

LEGAL SYSTEMS OF THE WORLD

A POLITICAL, SOCIAL,
AND CULTURAL ENCYCLOPEDIA

Volume I: A–D

Edited by Herbert M. Kritzer

A B C  C L I O

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tique," despite her attempted use of poststructuralist theory. Stanley Fish takes up this criticism of Dalton and CLS, arguing that they use an epistemology organized through the two poles of subjectivity and objectivity. By engaging in ideology critique, CLS leaves open the possibility for an objective description of social life for which it cannot account. According to Fish, because we cannot perceive or evaluate "objects" without the training we receive as subjects through a variety of disciplinary institutions or "interpretive communities," the objectivity of any claim is always contingent upon the discursive rules of a particular interpretive community. Thus, we may *change* our understandings of events, but it is impossible to achieve an unbiased view of the world.

RIGHTS AND THE DEATH OF CLS

The practical influence of CLS is limited because it was a radical critique of the legal orthodoxy at a time of increasing conservatism in the United States. Why did CLS die? Some, like Pierre Schlag, emphasize that to identify oneself as a crit scholar in the 1980s was to put one's career in grave jeopardy. Although this statement is certainly true, the emphasis here is on intellectual developments to which CLS did not succeed well. If

blacks find that having rights means that they are recognized as equal members of the community. Thus, Williams's critique of CLS on rights avoids the pitfalls of ideology critique while illustrating the benefits of a consideration of questions of race to an evaluation of law as a tool for mitigating oppression.

Although CLS is effectively dead in the United States today, it would be wrong to dismiss it as a failure. CLS gave birth to a number of continuing legal projects that deepen our understanding of the intersections of race and law, as well as the "intersectionality" of race, gender, sexuality, and legal subjectivity—schools such as critical race theory, critical legal feminism, "LatCrit" theory, and queer legal studies. CLS continues to be vital in Europe, particularly in Great Britain. CLS may no longer be as influential in the United States as it once was. Nevertheless, it helped create a space for a variety of critical legal studies that continue to flourish in the United States and around the world.

Paul A. Passavant

See also Feminist Jurisprudence; Law and Economics; Law and Society Movement; Legal Positivism; Legal Realism; Marxist Jurisprudence
References and Further Reading



Herzegovina, and on the south it has 1,777 kilometers of coastline along the Adriatic Sea. Croatia has 21,830 square miles) of landmass but also controls nearly 13,000 square miles of intercoastal waters between the mainland and some 1,200 islands off the coast in the Adriatic

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mestic product (GDP) of U.S.\$4,400 makes it the second most developed (after Slovenia) of all states that evolved from the former Yugoslavia.

In geography, culture, and climate, Croatia is highly diverse. North of Zagreb, the climate is continental, while in the south, it is Mediterranean.

legal tradition (mostly in Dalmatian cities such as Split, same time, however, Croatian political and legal life was

eventually tried to reconcile irreconcilable legal concepts (such as a market economy without private property) and introduced hardly conceivable legal notions (such as "social property" that is, ownership without an owner). The

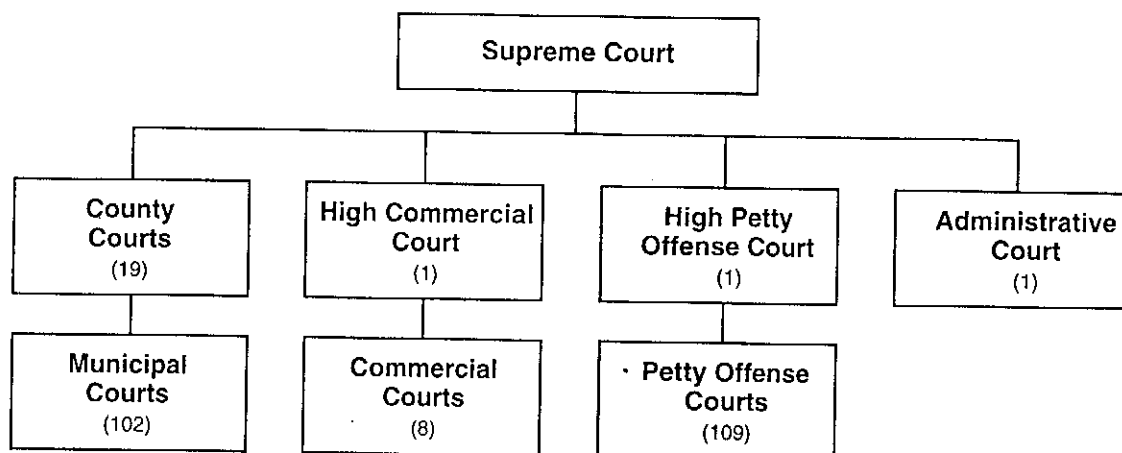
and introduced a parliamentary system of constitutional democracy. The executive is now effectively in the hands of the prime minister, while the president preserves

Croatia is one of the countries that have a separate Constitutional Court entrusted with the protection of constitutional order, whose position is formally outside of the judicial branch. The thirteen judges (eleven prior to the 2000 constitutional amendments) of the Constitutional Court, elected by parliament for a term of eight years, have power to rule both on abstract conformity of laws and regulations with the constitution and on con-

itary courts that were formed by presidential decree in 1991 were abolished at the end of 1996, and their competence is assumed by the ordinary courts.

