

HUMAN RIGHTS IN THE LEGAL CONSCIOUSNESS

1. Introductory notes

The Belgrade Centre for Human Rights commissioned the Scan agency, based in Novi Sad, to conduct in late November and early December 2001 a survey of the legal consciousness of the citizens of Yugoslavia.¹ This is the third such poll, creating the possibility of a temporal study of legal conscience trends in the region, all the more so as the first was conducted in mid-1998, two years before the democratic shift, and the second after the September 2000 elections and immediately after the October 2000 events and the then change in the federal, provincial and local authorities, but before the general elections in Serbia in December that year.² The latest survey, conducted a year after the elections in Serbia, makes possible a comparative analysis of changes in the legal consciousness of the people of Yugoslavia in the process of the creation of a new social and institutional environment and represents an important basis for future studies.

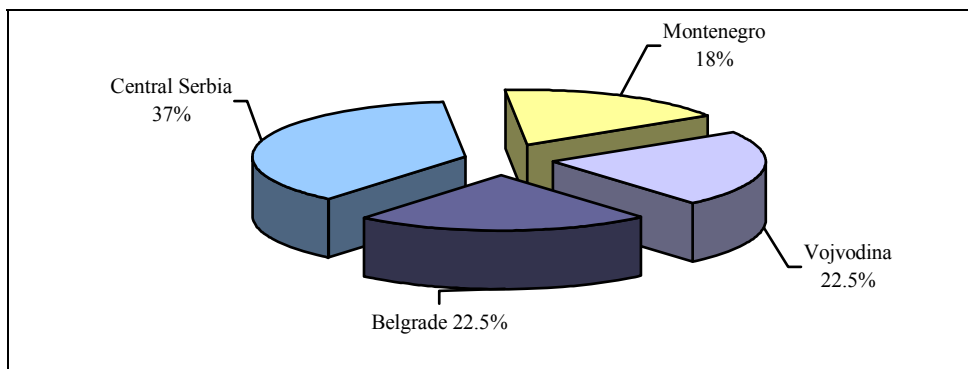
The survey encompassed a sample of 2,220 respondents in all parts of Yugoslavia living in 96 communities in a total of 58 municipalities.³ The multi-stage sample is also regionally representative, as 1,820 respondents live in Serbia (820 in Serbia outside Belgrade and Vojvodina, 500 in Belgrade and 500 in Vojvodina) and 400 in Montenegro. The share of respondents in Montenegro was deliberately made higher than their true share in the adult population of Yugoslavia in order to increase the validity of conclusions at republican level, but also of the level of social strata. Territorial disposition was even. Ten of the municipalities encompassed are in Montenegro and 48 in Serbia, including 12 in Vojvodina and 36 in other parts of Serbia and in Belgrade.

Picture 1: Regional structure of the sample

¹ Scan's survey featured fieldwork in the last week of November and first week of December 2001.

² A survey planned for 1999 did not take place due to difficulties caused by the NATO intervention.

³ Like the previous surveys, this last one also encompassed all parts of the FRY except Kosovo.



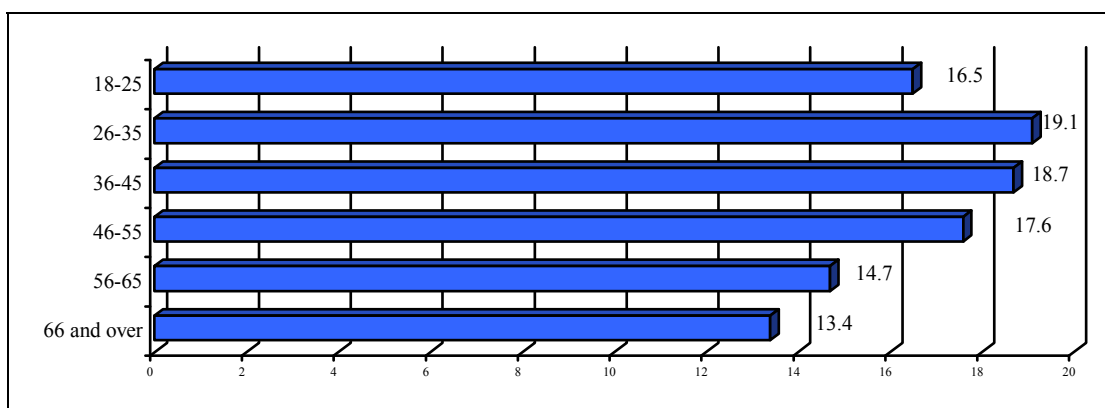
The sample is a combination of a random and partly stratified quota sample, which means that it is representative and encompasses all social and demographic groups of the overall electorate, or adult population of Yugoslavia.

The share of women in the sample was 50% and men 50%.

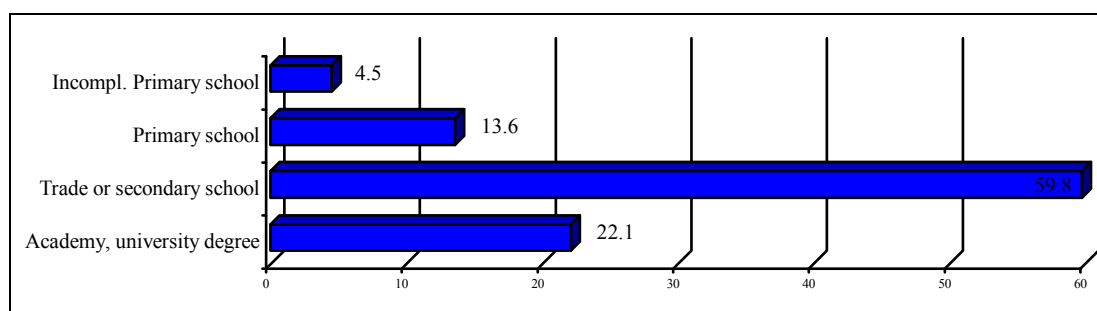
Viewed by ethnic background, 67% were Serbs, 9% Montenegrins, 8% members of a group declaring themselves as Yugoslavs, 4% Moslems, 3% ethnic Hungarians, 2% ethnic Slovaks, 1% ethnic Albanians, 1% ethnic Croats and 5% others or those who declined to declare nationality. Some 46% of the 400 respondents in Montenegro were Montenegrins, 29% Serbs, 4% Yugoslavs, 6% ethnic Albanians, 11% Moslems, 2% Croats and 2% others or ethnically undeclared.

In the professional structure 27% were skilled and highly-skilled workers and technicians, 21% pensioners, 13% intellectuals and professionals, 12% secondary-school and university students, 7% housewives, 4% farmers, 8% unemployed persons, 3% unskilled labour, 4% entrepreneurs and 1% other professions. The age and educational structures are shown in Pictures 2 and 3:

Picture 2: Structure of sample by age



Picture 3: Educational structure of sample



Viewed by political preferences, a shift has been recorded since the previous survey in 2000, when supporters of the Democratic Party of Serbia (DSS) made up 27% of the sample; they remain the biggest group, but their share is down to 21%. In 2000, the second-biggest group (8.6%) were those backing the Democratic Party (DS), but now their share has grown to 16.4%. Some 4% supported the Socialist Party of Serbia in 2000; in 2001 there were more (6%)⁴. In Montenegro, little change has been recorded: supporters of the ruling DPS lead (25.7%), followed by the Socialist National Party (SNP, with 22.2%) and the Liberal Alliance of Montenegro (LSCG, with 6.8%)⁵.

The questionnaire included 46 questions linked with knowledge about human rights. Following our practice in 1998 and 2000, we did not apply the KOL-standard (*Knowledge and Opinion about Law*), as separating questions into groups dealing strictly with legal regulations, legal practice and desired regulations would have resulted in major methodological problems. For that reason we resorted to the simplest possible groups of queries which do not differentiate between legally-prescribed human rights standards, those applied and those which are desirable. Another reason for retaining the same method was ensuring statistical and longitudinal comparativeness in monitoring legal awareness. Changing instruments would have made this impossible.

2. Understanding of Human Rights

⁴ In all public opinion surveys since 1990, there was a tendency for supporters of parties, which had lost the preceding elections to avoid declaring their political preferences. After the September 2000 elections, the share of SPS and Radical Party (SRS) supporters in our sample was smaller than those parties' actual electoral support.

⁵ Very small changes were recorded in Montenegro by the Scan agency (from 1% to 1.5%) from December 2000 until poll conducted late in January and early in February 2001; the percentages then recorded were confirmed at the republican elections in April. There has been minimal change since then.

The first step in a survey of the cognisance of human rights was asking respondents what the term meant. The first question in this group was “...What in your opinion are human rights?” In posing this question we proceeded from an assumption that human rights can be treated as a *jus naturalis* category (human rights are non-positive rights which take precedence over laws enacted by government and are enjoyed by every human being by the very fact of being that), a positive law category (human rights are rights enshrined in constitutions and international law), a realpolitik category (human rights are bare tools in the fight for political power) and a world conspiracy category (human rights are simply tools used by the mighty to blackmail *us and our government*).

