Jakov KURSAR: Electoral regulations in Croatia between the two World Wars

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1. Formation of the Kingdom of Serbs, Croats and Slovenes, electoral rules and the Constitution of 1921

The Kingdom of Serbs, Croats and Slovenes [Kingdom of SHS – in Croatian, or Kingdom of SCS in English] was formed in exceptionally unfavourable circumstances for Croatia as part of the short-lived State of Slovenes, Croats and Serbs. The primary existential threat to the State of Serbs, Croats and Slovenes [SHS], aside from the lack of international recognition, was the effort of the Italian army to occupy parts of its territory. In these circumstances, it was believed that to preserve the territorial integrity of the State, the only option was to negotiate a unification with the Kingdom of Serbia. Urged by Svetozar Pribičević, the National council abandoned most of their negotiating strategy and agreed on the contents of their "Address" to Belgrade. In the Address, the National council expressed their wish for unification and highlighted that the future head of state should be king Peter of Serbia.

In the "Act of 1st of December" of 1918 Regent Alexander, according to the request of the National Council of the State of SHS, announced the unification of the State of SHS and the Kingdom of Serbia and Montenegro.[31] On 3 September 1920, the Kingdom's interim government passed the Law on the election of people's representatives for the Constitutional assembly. The assembly was envisioned as a completely independent body, however, the law which established it, contained provisions which breached its jurisdiction and hindered its work.

Active suffrage was granted to male citizens of the Kingdom over the age of twentyone years. The law explicitly withholds the right to vote from those who had the right to opt for

[31] ČEPULO, Dalibor: *Hrvatska pravna povijest u europskom kontekstu, od srednjeg vijeka do suvremenog doba [Croatian legal history in the European context, from the Middle Ages to the modern era]*. Pravni Fakultet u Zagrebu, 2023, p. 262.

a different citizenship according to the peace agreements. The right to vote was determined by the domicile census, or residing for a minimum of six months in a certain electoral county.[32] Voting was done in secret and was performed by placing a rubber ball inside a box that belonged to a list or candidate the voter decided to support. In Slovenia, the practice of voting using paper ballots was widely accepted; however, using rubber balls was legally recognised due to low literacy rates in Serbia.[33]

The conditions for passive suffrage were having all civil and political rights, a permanent residence in the Kingdom of SHS in principle, twentyfive years of age and the ability to read and write. Passive suffrage was significantly limited for certain categories of state officials, especially police officials and judges. In the elections, one representative was elected for each thirtythousand citizens. Furthermore, one additional mandate was granted to each electoral county that had seventeenthousand citizens more than the base value of thirtythousand. However, electoral counties and the number of active voters were determined according to the census of 1910 which favoured the lands belonging to the former Kingdom of Serbia as many of its citizens lost their lives in the Balkan Wars and World War I. Great efforts were made to justify the inclusion of deceased voters as Serbia's moral right while the opposition criticised this, describing it as a "liberation tax".[34]

The elections for the Constitutional assembly took place on 28 November 1920. Twenty-two political parties participated and the highest number of votes went to the Democratic party (ninetytwo mandates), Radical party (ninetyone mandates), Communist party (fiftyeight mandates) and Croatian people's peasant party (fifty mandates). The unitarian parties did not win a majority, so due to fear for the survival of the Monarchy, the government imposed temporary rules of procedure for the Assembly, which envisioned that an absolute majority is needed to approve the Constitution and that every elected representative must swear and oath to the king in order to enjoy his rights as a representative. The latter condition forced the Croatian political parties to abstain from the vote.[35] The constitution was approved by

[32] *Ibid.,* p. 264.
[33] BALKOVEC, Bojan: Izborno zakonodavstvo prve jugoslavenske države (1918 – 1941) [The electoral legislation of the first Yugoslav state (1918-1941)]. *Časopis za suvremenu povijest [Journal for Contemporary Writing],* Vol. 48, No. 1, 2016, pp. 197–216, p. 207. https://hrcak.srce.hr/160762
[34] ČEPULO, *op. cit.,* p. 265.
[35] ŽEBEC ŠILJ, Ivana: Pregled općeg političkog stanja u Kraljevini Srba, Hrvata i Slovenaca, kasnije Kraljevini Jugoslaviji [Overview of the political situation in the Kingdom of Serbia, Croatia and

the decimated Assembly by a slim margin on the 28th of June 1921 on the Orthodox holiday of Vidovdan.[36]

