

## Statelessness and the Social (De)Construction of Citizenship: Political Restructuring and Ethnic Discrimination in Slovenia

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Recent studies on statelessness have drawn attention to the relationship between political restructuring and the restriction of civil and social protections to noncitizens (Weissbrodt 2003; Frelick and Lynch 2005; Lynch 2005; Sokoloff and Lewis 2005). Human rights advocates have similarly advanced the claim that one of the root causes of statelessness is the revocation of the rights to citizenship and residency during periods of state building (Human Rights Watch 2001; Brouwer 2003; Inter-Parliamentary Union 2005; Sokoloff 2005). It is argued that in cases where one does not hold an *effective nationality*, namely where one is denied state protection and assistance, the revocation of residency rights may create a situation where one is *de facto* stateless and subject to conditions of extreme vulnerability and insecurity (Human Security Commission 2003).<sup>1</sup>

In spite of renewed interest from monitoring bodies (UNHCR 1999; ECRI 2003; Amnesty International 2005; Refugees International 2005), there has been little empirical research on the political processes that give rise to *de facto* statelessness. One possible explanation for the lack of research in this area may be found in the persistence of realist accounts that focus on *de jure* statelessness that has been associated with the refugee cycle and interstate conflict (Zolberg 1983; Jenkins and Schmeidl 1995). Although *de facto* statelessness may lead to forced migration and hence become a matter of concern to refugee agencies, physical expulsions are not a necessary condition for this category of abuse. For this reason realist approaches that concentrate on insecurity and geopolitical conflict within the international system (Zolberg 1981, 1989a, 1989b; Weiner 1993, 1995; Shiblak 2003) are often inadequate to explain the persistence of *de facto* statelessness.<sup>2</sup> This fact has been borne out of recent policy studies which record that *de facto* statelessness may also occur during periods of political restructuring that are not necessarily coterminous with phases of conflict (Lynch 2005).

This article presents a constructivist account of the development of *de facto* statelessness through a case study of Slovenia following its declaration of

independence and break from the former Socialist Federal Republic of Yugoslavia (SFRY) in 1991. It investigates the processes that created thousands of stateless persons during a period of intense national homogenization when political activists and the state-sponsored media militated to devise elite-driven cultural policies that were subsequently institutionalized in a hierarchy of restrictive citizenship laws. These actions sought to reposition Slovenia in opposition to the former Yugoslavia and reinforce the specificity of the Slovene nation, at the expense of non-Slovenes living within its borders (Komac 2001; Andreev 2003; Volcic 2005; Zorn 2005). The primary victims of this restructuring were more than 18,000 former Yugoslav citizens who were deleted from the Slovenian State Register in 1992 and subsequently became known as “erased persons.”

The *Erased* bear many of the marks of stateless persons. Although they were described as aliens on the cancellation of their residency status, most saw their documents destroyed by Slovenian public officials and could not therefore call on the protection of other states under the *1954 Convention on the Reduction of Statelessness* and other legal instruments. Like Jews in Nazi Germany, the *Erased* existed within a state that had robbed them of their rights but still subjected them to its jurisdiction. Like other stateless persons elsewhere, once their civil and political rights were revoked, they saw their economic and social rights, including the rights to work, social security, health care, and education, disintegrate and were consequently subject to further abuse from third parties (Dedic et al. 2003; OHCHR 2005; Zorn 2005). Not surprisingly, the case of the *Erased* has attracted the attention of domestic and international human rights monitors (Helsinki Monitor of Slovenia 1998; US State Department 2003; Amnesty International 2005; Human Rights Ombudsman 2005; OHCHR 2005).

This article begins with a brief review of the relevant literature on *de facto* statelessness before describing Slovenia’s political transition from the late 1980s to the present day. The second section considers the way in which political elites and the national media channeled public opinion against “Southerners” from the former Yugoslavia to reposition Slovenia as a European state “outside the Balkans.” The third section follows with an examination of the facts surrounding the “erasure” before introducing the empirical findings, which explore the processes of forced alienation and the way in which the concept of “erased person” has been constructed. Perceptions of “erased persons” are examined through personal testimony and official discourse. The empirical basis for this study draws on interview data gathered during two field visits to Slovenia in June 2004 and January 2005 when interviews (n = 46) and focus groups (n = 4) were conducted in Ljubljana, Maribor, Ptuj, Velenje, and Celje with members of the *Erased* and their families.

## STATELESSNESS AND CITIZENSHIP

The concepts of *de jure* and *de facto* statelessness are closely associated with the notion of citizenship and linked to the liberal state. In the case of *de jure* statelessness, the relationship is explicitly recognized in the *1954 Convention on the Prevention*

of Statelessness and 1961 Convention on the Reduction of Statelessness. *De facto* statelessness is more complicated and may take several forms. One common characteristic of *de facto* statelessness is that it arises when individuals cannot call on the state to which they may be formally attached by means of nationality.

Although *de facto* statelessness is not covered by the extent of legal instruments afforded to those who can appeal to the 1954 Convention, it is still covered by customary law and accepted practices. In this context some of the legal distinctions between citizens and noncitizens appear to break down. Although statelessness may result from the revocation of formal citizenship, the extension of the human rights regime requires states to provide protection to those within its remit, including noncitizens. Thus, there are arguably important normative challenges to restrictive definitions of citizenship that seek to distinguish between “insiders” and “outsiders” (Soysal 1994; Benhabib 2004).

Liberal scholars contend that the practical considerations of including the rights of noncitizens within the formal state can find a precedent in Marshall’s model of political, civil, and social modes of citizenship that integrates individual and collective rights within a welfare-based framework (1950). Although political and civil rights are derived from formal membership of a state, many aspects of social citizenship apply to noncitizens, above all the right to economic security and the right to “live the life of a civilized being according to the standards prevailing in the society” (Marshall 1950: 11). These rights are formally recorded in the *European Convention on Human Rights* and other instruments of international protection.

In practice, however, the cosmopolitan argument outlined above contrasts with the degree to which states are prepared to embrace liberal humanitarian concerns and protect those who fall outside of the convention framework. Indeed, there is a remarkable gap between the protections offered to refugees, for example, and recognized (*de jure*) stateless persons.<sup>3</sup> For noncitizens in new states there are often multiple barriers that prevent them from receiving the protections enjoyed by those who can claim formal, legal, citizenship. Elsewhere, scholars have contended that these barriers are often directly linked to the way in which citizenship is conceived during state formation and thus relate to the prioritization of ethnic attachments over civic criteria during periods of national integration (Anderson 1983; Smith 1989; Hobsbawn 1990).

The creation of citizenship laws based on blood origin (*jus sanguinis*) rather than place of birth (*jus soli*) provide a means of distinction that helps to explain the prevalence of discriminatory practices against noncitizens (Lynch 1995; Human Rights Watch 2001; Weissbrodt 2003), in spite of customary law and the normalization of human rights (Donnelly 2003). It is argued that such discrimination is unavoidable in cases where citizenship laws are designed on the basis of claims that privilege historical and territorial understandings of the nation over contemporary facts and thus imprint ethnonational preferences into the constitution (Brubaker 1992). Such approaches to citizenship often present practical problems for the nonincorporation of minorities. They also introduce conceptual challenges to the

study of statelessness, not least of which is their deference to realist accounts that emphasize territoriality, power politics, and sovereignty at the expense of constructivist accounts that seek to understand how minority categories are created through domestic political processes and how their place may change over time (Hein 1993).

The following section examines the way in which the Slovenian national identity was defined during a period of state formation that adopted preexisting citizenship criteria institutionalized in the former Yugoslav constitution of 1974. The establishment of a dualistic system of citizenship laws in the former SFRY that provided formal attachment at both the level of the state and republic allowed nationals to exist within a wider structure. Upon its cancellation, however, many became stateless.