The findings indicate that a majority of the respondents (67%) have a positive (*jus naturale* or positive law) attitude towards human rights. Like the preceding surveys, the *jus naturale* view prevailed; most respondents said human rights were “innate”, regardless of their regulation in law. The second-biggest group holds a positive law approach (27,7%), treating human rights as being regulated by international documents, constitution and law. But the number of those inclined to view human rights as a real politik issue is also quite considerable - 18.7%; they see human rights as an “ordinary piece of paper used by politicians”. It was concluded in the 2000 survey that there was a considerable increase in the incidence of holders of the *jus naturale* view compared with the 1998 survey, in fact bigger than the increase in the number of those inclined towards legal or political views. The tendency is attributed to the fact that the survey was carried out just two months after the elections and explained by the fact that there is in the FR Yugoslavia no institutional opportunity to protect human rights before either constitutional courts or relevant international agencies. Hence the inclination towards more abstract and informal perception of human rights. The government had been changed after October 5 but republican-level elections not yet held, placing Serbia in a still incompletely defined situation. A logical consequence of government institutionalised in such a manner was a “*jus naturale* euphoria”. General elections were held in Serbia immediately after the completion of the survey, and elections in Montenegro a few months later. Table 1 shows the changes in attitudes to human rights recorded a “year after Milošević”.

Table 1: Cognisance of human rights

	What are human rights?	July 1998	December 2000	December 2001
--	------------------------	-----------	---------------	---------------

1.	Part of the complex of rights regulated by international documents and the Constitution	22.3	25.6	27.7
2.	A lever used by the world powers to blackmail small countries like the FRY	11.1	7.7	10.9
3.	Rights inherent to all, regardless of their state's constitution and laws	38.8	46.7	38.7
4.	Ordinary piece of paper used by politicians as they see fit	24.9	17.1	18.7
5.	Something else	2.9	2.1	1.6
6.	Does not know or undecided	-	0.8	2.3
	T o t a l	100	100	100

If we compare the data produced by all three surveys, we can see changes which might be seen as having the character of tendencies. The presumption after the December 2000 survey of the then “jus naturale euphoria” (the choice of 38.8% of those polled in July 1998, and 46.7% after the September 2000 elections) was a consequence of the lack of institutionalised protection of human rights and the distrust that had been built up of the former legal order, but also the post-electoral events which had created hopes of change and the establishment of legal institutions. The December 2000 survey points to a conclusion that the then research assumptions were well-founded, but also to the fact that establishment of trust in institutions, which would boost the presence of positive law approaches to the interpretation of human rights, will take a lot of time. A year later the pro-jus naturale numbers returned to their 1998 level (the euphoria has faded away), while the positive law approach is growing gradually (1998: 22.3%, 2000: 25.6% and 2001: 27.7%). The changes recorded do indicate a tendency and are thus encouraging, but they also show that the build-up of confidence in legal institutions will be a very slow process. A fall in the incidence of adherents of the jus naturale approach a year after has been attended by a rise in the number of those viewing human rights in the light of global conspiracy theories. Their incidence dropped after the October 5, 2000 events, but has now returned to the level recorded in 1998 - one out of ten people in Yugoslavia. The result could also be a consequence of vociferous demands made by international institutions between the two surveys for enhanced cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY).

Besides a lack of confidence in legal institutions, a problem which still exists in the perception of human rights in the FRY is the lack of conformity between various statutes which was a result of a number of hastily adopted bad, controversial or even unconstitutional and/or unlawful statutes.⁶ This legal chaos jeopardises the privileged status of human rights in the legal system; although the chaotic situation was inherited, the procedure of upgrading the legal system is taking time. If we add to this the fact that the constitutional courts have not been functioning in the post-electoral period, then it becomes clear why many of the old legal illogicalities are still in force. That was the reason why we continued monitoring the way people perceive the hierarchy of legal documents, which is why we posed the question what would have primacy in cases where there exists legal unconformity.

Most respondents granted precedence to constitutional standards, the same result recorded at the end of 2000. But in spite of the encouraging nature of this finding, we stress that this was the opinion of just one out of three respondents. One out of five thought laws should take precedence and 19% opted for international standards. The numbers of those favouring domestic and foreign law were about equal in this survey, perhaps a consequence of debates and dilemmas around the adoption of a law on cooperation with the ICTY and the advantages of international law over domestic law and vice versa. Changes in views about the precedence of legal documents since 1998 are interesting. They are shown in Table 2.

Table 2: Unconformity of legal documents

	“If legal documents are not in conformity, what has precedence?”	July 1998	Dec. 2000	Dec. 2001
1.	The contents of international documents	15.6	14.4	19.0
2.	The Constitution	21.5	32.4	33.6
3.	Laws	14.6	18.1	20.6
4.	The opinions of people in government	22.9	13.4	10.0
5.	The opinions of wise people	22.9	18.9	12.8
6.	Something else	2.5	1.7	0.9
7.	Does not know, or no response	-	1.0	3.0

⁶ Examples are laws which in contravention of the constitution stripped Vojvodina of a number of its powers, the existence of capital punishment in republican law but not in federal law etc.

	T o t a l	100	100	100
--	-----------	-----	-----	-----

Viewed against the findings of the 1998 poll, significant changes were recorded in the responses to the question on precedence where there exists unconformity of laws. They are positive and it is especially important to note a constant decline in the number of those granting precedence to prominent individuals, in government or outside it. In the 1998 survey they outranked those who gave primacy to laws, the Constitution or international treaties. Compared with the 1998 findings, the percentage of those favouring the opinions of individuals was halved, from 45.8% to 22.8%, and is showing a tendency to decline further. Although the trend is positive, there still remain far too many people who trust individuals in cases where there is legal unconformity. Parallel rises were recorded in the number of those placing their trust in legal documents - Constitution, laws and international documents - with the biggest increase being those who favour the third category (a rise of 5% since December 2000). This is a consequence of the aforementioned events and debates in 2001. But although their rating has improved more than those of others, international documents still lag behind domestic legislation, the Constitution and laws. But it is nevertheless positive that the process has been initiated and that it is far more dynamic compared with others recorded in public opinion surveys.

3. Individual rights

3.1. Prohibition of discrimination

Prohibition of discrimination was like in the two preceding polls studied by gauging the results of five questions dealing with five areas. Three concerned prohibition of sexual discrimination (in politics, employment and promotion in service, and marriage), one ethnic discrimination (in employment) and one sexual orientation (homosexuality).

The inequality suffered by women has clearly been growing worse in the entire post-communist period in the FRY and can be recognised in many areas. Surveys conducted by Scan in 2001 of the social and economic status of women in Yugoslavia show that the inequality of women is seen particularly in election to political and managerial posts, the economy and elsewhere. Inequality is a also a feature of marriage. Interestingly, for a number of years public opinion polls on social and political relations

have not yielded results showing significant differences depending on gender. But there are growing differences between the sexes in views about equality of women. Asked whether women could exercise all the same rights enjoyed by men, 64% of the women surveyed said 'No', while 60% of the men said they could. Asked to list the areas in which inequality was most pronounced, most respondents chose political appointments, followed by appointment to managerial posts, and relations in the family.⁷ Women made up two-thirds majorities in the structure of all three responses.

Inequality of women in the political life of the FRY has been evident for many years. A report by the Council of Europe published before the 2000 elections ranked Yugoslavia third-lowest as regards representation of women in the federal legislature with only 5% (at one point just 3.5%). Only Liechtenstein and Moldova were even worse. In spite of a campaign conducted by NGOs dealing with human rights and women's rights and the women's political network championing a 30% representation by women in parliaments, their share in legislatures did not improve much after the 2000 elections. Just nine of the 178 deputies in the Yugoslav Parliament are women (one in the Chamber of Republics and eight in the Chamber of Citizens). The situation is not much better in the republican parliaments, where women's representation has risen slightly to around 11%. Interestingly, by coincidence both republican parliaments are now for the first time ever chaired by women. The situation in municipal assemblies is even worse than those at federal and republican levels. Numerous local assemblies have no women at all or just one, while the average representation of women in local administrations is just 6%.

Interestingly, before the elections and immediately after them, there were more men who recognised the inequality of women in political life than a year later. Among this group, the number of those who think there should be many more or at least more women in politics than now has also dropped.

This was also shown by this survey. Compared with the December 2000 poll, the incidence of men who think women are represented in political life sufficiently went up by 14 points (from 15% to 29%). If we add up this group and those who think there are too many women in politics with those who have no opinion on the subject, we can see that women hoping their status in politics will improve have an absolute majority of the male population against them (57%).

All this points to a dire need to adopt anti-discrimination regulations and quotas, as recommended by the *Peking Declaration* on the position of women in society, or a statutory regulation of sexual parity in political representation.