2. Voter inequality

A noteworthy characteristic of the legal framework of the Kingdom of SHS in its early years was voter inequality.[37] The root of the inequality is reflected in the fact that the number of votes needed to secure a seat in the Constitutional assembly varied significantly as 3301 registered voters were needed to elect one representative in the Banat, Bačka and Baranja regions, while the highest number of registered voters, 8092 in fact, for one representative was required in Dalmatia.[38] The voters also faced inequality by profession. Active and retired military personnel were not allowed to vote.[39] *This restriction does not apply to reserve officers and civilian clerks in the military profession.*[40]

The right to vote was withheld from convicts serving prison sentences and those who lost their civil rights, mainly those punished for not fulfilling their civic duties, for example, Jehovah's witnesses. During the 1930s, the right to vote was also taken from those convicted of electoral offences.[41] Moreover, even members of the state administration faced restrictions on their civil liberties and political rights. *Under general legal conditions, for the election of representatives to the National assembly, all administrative officials of the civil class enjoy active suffrage. The requirements were much stricter concerning passive suffrage, as elected senators, if currently serving in the state administration, cannot keep their clerk title. There is an additional requirement for certain professions (police, financial, forestry and agrarian officials) – the clerk's employment in these professions must have ended at least one year before the elections.*[42]

Slovenia, later the Kingdom of Yugoslavia]. *Studia lexicographica*, Vol. 12, No. 22, 2018, pp. 27–45, p. 31. https://hrcak.srce.hr/213580

[36] *Ibid.*, p. 32.

[37] KOSNICA, Ivan – PROTEGA, Martina: Politička prava u Kraljevini Srba, Hrvata i Slovenaca: razvoj temeljnih obilježja [Political law in the Kingdom of Serbia, Croatia and Slovenia: the development of fundamental abundance]. *Pravni vjesnik [Legal Bulletin]*, Vol. 35, No. 1, 2019, pp. 139–156, p. 143. https://doi.org/10.25234/pv/7989

[38] *Ibid.*, p. 143.

[39] ČEPULO, *op. cit.*, p. 264.

[40] Article 10, *Law on the election of people's representatives to the Constitutional Assembly, biblioteka Pravnog fakulteta u Zagrebu.*

[41] BALKOVEC, *op. cit.*, p. 202.

[42] KRBEK, Ivo: *II. Knjiga, Organizacija javne uprave [Book II, Organisation of Public Administration].* Zagreb, 1932, Tisak i naklada jugoslovenske štampe d.d., p. 181.

3. Suffrage, nationality, and citizenship

National affiliation as a basis of political rights first came to the fore during the State of Slovenes, Croats and Serbs in the instruction of the National council in which it stated that the members of the local committees can only be Slovenes, Croats, Serbs and other Slavs while Germans and Hungarians cannot.[43] The defining of one's political rights by nationality was also present in the first years of the Kingdom of Serbs, Croats, and Slovenes.

The Law on the election of people's representatives for the Constitutional assembly of 1920 also followed the same "logic" of defining political rights on the basis of national and not necessarily civil affiliation. Thus, article 9 of the said law states in general that all male citizens over the age of twentyone enjoy active suffrage, while on a practical level it reduces the significance of citizenship as a basis for active suffrage by giving the right to vote to all Slavs who settled in the country regardless of their citizenship, while denying the same right to citizens who had the right to opt for a citizenship. This specific arrangement of voting rights on the elections for the Constitutional assembly in 1920 allowed, for example, the Czechs and Slovaks, who were accounted for on the voter lists, to vote despite not being citizens of the Kingdom of SHS, while at the same time the right to vote was withheld from many Jews, Hungarians and Germans.

Allowing the right to vote as one's fundamental political right according to one's ethnicity greatly affected the possibility of enjoying other political rights as well. In such circumstances, a significant number of Jews, Hungarians and Germans had their right to public gathering and political association severely restricted.[44] Concerning female suffrage, the Social Democratic party, the Communist party of Yugoslavia and the Croatian people's peasant party supported the women's right to vote without restrictions. However the political majority opposed this due to many concerns, mainly the fear of eroding family values and the risk of women being "easy prey" for revolutionary parties.[45]

4. "The Dictatorship of 6th of January" and the Constitution of 1931

Political life during the time of the Vidovdan constitution was marked by constant political and social instability, the causes of which stemmed from unresolved tensions in such a

[43] KOSNICA, Protega *op. cit,* p. 141.
[44] *Ibid.,* p. 142.
[45] BALKOVEC, *op. cit,* pp. 201–202.

culturally, nationally and socially diverse country. The state attempted to defuse the tensions by an authoritarian form of governance and by imposing the interests of the Serbian political elite.