## RESEARCH CONTEXT

### Constructing the Slovenian State

The current state of Slovenia emerged as an ethnopolitical construct during a period of intense ethnic competition that defined both the first (Royalist) (1918–1941) and second (Communist) (1945–1991) Yugoslavia. Before 1918 foreign powers, most importantly Vienna, and the Italian territories had governed Slovenia and the Slovene population existed as a minority in the multiethnic meeting ground between the Adriatic and Alps. The creation of the first Yugoslavia elevated the province as a defined political unit alongside Serbia and Croatia, and by emphasizing ethnic incompatibility between its constituent parts, the first Yugoslavia enabled the Slovene nation to take advantage of its newly found majority status that provided the first formal structure for national unification (Gow and Carmichael 2000). However, there were limitations to this model, and ethnic tensions between Slovenians and their Austrian, Hungarian, Italian, and Croatian competitors were not resolved by the first Yugoslav formula.

Attempts to assimilate Slovenes living in Italian and Austrian controlled areas further antagonized Slovenian national sentiment that was sustained during the interwar period and both the Fascist occupation and Communist rule. Under the first Austrian Republic, the Slovenian Carinthian minority was subject to extensive attempts at Germanization that was continued by the Austro-Fascist regime and included the absurd attempt to divorce the Slovenian language from its historical base and create a “special nation” that could be assimilated into the Nazi framework. In coastal areas the rise of Italian Fascism in the 1920s and 1930s was similarly accompanied by a brutal policy of forced assimilation and territorial expansion. This repression led to massive refugee movements that were legitimized by the Treaty of Rapallo in 1920, which transferred large amounts of Slovenian territory to Italy and was finalized by ratification of the Italian-Yugoslav Treaty of Osimo in 1977.

The expulsions of ethnic Germans, Austrians, and some Hungarians after the Second World War further altered the multiethnic demographic in favor of the

Slovene majority, which responded with an active program of “ethnic homogenization” during the Second Yugoslavia (Komac 2001: 267). Even though the population of Slovenes living within the borders of the tiny republic had been sharply reduced, these outward migrations precipitated an ethnic compromise where the remaining Italian and Hungarian minorities in the South Western and North Eastern regions were consolidated into the state, receiving formal recognition as protected minorities in the 1974 Constitution.

It was the second Yugoslavia that eventually gave birth to the independent state of Slovenia in 1991. Modernist accounts note the essential role that Communism played as both a facilitating and ultimately galvanizing force for Slovenia’s aspirations to statehood (Ramet 1996; Gow and Carmichael 2000; Schopflin 2002). Initially, Slovenia had been among the most fortunate of the former Yugoslav republics in that its citizens were formally defined as belonging to a constituent nation (*narod*) that guaranteed their status as nationals, rather than members of ethnic groups (*narodnosti*) who could not lay claim to a territorial unit within the former SFRY (e.g., Muslims, Roma, Albanians, and Jews). This status preserved Slovenia’s cultural heritage by protecting the Slovene language in the school curriculum. At the same time the official recognition given to Slovenia empowered intellectuals to develop the Slovenian cultural identity beyond its peasant roots as newspapers, books, art, and films were tolerated even during the most repressive years of Communism (Gow and Carmichael 2000; Komac 2001; Velikonja 2001).

In the late 1980s the decision by Serbian political elites to reorganize power within Yugoslavia provoked further ethnic tension as Slovene nationalists publicly contested the growing asymmetries within the Federation. Their dissent focused primarily on cultural issues, but the nationalists also mobilized around claims that Slovenia was paying too much to subsidize underdeveloped regions such as Kosovo. By 1988 Belgrade’s tolerance of Slovenia’s cultural distinctness was put in question by the introduction of educational reforms that challenged the supremacy of the Slovenian language in schools and gave rise to the belief that the republic’s “literary history” was at risk (Boris Novak, interview with the author, Ljubljana, 10 June 2004). In response to Serbia’s recentralizing policies, Slovenian intellectuals publicized the risk to the Slovenian language in a series of articles in leading magazines and newspapers *Nova Revija*, *Mladina*, and *Delo*. The starting point was the declaration by Professor Joze Toporisc that Slovenes would “either continue to assimilate linguistically and become a minority within Slovenia or change their relationship with their Southern neighbors” (Gow and Carmichael 2000: 94). This view was endorsed by the Foreign Minister Dimrij Rupel whose article in *Nova Revija*, “Contributions to a Slovenian National Program,” alleged that Slovene was now a “second-class” language in the SFRY. Rupel’s argument would receive greater acclaim by an angry Slovenian public following the high profile trial of Janez Jansa and three of his colleagues, including the editor of the influential *Mladina*, for publishing an expose claiming that Belgrade was planning a military crackdown on Slovenian liberalism. It was not just the substance of the trial that inflamed the

Slovenian public but also its form—the trial was conducted in Serbo-Croatian even though it was on Slovenian soil.

The question of the Slovenian language thus galvanized the Slovenian public, which was mobilized into new fora for political activism after the Jansa trial. Nationalist outpourings were quickly channeled into the creation of a Committee for the protection of Human Rights and a mix of political parties that included the Social Democratic Alliance, Slovenian Democratic Union, Slovenian Christian Socialist Movement, Green Party, and a revitalized Slovenian Peasant Union. Although opinion polls published as late as March 1990 suggested that Slovenia was unprepared for independence (Ramet 1996), continuous protests over Belgrade's reassertion of hegemony encouraged Slovenian political parties to unite over a nationalist position, the logical conclusion of which was statehood. The DEMOS coalition of left-wing opposition parties emerged in 1990 and would eventually lead Slovenia to independence.

The first step toward independence came in September 1989 when the General Assembly of the Yugoslav Republic of Slovenia adopted an amendment to its constitution asserting Slovenia's right to secede from the Socialist Federal Republic of Yugoslavia. This paved the way for a referendum on 23 December 1990 in which eighty-eight percent of Slovenia's population opted for independence. On the back of this referendum, the Republic of Slovenia declared its independence on 25 June 1991—the same day as Croatia. Two days later Slovenia came under attack by the Yugoslav People's Army (JNA). Unlike Croatia, however, the JNA retreated after only ten days, and although its neighbor spent much of the 1990s recovering from the Serb-led occupation, subsequent population displacements, and the divisive policies of the Tudjman regime, Slovenia was free to define its alternative to Communism; it was also free to develop the ethocentric base that had propelled it toward statehood.

### **Uncertainty and Xenophobia, After Independence**

The reorganization of Slovenian politics into a multiparty system gave the incorrect impression that the embryonic state was founded on universal principles of human rights and pluralistic democracy; although it was easy to hold such a view. At first glance Slovenia's efforts to build state and nation seemed highly positive as the young state offered declarations of tolerance and quickly adopted a new constitution; introduced laws aimed at reforming its parliament, banking, and public administration systems, and prepared for eventual accession to the European Union. For this reason Slovenia was heralded as among the most democratic states in the new Europe and a post-Communist "success story" (Ramet 1998; Bebler 2002; Schopflin, 2002; Vucetic 2004).

In reality, however, Slovenia's route from independence to eventual membership of the European Union was marked by "uncertainty and confusion" over its political identity (Ramet 1996: 226). Igor Lukic maintains that during this period, preexisting corporatist traditions that stressed collective ideals were repackaged under the banner of pluralism, as illustrated by the emergence of new political parties

(Luksic 2003). He notes that the 1991 constitution made little mention of the role of parties and contends that in the early 1990s nonelected bodies were prioritized, above all the Catholic Church, which was able to “fortify its position as the moral, legal, and political hegemony in Slovenia” at the expense of the new democratic institutions (Luksic 2003: 521). The prevalence of corporatist traditions, as opposed to an open and competitive democratic system, was similarly expressed by one human rights expert who claimed, “we don’t have parties but political clubs in Slovenia” (A., interview with author, Ljubljana, 5 January 2005).