⁷ Milka Puzigaća and others, *Socijalni i ekonomski položaj žena Jugoslavije* (Social and Economic Status of

The population is still generally aware that women are discriminated against in the areas of employment possibilities and service promotion. Compared with the December 2000 survey, some shifts have taken place, in that the number of respondents who think women are unequal has dropped. In 2000 this was the answer given by 44.3% of those polled, compared with 30% in 2001. There was a large jump in the incidence of men who believe women enjoy equal employment opportunities (35.6% in 2000, and 61% in the current survey). Interestingly, more men now think that women enjoy a better chance of finding a job (11% a year ago and 16% now). Other studies have shown that asked about jobs open to women, people regularly list boutiques, restaurants and cafes. But the objective situation is completely different. Women do find more employment in trade and catering establishments, but on jobs usually lacking social and health benefits ("grey economy") and usually limited in duration. The private sector is far more open to men than women - this is particularly important in view of the ongoing privatisation process. These processes and trends can serve to further boost unemployment among women, who already have a far higher share on the job market. All this points to the following conclusions in our survey: the incidence of those who think women have poorer employment and service promotion opportunities is higher among women than men. About 41% of the women held this view. The group of women who think there is sexual parity in employment opportunities includes a larger share of women over 65 - in contrast, this age group had the lowest representation among women who think their sex is subject to job discrimination.

In Montenegro, we found that 37% of those polled perceived an unfavourable status of women in regard to employment possibilities, compared to 29% in Serbia.

A different trend was recorded in regard to sexual (in)equality in the family. The incidence of those who think there exists full equality between partners in marriage grew in the past four years from 49.5% in 1998 to 54% in 2000 and 62.5% in the December 2001 survey, while the percentage of those who see continued male domination declined, from 41.4% in 1998 to 37.9% in 2000 and 33.4% in 2001. Viewed by respondent gender, the results differ widely. Almost 71% of all men now believe women have achieved marital emancipation, contributing to the overall trend of growing belief in sexual equality in the family - this is a major increase from the 57.5% recorded in 2000. Only one out of five men think women are not equal partners in marriage. In contrast, twice as many women (43%) think their sex is not equal - this is less than last year (53.1%) or in 1998 (49.3%). Viewed regionally, marital inequality was perceived by 46% of those polled in Montenegro, compared with just 25% in Vojvodina.

The conclusion that can be drawn from the data is that trends recorded earlier persist, and that the people of Yugoslavia, especially women, have become more sensitive to various forms of discrimination against women and are increasingly willing to challenge beliefs in the existence of emancipation. Research has shown that there is a far higher level of readiness for activism among the women of the FRY (between 25% and 33%),⁸ than the corresponding figures in the Western European countries (from 12% to 15%). This form of activism did experience a slight decline in 2001, albeit to an equal degree among the two sexes.⁹ The situation in regard to discrimination against women is bad throughout the country, and somewhat worse in Montenegro than in Serbia: all this points to a need to draft a national action plan and to enforce national mechanisms for ensuring sexual equality, of the type already in place in most European countries.

Our survey of discrimination against ethnic minorities focused on views about employment and service promotion. Asked about the opportunities enjoyed by ethnic minorities for finding a job or advancement on it, a large majority (67,1%) replied: “the same as Serbs/Montenegrins”. This is an 11-point increase from the 2000 survey, and a 14-point jump from that in 1998. There was a drop in the number of those who believe ethnic minorities enjoy better job opportunities than Serbs and Montenegrins, and a sharp drop in the incidence of those who think their opportunities are worse. Viewed territorially, the results vary from those recorded in December 2000, when just 15.2% of our respondents in Vojvodina believed ethnic minorities were subjected to job discrimination, compared with a corresponding figure, the highest regionally, of 29.1% in Montenegro.¹⁰ The latest survey resulted in different and even totally opposite relations: the figure for Vojvodina remained steady at 15.9%, but in Montenegro it dropped sharply to just 7.6%. Belgrade and central Serbia remain positioned between these two extremes, but now it is the people Vojvodina who believe ethnic minorities suffer job discrimination, and those of Montenegro who are the least inclined towards this view.¹¹ At the same time, fully 73% of the people polled in Montenegro do not believe there is any ethnically-motivated job discrimination, while the corresponding figure in Serbia (the lowest by region) is 61.4%. Table 3 shows the results of the three surveys about employment and job promotion opportunities.

⁸ *Id.*

⁹ Research has shown that readiness for activism, especially political, usually happens after elections.

¹⁰ *Report 2000*, p. 282.

¹¹ The difference between the figures recorded in Montenegro in December 2000 and a year later might be interpreted by the tensions, which arose there after the elections - the fears of ethnic strife and the outbreak of a civil war. But the differences could also be a result of other factors this study has not been able to discover.

Table 3: Employment and service promotion opportunities for ethnic minorities

	“What are the chances national minorities have of finding a job and advancing in service?”	July 1998	Dec. 2000	November 2001
1.	Better than Serbs/Montenegrins	13.1	13.2	10.3
2.	The same as Serbs/Montenegrins	53.1	55.7	67.1
3.	Worse than Serbs/Montenegrins	20.5	21.3	11.7
4.	Doesn't know	13.3	9.7	10.9
	T o t a l	100	100	100

The alteration in attitudes towards employment discrimination against national minorities in Montenegro came mainly as a result of a change in the views of Moslems and ethnic Albanians.¹² In the preceding survey they held the highest share among those who said there was employment discrimination against national minorities; this time their views mirror the average. In the current survey it was ethnic Hungarians who prevailed in pointing to job discrimination (57.6%)¹³ - it is therefore an absolute majority among ethnic Hungarians who believe there is discrimination against national minorities in the field of employment and promotion in service. They are far above the rest in this respect: ethnic Croats are second with a 27.3% rating, followed by “others” and the ethnically-undeclared (19.8%) and Yugoslavs (16.4%). Percentages among all other ethnic groups are lower and about similar.

The survey also included a question about discrimination against homosexuals. The responses point to trends more in a negative than positive direction from the preceding study. The incidence of those who think homosexuals are censured and socially shunned dropped by a point (from 33% to 32%), as did that of those who believe little such condemnation exists (from 23.6% in 1998 down to 18.7% in 2000 and 12.1% in 2001). But there has been a jump in the incidence of respondents who think homosexuals are overprotected (from 23.9% in 1998 to 24.6% in 2000 and 33.3% in 2001). One out of three people think society protects homosexuals too much, but this view is contradicted by the

¹² Almost all of those who declared themselves in our survey as ethnic Albanians live in Montenegro, while the number of Moslems polled in that republic was 11%.

¹³ *Multikulturalnosti u Vojvodini* (Multiculturalisms in Vojvodina), a study Scan conducted in Vojvodina in March 2000 (authors Milka Puzigaća, Miloš Marijanović and Milica Andevski), also resulted in widespread views about the existence of job discrimination against national minorities.

events in Belgrade in the summer of 2001, when homosexuals on their first-ever public march were attacked and brutally beaten. If we had concluded in our previous study on the basis of the survey's results that the people of the FRY were a little more inclined to admit the existence of an anti-gay social bias, this year's findings show that they have become more inclined (or may be exhibiting their actual views more openly) towards challenging gay rights (which they in fact lack).

3.2. The Right to Life

Views about the respect of the right to life were surveyed through examples of two forms of this right: freedom from extra-judicial killing and freedom from capital punishment. The question posed in connection with the first was: "What is done with people who are known to be dangerous criminals, although no proof exists of this?" Like the previous surveys, a trap was laid for the respondents by the rhetorical remark "known to be dangerous criminals" leading to the conclusion that there exists no reliable proof for the crimes allegedly committed by these "dangerous criminals". Besides the traditional choices, two more inherent to repressive regimes were offered - that such "dangerous criminals" should be prosecuted secretly (without the exercise of the customary procedural guarantees) or that they should even be simply liquidated by the State Security Service (SDB).

The findings were similar to those of the preceding surveys. More than two-thirds (67.9%) rejected secret trials or liquidations by the state and opted for prosecution on the basis of sufficient evidence. The percentage is two points higher than that in 1998 and a point lower than the 2000 survey, but this could be statistically insignificant. Belief that the said "dangerous criminals" are being tried summarily in the FRY was expressed by 6.3% of the respondents, virtually identical with the percentages recorded in 2000 and 1998. The biggest changes were recorded in respect of the possibility of liquidation by the SDB - in 1998, 18.5% of the respondents believed in such an option, in 2000 there were 14.1% and in 2001 just 11.3%. The number of those who were uncertain rose from 10% to 14%.

At the end of 2001, when the survey was conducted, there was no capital punishment in the Yugoslav Constitution for crimes regulated by federal laws, while it existed in the republican legislations for the "most serious forms of criminal offences" regulated by republican law. No constitutional changes happened between the two surveys

and the death penalty could not be handed down for offences like war crimes and genocide, but could for various homicide crimes regulated by republican legislation.¹⁴ Both the Serbian and Montenegrin legislatures utilised the constitutionally-prescribed possibility of providing for capital punishment, which is now applicable in the entire FRY on the basis of the republican criminal codes. The confusing situation made it imperative to study general views on the issue.

The findings show that because of the chaotic legislation many respondents believe that capital punishment does not exist in the FRY - no fewer than 48.9% in the current study, up from 35.7% in 2000 and 26.6% in 1998. Consequently, there was a drop in the incidence of those believing the death penalty does exist, but only in federal legislation (10 points less than the 33.5% recorded in the 2000 survey and 15 points lower than the 39% in 1998). Just 10.8% of those polled believe capital punishment exists in republican legislations - here, 4.1% think capital punishment both exists and is applied, while 6,7% say it is not being implemented. Some 16.5% were unable to provide a response. The biggest differences in views on the issue were expressed last year in Belgrade and Montenegro.¹⁵ This relationship remains visible in the response that capital punishment does not exist, which was given by 42.4% of those polled in Belgrade and no fewer than 53.3% in Montenegro. Vojvodinians lagged behind Montenegrins by just 0.4% this time. In last year's report it was concluded that there was a higher dispersion of views in Serbia than in Montenegro but this time the dispersion is equal in all parts of the FRY.

