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## Between November 1989 and Democracy - Antinomies of Our Politics

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**Abstract:** The essay formulates and analyzes the main antinomies of Czechoslovak domestic politics in the full two years since the "velvet revolution" of 1989 from the standpoint of the ambiguousness of democracy. The principle antinomy is found in the necessity of solving the social problems of the transition to democracy, which are solvable only by democratic mechanisms, at a time before the creation of these mechanisms and their proper functioning. The transition to political democracy can occur within the framework of a variety of hypothetical manners of arranging power. Our great politics is missing a conception of the transition, however. A formulation of a specific position of where we are coming from, the goals we want to reach, and the balance we can realistically achieve is missing. Our democracy did not originate in a natural way - from below. The legislature is neither sanctioning *a posteriori* some kind of already formed social structure, an already functioning economic power or institution, nor ethical or custom-based norms and values already functioning in reality. The adoption of legislative and organizational measures partly will create new situations and institutions and partly open space for the appropriate existing institutions, which have waited out the era of the totalitarian instrumentation of power in our country. This secondary effect of the opening of space for the functioning of institutions, belonging to the traditions of inter-war Czechoslovak democracy, is dismissed by our contemporary politics because our contemporary politics is above all great politics, in no way local and regional, and in no way popular, but rather continuing to be state-based politics.

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The comparison chosen here is not an evaluation of a definite result. It serves to remind us of the possible obstacles in various situations and the results of solving them on our way towards democracy. It is more of a memento, a reminder of the ambiguous character of democracy and the non-sovereignty of many cases of "masterful" behavior in many important political situations, the importance of which is, in the majority of cases, determined only afterwards.<sup>1</sup>

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1) Only when a certain sum of observed events and individual experiences start to transform into history, and it is possible to confront the original efforts, aims and intentions with their results and consequences, are we able to peek a little bit into the deeper structure of events, their relationship, and, together with Hegel, understand that in history, through human actions, something different comes out than what people intend and what they achieve, something different than what they immediately know or want. They realize their interests, but through them something else is created, which is internally contended in their intentions, but which they did not intend. [Hegel 1957: 37].

1.

Hopefully we do not lack consciousness of the value of democracy, nor the consciousness that it is good in itself. The test, however, still lies ahead of us and it will be a test of the primeval choice between the equality of all and the freedom of all, a dilemma within the framework of which democracy and non-democracy has been balancing since the time of the Athenian polis. The present political and legislative processes are the foundation for an economic inequality to which we are no longer accustomed. We do not yet suspect the degree and extent of the inequality that is being born. If we succeed in the near future in institutionalizing the dynamic equilibrium between freedom and equality (inequality), which is a condition holding in the functioning democracies, yet another test will arise, coming out of the constituted economic power, its structure and its relationship to political power. The category of economic power does not yet appear in our considerations at all. We are still overwhelmed by the hum of political power, mainly by "great" politics. One of the main problems of democracy, the relationship between economic and political power, the political power of the rich and the political equality of rich and poor, is only met today in the individualized form of the participation of various politicians and officials of the power structure in the privatization process. The functional and structural depth of the problem for the functioning of political democracy is still undervalued and may surprise us, unprepared as we are, to the detriment of democracy.

2.

The main aim of the first free elections for 55 years<sup>2</sup> was to establish a pluralist democracy, but this was more a vague slogan than an aim that can be easily transformed into a firm, fully realized structure, an aim towards which we could plan out a trajectory by which we would achieve it. On top of this, this formulation evoked an image such that it seemed as if immediately after the fall of totalitarianism democracy started.<sup>3</sup> We have not gotten further than this even after two years. Neither the political parties in their later programs, nor the governments, who should undoubtedly come up with competent conceptual images in front of the public, if only for the minimal reason of creating common consensus and expressing a united state, have advanced in this direction.

Great politics lacks concepts of the transfer towards political democracy - which should be preceded by adequate self-reflection on our situation - and of the conditions of this transfer, which should have been objectively worked out by our unprepared and undervalued social sciences. We did not formulate precisely the

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2) We do not consider the elections of 1946 free but, on the contrary, a conceptually perfectly directed and manipulated attack on the part of left-wing totalitarianism. See [Broklová, Brokl 1991].