The most important challenge to Slovenia’s glowing reputation was the rise of xenophobia. Although xenophobia existed in Slovenia during the Communist period, in the 1970s it was marked primarily by negative attitudes toward economic migrants from the other republics rather than the expressions of cultural nationalism and collective blame that surfaced in the 1980s and continues to this day. Opinion poll and survey data on interethnic relations postindependence record a pattern of specifically “anti-Southerner” (anti-Balkan) sentiment among the Slovenian public, state officials, and media that rose over the decade (Komac, 2001; Lobnikar et al. 2002; Komac 2004; Volcic 2005; Zorn 2005). The police were especially problematic and reportedly abused non-Slovenes as well as homosexuals (Lobnikar et al. 2002). In the arts, “Southerners” were regularly portrayed as “cleaners, porters, gangsters” and associated with undesirability, backwardness, and low socioeconomic status (Velikonja 2001: 6). Critics of the growing xenophobia were met with accusations of “traitor” and even received death threats (Boris Novak, interview with the author, Ljubljana, 10 June 2004). Not surprising in this context, nonethnic Slovenes reported considerably higher levels of discrimination, in both their public and private lives, which was expressed in two-tiered employment practices that favored Slovenes, as well as difficult relations with state authorities, limited opportunities for political participation, and unequal treatment by the police (Komac 2004).<sup>4</sup>

One important characteristic of the increased nationalist and xenophobic sentiment was its variation in intensity according to ethnic group. For example, Slovene perceptions of the German-speaking and Hungarian minorities were generally good, whereas relations with the community in Istria were reportedly more tense as Italian groups admitted a sense of alienation in the face of Slovenia’s growing ethnocentricity and greater interest in Slovenians abroad (Komac 2001: 277). Croats, fellow Catholics, were generally better received than Orthodox Serbs and the Bosniacs, Albanians, and Roma communities who were at the bottom of the social order. The range of hostility shown toward the former Yugoslavs was replicated among the new minorities, which expressed their own interethnic conflicts and prejudices against each other along hierarchical lines as well (Komac 2004: 289).

Structural explanations for the rise of ethnocentrism and intolerance in Slovenia combine political culture, geopolitical, and institutional factors. Political culture explanations focus on the institutionalization of the Slovene nation, defined by its distinct language, rural traditions, and Catholic heritage (Gow and Carmichael 2001). These characteristics were emphasized both before and after Slovenia

achieved independence. Although there was consensus over the specificities of the Slovene nation, the program of identity definition required some reinvention, and in spite of the presence of large numbers of nonethnic Slovenes from the former Yugoslavia, political and cultural elites sought to reposition Slovenia as a sometimes a former and other times a non-Balkan state (Velikonja 2001). The confirmation of Slovenia's ethnocentric path was established as public protests against Belgrade encouraged political and cultural elites to take their lead from the public that had unequivocally expressed its distaste for Yugoslav traditions and peoples living within its borders in the aftermath of independence (Velikonja 2001; Komac 2004; Zorn 2005).

Geopolitical influences for the rise of xenophobia ranged from bizarrely xenophilic statements in favor of political unions with former colonial powers Italy and Austria (Ramet 1996) to high level conflicts over territory and state capacity. Although relations soured between the ethnic majority and Italian minority in Istria in the first few years of independence, this conflict, which was the result of low level tensions between Italy and Slovenia, paled in significance to the disputes that occurred between Slovenes and former Yugoslav groups (Komac 2001). In contrast, Slovenia's Yugoslav neighbors posed three important challenges to its sovereignty: The Serb-led attack on Slovenian soil contested its very legitimacy and put the Slovenian military at risk; the territorial contest between Croatia and Slovenia threatened its access to the Adriatic and its important trading partners in Western Europe; and the arrival of tens thousands of refugees mostly from Bosnia and Croatia between 1991 and 1996 put the small country under an enormous strain.<sup>5</sup> These three crises served to further increase the social distance between Slovenia's ethnic communities.

Institutional arguments for the rise of xenophobia and intolerance relate to tensions between communities over constitutional provisions that record the state's ethnic preferences. These replicated the Communist tradition of organizing ethnic privilege according to majoritarian principles that prioritize specific collective historical identities. After the Slovene majority, the Italian and Hungarian populations are at the top of the pyramid as "autochthonous minorities" who receive specific protection under the Slovenian Constitution, including collective rights to representation in the Parliament. According to the Constitution, the Roma communities, which might arguably be considered autochthonous, are also to receive collective rights, but these have yet to be defined by law. By contrast, the situation of new minorities, especially those from the neighboring states of the former Yugoslavia, has yet to be resolved, and hence Croat, Serb, Bosniak, Macedonian, and other minorities receive no special collective rights. The Constitution simply guarantees the right for individuals to use their own language and practice their culture and religion, but as individuals, not communities. This provision has been challenged by constitutional experts who argue that communities transmit culture, not individuals (Matevz Krivic, interview with the author, Ljubljana, 5 January 2005). Moreover, in spite of its claim to protect certain communities and individual cultures, state funding of funding is overwhelmingly concentrated on the Slovene majority: in



2003 approximately one hundred fifty thousand to two hundred thousand people who belonged to the recognized Italian, Hungarian, and Roma minority groups, as well as communities from the former Yugoslavia, received a total of eighty thousand Euro for cultural activities (Baltic 2005). For the above reasons, Miran Komac claims there is a “deep gap between legal and societal citizenship” in Slovenia (Komac 2001:276).

One unifying theme in the above explanations for Slovenian ethnocentrism is the tradition of privileging ethnos over demos. This applies with respect to ethnic Slovenes now living in Austria, Italy, and Hungary who are seen as co-nationals, but also in the context of nonethnic Slovenes residing in Slovenia. Diasporic communities are treated like a fifth column or rather “extensions” of the parent nation, which negatively influences the chances of assimilation or integration into Slovenian society (Komac 2001: 275). This tendency to reduce ethnic communities to extensions of neighboring states was exposed in the citizenship laws that were introduced in the 1990s and the scandals over the “erasure” (Zorn 2005).

### **Citizenship and Erasure**

With the creation of the independent state in 1991, the Slovenian government was faced with the task of defining formal citizenship policies. Ethnic Slovenes were to receive citizenship on the basis of *jus sanguinis*, which effectively meant the transfer of Slovenian nationality under the former Yugoslav system. Nonethnic Slovenes, who were considered autochthonous minorities, would be covered under a different article that provided for their naturalization under the principle of *jus soli*. The remaining issue to be resolved concerned the 221,321 foreigners who could not be classified as either ethnic Slovenes or recognized minorities. Table 1 provides a breakdown of the current demographics of Slovenia and the number of new minorities registered in the 2002 Census.

Before independence there were many indications that Slovenia’s secession from the SFRY would be met with protection arrangements for nonethnic Slovenes who were not covered by the existing constitutional provisions given to the autochthonous minorities from the Hungarian and Italian communities.<sup>6</sup> One means of protection was the offer of citizenship to all foreigners who had resided permanently on Slovenian soil at the time of the plebiscite. To this end, the Act Governing Citizenship was introduced in June 1991 that provided the nonautochthonous minorities with the opportunity of naturalization. According to Article 40, former Yugoslav nationals, resident on the territory of Slovenia could apply but were restricted to a six-month period. More than one hundred seventy thousand were granted citizenship in this way, but thousands of others who either did not know about the law or who simply failed to apply were denied status.

