

STATE BUILDING AND YUGOSLAVIA

FROM VERSAILLES TO TITO

Society is indeed a contract. [...] It is a partnership in all science ; a partnership in all art ; a partnership in every virtue, and in all perfection. As the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born. Each contract of each particular state is but a clause in the great primaeval contract of eternal society...

I. THE STATE AS RESPUBLICA

The most traditional concept of the State is *respublica*, an organ belonging to all citizens. Jean Bodin (1529/1530-1596) who was a theoretician of the French monarchy entitled his main work *Les Six Livres de la République* (1583). The first book starts with the following sentence :

République est un droit gouvernement de plusieurs ménages, et de ce qui leur est commun, avec puissance souveraine.

German publicists built up during the XIXth century a modern theory of the State which is more indebted to Kant than to Hegel.

Ein Staat (*civitas*) ist die Vereinigung einer Menge von Menschen unter Rechtsgesetzen.

It follows that the State organs have to act according to the rule of law (*Rechtsgesetze*), which will give rise to the German doctrine of the *Rechtsstaat* (*l'Etat de droit*). Three elements are constitutive of the State : the exclusive possession of a territory, a people (*Staatsvolk*) and an organization made of legal institutions. Each State has the monopoly of the use of force on its own territory, but State institutions have to be afforded the adhesion of the members of its people and it has to be governed by the majority of that people. The exclusive character of State coercion is since Kant generally recognized and is as such embodied into international law which protects each State against the performance at coercive acts on its territory by the organs of any other State.

How can the "people of the State" (*Staatsvolk*) be defined. Three approaches are possible. The first one is sociological : the members of a people are united by a common heritage, such as language, religion, a similar degree of economic and cultural development. The second definition is legal : nationality

is the link between any member of the people and the State to which he or she belongs. The *Staatsvolk stricto sensu* is made of all persons meeting the conditions laid down by the State itself for the attribution of its nationality. The third approach is more problematic : it would lead to the fusion of the people as a sociological entity and the *Staatsvolk* as a legal concept. It is assumed that within the *Staatsvolk* there does not exist any collective character which singularizes as such a group of citizens. The Corsican problem is a clear case at hand. In a 1991 decision the French Conseil constitutionnel ruled that the expression "peuple corse" had to be dropped from the bill adopted by the legislature. That expression contradicts the unity of the French people which is incompatible with its own segmentation. Without entering into a critique of the French decision it suffices to show that it disregarded the polysemy of the word "people". One can simultaneously be a member of more than one people. Federal States do regularly admit it. One can be a German and a Bavarian, an Italian and a Sicilian, a Swiss and citizen of Geneva, a British subject and a Scotsman or a Welshman.

Even in a State such as France which as a matter of principle refuses any deviation from the strictest unitarian definition of the State, there remains a gap between the people as a social entity and the people as all persons having that state's nationality. The *Staatsvolk* is a construction never achieved, it is a draft not a reality. A further problem which has gained reality is the place to confer to resident aliens (immigrants). They surely fall within the State's jurisdiction, they are afforded all fundamental rights according to the Convention on Human Rights and Individual Freedom (with some exceptions) and are specifically protected through the Article 14 Clause prohibiting discrimination on the ground of nationality but it can be debated whether they are a part of the *Staatsvolk*.

II. THE BUILDING OF A NATIONAL STATE

Western Europe offers two patterns for the building of a national State. On the one hand, the model of old kingdoms, Denmark, France, Great-Britain, Spain ; on the other the unification of traditionally separated political units, as was accomplished by Germany and Italy. In the first series of instances the monarchy did unify a people under royal lealty and the peoples put together under the kingly sceptre remained sufficiently close to transform themselves into a *Staatsvolk* after revolutionary turmoil (such as was the case in France). The devolution in the United-Kingdom and the regionalization of Spain let appear that the monarchy is less able than some Republics to quell local differences. In Germany and in Italy the unified State was built on a longstanding community of language and of civilization. The people was born on a divided territory. The German Reich, however, was, besides the Third Reich's interlude, a federal State and the Federal Republic remained so. As for Italy she more and more recognizes regional identities. The German concept of nationality was traditionally linked to ancestry, descendants of Germans who had emigrated a long time ago could easily obtain their reintegration into German nationality, while to a very recent date the nationalization of foreigners living and even born in Germany was very difficult.

As is shown by those few examples, there are different brands of a "national" State. Is the nation equivalent to the "*Staatsvolk*" or to a people within the sociological meaning ? The nation has to be built just as the State itself. Social entities and human life are in a perpetual flux. They need adjustment to changing circumstances. The building of each State is a singular occurrence. There does not exist a ready-made model and still less an imported one. Burke is right while grounding State-building in history, in the particular story of each people.

III. STATE HISTORY IN THE BALKANS

Yugoslavia is a fabricated word, without any roots in history and it would have been anathema to Burke. However there is a rich and ancient history of States in the Balkans. During the Middle Ages kingdoms were flourishing, in Bosnia, in Croatia, in Serbia. Herzegovina was a conquest of the Bosnian king who ruled it as a duchy (*Herzog* in German). The whole story of Balkan States is overshadowed by more potent neighbouring Empires : first the Byzantine Empire, then the Ottoman one, finally Russia, Austria, Hungary and Austria-Hungary.