3) The basic possible types of the instrumentation of the conflict between equality, liberty and power in modern state societies can be formulated on a continuum between the extremes of right-wing totalitarianism and political democracy as follows: right-wing totalitarianism, left-wing totalitarianism, totalitarian democracy, social democracy and political democracy. This concept can manage without the category of the "third way". See [Brokl 1990].

position from which we are starting, the aim we want to achieve, or a consideration of the sources and capacities for this movement, including the potential trust and tolerance of our citizens. We lack a careful consideration of the possibilities of creating, mobilizing, and maintaining these social and political sources, as well as consideration of the possibilities for the realization of some variants of achieving the aim. This is not a longing reminiscence for socialist macro - social mechanical planning,<sup>4</sup> it's just a reminder of a features of every intentional human activity: mobilizing the sources for achieving the formulated aims purposefully. The most successfully realized examples of such activity can be found in the reaction of the western democracies to the economic crisis of the 1930s, in the mobilization of the economy and institutions of the USA during the second world war and, especially, in the post-war development of many highly developed European countries, or in the catapulting of some third-world countries toward economic prosperity and democracy in the 1970s and 1980s. If the system of the functioning of political and state power with economic power is felt in our era in the highly developed countries as administrative, less flexible, less suitable and demanding relaxation, it is necessary to analyze very well our own situation before we decide to apply some model of the so-called "pure market economy".<sup>5</sup> As political slogans, evoking the images of a capitalism of free competition with its "laissez-faire, laissez-passer" attitude, or of a restoration of certain conditions, in our transitional situation, when no naturally developed economic and political autoregulations exist, would be equally as dangerous and hopeless for our democracy as the images of the past state paternalism.

3.

Two objections could be formulated to the necessity of a conception of the transfer from the point of view of political theory. First, democracy is an empirical phenomenon. It has always developed more or less from the bottom, naturally, through the centuries, or on the basis of the development of production and exchange as the civic principle of the interaction of equal individuals. Its roots and functioning lay in the age-old tissue of the social stratification and value-hierarchy of capitalist societies. Even in ancient Greek democracy and the medieval municipal states, etc., we can find similar presumptions and values in the existence of relatively large manufacturing concerns and the exchange of goods. Conclusion: our democracy does not need any conceptions, it must grow from the bottom. Objection: yes, we need precisely the conception of developing democracy from the bottom, a conception which we lack. Second, democracy is and always has been a matter of form. As such it did not develop *a priori* according to a project or a plan,

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4) On the contrary, it is possible to consider formulations including only one possibility as its mechanistic reminiscence. Achieving the aim, especially in democratic ways, always includes multifunctionality and the aim itself is always an internally structured number of possibilities.

5) Some of our present politicians' declarations about the necessity of the realization of a "pure market economy" have to be understood relatively and reservedly. First, they are made in a situation of quite strong state control of this sphere, and second they are made on the basis of various party (not independent) expert teams and in consideration of party aims.

it grew mainly as a formal principle, as a mechanism, as a certain kind of democracy, not as a qualitative content. This argument is rare, since the concept of democracy as a formal principle has not yet become familiar to us. This is what it's all about, however, the introduction of democracy as a formal principle and not as a certain kind of democracy intended *for* something or *against* something, but introducing it by means of the state constitution preceded by a philosophy of law.

Our various political representatives realize these large established truths of political theory, or at least have a vague intuitive notion of them, and they operate within them in a defensive stereotype against discredited socialist planning whenever there is mentioned the necessity of formulating the conception of our way to political democracy, without realizing the negative dependence on the past and automanipulation for the future they manifest by such an attitude.