After the six-month period ended on 26 December 1991, conditions both for former incorporation in the Slovenian nation and participation in Slovenian society became considerably harder. It is argued that the 1991 Citizenship Act should be seen as a societal deal that was made to appease international and especially neighboring concerns over the fate of nonethnic Slovenes living in Slovenia (Andreev

TABLE 1. Ethnic Composition of Slovenia

Albanians	6,186	0,3%
Bosniacs/Muslims/Bosnians*	40,072	2,0%
Croats	35,642	1,8%
Macedonians	3,972	0,2%
Montenegrins	2,667	0,1%
Serbs	38 964	1,9%
Roma <sup>†</sup>	3,246	0,2%
<i>For orientation: Slovenes</i>	1 631 363	83,1%
<i>The total population of Slovenia</i>	1 964 036	100%

\*The term *Bosniacs* was formally introduced in 1993 in Bosnia and Herzegovina with the intention to replace the term, *Muslims*, which by that time was used to denominate the Bosnian Muslims in the sense of ethnicity. However, on the last census held in Slovenia in 2002 both terms, *Bosniacs* and *Muslims*, were used. In addition, a significant number of Bosnian Muslims living in Slovenia declared themselves as *Bosnians*. The latter name is not recognized as the ethnic denomination, but was recorded in the census. This confusion can be understood as a consequence of the relatively recent name change (from *Muslims* to *Bosniacs*); however, the three different categories that appeared in the 2002 census can in the vast majority of the cases justifiably be considered as one ethnic group (Dolenc in Komac, 2004: 44–45). On the census there were 21,542 declared *Bosniacs*, 10,467 declared *Muslims*, and 8,062 declared *Bosnians*.

<sup>†</sup>A significant portion of Slovenian Roma had immigrated to Slovenia from other republics of Yugoslavia.

From: Sircelj, M. (2003) *Religious, Lingual and Ethnic Composition of the Slovenian Inhabitants* (Ljubljana: Statistical Office of the Republics of Slovenia). p. 141.

2003; Matevz Krivic, interview with the author, Ljubljana, 9 June 2004). If this is true, the deal expired with the formal deadline at the end of 1991 after which there was a subsequent return to illiberal and ethnocentric practices that sought to limit the potential integration of unrecognized minorities in the young state. It was at this point when large numbers of Slovenian residents were disenfranchised and when the act known as the “erasure” began.

In February 1992 Article 81 of the Aliens Act came into force and designated new categories of noncitizens. In effect, all those who had been registered by means of the Aliens Act were deregistered and lost their residency rights and the social and economic privileges that came with residency status. The *Erased* included a wide range of individuals who did not have common ties to each other. There were approximately five hundred officers from the JNA, many of whom did not see active service and had intermarried with Slovenes; Bosniaks, Croats, Serbs, and Roma who had migrated to Slovenia for work (especially in the mines); and civilians born in Slovenia whose birth had been registered in one of the other republics. The only unifying factor was that these individuals were perceived as “Southerners” and thus exogenous to the Slovene nation.

The manner in which the erasure took place was highly secretive. Residents were asked to present their documents to state agencies and appear before the town hall or local administrative unit. According to Dedic et al. (2003) there was

considerable uniformity of practice: Residents were notified by official authorities to appear in person at which point their documents were often confiscated or destroyed in front of them—punched, defaced, or cut up. Those who lost their residency status became official foreigners, effectively stateless persons, who automatically lost access to the social and political privileges they had enjoyed for decades (Amnesty International 2005).<sup>7</sup> The cancellation of their status left them especially vulnerable, as evidenced in a tragic case taken up by the Helsinki Monitor of Slovenia (HMS):

Franjo Herman, a 62-year old construction worker, died on 13 July of untreated cancer. He had lived in Slovenia since 1955 and was erased from the register of permanent residents and citizens because of his Croat ethnic origin. As a consequence, he lost his right to social health and security. In August 2000 he was diagnosed with cancer but he was refused the necessary operation free of charge because Mr. Herman was not a Slovene citizen or permanent resident. In November 2000 he had been admitted to a medical check up on the intervention of HMS but further treatment was refused, including a prescription for free pain killers which he needed urgently. After a court had decided that he should receive medical treatment, he was hospitalized for a week and was dismissed twice. Slovene citizenship was restored to him a week before his death in order to secure the right to inhumation (foreigners may only be cremated). (International Helsinki Federation 2002: 278).

Several of the *Erased* were subject to arbitrary removal and were deported from Slovenia (ECRI 2002). One estimate is that approximately twenty people were expelled (Matevz Krivic, interview with the author, 9 June 2004). The Helsinki Monitor contends that the number is far greater and was effected by transporting handcuffed individuals without the knowledge of destination states by bus, plane, and ferry to Croatia, Macedonia, and Montenegro, respectively (Helsinki Monitor 1998).

Jelka Zorn has created a list of abuses that the *Erased* suffered after this administrative act.<sup>8</sup> Based on extensive interviews with members of the *Erased*, she noted that those who lost their residency rights also suffered the violations described in Table 2. Although human rights activists agree on the nature of the violations, there is considerable debate over the numbers of those affected by the erasure. According to the Helsinki Monitor of Slovenia, more than one hundred eighty thousand people were affected by the erasure. This number has been challenged by both the *Association for the Erased* and the Slovenian Constitutional Court, which has estimated the number affected at eighteen thousand three hundred and five. Matevz Krivic, a former Constitutional Court Judge, claims that even the figure of eighteen thousand three hundred and five needs explanation. He argues that thirty thousand did not receive citizenship and notes the need to consider the departure of approximately eleven thousand people along side the rejection of eighteen thousand three hundred and five who were refused because they either did not apply, for lack of information or as a result of the political confusion, or were marginals at the bottom of Slovenian society. A small minority was pro-Yugoslav and did not want to be citizens of a separate state (Matevz Krivic, interview with the author, Ljubljana, 9 June 2004).

TABLE 2. Examples of Violations Against the *Erased*

Type	Description
<b>Civil and political</b>	Denial of right to legal and judicial protection Fracturing of the family unit, violation of the child's right to live with its parents Violation of the right of the family to form associations and to the formal recognition of fatherhood Violation of right to chose place of residence (people were forced to obtain a permanent residence address in a foreign country) Prevention of free movement across borders Violation of right to privacy of post Exclusion from political participation and public activity Creation of Slovenian refugees (people who were expelled went to other ex-Yugoslav republics as refugees)
<b>Economic and social</b>	Prevention of legal employment or loss of job Denial of right to pension Violation of right to apply for social aid Causing material damage (termination of employment record, payment of administrative and court fees, lawyers fees) Denial of rights to property ownership, founding a company, opening bank accounts, mobile telephone subscriptions, register a car in their own name
<b>Personal harassment</b>	Exposure to arbitrariness of police on a daily basis Third party harassment over phone and in letters and lack of police sanction for such conduct Exposure to brutal treatment by clerks (i.e. humiliation and withdrawal of information, therefore prolonging procedures)

The issue of the erasure was brought before the Constitutional Court, which decided on 4 February 1999 that the erasure was unlawful and ruled that the 1991 Foreign Citizens Act violated the Constitution for failing to determine the conditions for the acquisition of permanent residence permits by citizens of other former Yugoslav republics who did not apply for Slovenian citizenship or whose applications had been turned down (Constitutional Court Decision U-I-284/94). Specifically, the Constitutional Court ruled that the Foreign Citizens Act violated Articles 2 and 14 of the Constitution regarding the principles of the rule of law and equality, respectively. The Court also charged that the expulsion of individuals violated human rights and freedoms protected in the Constitution and under international legal agreements to which the state was a signatory. The Court therefore ordered that corrective legislative measures be introduced to regulate the status of the *Erased*.