The Serbs were first to succumb to the Ottoman power. They were defeated at Kosovo on 28 June 1389. It explains why Kosovo is still retaining such a meaning for the Serbian people and one cannot understand why the Austro-Hungarian government was so foolish to organize an official visit of the Crown Prince at Sarajevo on the very date of that anniversary. Bosnia was conquered by a Turkish army as soon as 1463. From then on the Balkan States were submitted to the rivalries of two empires, Austria and the Ottoman Empire. Later on, Russia considered herself as the heir of Byzantium. There was no place for any autonomous development of the peoples of the region. When Serbia retrieved its independence in the first decade of the XIXth century, the former Kingdom was no pattern for the reconstruction of the State. When the Habsburgs were able to beat off the Turks, Croatia was incorporated into Hungary where it got some autonomous statute. The occupation of Bosnia-Herzegovina in 1878 placed it under an Austro-Hungarian administration. So the Slavs of the Habsburg monarchy were divided into three groups : Bohemia, Slovakia and Slovenia were a part of Austria, Croatia depended on Hungary (whose assimilationist policy was still more active than the Austrian one), while Bosnia-Herzegovina was ruled by the Dual Monarchy as such. The Slavs of the Monarchy were restive. From 1867, year of the *Ausgleich* (compromise), on they resented the reconstitution of an extended Hungarian autonomy but they were too much different from one another, Slovenes and Croats as Roman catholic, Serbs as orthodox to gain a specific regime in the Empire. Moreover Hungary was strongly opposed to any improvement of the Slavs' condition.

Three elements feature the population in the part of the Habsburg Empire which was to become a part of Yugoslavia. There existed some kind of linguistic unity, the differences being dialectal, and an artificial language – serbo-croat – was made by grammarians, the main difference appearing in the written language (roman v. cyrillic). There were Croats and Serbs, but the

population was dispersed in many mixed regions. Bosnia-Herzegovina was a case by itself : there were Croats and Serbs but also Bosniacs, who were islamized Slavs. Paternalistic at is was, the Austro-Hungarian administration avoided discriminatory measures in favour of Catholics, it relied on the Bosniacs who were more educated than the other Bosnians since they had some experience of the administration from the time of the Ottoman period. The economic situation improved largely under the Austro-Hungarian regime, Sarajevo juxtaposed its old Turkish bazaar and fine mosques to a new Viennese-style city with *fin-de-siècle* buildings.

IV. THE BIRTH OF YUGOSLAVIA

After World War One, all Slav possessions of Austro-Hungaria (with the exception of what would become Czeko-Slovakia) and Montenegro were joined to Serbia.

The King of Serbia became King of the Serbs, Croats, Slovenes, which was the official denomination of the Kingdom until King Alexander who had instaured a dictatorship in 1929 changed the name of the country into Yugoslavia (1931). He was murdered at Marseilles by a Croat in 1934. Since its formation the new State had been built as the nation-state of the Serbs, which entertained a perduring hostility of the Croats. During World War II Hitler's Germany sustained a puppet-government in Croatia and part of the territory of former Yugoslavia was sliced off between countries allied to Germany, Italy, Hungary or joined to territories occupied by Germany (Austria, Czeko-Slovakia). Once more the state-building in the Balkans was dependent on foreign rivalries. Between both World Wars France tried to organize a zone of influence between the States born or aggrandized after the Versailles peace treaty (Czekoslovakia, Rumania, Yugoslavia) but what was called "*la petite Entente*" was destroyed by the primacy of Germany.

Marshall Tito took an opposite course. The new name of the State was Federative Republic of Yugoslavia. The Federation consisted of six Republics : Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia, Slovenia. Kosovo constituted an autonomous region within Serbia.

V. HOW TO BUILD A STATE IN FORMER YUGOSLAVIA ?

Among the worst events after the dismemberment of Tito's Yugoslavia was a policy of "ethnic cleansing" which was not new neither in that region nor elsewhere. During the two Balkan wars (1912-1913) similar massacres were already committed. Ethnic cleansing is a murderous way of aligning the population on the territory. The French model of the nation-state, which is similar on that point to the German one, is not a satisfactory pattern for a region where many areas are occupied by mixed populations. The actual territory of the Federation of Bosnia-Herzegovina is divided into eleven "cantons" (or States) all of which are neither purely bosniac nor exclusively croat. Some cities (Mostar is a good example) contain two subdivisions, one bosniac, the other croat.

A further negative aspect of the story of the Balkans is due to foreign powers, much more powerful than any Balkan State. Before World War One Austria-Hungary and Russia were in competition in the region. After the Versailles Treaty France set herself up as the protector of the small States having succeeded to the Habsburg Empire. When the time came to help Czechoslovakia, France defected. Nowadays Bosnia-Herzegovina is not a free country and Kosovo is neither an autonomous region. Both are placed under an international protectorate : the holder of power can supersede any act or decision – even of a constitutional or legislative nature – made by the local authority. That is a far way from state-building.

Great Powers are always pursuing their own policy, they have hidden agenda under the guise of benevolence. Balkan states were not built on the firm ground of history and of peaceful cooperation. The Balkan peoples entertained a romantic image of their past, of their culture, of their language, a memory of heroic events which were obsolete in a world dominated by *Realpolitik*. Let us hope that they be reconciled with the best of their history – which was more often than not – a memory of peaceful coexistence, instead of following a myth of national purity.

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