Accord appears predestined to similar failure. Dayton not only repeats the international peace techniques of earlier times but also jettisons the language through which the people of the former Yugoslavia had become accustomed to define themselves—that is as a nation (*narod*) or a national minority (*narodnost*). On top of all of its heavy human rights machinery, the Dayton Accord creates a government that imposes a slightly different set of ethno-national divides. What vision of society does Dayton impose? Is it likely that the people of the former Yugoslavia will accept this vision? Will Dayton be any more successful than the interwar plans were at fostering rights and securing peace?

Examination of the historical underpinnings of the Dayton Accord has been missing from policy discussions on protections for members of ethno-national minority groups in Bosnia and Herzegovina, Croatia, and other troubled parts of Central and Eastern Europe. Yet Dayton was not concluded in a policy vacuum; it was influenced by earlier international and regional responses to crumbling states, nationalisms, and the need to protect the rights of members of minority groups. Understanding the stumbling blocks to Dayton's effective enforcement requires an inquiry into earlier international frameworks designed for constructing peace.

2. See Article 1 of the Constitution for the Federation of Bosnia and Herzegovina: "The Republic of Bosnia and Herzegovina . . . shall continue its legal existence under international law as a state, with its internal structure modified as provided herein."

3. "Minorities treaties" were included in the Treaties of St. Germain, Triano, Neuilly, and Lausanne and in the Albanian and Lithuanian Declarations. They empowered the League of Nations to receive petitions, conduct fact-finding investigations, and issue directives to those nations in violation of the treaties. See League of Nations Publication 1927, *Azcarate y Florez* 1945, and Capotorti 1979.

Additionally, Dayton's attempt to address the question of "national minorities" runs headlong into previous Yugoslav efforts to manage and construct ethno-national identities. Thus an assessment of Dayton also requires that we analyze how Dayton projects identity constructs onto an already laden identity field in which deep-rooted cultural and legal identity tags have already been deployed.

This chapter explores the Dayton Accord through two historical inquiries. First, it analyzes how Dayton responds to the question of national identity as framed by earlier notions of group identity. Second, it examines Dayton in light of the minorities rights agreements of the interwar years, beginning with a brief outline of the interwar system and proceeding with a comparison of that system with Dayton. My thesis is twofold. I suggest that while the similarities between Dayton and the treaties of the interwar period could spell disaster for minority groups in the Balkans, and perhaps elsewhere as well if the international community continues to repeat its mistakes, the differences between Dayton and the interwar agreements could be sufficient to avert that disaster.

### Addressing the Problem of Ethno-National Identity

Given the regime's attempts to enforce Yugoslav national identity over all other senses of belonging, the matter of national identity became increasingly important in the former Yugoslavia. Although ethno-national identity issues did not cause the wars in Croatia and Bosnia and Herzegovina, they provided the soil in which the elites' struggle for power could take root. In turn, this soil was fertilized by a combination of ingredients. These include the actions and inactions of international financial institutions that led Yugoslavia to the brink of disaster. In addition there was tremendous fear and uncertainty among the general populace, heavy state and Party control over the broadcast media, a "heritage of authoritarianism" (Janjić 1995: 33), and a lack of a civil society that could challenge government and support a diversity of opinions. Although commentators have recognized the role of nationalism in fanning the flames of war in the Balkans, few have analyzed how the Dayton Accord responds to national identity constructs hardened by years of war. To be viewed as legitimate by the people of the region, the Dayton Accord must, at the very least, address the past ways of naming identities; in order to promote long-term peace, it must somehow take steps to break down the virulent national divides that have become a reality in Bosnia and Herzegovina. Dayton accomplishes neither of these tasks.

This section will examine the development of national identity in the former Yugoslavia over three periods: (1) the formal naming of groups in the constitutional developments between 1946 and 1974; (2) the impact of the collapse of Yugoslavia; and (3) the impact of war (1992-95). Against this backdrop, the section then outlines the response of the drafters at Dayton.

## Development of National Identity in Yugoslavia

### Constitutional Development

Yugoslavia had three main constitutions between 1945 and its collapse:<sup>4</sup> 1946, 1963, and 1974. By arranging the legal and social terms with which people were to operate, each of these constitutions had an impact on shaping national identity.<sup>5</sup> Officially, everyone enjoyed Yugoslav nationality; however, by time of the 1946 constitution, the people of Yugoslavia were *de facto* divided into two categories—in Zoran Pajić's terms, the "hosts and the historical guests" (Pajić 1995: 162). The hosts, or nations (*narodi*), were Serbs, Croats, Slovenes, Macedonians, and Montenegrins. The guests were called national minorities.

In the 1963 constitution, the term "national minority" was replaced by the term "nationality" (*narodnost*). The word "minority" was perceived to be demeaning. The term *narodnost* was understood to include all those with national homelands elsewhere: Albanians, Hungarians, Italians, Bulgarians, Turks, Slovaks, Czechs, and Russians. Those without homelands elsewhere, such as the Romany and Vlachs, seem to have been ignored by the constitution. Perhaps the most significant development in the 1963 constitution was the elevation of the Muslims from a nationality to a nation.

In the 1974 constitution national difference became "constitutionally enshrined" (Verdery 1993: 179-203; Kaldor 1996: 42-58). Article 1 of the 1974 constitution defines Yugoslavia as "a federal state having the form of a state community of voluntarily united nations and their Socialist Republics" (Durović 1974). The possessive construction of this provision is important: the republics belonged to the nations. But many people lived outside their national homelands; the fit between homeland and nation was not perfect. Unlike earlier constitutions, under the 1974 constitution, sovereignty did not rest with the people but in the "sovereign rights" that the "nations and nationalities . . . shall exercise in the socialist republics, and in the socialist autonomous provinces . . . and in the SFRY<sup>6</sup> when in their common interests" (*ibid.*).

In a manner that lent more importance to national identity, power under the 1974 constitution was decentralized from the federal level to the republican. Each of Yugoslavia's six republics and two provinces had its own central bank and separate police, educational, and judicial systems. These units, with the exception

4. The exact date of the collapse is open to dispute. Some would set the beginning of the collapse Serbian parliament had stripped Kosovo and Vojvodina of their autonomous status. Still others point to January 1991, when the Assembly of the Republic of Slovenia adopted the Charter announcing that it would initiate the procedure of disassociation from Yugoslavia. Still other dates can be found. See Silber and Little 1995.

5. This does not of course settle the question of which came first, the identity or the constitution. 6. SFRY stands for the Socialist Federal Republic of Yugoslavia.