The conclusion of the 2000 survey that a large majority of respondents were convinced that there were in the FRY no secret trials of “dangerous criminals” for whose alleged crimes there existed no reliable proof was reaffirmed in this survey. But respondents also showed they knew even less about the possibilities provided in federal and republican legislations for capital punishment.

3.3. Prohibition of torture, inhuman and degrading treatment and punishment

The prohibition of torture was handled in the survey through two of its forms: freedom from torture and reprisals by the state (institutionalised through the formal guarantee to suspects that they will not be subjected to extraction of confessions by force), and freedom from court-imposed corporal punishment.

¹⁴ Comp. V. Dimitrijević, M. Paunović in collaboration with V. Djerić, *Ljudska prava (Human Rights)*, Belgrade, Belgrade Centre for Human Rights, 1997, p. 230.

¹⁵ Comp. *Report 2000*, p. 297.

In order to test their attitudes on torture and state reprisals, respondents were asked: "Is the use of force allowed when trying to obtain a confession for crimes punishable by death?" Some 55.3% gave a negative response - some 2.7% less than in 2000 but about 10% more than in 1998. In contrast, more than one in four (26.4%) think such use of force is legitimate - 17.3% said it should be allowed as long as it does not harm the health of the suspect, and 9.1% as long as it does not threaten the suspect's life. Compared with the preceding survey, the number of those supporting the use of force in extracting confessions as long as there is no threat to life has dropped (by 3.4%), but that of those who think it can be done as long as health is not threatened has gone up by 1.2%. If we add to the former those who do not know whether the use of force is or is not allowed, it turns out that there is still a large number of people (47%) not aware about the meaning of freedom from torture and state reprisals.

In contrast to the preceding survey, this one indicates a shift in opinions about court-imposed corporal punishment. Asked if corporal punishment existed in the FRY, the correct (negative) response was given by a majority (63.9%) higher than that in 2000 (57.3%). The incidence of those giving the incorrect response was halved - from 24.1% in 2000 to 12.4% in the 2001 survey. Another 2.4% provided the positive response, but limited it to their own republic. While the number of those who think corporal punishment exists in the FRY fell, there was a considerable increase in the incidence of those who do not know one way or the other. The results point to a conclusion that in spite of all shifts, the research conclusion made in 1998 still stands - there is widespread belief in the FRY that an individual being prosecuted (both in the investigation and execution of sentence phases) cannot preserve his or her physical integrity and be spared maltreatment. Over one-third of the sample (36%) expressed doubts in this regard. Judging by the responses, physical violence as a means of extracting confessions and as a sentence imposed by courts still exist in the legal consciousness of the Yugoslav people.

3.4. Prohibition of Slavery and Servitude

The survey did not encompass questions about the prohibition of slavery and servitude because of an obvious existence of cognisance of the prohibition of slavery in the legal consciousness of the people of the FRY.

3.5. The Right to the Freedom and Security of Person and the Treatment of Persons Deprived of their Freedom

Awareness about the right to the freedom and security of person was in all three studies researched by processing answers to the following question: “How long is investigative detention under Yugoslav law?” The correct response (one month, and six months in exceptional cases) came from 45.2% of the respondents, while 7.5% believe it can last up to three years. No fewer than 18.5% think detention can last for as long as it takes to find evidence to convict (potentially for life!), while 28.8% are unsure about the legally-prescribed pre-trial detention. Comparing the results with those of the 1998 and 2000 surveys, one can see a continuing tendency of improvement. But comparing this year's survey with that of 2000 shows an almost unaltered incidence of those who gave the correct answer, but a shift in the direction of the “don't knows” of the number of those giving one of the incorrect responses. The number of those insisting on their (incorrect) answer has dropped, in favour of those who said they were not sure. In all three studies there was evident correlation between the responses to the question about the duration of detention and the respondents' educational levels - the higher the educational standards the more correct were the answers and vice versa. Viewed by this standard, 61% of all university-educated respondents gave the correct answer and just 21% of the uneducated group. The gender-dependent differences recorded in earlier studies remain: more men (53.9%) than women (36.6%) gave the correct answer. Other studies have shown that in reply to the question “What is your biggest bother and waste of time?” many more men than women say this happens in business transacted with police. In 1998, this response was particularly widespread among men living in the Sandžak region.

The results lead towards a conclusion that respondents' consciousness about the limits of the state's infringement of the freedom and personal safety of individuals is improving, although it is still far from being well-developed. There continues to be little awareness of the right to personal freedom and security, hence the considerable number of people thinking the state authorities have a “right” to keep suspects in investigative detention for as long as they want.

3.6. The Right to a Fair Trial

The preceding two chapters show that most of the difficulties surrounding the exercise of human rights in the FRY are in the area of autonomy of the judiciary. Both in the matter of legal proceedings and the enforcement of binding legal decisions, the people of Yugoslavia are far from certain that they will be able to exercise their rights. A year after the democratic changes, when there was much talk about the establishment of an independent judiciary, in which numerous personnel changes have taken place, it was of some interest to look into responses to questions dealing with the right to a fair trial.

The first question was about how long a suspect could be kept before being questioned by a judge. The biggest group did not know the answer, some 28.3% gave incorrect answers, and the rest (31.6%, less than one third) gave the correct one. No significant shifts have taken place since the 2000 survey, except for a 5% fall in the number of those who think a suspect has to be brought before a judge within three months, and for an increase in the “don't know” category.

Although there was a reduction in the number of those who believe in secret trials and executions by the SDB, some 6.3% of respondents still believe secret trials are organised in the FRY for “dangerous criminals” for whose alleged crimes no there exists no reliable evidence. Asked if the law prescribed that all legal proceedings must be public, compared with 2000 there was even a drop in the already small number of those who replied positively (18.9% now, compared to 21.5% a year ago). One out of four respondents is convinced that the rule is either not valid at all (25.4%) or that there are many exceptions from it (30.6%). Compared with the preceding survey, the number of “don't know” has doubled (from 13.9% to 25.1%). Last year's finding that the highest incidence of those believing in numerous exceptions from the rule was recorded in Montenegro was confirmed by the 2001 results, but the differences have been considerably reduced. Some 33.7% gave such an answer in Montenegro (compared with 44.8% in 2000) and 26.8% in Vojvodina (against 32.1% in 2000). Looking at correlations, however, indicates that responses to the question have little link with territorial location (region, republic or province).

Respondents were also asked whether there was automatic presumption of innocence in courts in the FRY. Responses showed little shift from those recorded in 2000. Two-fifths (40.1%) replied positively, and 10% said they did not know. The rest, almost one-half (49%) said either that the rule was inapplicable (9.2%) or that there were many exceptions in practice (39.8%). Together with the “don't know”, fully three-fifths of those polled were sceptical about the validity of presumption of innocence in the FRY.

In contrast to the repeated discouraging results in responses to the last three questions in the area of the right to a fair trial, those about the freedom to choose a defence attorney were once again better, but a little less so than those recorded in 2000. A convincing majority (69.4%) said the rule was applied without exception, 5% said the opposite, and 16.1% said there were many exceptions. The remaining 10.7% could not give an answer.

Respondents were also asked to rate the judiciary in the FRY. Compared with the 2000 survey, the number of those saying judges were mainly bad and dependent on political will dropped (from 53.7% in 2000 to 47.6% in 2001). Just one out of ten (9.5%) believe judges are good and independent, mirroring last year's results. About one-third (31%) believe that judges are trying to preserve their integrity in very bad conditions; this is 1.6% more than last year.¹⁶ Some 11.9% did not have any opinion - 4.7% more than last year. Comparing data collected in all three surveys shows that the decline in the good reputation enjoyed by the judicial profession recorded between the 1998 and 2000 surveys has been halted, but the very high percentage who think judges are anything but good and independent has also dropped. The impression is gained that respondents have a vacillatory opinion of judges. There continue to be no regional or indeed other socio-demographic variations between Montenegro, Vojvodina, Belgrade or central Serbia, except that more of the better-educated respondents have an opinion about judges than those without any education or primary school. Respondents with secondary-school educations or trade schools were the most critical of judges, while the highest educated group generally tended to the view that they did their best in the prevailing conditions.

The results show that the people are generally well aware about the erosion of the judicial profession in the FRY and believe that the judiciary is still not independent. Respondents still exhibit very warped views about the possibilities offered by domestic procedural law - most of them challenge to a lesser or greater extent the existence of procedural guarantees, such as undelayed appearance of a suspect before a judge, publicness of legal proceedings and the presumption of innocence (in contrast to the right to a defence counsel of one's own choosing, which respondents think has been accomplished generally).

3.7. The Right to the Protection of Private and Family Life, Home and Correspondence

In our survey the right to privacy was represented by two types of freedoms: freedom from inspection of private mail and monitoring of telephone communication, and freedom from police searches of homes without a warrant.