In litigation, parties may either represent themselves or freely choose a representative, who need not be a lawyer. In practice, in 70-80 percent of cases parties in litigation are represented by lawyers. The Croatian Bar Association, which has approximately 2,000 members, is the only

Legal Structure of Croatia Courts



organized crime and corruption, in the beginning of 2001 a new body was formed within existing judicial structures: the Office for the Suppression of Organized Crime and Corruption (USKOK). A special department of the Public Prosecutor's Office, USKOK is composed of selected prosecutors, police officials, and judges that who investigate and prosecute offenses connected with corruption and organized crime in a special type of proceedings adjusted to meet the needs of combatting those specific forms of crime.

STAFFING

The legal profession is divided into several distinct career paths. All legal careers require completion of law school. Students may enroll in one of four law schools immediately after high school. After four years of study, students are granted the title "graduated jurist," *diplomatus iuris*, which is the equivalent of a Bachelor of Laws degree. In order to practice law, young jurists have to complete a traineeship in a court or prosecutor's office or in a law firm or solo practice. Training may also take place in legal positions within a state agency or a corporation, but in that case it generally takes longer than the usual term of one and a half years. Having completed training, the young jurist may apply to sit the state judiciary examination required for all positions in the judiciary and private practice.

In Croatia, lawyers may work either as private practitioners (attorneys) or as employees in corporations or the state administration. Attorneys obtain the right to practice law by become members of the Croatian Bar Association. Requirements for membership include Croatian citizenship and active knowledge of the Croatian language, a law degree obtained in the Republic of Croatia, legal training in a law office or in the judiciary of at least three years, and passing of the state judiciary examina-

tioned in a law firm; corporate lawyers cannot be members of the bar. Solo practitioners are still more prevalent in Croatia than joint law offices and law firms. Foreign law firms and lawyers do not have the right to practice law in Croatia, but they have begun to show their presence through cooperative arrangements with Croatian lawyers. Lawyers may not perform the duties of a notary public, which is a separate, private profession with its own rules and organization.

Judges and state attorneys typically start to prepare for their profession immediately after graduation from law school. Until 2000, any Croatian citizen who had completed studies at a faculty of law and passed the state judiciary examination could be appointed as a judge at the municipal or petty crimes court. Since that time, however, two years of practice after the examination is obligatory. For promotion to higher courts, more experience in practicing law (primarily before first-instance courts) is required.

The 1991 constitution provides that judges have life tenure until reaching the mandatory retirement age of 70. Their independence and impartiality are also constitutionally guaranteed. Judges are appointed by the State Judiciary Council (SJC), which consists of judges, lawyers, and law professors. The system was designed to provide a high level of autonomy and independence to the legal profession, but in the 1990s these guarantees were frequently disregarded and criteria for professional ability were often neglected. In the course of the appointments made by the SJC from 1995 to 2000, many judges of high reputation were quietly removed and others installed in their place, especially in the highest judicial ranks. The Constitutional Court on several occasions struck down these appointments as in violation of constitutional rights and, in 2000, ruled that the SJC had "twisted the constitutional idea of its tasks" and annulled

Human Resources in the Croatian Judicial Branch

Category	Number of judges
Supreme Court	35
Administrative Court	28
High Commercial Court	18
High Petty Offence Court	32
County Courts	322
Commercial Courts	131
Municipal Courts	867
Petty Offence Courts	363
Total number of Judges	1796
Support personnel (lawyers)	604
Support personnel (others)	5678

Source: Statistical data of the Ministry of Justice, July 2000

tion. This ruling led to the constitutional amendments of December 2000 and subsequent amendments to the laws regulating appointment of judges and the organization of the judiciary, among them being the introduction of a period of evaluation of five years for first-time judges, the separation of bodies competent to make appointments and those charged with disciplinary responsibility over judges and state attorneys, abolition of the right of the SJC to appoint presidents of courts, and the establishment of new bodies of judicial self-administration. Reforms in the organization of the prosecution service are also under way.

IMPACT

The impact of law and courts on society is much greater today than it has been through much of Croatian history. During the socialist era, most social and political problems were resolved outside the legal system, within the party bureaucracy. With the transition to a market economy and multiparty democracy, many hotly contested issues are being submitted to the courts, which are often unprepared to handle them. Virtually all major issues of social and political life find wind up in court—from privatization and economic restructuring to organized crime and corruption and the consequences of war and ethnic conflict. The lack of preparation for these new challenges and the tampering with the judicial system that occurred during Tudjman's rule resulted in considerable inefficiency

investment and economic revival in Croatia. Several foreign and international organizations, including the World Bank, the European Union, the Council of Europe, and USAID, have instituted programs in Croatia in support of the rule of law. Measures to promote efficiency and discipline in courts have brought a reaction from some judges appointed in the 1990s, who now claim that their independence has been placed in jeopardy. The ability to transform and adapt the judicial and legal system to the challenges of the new millennium will have great influence on the overall process of Croatian social and economic reforms.

Alan Uzelac

See also Bosnia and Herzegovina; Civil Law; European Court and Commission on Human Rights; Judicial Independence; Slovenia; Yugoslavia: Kingdom of and Socialist Republic; Yugoslavia: Serbia and Montenegro

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CUBA

COUNTRY INFORMATION

The Republic of Cuba is an archipelago consisting of the main island of Cuba, the much smaller Island of Youth, and over 4,000 low-lying, uninhabited small islands and