The most significant factor in instability was the conflict between national interests of Serbs and the majority of other ethnic groups. However, there were also power struggles between Serbian and unitarian parties, as well as constant political persecution of the communists and pressure toward almost all oppositional elements. In such circumstances, political life was marked by frequent changes in government and political alliances. On the 6th of January 1929 the king proclaimed in the Official paper that *the time has come when there can no longer be any middlemen between the king and his people.* The king, under the pretense of safeguarding national unity, concluded that he had no other option but to abolish the Constitution and dismiss the National Assembly.[46]

The abolition of the Constitution and the introduction of the dictatorship were carefully planned. The first law, enacted the same day as the dictatorship, was the Law on the royal government and the supreme state administration, according to which the king is the holder of all power in the state. In order to hinder any political activity against the regime, the king on the same day passed the Law on the protection of the state which outlawed and disbanded all associations and political parties that advocate the need for change in the power structure or have religious or tribal characteristics.[47] One of the most significant laws was the Law on the name and division of the Kingdom into administrative areas enacted on the 3rd of October which renamed the country to Kingdom of Yugoslavia.[48]

The previous administrative division into thirtythree regions was replaced by a division into nine "Banovina" and one separate unit – the Belgrade city administration while completely disregarding historical, national and development criteria.[49] The nine Banovinas were drawn only by geographical criteria, but the new administrative division ensured that the Serb majority in each banovina is as large as possible.[50] However, the difficult economic situation,

[46] ČEPULO, *op. cit.,* pp. 271–272.
[47] BLAGOJEVIĆ, Anita – RADONIĆ, Branka: O Ustavu Kraljevine Jugoslavije iz 1931 [On the Constitution of the Kingdom of Yugoslavia of 1931]. *Pravni vjesnik [Legal Bulletin]*, Vol. 28, No. 1, 2012, 123–144. https://hrcak.srce.hr/85434 pp. 124–125.
[48] ČEPULO, *op. cit.,* pp. 272–273.
[49] ŽEBEC ŠILJ, *op. cit.,* p. 36.
[50] ČEPULO, *op. cit.,* p. 273.

the growing political and social revolt and the foreign press reports of suspected assassinations of political opponents exposed the limits of authoritarian rule. This was also affected by external pressure on the regime from the countries that initially supported the dictatorship convinced that it would ensure the safety of their own capital in the country and stabilise the situation.

All this led the King to enact the Constitution of the Kingdom of Yugoslavia on the 3rd of September 1931 in order to preserve the legal heritage of the dictatorship in a constitutional form.[51] As for the matter of the right to vote and political rights in general, the Constitution of 1931 brought about significant changes in comparison with the electoral regulation of the 1920s. Primarily, secret ballots were no longer used. *During the 1930s, voting was public. The voter should loudly and clearly say the name of the candidate for which he wants to vote and that would be registered by the election commission.*[52] Furthermore, the new electoral system was designed to benefit the large parties favoured by the regime.

The Electoral law of 1931 introduced state lists and the parties had to have had a candidate in every electoral unit in the state and a lead candidate for the state list. The lead candidate on the list needed to secure an endorsement in sixty voters from each district. The goal was to neutralise all parties with regional and national characteristics. Only parties that were large enough to gain sufficient support in every district could participate in the elections. Large parties gained a further advantage from a provision which states that the list that wins even a relative majority in the country as a whole, also gains 2/3 of the mandates in each Banovina. However, these conditions were eased by an amendment in 1933 which reduced the mandate distribution to 3/5.

Despite these advantages and successful elections for the parties loyal to the regime, general political instability resulted in frequent elections and changes of government.[53] The unfavorable political climate both in the Kingdom and Europe as a whole convinced king Alexander to renew relations with the leaders of the "old" parties. However, this development was cut short in September of 1934 with the king's assassination in Marseille during a state visit to France.[54]

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[51] *Ibid.,* p. 274.
[52] BALKOVEC*, op. cit., p.* 207.
[53] ČEPULO, *op. cit.,* pp. 275–276.
[54] ŽEBEC ŠILJ, *op. cit.,* p. 38.