The survey showed that a large majority of those polled believe there is unconditional freedom of communication by mail and telephone in the FRY (60.7%). In 2000 this view was held by 63.5% of those polled, some 14 percentage points higher than in 1998. The latest figure is 3 points lower than a year ago. Some 32.2% believe police have a right to open mail and tap phones without authorisation from a court; in this total 6.1% think sufficient grounds for police would be protecting the authorities, while the remaining 26.1% believe the only justification can be the security of the country. The number of “don't knows” has risen (from 4.2% in 2000 to 7% now). The number of those who think police are entitled to open mail and tap phones has fallen from one-half of the sample in the 1998 survey to a third in 2000, and remains at that level.

Respondents were asked to list the cases in which police can search a private dwelling. Several answers were possible and the totals in Table 4 are therefore higher than 100%. Some 40% of the sample gave two answers, 20% gave three and the rest a single answer.

Comparing the results with those of the previous surveys shows evidence of a tendency, albeit with very modest movement. Some 73.2% said police can search a private home if they hold a warrant issued by a court; this figure is 4% down from last year's survey. There was a considerable drop in the number of those who believe police can search a flat at the instructions of the SDB (from 25% in 2000 to 19.7% now). The percentage of respondents who think a warrant from the interior ministry is sufficient for a search remained at last year's level (34.4%). Over one-quarter picked one of the two answers according to which no warrant is needed for a search, sufficient grounds being existence of suspicion that security has been threatened (15.4%) or simply whenever it is deemed necessary (11.3%).

Table 4: Grounds for searching a private dwelling

	“In which cases can police search a private home?”	July 1998	December 2000	December 2001
--	--	-----------	---------------	---------------

¹⁶ In the Report 2000 a typographical error gave the percentage for this response as 19.1%; the correct figure was 29,6%.

1.	With a court-issued warrant	71.7	77.0	73.2
2.	If they have a warrant from the State Security Service (SDB)	32.7	25.4	19.7
3.	If they have a warrant issued by the Interior Ministry	43.2	34.7	34.4
4.	Whenever security is threatened	19.4	14.7	15.4
5.	Whenever they deem it necessary	20.6	15.3	11.3
6.	Doesn't know	5.3	5,7	6.6

Notwithstanding the large number of those who believe a warrant issued by a court is necessary in order to search a private home, there was still a considerable number of people who think all that is needed is someone's appraisal of the security situation or a need.

3.8. The Right to the Freedom of Thought, Conscience and Religion

Opinions about the right to the freedom of thought, conscience and religion were surveyed by looking into freedom from state ideology in the educational system, and the freedom of professing and manifesting one's religious convictions.

The first form of the right to the freedom of thought, conscience and religion considered here is freedom from state ideology in schools. We asked respondents if educational curricula had to correspond to some form of official teachings. Most (45.9%) said they did not know - some 15% more than last year. Some 38.7% said they did not have to conform to any official tenets; this is similar to last year's percentage. There was a large drop in the incidence of those who believe curricula must be brought in line with official doctrines (from 28.7% in 2000 down to 15.3% in 2001), but most of those who picked this answer declined to say which doctrines. Those who did listed "those defined by the minister of education", and "those advocated by the party in power". There was a rise in the number of respondents who mentioned the teachings of the Serbian Orthodox Church; this is not surprising as religious instruction had been introduced as an optional subject in schools immediately before the start of the survey.

The future of the educational system is obviously something of a puzzle to most people - hence so many (one in two) who said they had no idea what was happening to programmes of study at the moment.

The second form of the right to the freedom of thought, conscience and religion we surveyed was freedom to profess and manifest religious convictions. Asked "How extensive do you think is the freedom of professing and manifesting religious convictions?" 47.5% of those polled said there was genuine freedom. The incidence of those believing religious freedom was still limited has dropped by almost 8% compared with the previous survey, down to 12.1%. One-third (31.4%) think there is excessive freedom because dangerous sects are being tolerated. One out of eleven (9%) said they did not know. The number of those satisfied with the scope of religious freedoms stayed at last year's level, the number of those not satisfied fell, and that of those who don't know rose.¹⁷ Opinions are very polarised in Yugoslavia in regard to the freedom of professing and manifesting religious convictions.

Last year's report said polarisation was not as pronounced among the national minorities, and the current findings bear out this conclusion. In fact it is the Serbs who are the most sharply divided between those who believe religious freedoms are ample and those who think they are excessively broad. Polarisation, albeit lesser, was also recorded among Yugoslavs and Montenegrins. Besides this relatively low level of linkage of responses to ethnicity, we could say that viewed in statistical terms there is little correlation between the responses on religious freedoms and ethnic background.

3.9. Freedom of Expression

In the former SFRY, freedom of expression had been one of the rights most often threatened. Article 133 of the Federal Criminal Code¹⁸ dealt with so-called "verbal offences" clearly with the aim of suppressing criticism. "Verbal offences" have been abolished formally in the FRY, but there remains some doubt whether relics of this institution survive. For that reason we sought to check whether people thought anything

¹⁷ The *Report 1998* included a typographical error. Asked their opinion about the freedom of manifesting religion, some 39.3% of those polled said it was the desirable level (this percentage was given correctly), some 15.1% said religious freedoms were still restricted, and 37.4% that they were excessive, as dangerous sects were being tolerated (the Report gives a figure of 5.4%). Some 8% said they did not know. The error also produced an incorrect conclusion in the Report 2000 that there had been a considerable increase in the number of those believing religious freedoms were being tolerated excessively. Quite contrary to that conclusion, in 2000 there was a fall in this group of about 9%, and a small rise of 2% in the current survey.

¹⁸ Compare collected papers: *Misao, reč, kazna* (Thought, Word, Punishment). Verbalni politički delikt (Verbal political offences), Belgrade, Institut za kriminološka i sociološka istraživanja, 1989.

had changed in this area in the meantime. Three choices about the current situation were offered to respondents: absolute freedom of disseminating information, freedom of disseminating information up to limits defined by international law (the example given being restrictions on tarnishing someone else's reputation) and freedom to disseminate information with an attached ban on criticising the authorities. The first question was whether anyone could be prosecuted for disseminating information. Some 28.1% said there was absolute freedom of spreading information; this finding is similar to last year's. Some 38.4% said there were restrictions on the dissemination of information which proceeded from internationally-defined standards; this percentage is 7 points lower than that recorded in 2000. Belief that dissemination of information was still being limited in the FRY in all cases where the authorities were being criticised was expressed by 17.9% of the sample, just 1% less than in 2000. A fall in the incidence of those believing freedom of dissemination of information was restricted by a ban on tarnishing someone else's reputation caused a significant increase in the "don't know" group (from 7.7% in 2000 to 15.6% now). The results show a continued decline in the incidence of those believing any criticism of the authorities represents grounds for limiting freedom of disseminating information, but the drop is not as pronounced as it had been between the 1998 and 2000 surveys. What provokes concern is the fall in the number of those who think restrictions on the dissemination of information were in accordance with international standards.

The next question linked with freedom of expression was: "Is there censorship in art?" - some 19.6% replied positively, down 12% from the figure recorded in 2000. Some 11.2% said that there was no formal censorship but that it was being practiced in state institutions connected with the arts; this is 7% down on last year. But the fall in the number of those who believe some forms of censorship do exist in the FRY was not attended by a corresponding increase in the incidence of those who are absolutely certain that it does not exist - the figure of 28.6% recorded is similar to last year's. Viewed from 1998 on, there has been almost no change in the incidence of those who believe that there is no censorship of art, which means that the view that this form of censorship exists in the FRY persists in the legal consciousness of the people. The number of those who are not sure has doubled (from 20.7% in 2000 to 40.7% in 2001).

Responses to the question "Is there censorship of the press?" in the preceding surveys provoked even more concern. This was reflected in this poll, the only difference from the others being a small drop in the incidence of those who gave an unequivocal "yes" (from 51.4% to 46.9%). There was also a drop in the number of those who said that there was no formal censorship in the press, but informal censorship in some of its

segments (from 10.9% to 6.8%). The incidence of the view that there is no press censorship remains at the 1998 and 2000 levels - only one out of four respondents (25.5%). Like many other questions in the survey, here too there was an increase this year in the number of “don't knows” (from 12.5% in 2000 to 20.8%). The 2000 report showed differences on this issue between respondents in Serbia and those in Montenegro. In this survey this difference was even more pronounced: in Montenegro no fewer than 60.1% of those polled believe there is censorship of the press in their republic (the view is held by more supporters of the opposition SNP than those of the ruling DPS), compared with a corresponding figure of 44.1% in Serbia. Just 14% of our respondents in Montenegro believe there is no censorship; in Serbia the figure is 28%.

Investigation of opinions about the freedom of the press included questions about the perceived attitude of the authorities towards that the independent segment of the press - that not owned and run by the state. Responses differed somewhat from those in 2000 in that there was a drop in the number of those who think the state is doing a lot to stifle the independent press (26.2% now, against 33.5% in 2000). All other responses mirrored last year's: 32.9% said the authorities treated independent newspapers the same as all others, and 19.3 % said the authorities tolerated them because they believed their influence was low. Again the number of “don't knows” grew, and territorial differences were evident: 22% of those polled in Serbia believe the state is doing everything to stifle the independent press, but there were twice as many in Montenegro (42.9%). Conversely, 35.7% in Serbia think the state treats all equally, against just 20.1% in Montenegro.