In response to the Court, the government started to introduce legislation that attempted to extend the franchise in some key areas. First, in 1999 it introduced the *Act on the Regulation of the Status of Citizens of Other Successor States to the Former SFRY in the Republic of Slovenia*, which established a three-month period within which persons with unregulated status could apply for Slovenian citizenship. Although approximately, seven thousand people were able to regulate

their status by means of this new law, the legislation did not restore permanent residency retroactively but only granted residency rights from 1999 onward. The way in which this law was designed therefore excluded those who had been expelled and unable to return as a result of the erasure.

Then, in 2002 it introduced amendments to the Act on Citizenship that did not give permanent residency status retrospectively but recognized long-standing residency and allowed those who had a registered permanent address in Slovenia on 23 December 1990 and who lived there since to apply for Slovenian citizenship. The 2002 Act gave applicants the longest period of time to date to apply by granting them a one-year window of opportunity, but it contained one important deficiency in that it failed to regulate the status of those who had not lived continuously in Slovenia after 1990, once more excluding those who were forced to leave or were expelled as a result of the erasure.

The shortcomings of the 2002 legislation were recognized by the Constitutional Court, which ruled in April 2003 that the *Act on the Regulation of the Status of Citizens of Other Successor States to the Former SFRY in the Republic of Slovenia* was unlawful on two grounds. First, it noted that the Act did not grant permanent residency retroactively to those citizens of other SFRY republics who were removed from the registry of permanent residents from 26 February 1992 onward but simply gave them an opportunity to apply for it. Second, it failed to address the problem regarding those who had been forcibly removed under the Aliens legislation and who were unable to apply for permanent residency status. The Constitutional Court therefore called on the government to issue permanent residency permits with retroactive effect from the date of the erasure (Constitutional Court Decision 2003).

In response to the Constitutional Court, the parliament adopted in October 2003 the “technicalities bill,” which only covered three thousand eight hundred people who could prove that they had lived permanently in Slovenia since the erasure in February 1992—a fraction of the *Erased*. The government then adopted a second instrument, known as the “systemic bill” that was intended to cover those who could claim permanent residency status but who, for one reason or another, had not lived in the country for the entire period.

The parliamentary debates over these bills raised new concerns about the stability of the Centre Left government and exposed the rising trend in xenophobia that the nationalists had carefully engineered. Press reports at the time claimed that the debates before the adoption of these bills demonstrated that the coalition and opposition were “completely divided” over the issue of restoring the status of the *Erased* (Slovenia News 2003). They also chronicle how the issue of the *Erased* developed from a point of constitutionality to test Slovenia’s internal ethnonational principles of organization.

In protest at the government’s attempts to regulate the issue of the *Erased*, the main opposition, the Slovenian Democrats (SDS), initiated a campaign to collect Members of Parliament (MPs) signatures with the aim of calling a referendum on the bills. In November 2003, for fear that the proposed bills could pave the way for multimillion Tolar compensation claims, the National Council (upper chamber)

voted by twenty-six to five against the first “technicalities bill” that aimed to implement the Constitutional Court decision and to establish the necessary legal framework for restoring residency rights to some of the citizens *Erased* in 1992. The dispute between the government and opposition quickly degenerated into an inter-parliamentary struggle that at once aroused nationalist passions and simultaneously prevented further attempts to implement the Constitutional Court rulings. On the heels of the veto in the National Council, the opposition SDS filed a demand to hold a referendum on the bill, just as the Interior Minister Rado Bohinc announced that the ministry would start issuing decrees to reinstate the permanent residency rights of the *Erased*. Bohinc’s declaration angered the opposition, which pledged that it would try to censure the minister. As the crisis heated up, the Slovenian President, Janez Drnovsek, stepped in and urged all parties to abandon the idea of a referendum that, although it could not overturn a Constitutional Court decision, would nonetheless create further division and encourage nationalist passions during an election year.

Throughout 2004 the crisis over the *Erased* deepened as the Parliament failed to set a date on the referendum and the nationalist bloc, consisting of the SDS and New Slovenia, issued further threats to oust Bohinc, who had started issuing corrective decrees that reinstated the residency rights of the *Erased*. As of mid-May, approximately three thousand one hundred such decrees had been issued (Amnesty International 2004). When the Constitutional Court ruled that any referendum would be unconstitutional, the leader of the Slovenian Democrats (SDS), Janez Jansa, took this as an opportunity to strengthen his populist platform and seek alternative measures for to block the bill, including inciting xenophobia. Jansa and the nationalist bloc achieved a referendum in April 2004 that produced alarming results. Although the voter turn-out was just over thirty percent, approximately ninety-five percent of those who voted rejected the bill. The level of public animosity toward the *Erased* astonished international observers who had not understood the potency of this issue.

### **Current Situation**

Since 1991 many former Slovenian residents have left Slovenia; some were readmitted after the introduction of the 1999 Act Regulating the Status of Citizens of the Former SFRY, but others have been since been expelled. A particularly disturbing trend is the expulsion to Bosnia of children of the *Erased* once they reach the legal age of responsibility. In spite of pressure from the European Union and the 1999 and 2003 Constitutional Court decisions,<sup>9</sup> governmental attempts to settle the problem have so far failed to account for those who did not meet the original criteria as established in 1991. In July 2004, under pressure from the nationalists, the Slovenian Ministry of the Interior stopped issuing corrective decisions, and to date no new steps have been taken to implement the 2003 Constitutional Court ruling to restore the rights of the *Erased*. Consequently, the *Association of the Erased* and some human rights authorities have appealed for political action and have secured

the support of Amnesty International, which brought the issue to the attention of the UN Committee on Economic, Social and Cultural Rights in November 2005.

## FINDINGS

This section seeks to understand how the political restructuring that took place during the transition from Communism and the creation of an ethnically defined state fostered greater social distance between ethnic communities and how the act of erasure was institutionalized. To this end, it explores the way in which the *Erased* perceived the process of erasure and interprets their impressions of their Slovenian neighbors and reclassification as stateless persons.

The findings presented below are the result of semistructured interviews with members of the *Erased* ( $n = 40$ ) and human rights authorities, journalists, and political leaders ( $n = 6$ ). Those interviewed consisted of men and women and included Serbs, Bosniaks, Croats, Roma, and other nationals from the former Yugoslavia. Questions were asked to explore their sense of deterioration in job status, housing, relations with other family members, and standard of living. In addition, questions were asked about how the erasure affected their sense of belonging, self-esteem, and perceptions for the hostility from the general public.

The above-mentioned themes were explored in greater depth during four focus groups with former JNA officers, Roma, families, and Bosniaks in June 2004 and January 2005. These four categories were selected for their relevance of the story of the *Erased*: The former JNA officers were most commonly scapegoated in the media and by nationalist politicians; the Roma are among the most vulnerable people in Slovenia and are the subject of specific constitutional provisions that are aimed to provide greater opportunities for civic and political participation; families bore the burden of the erasure, and many family units were divided as a result (Zorn 2005); and Bosniaks are not only among the least popular ethnic minority in Slovenia, but the fact that Bosniak teenagers have been deported from Slovenia also singles them out for consideration. Interviews and focus groups were held in cities across the country (Ljubljana, Maribor, Ptuj, Velenje, Celje) to arrive at both a general picture of state policy and to allow for possible variation in the degree of alienation expressed by members of the *Erased*. To protect the identity of vulnerable individuals, initials have been used rather than full attribution.

### Interpreting the Act of Erasure

A central concern was to investigate the meaning of erasure to understand the way the participants perceived their own disenfranchisement. Responses to the question “what does it mean to be *Erased*?” produced three main types of answers. In the first place, participants offered legal definitions of this controversial term. Two contrasting responses from an official source and a member of the *Erased* are included below.