5. Banovina of Croatia

Constant political tensions in a time when the beginning of World War II was imminent, the consequences of which would certainly be the collapse of the Kingdom of Yugoslavia, prompted the Regency council on the 5th of February 1939 to hand Dragiša Cvetković, a moderate politician, a government mandate to attempt to negotiate with Vladko Maček of the Croatian peasant party and solve the Croatian question.

This became necessary when an Axis-friendly government led by Milan Stojadinović collapsed from internal disputes that were induced by Croatian ministers.[55] After months of negotiations, the Cvetković-Maček agreement was declared on the 26th of August 1939. It was decided to form the new government with a goal of creating the Banovina of Croatia. The agreement was formally regulated by the Decree on the Banovina of Croatia which was declared on the same day.[56] The Decree implemented and elaborated on the contents of the Cvetković-Maček agreement. The territory of the Banovina of Croatia was determined using the ethnic and historic principle, which means that it encompassed former banovinas and districts with a Croat majority and territories that were historically part of Croatian lands.[57] The Banovina of Croatia was not merely an administrative unit like the other banovinas, but a separate legal and political unit with characteristics similar to those of a federal unit.[58]

Elections were regulated by the Decree on the electoral system and the organisation of the parliament. The Decree abandoned the system of state lists from the Electoral law of 1931 and introduced the system of electoral counties. The area covered by each electoral county roughly matched the area of jurisdiction of each county court. Each county elected one representative for every fourtythousand residents; however, if a county had at least an additional twentythousand residents over the base value of fourtythousand that electoral county elected one additional representative. Active suffrage was granted to all male citizens of the Kingdom older than twentyfour years who had local citizenship in one of the Banovina counties in Croatia and was registered on the list of voters. To be registered on said list, the voter had to have had permanent residence in that county for at least six

[55] ČEPULO, *op. cit.*, p. 276.
[56] ŽEBEC ŠILJ, *op. cit.*, p. 41.
[57] ČEPULO, *op. cit.*, p. 278.
[58] MILUŠIĆ, Anto: Izborni sistem Banovine Hrvatske [The Election System of Banovina Croatia]. *Zbornik Pravnog Fakulteta u Zagrebu [Proceedings of the Faculty of Law in Zagreb]*, Vol. 33, No. (3-4), 1983, pp. 343–372, p. 344.

months. Voting restrictions were somewhat stricter in Banovina compared to the previous electoral laws, as the right to vote was specifically withheld not just from military personnel and convicts, but also from individuals who filed for bankruptcy and those under guardianship. Another noteworthy change was the reintroduction of voting in secret. Furthermore, it was possible to vote by representative if a voter had a "significant physical disability" which prevented him from voting in person. As for the matter of passive suffrage, a candidate for a seat in the Sabor of the Banovina had to have been a male over thirty years of age with active suffrage, who was literate and spoke the national language. Passive suffrage was withheld from active state, local, and city officials, but an exception was made for ministers, university professors and the Ban, who were allowed to keep their positions if they were elected.[59]

6. Conclusion

It is apparent that the years between the two World Wars were some of the most tumultuous in modern Croatian history. Despite exceptionally complicated circumstances, it is possible to detect that the opposing interests of the monarchist political establishment, which held a favourable position due to Serbia being a winner in World War I, and various other movements which fought to preserve the political autonomy of other national groups, the largest of which were on the defeated side, were the most significant factor of instability for the new state. Each side made great efforts to use the electoral system to its advantage.

The State of Slovenes, Croats and Serbs, led by pan-slavic ideals, ensured political representation only to ethnic Slavs while marginalising non-Slavs. During the 1920s and 1930s, even larger efforts were made to secure the supremacy of Serbian and unitarian interests, mainly by electoral engineering or shaping electoral units in order to ensure a comfortable pro-regime majority and by imposing requirements that only large parties favoured by the regime could realistically meet. Furthermore, the practice of publicly voting made voter intimidation easy to carry out on a large scale.

However, it is necessary to point out that the quest for political and legal autonomy of different ethnic groups within the Kingdom was not the only factor of instability. Fear of the rising popularity of the communist movement led to suffrage restrictions. For example, one

[59] *Ibid.*, pp. 353–357.

of the deciding arguments against female suffrage was the concern that women would predominantly support communists in a quest for more rights. Moreover, the Banovina of Croatia introduced changes to its electoral regulation which could be described as progressive for their time, such as the reintroduction of voting in secret, while at the same time reducing voting rights by raising the minimum voting age from twentyone to twentyfour due to concerns of the youth siding with revolutionary parties.