A question about the position of independent publishers elicited similar responses: 31.6% said the authorities treated them like they did all other publishers. There was a small fall in the number of those who think the authorities tolerate private publishers because their influence is tiny (from 20.2% in 2000 to 17.9% in 2001). The biggest drop was in the incidence of those who think the authorities are out to suppress private publishers (21.6%, against no less than 38.8% in 1998 and 30.4% after the 2000 elections) - the figure has thus been virtually halved (17.2% fall) since 1998. But it should be noted that in spite of the significant drop, one out of five people in Yugoslavia still believe the state is stifling private publishers. Once again, there was a corresponding increase in the number of “don't knows”, leading to a conclusion that the people are still wary of the future, although changes are evident. There was also a territorial distinction: no fewer than 33.9% of those polled in Montenegro (against 19% in Serbia) think the state is seeking to strangle private publishers; in this total there were three times as many SNP supporters than those of the ruling DPS.

Respondents were also asked for their views about the position of independent radio and TV stations. Once again here was a drop in the number of those who believe the authorities are out to suppress them (from 31.3% in 2000 to 25.4% in 2001). But this did not lead to a corresponding increase in the incidence of those believing the authorities treated such radio and TV stations fairly: in fact their number dropped from 38.3% in 2000 to 34.8% in 2001. Again the only rise was the “don't knows” total (from 11.9% to 21.1% in 2001). Montenegrins once again expressed more displeasure with their government's attitude towards independent broadcasters (40.6%), against 22.1% dissatisfied in Serbia. In Montenegro, 62.5% SNP supporters held this view, against 14.6% of all DPS supporters.

A summarised picture of the perception of freedoms enjoyed by the mass media in the FRY is marked by a number of interesting points. Belief that there exists censorship in the media is still widespread in both republics - after 5 October it declined considerably, but is still shown by one in four and one in five, respectively. But this has not led to changes in attitudes to the existence of freedom. The euphoria which led after the democratic shift to a sudden turn in views about media freedoms gradually abated and turned into cautious expectations, hence the modest fall in the number of those who think the media are free and considerable rise in the number of those who are not sure either way. Differences between those polled in Serbia and Montenegro are still evident. In Serbia, about one-third of all respondents believe there is no state repression against the media; the distribution is about even among supporters of all parties, albeit slightly in favour of those of the ruling parties. Similar conclusions were made about the responses to the question on the existence of censorship. But in Montenegro the differences are very pronounced, depending on the political orientation of the respondent: most DPS supporters think the media are free, while most SNP supporters say censorship is very much present in Montenegro. The finding is also evidence of the existence of a growing media problem in Montenegro and tensions between the two opposed political options.

Respondents were also asked for their opinions about the organisations involved in monitoring human rights violations in the FRY and informing the domestic and international public about their findings. The incidence of those treating them as beneficial organisations had jumped by 18 percentage points between 1998 and 2000 (from 30.1% to 48.2%), but by 2001 dropped sharply to 38.9%. Although the fall of almost 10% may provoke some concern, it needs to be said that this group is still the biggest. The drops were divided equally between Serbia and Montenegro. The number of those viewing human rights organisations as illegal and foreign-financed and a threat to the state

remained close to the level in 2000 (14.4%)¹⁹, when it had been virtually halved compared with 1998 (25.6%). If we add to this those who think the said organisations are useless and never did anyone any good (29.3%), we get a total of no less than 44% who have a negative attitude towards the said organisations, the conclusion being that more people in the FRY have a negative view than a positive one. The rest (17.3%) were “don't knows”. The dynamics of change in attitudes towards human rights organisations leads to a conclusion that they are still not fully in the public eye. The sudden rise in positive views after the elections may have been a consequence of the post-electoral euphoria, whose abatement then returned public opinion to more realistic levels. Given that NGOs are still very new in this region, winning public support will require more time than could have been expected at the end of 2000.

3.10. Freedom of Peaceful Assembly

Respondents were also asked for their opinions about conditions under which peaceful public assembly can happen, with the aim of staging a public protest. Peaceful nature of the gathering was the choice of 33.8% of the sample, some 49.9% said clearance from a competent state authority was required (although none of the three constitutions in force contain any such requirement), while 8.4% picked the existing constitutional and legal requirement in Serbia²⁰ - that the assembly does not obstruct traffic. Another 7.9% did not know. Comparing results with those from 1998 and 2000, the first conclusion is that the findings of all three are almost identical, differences being confined to decimals. In fact this was the question with the smallest incidence of change in the entire survey. Many more respondents chose a restriction which does not exist in law (permission from the authorities) than one which does, in the Serbian constitution and law (not obstructing traffic). There were very small variations in the social, demographic, territorial, professional and ethnic distribution of answers.

¹⁹ In the 2000 survey, the percentage of those who believed the said organisations were illegal, foreign-financed and a threat to the state was 13.5%.

²⁰ The condition is defined under article 43 (2) of the Constitution of Serbia, and defined in detail in the Serbian Public Assemblies of Citizens Act, dating from 1992.

3.11. Freedom of Association

We also sought to look into any changes in connection with the freedom of association after the fall of socialism, during which membership in the Communist Party was an important precondition for social promotion and a means of informal control. The first question involved listing the cases in which the law required membership in the ruling party for election and appointment to a certain post. Given that more than one answer was possible, the percentage totals in Table 5 exceed 100%.

Table 5: Cases in which membership in the ruling party is required by law

	“In which cases does the law require membership in the ruling party?”	July 1998	Dec. 2000	Dec. 2001
1.	For the appointment of a director in an enterprise which is socially-owned or in joint ownership	31.5	23.4	22.8
2.	For the appointment of senior and junior officials in the state administration	38.7	25.7	26.2
3.	For the appointment of judges	27.9	18.3	18.8
4.	None	28.1	45.7	43.0
5.	Does not know	25.0	19.3	22.4

Just over two-fifths (43%) gave the correct answer: that under the law membership in a/the ruling party is not a requirement in any of the cases offered. In the survey conducted after the 5 October 2000 events and before the republican elections later that year, there was a major shift and an increase in views that the law does not require party membership for any office. The opinions given in that survey have generally been retained, with a small drop of 3% (perhaps the only visible change since 2000). Adding to this the “don't knows” total (22.4%), it appears as if a majority (65%) is not inclined towards the view that election to some posts requires membership in the ruling party. But one-third of those polled do think membership in the ruling party is a legal prerequisite for the appointment of managers, state officials and judges. In this group 26.2% believe the requirement covers the state administration, followed by 22.8% who think it relates to the

socially-owned economy, and 18.8% to the appointment of judges. Responses did not differ territorially but did depending on professional criteria. The highest incidence of the correct response (“never”) came from entrepreneurs (56.8%), followed by professionals and intellectuals (56.3%) and university and secondary-school students (50%), and the lowest from housewives (25.5%). There is also a certain level of educational interdependence - the higher the level of education, the higher the incidence of those giving the correct answer. There were no age or gender variations, but the highest interdependence was recorded in connection with political preferences: the highest number of correct answers came from supporters of the Civic Alliance of Serbia (82%), the Liberal Alliance of Vojvodina (60%), the Democratic Party (55.4%) and the Liberal Alliance of Montenegro (55%). Supporters of Montenegro's two biggest parties gave similar responses.

Trade unions are a specific form of association in Yugoslavia: in the former SFRY they were an integral part of the ruling establishment and thus unable to articulate and genuinely represent the interests of their members.²¹ Given the large number of strikes in the past year, it was deemed important to look into the efficiency of the newly-formed independent trade unions. Like the previous two surveys, the results of this latest one proved quite disappointing.²² An even smaller number of those polled are satisfied with the organisation and activities of the independent trade unions in the FRY today than there were in 2000 (13.4% compared with 17.9%). Critical attitudes remain at the levels recorded in 2000 and 1998. Three-fifth of those polled (57%) view independent trade unions in a negative light. The biggest objection is that they are bad and poorly-organised and represent the interests of their members poorly (22.2%), followed by the objection that they are a just a front for manipulation by managers and politicians (20.3%) and that they only exist on paper (16.6%). Over one-third said they had no opinions about independent trade unions. The results show that the unions' public rating continues to be very poor. No social or demographic inter-linkage was recorded.

3.12. The Right to Peaceful Enjoyment of Property

Social ownership was one of the pillars on which the legal system of the former SFRY was based.

²¹ See A. Molnar: “Sindikalizam u Srbiji – prošlost i sadašnjost”, *Dijalog*, No. 1-2/96, pp. 79-83.

²² See *Reports 1998 and 2000*.