*Erasure* is the wrong term. The files were simply transferred from one file [residency] to another file [former statuses]. They were erased from the area of legal residence (MZ, interview with the author, Ljubljana, 9 June 2004). They erased us from the register of permanent residents. They put us in the central register—in this register you can find the people who are dead. This data goes to the archives. This is the end. (DR, interview with the author, Maribor, 15 June 2004)

A second category of response focused on practical explanations for the meaning of being *Erased*. Many participants claimed that the erasure was best illustrated by the restrictions it placed on them that was in contrast to a “state of normality” they associated with West European countries and that entailed having money, freedom to buy simple goods, and social protection in the form of medical insurance.

You are not entitled to work. There’s no health insurance. You can’t drive a car. Can’t go to the Employment Office. If the police ask questions, they have the right to expel you. There are other things like buying and selling . . . You are not entitled to go to university. Maybe you can but only as a foreigner. But you are not even a foreigner here. You are completely paralyzed. (AT, interview with the author, 15 June 2004, Ptuj).

More than one participant commented on the fact that the erasure had reduced them to being undocumented workers who could only secure low-level jobs (BP, 10 June 2004, Ljubljana). Further discussion with the *Erased* exposed themes of powerlessness, exclusion, and victimization as evidenced by statements made regarding their sense of self-worth and the physical barriers placed on them; as one Roma man noted, “I can’t leave Slovenia because I can’t come back” (AM, interview with the author, Ljubljana, 11 June 2004). The intractability of the change of status dominated many interviews in which participants described situation of powerlessness in terms of being “ruined,” “paralyzed,” “worthless, helpless and deserted,” and “humiliated.” One articulate participant claimed that he had been “killed by the pen not by gun” and insisted that one needed to understand the erasure in terms of the destruction of one’s civic status (DL, interview with the author, Celje, 10 June 2004). His associate in Ptuj advised that Orwell offered a better understanding of the erasure than he could provide in a few words, whereas another simply described the erasure as “one of the greatest catastrophes” and that his past was now “invalidated.”

For me personally it means to have twenty years of my life and work thrown into the water by a country which I perceive as my homeland (BP, interview with the author, 10 June 2004).

The importance of having a state identity for one’s own personal validation was emphasized by participants who stressed the psychological effects of the cancellation of their status. Developing the notion of wasted years in discussion several participants commented on how their loss of formal identity affected their sense of self-worth and mental health:



Being erased means that you are worthless. I didn't know who I was. I wasn't a Serb, Croat or Slovenian. According to myself, I am Slovenian. For two years I was nobody. Today I am also illegal here (MU, interview with the author, 15 June 2004, Ptuj).

By contrast those who had been able to acquire citizenship through the legal amendments introduced after the first Constitutional Court ruling spoke of receiving stats as a great prize. One woman commented that it was "almost like winning the lottery—you can work, visit the doctor and don't need to be afraid of the police" (G., interview with the author, Velenje, 14 June 2004).

Others focused on the practical hardships and, above all, the way in which official discrimination after the erasure acted as a license to other forms of abuse by the state authorities. The police were the primary antagonists, and respondents spoke of how they had been subject to repeated searches, fines, and verbal harassment in their dealings with them. One participant reported how the police had entered the family apartment in the middle of the night and abducted her husband, who was put in the boot of a police car and taken to the station for questioning alongside eight other Bosnian construction workers (DL, interview with the author, Celje, 10 June 2004). A man, identified as a Bosnian Serb, claimed that the police and courts engaged in discrimination against minorities and provided his own personal testimony of abuse. He reported that following an accident with a motorcycle, where the person responsible not only damaged his car but also in rage attacked him with a helmet, breaking his arm and his wife's finger:

The police spent more time going through my papers, than with handling the attacker because they saw I was a foreigner. The court failed to prosecute the attacker properly and he later walked free. I felt disrespected by the court (MP, interview with the author, Celje, 10 June 2004).

One woman spoke of how she had developed alternative coping mechanisms, including running from the police on sight (DL, interview with the author, Celje, 10 June 2004).

Claims of powerlessness were illustrated by further commentary on the daily life of individuals erased and suggestion that the symbolic destruction of the person (erasure) might lead to physical removal. The fear of removal was highlighted in interviews with the former JNA officers, some of whom had been expelled in 1991 even before the erasure. In interviews and focus groups former JNA officers recorded how the administrative courts removed those who were considered a threat to state security. Throughout the 1990s there were lists of individuals that had been circulated to border police who actively prevented them from reentering the country and colluded with Hungarian police across the border (S, interview with the author, Celje, 14 June 2004). One recounted in detail how he had been expelled under police guard and had to rely on the Ministry of the Interior and Office of the Ombudsman to secure his reentry. His friend was less fortunate and had to spend six and a half years in exile after the cancellation of his passport and denial of his application for citizenship.

A third category of response raised issues of civic participation and the loss of social rights that were derived from the right of residency. One father described the erasure as having made him invisible even before his children.

It's like you don't exist. I could go to the school prom but can't legally be a father to my own children. On my first child's birth certificate it says father unknown. On the second, I was asked to leave the space blank (Sel, interview with the author, Velenje, 14 June 2004).

Family issues were a common theme, especially among the Bosnian participants whose children reached the legal age of responsibility. In the period after the censure and some of the older interviewees who were now economically dependent on their children. For the Bosniak group, they felt doubly trapped by the war in their country of origin and the growing racist sentiment in Slovenia that was expressed in expulsions and denial of the right to schooling (AB, interview with the author, Celje, 10 June 2004). At the other end of the spectrum, older participants recorded how the erasure had reduced their pension payments and left them economically vulnerable. This was especially important to the expelled JNA officers who had lost years from their pensions and were denied payments—one even waited for more than twelve years to receive his pension (M, interview with the author, Ljubljana, 11 June, 2004).

### **Identity and State Legitimacy**

The act of erasure was conducted through subterfuge and through the physical destruction of documents (Dedic et al. 2003; Zorn 2005). However, it is important to point out that the administrative procedures associated with the erasure were not immediately understood by most victims, and for the vast majority of the *Erased*, their loss of formal identity was only revealed as they became excluded from official Slovenian society or encountered immediate problems. Although one woman claimed to have felt “shocked, threatened, humiliated” and considered suicide upon leaving the public administration office (DL, interview with the author, Celje, 10 June 2004), most of those interviewed stated it was only as they tried to regulate aspects of their personal lives that they learned of their status and the extent to which they were resented by public authorities. One Roma man from Bosnia reported:

When I told them I couldn't go to the place of my birth [to regulate my status] because of the war in Bosnia and the broken communications, the official answered, “you can make yourself a pair of wings and fly to your hometown”. (AP, interview with the author, Ljubljana, 10 June 2004).

For the former JNA officers, the erasure was delivered as a form of political punishment and was accompanied by verbal abuse and the physical closure of borders. One man who was later expelled and only able to reenter the country illegally reported “I was told, people from Bangladesh will get citizenship before you from the Army” (NV, interview with the author, 11 June 2004).

The loss of one's formal status took place at a time when there was a marked shift between state and society. Although Slovenia, like most former Communist

countries had enjoyed little legitimacy, the timing of the erasure coincided with Slovenia's promotion as a legitimate democratic state. Many participants connected the erasure to Slovenia's successful political transition, including its declaration of independence, shift from the former Yugoslavia, and, more recently, its membership in the European Union, which they claimed gave the state even greater license to discriminate against them.

There are people here who are drunk because of independence. Now they are drunk because they joined the EU. If they claim that they have a legal state, then they should behave like it and provide compensation (ST, interview with the author, Celje, 14 June 2000).

