Law, Citizenship, and Rights of Non-Russian Nationalities, Past and Present

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Introduction

The quest for a rule-of-law state in the Russian Empire at the beginning of the twentieth century continues a century later as Russia reconstitutes itself into an independent democratic federal state after the fall of Communism. In both eras there has been a profound interest in establishing a legally based government in which the population functions as citizens rather than subjects.

As cultural and political nationalist movements developed among the peoples of the Habsburg and Russian Empires in the nineteenth century, nationalism started to evoke conflicting images. For minorities in multinational states, nationalism represented the liberal ideas of human rights, self-determination, freedom of religion, as well as freedom of conscience and expression in one’s native language: for dominant ethnic groups, nationalism meant spreading their national identity in the name of freedom and power for the national-state. Liberal nationalist movements concentrated on creating identities for social and cultural entities which shared language, customs, religion and respect for diverse nationalities which had been politically subsumed within the national framework of an Empire. In their quest for national cultural self-determination, vocal non-Russian peoples such as Ukrainians, Kazakhs and Jews fostered a broad decentralizing force that challenged the more traditional nationalism represented by the Tsarist Russian orthodox model for a unified Russian Empire. The making of a population of active citizens was in the minds of many legal theorists and activists at the end of the nineteenth century and the beginning of the twentieth century.

Citizenship can be considered as membership in a particular nation which is recognized under the tenets of international law. Both rights and obligations are an integral part of the personal status known as citizenship. However, citizenship is a problematic concept when it is applied to Imperial Russia and other governmental orders in which residents were considered subjects rather than citizens. It can be defined as active rights that refer to a person’s civil rights and participation in the political affairs of the nation. It might also be a series of obligations under a particular regime; a person forced to take part in the process of enforcing democratic rights might consider this a type of legal duty that infringes on the democratic rights that are part of citizenship. A situation in which persons were forced to act in a particular fashion in civil society to be classified as
citizens makes citizenship an obligation rather than a right. Would that
type of citizenship still be democratic or does it constitute a new form of
authoritarianism? Citizenship rights, as Jürgen Habermas has pointed out,
are only worth as much as the population makes of them. But then one
has to determine the foundations of citizenship in a particular country. Is
it tied to national identity, religion, regional or territorial boundaries or
is it based in the codes of a law based state, and are the citizenship laws
inclusive or exclusive of certain residents?

This chapter will address various approaches and problems involved
in the formulation of citizenship laws for Russians and non-Russians;
it is an exploration into the development of the laws governing citizen
participation and the effect of citizenship laws on national groups in the
Russian Empire, the Soviet Union and the post-Soviet era. When the
Soviet Union collapsed fifteen states were created out of its carcass, and
each one of them had to officially define their nationhood through the
citizenship laws. Some of the elites who found themselves at the helm of
the new ships of state were lost without directives from the former central
government in Moscow. The breakup of multinational states, such as the
Russian Empire, the Habsburg Monarchy and the Soviet Union, caused
revolutionary changes in their political systems, creating new states and
most often substituting governments that were nominally liberal democracies
but generally lacked adequate roots—or emerging constitutional democracies that had their healthy roots severed.

Pre-Revolutionary Russia

In the era just before the 1905 Revolution, Russian civil society was de-
veloping within the emerging classes and political organizations which
were pressing for representation. Many political observers noted how
segments of the population learned about being members of civil society,
gaining functional citizenship by participating in the governmental and
judicial organs first set up with the Great Reforms of the 1860’s and later
in the Constitutional Monarchy formulated after the 1905 Revolution. The
events of 1905 gave impetus to the development of liberal opposition
movements throughout the empire. One of their hopes was that
decentralization into a federal state would provide nationalities with their
national rights and interests. At one gathering organized by the Union of
Nationalities to fight for national rights, 115 delegates attended a congress

1 J. Habermas, “Citizenship and National Identity: Some Reflections on the Future of
Europe”, in R. Beiner (ed.), Theorizing Citizenship, Albany, NY 1995, 255-283, and
2 D. Yaroshevskii, “Empire and Citizenship” in D. Brower and E. Lazzerini (eds.),
Russia’s Orient, Bloomington, IN 1997, 73.