After the collapse of the SFRY, social property continued to exist as the dominant form of ownership in the FRY (in fact only in Serbia, as Montenegro has abolished it).²³ Public opinion trends in connection with social and private ownership have been the subject of numerous surveys since the beginning of the 1990s. Even then attitudes towards social ownership began to change in a negative direction (“it is fertile ground for acquisition of wealth by the privileged few”), with a parallel normalisation of the formerly distorted views of private ownership. In the past few years attitudes to private ownership have been largely positive, but those to “acquisition of wealth” have changed very slowly and split the public into three groups: the pros (“enrichment, but in what form?”), the cons, and the neutrals.²⁴ Serbia adopted in 2001 a privatisation law which has caused much public controversy; we therefore posed a question about the relationship between private and social ownership in the FRY. Some 25.9% said they were equal - twice as many as in 2000 (13.4%), and 16.7% said social ownership was dominant (close to last year's 18%). By far the biggest was the group which views social ownership simply as a front for illegal graft (45.5%); this percentage was nevertheless 13 points down from that in 2000 - 58.4%. The “don't knows” made up 11.9%. There clearly still exists among the people of Yugoslavia very widespread feelings that they were robbed and of the manipulative character of social ownership and discrimination against private property (in Serbia).²⁵ Attitudes differed towards these two forms of ownership between the youngest and the highest-educated respondents on the one side and the oldest and least educated on the other.

3.13. Minority Rights

Rights specific to minorities were in our survey represented by questions on publication and education in minority languages. Asked if national minorities were entitled to publish books and attend schools in their own languages, most respondents replied positively (46.7%), listing no additional conditions. The figure is far lower (13%) than that recorded in 2000 - 60%. Some 33.7% of the respondents said his right could not be exercised without explicit authorisation from the state authorities (7% more than in the preceding survey). Some 12% came out in favour of denying this right to “all disloyal” ethnic minorities (the figure in 2000 was 10%). This time there were more who did not

²³ More on links of the “new” authorities and “old” social ownership: A. Molnar, *The Collapse of Self-Management and Rise of Führerprinzip in Serbian Enterprises*, Sociologija, No. 4/96, pp. 539-559.

²⁴ Scan has been monitoring public opinion on private and social ownership since 1990.

²⁵ All of Scan's public opinion surveys show that there is more trepidation and anxiety about privatisation in Montenegro than in Serbia, although the process was begun in Montenegro far earlier.

know than in 2000. It is evident that the results are far more disappointing than those of the survey conducted in the aftermath of the 5 October turn: although those who think minorities are fully entitled to publication and education in their own languages are the biggest group, there remain just as many who believe that they cannot do so without the permission of the state, or even that the state can strip ethnic minorities it deems “disloyal” of that right. Ethnic background played a major role in deciding the response: the most restrictive were Montenegrins, followed by Serbs and Yugoslavs. No fewer than 91% of the ethnic Albanians polled said the said minorities' right was unconditional; they were followed by Slovaks (85%), Croats (76%) and Hungarians (68%). The findings differ considerably from those of 2000, particularly in regard to the ethnic Albanian minority; it could be a consequence of last year's electoral fever and uncertainty which provoked anxiety among the people of Montenegro.²⁶ But the results also show that there is growing inclination among the majority populations, both in Serbia and Montenegro (Serbs and Montenegrins) towards restricting minority rights - this is a finding which provokes some concern.

3.14. Political Rights

Parliamentary elections were held in both republics in the period between the two surveys. In Serbia, the former communists (SPS and JUL) lost the first elections in many years: the theretofore weak opposition won power for the first time since the introduction of multi-partyism. In Montenegro, the former communists had split into two parties, the DPS and the SNP, the former of which has been in power from the start, although in 2001 it failed to win an outright majority and form a government on its own. A question which has still not been resolved fully in the minds of the people of Yugoslavia is whether political pluralism in fact exists and whether there can exist a right to peaceful political opposition which would automatically take over the government of the country after winning elections.

Respondents were asked the same question as in 1998 and 2001: Do we have in the FRY the same sort of multi-party system that exists in the West? Some 46.8% gave a positive response; this is almost identical to the 2000 results. More than one-third (35.7%) said a single party held all the power while opposition parties were entitled to run in

²⁶ Most of the ethnic Albanians polled lives in Montenegro, where fears of ethnic strife and civil war had

elections: the incidence of this view is somewhat lower than in 1998 and 2000. The view that the former communists will not yield control was voiced by 3.9% of our respondents, continuing the falling trend since 1998 (20.1% in that year and 7.5% in 2000). The rest were “don't knows” (13.6%), whose incidence has doubled in a year's time (from 6.6% in 2000). Territorial differences recorded earlier remain evident: in Montenegro more people (46%) believe pluralism in their republic is not complete (as they have one party with undisputed power) than in Serbia, where the corresponding percentage is 33%. Concurrently, there were in Serbia 10% more who think their republic has a multi-party system similar to those in place in the West. In Montenegro a linkage was evident between responses and political preferences: 60% of all SNP supporters say multipartyism in Montenegro is an illusion as it is ruled completely by a single party, while among supporters of the ruling DPS 49% said pluralism was similar to that in the West, but there was also a considerable percentage (39%) among them who agree with the view held by most of the SNP supporters.

We also asked respondents what happens *under domestic law* when an opposition party or coalition wins elections; we asked explicitly for their views about the legal procedure of changing government following an opposition victory. Some 44.5% said the opposition would assume power automatically (in 2000 the percentage was 43.8%). But once again over two-fifths of those polled expressed doubts about a possibility of an automatic change at the helm. One-third (32.1%) think the Supreme Court has to confirm the results of the elections, and one out of ten said in such a case there would be repeat elections. Some 13.4% were “don't knows”. The results lead to a conclusion that there is still an absolute majority of people in the FRY who think that (or do not know if) the legal system contains mechanisms obstructing or preventing the opposition from assuming power. No territorial variations were recorded.

3.15. Special Protection of the Family and Child

The eruption of nationalism in the former SFRY also had a major effect on the family, where mixed marriages are just one aspect of this complex problem. We posed a question about the biggest perceived obstacles standing in the way of mixed marriages today. One-half (50.3%) said there were no such obstacles; there has been a constant rise in this indicator (38.3% in 1998 and 40.6% in 2000). The decline also continued in the

incidence of the response that such obstacles lay in (political) propaganda which had wormed its way into people's personal lives, from 32% in 1998, down to 27.6% in 2000 and 19.6% now. The number of those who think obstacles lie in views that mixing blood between different nationalities was undesirable retained its level of the past years (22.7%), as did that of those who see restrictions in repressive measures by the state (2.3%). "Don't know" made up 5%. A large number of our respondents are aware of the obstacles which stand in the way of marriage, but attribute them mainly to the men and women themselves or the propaganda which had a decisive effect on the criteria according to which partners in marriage are chosen. No variations were recorded which depend on socio-demographic characteristics or ethnic background.

3.16. Right to Citizenship

The disintegration of the former SFRY which began in 1991 created a problem of citizenship which affected millions - in the former Yugoslavia many people might have been born in one republic, educated in another, set up home and married in a third, and lived in a fourth in 1991. The problem did not affect just those forced to move from their homes because of armed conflicts, destruction and hardship, but also many residents of Serbia and Montenegro who were born there and have lived there all their lives, yet were because of regulations in force at the time of their birth entered in registers kept in their parents' (usually fathers') hometowns. Most such people live in Vojvodina, as a consequence of a number of (mass economic and other) migrations to that fertile region. The problem became even worse after the creation of new states in the former SFRY in view of the very difficult position of people exiled from many parts of the former joint state: all of them encountered major difficulties when trying to regulate their citizenship status. Leaving aside this last set of problems, we will focus here on respondents' views of difficulties linked to the acquisition of Yugoslav citizenship.

Attitudes to these problems have changed visibly since the post-electoral political shift. Procedures have been streamlined, and the federal authorities have launched a campaign aimed at speeding up the resolution of the problem: this has affected public opinions on the subject. Asked about the necessary conditions for Yugoslav citizenship, there were many more today who think they are fair (38.9% now, compared with 28.4% in 1998 and 25.3% in 2000). There was a large drop in the incidence of those who say that complete chaos reigns in the area (32.6% in 1998, 33.9% in 2000, down to 22.2% in 2001). The number of those who say people are subjected to discrimination because the

state is ignoring the fact that once we all lived in a single state has also fallen (from 25.5% in 2000 to 13.2% in 2001). One out of four did not have a view on the subject. Notwithstanding the positive trends we recorded, one out of three still see problems of a discriminatory nature in the area. No socio-demographic variations were noted.

There are several categories of people in the FRY not entitled to Yugoslav citizenship. They include those born here but barred by a formal condition, refugees, immigrants from Albania who had never even sought Yugoslav citizenship, as well as those who have acquired a foreign citizenship but would also like Yugoslav (dual) citizenship. This survey looked into attitudes towards these categories of people who are without Yugoslav citizenship. The findings are listed in Table 6, together with corresponding figures from 1998 and 2000.