Although some participants sought to explain the act of erasure as a result of ethnocentric traditions, one claiming that it was the product of *genetic chauvinism* (ST, interview with the author, Celje, 14 June 2004), most of the *Erased* saw themselves as scapegoats. One journalist developed this point:

Politicians were trying to excuse themselves because there were officers from the JNA. That was the main excuse. But kids who were born here when this whole thing started. . . . Some people didn't ask because they didn't have any reason to ask. The JNA was seen as occupiers. This was an issue of scapegoating. What was most important were all the talks about the money. The Parliament, Janusz Dvorsek and Milan Kucan both knew. They didn't say a word. (ND, interview with the author, Ptuj, 16 June 2004).

As time passed, the *Erased* lost even more access to a state that, in their eyes, grew stronger as they became increasingly marginalized. One man in Ptuj described the sense of powerlessness he felt after fourteen years, lamenting

They have all the papers that say they are right because you don't exist. It's like you come from Korea without a passport and you can't see an end—there's no way out. No documents. No driver's license. You can't buy anything; can't sell anything. (AT, interview with the author, Ptuj 15 June 2004).

### **Creating Social Distance**

As the *Erased* lost their formal status and saw Slovenia emerge as a legitimate international actor, participants claimed that they were ostracized by former friends, coworkers, and neighbors. Many commented that friends associated the act of erasure with a form of punishment and suggested that they must be guilty of an offense for the state to behave as it did. Several added that they had been turned into public enemies on the grounds that the state would one day be required to pay large sums of compensation if the issue of the erasure was resolved. Having been censored by the state, members of the *Erased* recorded that their neighbors eventually bought into the practice of indiscriminate and collective blame—"one response has been, 'you are one of the *Erased*. . . that's not possible because you are a good guy'" (Z, interview with the author, Velenje, 14 June 2004). His colleague provided the following personal testimony:

When this happened in 1992, I couldn't believe it happened. My colleagues, friends, didn't want to know me anymore. I was very social and built my house near the border. All the people would come to visit, including police and friends. Then they stopped coming (V, interview with the author, Maribor, 15 June 2004)

In interview, participants recorded that the formal cancellation of their status as residents precipitated a process of alienation that they claimed was the byproduct of former Communist practices, above all the uncritical acceptance of political authority and the reliance on a media that, with few exceptions, refused to probe deeper into the controversy. One brave journalist who had published the initial stories on the *Erased* in *Mladina* claimed that there was a tendency to engage in self-censorship and that he too had problems publishing serious articles because his former editors claimed "it didn't raise the numbers of readers" (Igor Mekina, interview with the author, Ljubljana, 13 June 2004). The net result was an increase in hostility toward the *Erased* as both individuals and as members of a perceived collective group. This hostility applied at all levels, from the parliament where nationalist politicians attacked the erased right down to family units, as explained by one woman in Ptuj:

My husband was on my side but his family wasn't. But when this started, they blamed me. I said nothing. I have my opinion. We haven't any contracts. It was awful for my husband. I also lost all my friends. Slowly we argued, then relations were cold. Then we drifted apart. Now when we meet, we say hello and nothing else. (MU, interview with the author, Ptuj, 15 June 2004).

Others cited a broader trend in xenophobia against former Yugoslav nationals and specifically "Southerners," which was marked by racist rhetoric and formal discriminatory practices. One noted that the *Erased* were routinely called "chefurs," an offensive term defined to the author as "yugo-niggers" (VP, interview with the author, Ljubljana, 10 June 2004). Another added that a child with a non-Slovene surname would need to perform much better to receive the same grade as a Slovenian child and that this ethnic bias was evident in all types of public interaction (DL, interview with the author, Celje, 10 June 2004)

There were three important components to the xenophobic reaction. First, there was general resentment of Yugoslavia, which was most clearly directed to the former JNA officers. Second, there was a fear that Slovenia would be embarrassed by the international community and that tax payers would be forced to carry the burden of compensation claims. Third, with the influx of thousands of Bosnian refugees in 1992 and 1993, there was a rise in anti-immigrant and specifically racist rhetoric.

They only wanted professionals. There was this atmosphere they wanted Southerners out of Slovenia. This was an evident political wish to have clean people here—not people the government doesn't want, people they need to spend money on. (MB, interview with the author, Ljubljana, 9 June 2004).

The media was to blame alongside opportunist nationalists who seized on the crises over asylum-seekers and the *Erased*. One commentator described how scapegoating took place during this period—“the television spent the entire week showing where one asylum-seeker was accused of stealing” (BB, interview with the author, Ljubljana, 10 June 2004).

### **Living Outside a State of Law**

The erasure produced several long-standing effects. Participants commented on how the erasure had denied them the opportunity even to resolve their status both formally and through personal networks. A frequent accusation raised was that “after the erasure, all the doors were closed to us” (RM, interview with the author, Ljubljana, 10 June 2004). One important consequence was that almost all aspects of their public lives had become casualized. Forced to exist outside a state of law and thus without official protection, participants reported acts of exploitation from employers who did not pay wages and, in some cases, from the state, which still exacted fees and fines. For example, one man whose employer was prepared to retain him, in spite of his status, described the absurdity of having to apply for—and pay for—a temporary visa every six months so that he could keep his job (MP, interview with the author Celje, 10 June 2004). Another, who secured status after the second Constitutional Court ruling commented that he has only been able to earn minimum wage and had to work endless hours and take up irregular employment away from the family home, which also prevented him from having a secure relationship with his children. He had been distressed by the fact that he could not discuss his status, or hardships, with others for fear of being removed from his job.

During the time of the erasure, you were not allowed to be ill. I would have to work and could only see my child once in 2 weeks. They made mental invalids of us. We couldn't read newspapers or listen to the radio. We had to work every possible hour. I worked for 350 hours a month driving a taxi and I had to keep quiet (Z, interview with the author, Velenje, 14 June 2004).

### **STATELESSNESS AND HUMAN SECURITY**

The above findings raise a number of points for consideration. First, this study recalls the relationship between statelessness and human security that is not adequately addressed in realist accounts. In this instance, the formal revocation of citizenship took place during a period political restructuring and without the occurrence of forced migration or conflict. Rather, the acts that rendered so many stateless continued during a period that was recognized as both peaceful and formally democratic. This incongruity, above all, the fact that Slovenia was perceived by international observers and regional experts as a democratic success story rather than violator of human rights, demonstrates the complexity of the phenomenon of *de facto* statelessness and the methodological weaknesses of traditional legalistic and power-based analyses of statelessness that emphasize institutions and cross-border conflict.

Second, the above findings demonstrate a direct and negative relationship between the cancellation of formal status, economic and civil rights, and human security, which bears on the notion of a democratic political culture (UNHCR 1999; Sen 2001). The slippery slope from denial of one's political rights to civic and social ostracism ended with violence against the erased in the form of deportations and deaths (Zorn 2005). Seven individuals committed suicide as a result of their persecution (Matevz Krivic, interview with the author 9 June 2004). The slippery slope highlights the limitations of cosmopolitan arguments, often presented under the banner of social citizenship, which claim that welfare issues are no longer the prerogative of the state (Soysal 1994; Benhabib 2004). Although the Constitutional Court recognized the illegality of the erasure and the need to protect noncitizens, the refusal of the parliament to introduce implementing instruments and the overwhelming public perception of "Southerners" as undeserving suggests that, in practice, a distinction is still being drawn between "insiders" and "outsiders" in Slovenia today. For this reason, Miran Komac contends that Slovenian society is best described as "pre-multicultural" (Miran Komac, interview with the author, Ljubljana, 5 January 2005).

Third, this account also introduces analytical challenges to the way in which the Slovenian state has been described. Although there was also evidence of democratic activity, as illustrated in the interparliamentary struggles between political parties, the Constitutional Court, Executive, and government, the evidence of the political and public support for the erasure suggests that it may be too premature to describe Slovenia as a truly consolidated democracy. Rather, the emerging picture is of an ethnonational state with corporatist traditions that have, in part, been protected by the legacy of Communism and the refusal of citizens to question the actions of the state. Elsewhere, scholars have interpreted the erasure in the context of Arendt's theories on the state of law, bureaucratic permissiveness, and state capacity (Andreev 2003; Dedic et al. 2003; Zorn 2005). The above findings provide a partial confirmation of the Arendtian approach but also undermine claims that abuses against erased persons resulted from institutional weaknesses (Andreev 2003). In the above account the state is shown to govern not only political relationships associated with citizenship (Schopflin 2002) but also economic and social relationships traditionally assigned to civil society. There is considerable evidence of statism—even after the erasure, state interference could be detected in the application of fines, the imposition of temporary permits in some cases, the use of the police to expel family members, and the grudging acceptance that the situation needed to be corrected as a result of constitutional court rulings. The state played a central role but was nonetheless assisted by civic interests, above all the nationalist bloc and populist media. For this reason, the allegation that Slovenia is characterized by corporatist as opposed to pluralistic values carries considerable weight (Luksic 2003).

Finally, the above findings recall the usefulness of constructivist approaches to understanding how identity formation and state creation interact and bear on the conferral of citizenship. In the case of Slovenia, the distinctiveness of the Slovene

majority was a constant factor that united state interests during the transition from Yugoslavia, struggles post-independence, and Slovenia's outreach to the European Union. This account thus affirms Brubaker's conclusion regarding the application of exclusive citizenship laws, based on blood origin, in states that are dominated by an historical ethnic group (Brubaker 1992). The constructivist account also helps to explain how some communities, once excluded (e.g., Hungarians and Italians), were eventually incorporated into the Slovenian state and how the creation of the new category of erased person draws on ethnic antagonisms. Ethnic contest was institutionalized in the new state through different constitutional provisions for citizenship and occurred at all levels—even among the new minorities, who expressed racist views of those outside their ethnic group (Komac 2004), thus affirming the artificiality of this social category of erased person.

## CONCLUSION

This study supports the claim by human rights organizations that *de facto* statelessness has different causes from *de jure* statelessness and therefore requires alternative modes of analyses. In the case of Slovenia, the revocation and reconfiguration of citizenship took place during a period of political restructuring and was not the produced by forced migration or interstate conflict, as premised in realist interpretations of statelessness. As one of the *Erased* put it, "We didn't come from anywhere. We were here. They put us in that category" (AT, interview with the author, Ptuj, 15 June 2004). The findings from this research study also suggest some fluidity and differentiation even during the homogenizing period of the 1990s, thus demonstrating the need to reject realist approaches in favor of constructivist methodologies that seek to expose the way in which citizenship is deigned and social categories created.

The story of the *Erased* also challenges some of the claims for cosmopolitanism above all, that the distinction between "insiders" and "outsiders" as expressed in citizenship laws has less relevance today. In spite of the rulings passed down by the Slovenian Constitutional Court, the *Erased* are considered as outsiders. Their exclusion has been made possible by the state's continued reliance on the ethnic Slovene majority for its political identity and related corporatist practices that stand in contrast to Slovenia's external image as a pro-European, democratic, and pluralistic state. The role of nationalist politicians and the mass media in channeling and defining public dissent is central to understanding how the "erasure" was permitted and persists today.

Finally, this study also offers a warning to other transitional states where citizenship claims are being renegotiated on the basis of ethnonational identity, for example, in the Baltic countries. As this research records, the slippery slope from formal exclusion through the cancellation of status precipitated further attacks by both the state and third parties. Once Slovenian elites embraced the ethnonationalist position, a category of stateless persons was created and the *Erased* were further

vulnerable to abuse, affirming Zorn's conclusion that in the absence of a state of law, human rights violations against individuals were facilitated (Zorn 2005).

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## NOTES

1. Specifically, *de facto* stateless persons are neither covered by the 1954 Convention Relating to the Status of Stateless Persons nor the 1961 Convention on the Reduction of Statelessness.
2. For example, Shiblak claims that the main causes of statelessness in the Middle East were armed conflict and racial tensions, as well as the dissolution of certain States.
3. Although one hundred fifty-one states are signatory to the Refugee Convention, only fifty-seven states are party to the 1954 Convention relating to the Status of Stateless Persons and just twenty-nine are party to the 1961 Convention on the Reduction of Statelessness.
4. In a study of four thousand participants, Miran Komac noted that not only did intolerance toward nonethnic Slovenes grow but was differentiated according to ethnic origin. In this social hierarchy, Bosniacs and sometimes Roma were at the bottom, followed by Serbs (Komac 2004).
5. A commons estimate circulated is one hundred seventy thousand refugees. This figure, however, is greatly exaggerated.
6. Most notably, the Plebiscite on Sovereignty and Independence of 23 December 1990 and the Statement of Good Intentions presented by the National Assembly following the announcement of the plebiscite affirmed Slovenia's commitment to international human rights agreements and guaranteed the right of citizenship to all minorities.
7. Slovenia—Amnesty International's Briefing to the UN Committee on Economic, Social and Cultural, Rights, 35th Session, November 2005.
8. From Jelka Zorn, "The Politics of Exclusion During the Formation of the Slovenian Nation," In Dedic, J., Jalusic V., and Zorn, J. (2003) *The Erased: Organized Violence and the Politics of Exclusion* (Ljubljana: Mirovni Institut), pp. 147–148.
9. 4 February 1999 Constitutional Court Decision (U-I-284/94) rules erasure unconstitutional and requires compliance within six months; and 3 April 2003 Constitutional Court Adopts Decision U-I 246/02 ruling that Act (ARSCSS) does not comply with Constitution.

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## Interviews

- Matevz Krivic, interview with the author, Ljubljana, 9 June 2004.
- Miran Komac, interview with the author, Ljubljana, 9 June 2004.
- Boris Novak, interview with the author, Ljubljana, 10 June 2004.
- Miran Komac, interview with the author, Ljubljana, 5 January 2005.
- Matevz Krivic, interview with the author, Ljubljana, 6 January 2005.
- Igor Mekina, interview with the author, Ljubljana, 13 June 2004.

## Interviews with Erased and Anonymous (initials used to protect participants' identity)

- MZ, interview with the author, Ljubljana, 9 June 2004.
- MB, interview with the author, Ljubljana, 9 June 2004.
- BP, interview with the author, Ljubljana, 10 June 2004.
- DL, interview with the author, Celje, 10 June 2004.
- MP, interview with the author, Celje, 10 June 2004.
- AB, interview with the author, Celje, 10 June 2004.
- AP, interview with the author, Ljubljana, 10 June 2004.
- VP, interview with the author, Ljubljana, 10 June 2004.
- BB, interview with the author, Ljubljana, 10 June 2004.
- BP, interview with the author, Ljubljana, 10 June 2004.
- AM, interview with the author, Ljubljana, 11 June 2004.
- M, interview with the author, Ljubljana, 11 June, 2004.
- NV, interview with the author, Ptuj, 11 June 2004.
- G, interview with the author, Velenje 14 June 2004.
- S, interview with the author, Celje 14 June 2004.
- Sel, interview with the author, Velenje, 14 June 2004.
- ST, interview with the author, Velenje, 14 June 2004.
- Z, interview with the author, Velenje, 14 June 2004.
- DR, interview with the author, Maribor, 15 June 2004.
- V, interview with the author, Maribor, 15 June 2004.
- AT, interview with the author, Ptuj, 15 June 2004.
- MU, interview with the author, Ptuj, 15 June 2004.
- ND, interview with the author, Ptuj, 16 June 2004.
- A, interview with the author, Ljubljana, 5 January 2005.