Table 6. Treatment by the state of persons seeking Yugoslav citizenship

	Persons applying for Yugoslav citizenship	July 1998				December 2000				December 2001			
		Unyielding	Fair	Pliant	Does not know	Unyielding	Fair	Pliant	Does not know	Unyielding	Fair	Pliant	Does not know
1.	Refugees applying for citizenship	30.7	46.4	23.0	-	40.5	38.3	17.8	3.5	21.7	52.9	13.3	12.0
2.	Ethnic Albanians who are not seeking citizenship	20.2	29.3	50.6	-	19.6	29.6	45.0	5.8	9.9	34.5	40.5	15.1
3.	Citizens of the B-H Federation who want Yugoslav (dual) citizenship	28.9	50.8	20.3	-	32.8	43.1	17.8	6.4	16.8	52.3	15.3	15.5
4.	Citizens of other ex-YU states who also want Yugoslav (dual) citizenship	28.0	52.1	19.9	-	31.7	43.4	17.8	7.0	16.0	53.9	13.9	16.2

5.	Citizens of other countries who want Yugoslav (dual) citizenship	23.0	56.1	20.9	-	21.9	49.4	21.6	7.1	10.8	58.0	14.3	16.9
----	--	------	------	------	---	------	------	------	-----	------	------	------	------

The results show that respondents are aware of positive changes in the state's attitude to persons seeking Yugoslav citizenship: the change is evident in a shift in the states' rating from “unyielding” to “fair” in regard to its attitude towards all categories of such applicants. The number of those thinking the state is too pliant has fallen, especially as regards refugees (10% less than in 2000 think the state is too yielding to them). A similar shift was recorded in the case of (ethnic) Albanians who are not seeking Yugoslav citizenship, the difference being that two-fifths of those polled now think the state is too yielding towards them. Compared with all other responses, these have the character of a tendency and are significant viewed against the 2000 survey. Fully 58% of those polled think the state treats foreign nationals seeking dual citizenship the best, followed by the citizens of the ex-Yugoslav states (53.9%); the smallest percentage in the “fair treatment” category was that for Albanians who are not seeking citizenship.

The findings of the 1998 and 2000 reports that citizens of the FRY differentiate between the conditions faced by the “indigeneous” population in the FRY on the one hand and refugees and foreign nationals on the other are no longer valid: all categories seeking Yugoslav citizenship are now treated about equally, except the Albanians, who are not seeking citizenship. Most respondents think the state treats the former categories fairly; those who do not think so mainly believe they are being discriminated against. The latter, most people say, come in for an overly soft treatment by the state.

3.17. Freedom of Movement

The investigation of views about freedom of movement included the question: “Can any citizen of the FRY live wherever he or she wants in the FRY?” An absolute majority (56.3%) gave an unconditional “yes”, while 23.1% believe resettlement requires permission from the authorities. Some 13.4% think people can only settle where they are deemed desirable, and 7.2% could not give any answer. In contrast to the 2000 survey, no linkage with ethnic background was found.

Asked “Can every citizen of the FRY leave the country freely?”, 45.1% gave an unconditional “yes” (9% more than in 2000). There was a significant drop (13%) in the incidence of those believing clearance from the authorities was needed, but this was still the choice of one in three (34.5%). Although the exit toll requirement for Yugoslavs travelling abroad has been abolished, some people (13.8%) still think only those who can afford to pay the said tax can leave the country (in fact 2% more than last year). We found that our respondents think there are more limitations to the freedom of movement for those trying to leave the country than those changing residence within it.

We also asked respondents to list those whom the country could legally expel. The correct response (only foreign nationals, and not Yugoslavs under any conditions whatsoever) came from just 36.3% of the sample, a result close to last year's. Some 17.4% think the state cannot expel anyone legally, and 16.1% think it can be done to “foreigners and Yugoslavs who have committed a serious criminal offence”. There are still some who believe the state can expel foreigners and disloyal FRY citizens (8.1%) or foreigners and disloyal members of national minorities (5.0%). Some 17% did not provide any answer.

3.18. Economic and Social Rights

The diverse group of human rights making up the category of economic and social rights was investigated through three rights. The first concerns employment of juveniles. Asked if employing children under the age of 16 was punishable by law, there were fewer in 2001 than in 2000 who gave the correct answer (“Yes, in every case”) - 43.2% now against 47.7% in 2000). All others gave incorrect responses: “Yes, if the child is not physically or mentally competent for the job” (16.5%), “No, if the child supports his or her family in that manner” (26.9%), or “don't know” (13.3%).

Respondents were asked which documents were needed to get a job in Yugoslavia today, besides the Workers' employment record book and educational certificates. Some 4.3% listed a certificate of nationality (which, of course, does not exist and was invented for the purposes of this survey); this is fewer than in the preceding years.²⁷ A political party membership card as a condition for employment was listed by 9.5% (in contrast to the previous years, when the parties mentioned were the SPS and JUL, this year more respondents listed “a ruling party”, the party to which the company director belongs, the

²⁷ See *Reports 1998 and 2000*.

DOS etc.). One out of five (20.6%) said it was necessary to have a certificate of permanent residence in the town where the employer was based, and one out of four (24%) did not know. In contrast to the preceding surveys, there was an increase in the number of those who listed the only correct answer - none of the documents above (from 34.9% in 2000 to 41.7% in 2001). The results show that a relatively large number of people are still poorly informed about the documents needed to get a job.

The question we linked with the right to the use of scientific achievements was the employment of contraceptives. Respondents were first asked: "How widespread is the use of contraceptives today?" Compared with 2000, when the figure was 52.3%, there has been a considerable fall (34.4%) in the incidence of those who think contraceptives are not used adequately because the state is doing little to promote their use. The number of those who said their use was adequate jumped from 16.9% in 2000 to 21%, but so has that of those who picked "excessive" as the answer (from 11% to 15.9%) and of those who did not know (from 19.8% to 28.9%). A majority among those who say contraceptives are not used enough are younger and more educated persons; the incidence of this response in the overall structure fell in parallel with advancing age and declining education, but so did criticism of the state for not doing enough to popularise contraception. No variations according to gender were seen, while differences according to ethnic and regional backgrounds were statistically insignificant.

4. The Exercise of Human Rights

We ended by posing two questions on the respondents' views about the exercise of their own human rights (those mentioned earlier) and the best manner in which they could be protected. One out of three (32.1%) was completely satisfied with the exercise of his or her human rights, and 38.4% said they managed to exercise most of their rights. Less than one-fifth (18.2%) said the exercise of their human rights was a rather random affair as they could be threatened by any person with impunity, while 11.3% said their rights were threatened mainly by the state. Over two-thirds of all respondents say they can exercise most or all of their human rights, and there has been a significant drop in the number of those claiming the rights are threatened, but there are nevertheless still almost one in three who say they feel threatened. No ethnic variations were recorded. Comparing the results with those of the December 2000 survey, we can see that most of the changes are visible among ethnic Albanians, after the elections in Montenegro.

Table 7: The Right Solution for Protecting Human Rights

	“If one of the human rights listed above is threatened, the best thing to do would be to approach ...”	July 1998	Dec. 2000	Dec. 2001
1.	Influential people in the government	17.2	18.4	19.9
2.	An international court	9.7	7.6	7.4
3.	A domestic court	17.5	26.9	34.7
4.	People who do anything for money	17.7	9.7	8.6
5.	People with the right connections	32.1	31.0	24.4
6.	Someone else	5.7	4.4	2.2
7.	No answer	-	2.0	2.8
	T o t a l	100	100	100

Responses to the question what someone whose rights have been threatened should do (Table 7) show that a convincing majority (52.9%) continue to believe in unofficial mechanisms - talking to people who have connections, influence or power. Confidence in the judiciary is low (the same goes for international courts), albeit somewhat higher than in the previous years.

6. Conclusion

A summarised view of the the status of human rights in the legal consciousness of people in the FRY based on the results of the survey conducted in December 2001 leads to a conclusion that there has been improvement compared with 2000. The survey in 2000 was conducted immediately after the political changes in October that year, and showed considerable changes compared with 1998. Those findings could have been influenced by emotions and feelings of euphoria rather than a reflection of a rational view of the situation in the legal consciousness of the public. Every conclusion therefore had to be attended by a measure of reserve.

But the results of the latest survey show that the changes recorded in 2000 have acquired the character of trends. In most cases they stayed at the levels recorded then, or

rose modestly or stagnated due to a “wait and see” attitude; this concerns particularly institutions in which certain rights or mechanisms for their protection are exercised.

The change noted in 2000, a link between socio-demographic indicators and legal consciousness, is still evident. The factors which had until then played an important role in forming attitudes to human rights - age, education and profession (with some exceptions) - were no longer that. Political orientation remained the most important factor in Montenegro, but its importance declined considerably in Serbia (for example, supporters of parties of all colours rate media freedoms about equally), although it does remain important in some areas. Divisions are even more evident in Montenegro than they were in 2000, a possible generator of crises in the republic - the differences seen are similar to those recorded in Serbia before the 2000 elections, and have been made even more complex by the division into two opposed groups: 44% of the people of Montenegro favour an independent and internationally recognised Montenegro, against 46% who want it to remain together with Serbia in a reorganised Yugoslav community.

People in Serbia are slowly growing more critical of the new authorities in regard to some questions of legal consciousness, but their criticism shows patience, caution and even tolerance, leading to the conclusion that Serbia is developing a civic conscience marked by respect for processes and for the times (“nothing is possible overnight”).

A concrete analysis of the cognisance of individual human rights and assessment of their exercise in the FRY shows continued progress, but also stagnation in the ratings of the respect for human rights and institutions in charge of protecting them. In spite of the progress recorded, there are still very many people who are poorly informed, especially in the human rights area dealing with procedural guarantees before the state authorities. In assessing the existing status of some human rights, the people of Serbia, and especially Montenegro, were more critical and realistic than at the end of 2000.