#### 4.

Our democracy is not coming into existence in a natural way. Legislation is not confirming *a posteriori* an already shaped social structure, a developing, already functioning economic power or institution, or really functioning ethical and custom-based norms and values, as it was in the past in the majority of today's democracies. In our present situation it is exactly vice versa: legislative and organizational regulations partly create new situations and institutions, and partly open space for the prospective revival of institutions that either survived<sup>6</sup> the conditions of totalitarian society, or which were spontaneously reestablished after November 1989<sup>7</sup> on the basis of a preserved tradition. But the opening of space for these institutions' activities (in our country they belong to the tradition of Czechoslovak democracy from the pre-war period) is a secondary consequence of the above-mentioned regulations and it is beyond the horizon of our present politics for the following reasons. Firstly, because our present politics are mainly great politics, not local or regional, not civic, but more state politics. And those institutions - municipal, local, self-governing, charity, cooperative, union, church, etc. - which support democracy and which came into existence right after November 1989, do not show up clearly in our new democracy because they do not belong to macrostructure of great politics, which exclusively dominates our political scene. On the other hand, in functioning democracies they form the micro- and

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6) In 1968, the year of the reforms, the natural revival of numbers of frozen institutions (unions, common organizations, etc.), the attitudes and values of a market economy and political democracy was more distinct, because the "veterans" who remembered them were still alive. Today's situation could be worse, nevertheless it is a problem that deserves specialized sociological analysis.

7) Foreign projects for comparative research of the transfer to democracy presuppose in the majority only the creation of new democratic institutions and research only them. (Institutionalisierung demokratischer Strukturen in postsozialistischen Gesellschaften, Eine empirische Vergleichsstudie von symbolisch-integrativen Mobilisierungsstrategien neuer politischer Akteure in Polen, Ungarn, and der Tschechoslowakei, K. Werner Brand, K. Maenicke-Gyöngösi, M. Tatur, Jan. 1992, Projektworkshop in Berlin 17.-19. 2. 1992; Demokratisierung und politische Kultur in Ost-mittleuropa, P. Gerlich, F. Plasser, P. A. Ulram, in Projektworkshop in Wien 20.-21. 1. 1992, Ost und West nach dem Umbruch.)

inter-structural basis for great politics and support democracy. The fate of these structures today, that is to say their gradual extinction after a short awakening, is a result of one of the misunderstandings of great politics. On the one hand, great politics supposes it operates as far as the level of the microstructures, but on the other hand it supposes that these structures should gain the means for financing their activities from their own sources - which is impossible in our situation of the non-existence of adequate economic structures, which are just being created - or they have to accept limited allocations as not really independent subsidies of great politics. Also, municipalities are financially and in many other ways still dependent on the redistribution of sources from the central funds of the republics, which is, again, dependent on the leaders of district authorities appointed by the republic government. "Without consulting district authorities a municipality is not allowed to appoint even a deputy secretary of the local authority. Thus the party, which dominates the republic's government can put through its policy even in municipalities where it lost the elections" [Budování 1990]. Secondly, from the point of view of ideology, the real situation of the problem is beyond the horizon of great politics. This politics is held captive by the psychologically understandable, but unrealistic political "revolutionary" stereotype of self - serving immature negativism, which devalues in advance the possibilities for the activities of micro- and inter-structures by pointing at the excessive left - wing orientation of Czechoslovak democracy in the pre-Munich period. By this they neglect the principal of formal democracy that, to a certain degree enables, in a situation of totalitarian denial of basic democratic principles, the restratification of many formally democratic institutions and their further activities even within the imposed totalitarian functionalism. The restratification contains the prospective revival of today's conditions. In political practice we do not always realize the phenomenon of this "Sleeping Beauty" and we do not take advantage of its possibilities by specific arrangements.

5.

For two years we have been focusing our attention only on issues of the political power of great politics, its antinomies and their consequences.

First is the antinomy of establishing political democracy and its legislation on the basis of the old communist constitution. Second is the antinomy of strong republics and a strong federation, followed by the pre-election articulation of the moral superiority of non-political politics in the form of the Civic Forum and Public Against Violence - "we are not the same as them" - which enabled, by accepting the principle of proportional representation, the universally condemned communists to win the position of an important political force especially in economics, accompanied at the same time by the electoral rejection of the Communist Party of Czechoslovakia. The antinomy of non-political politics and its movements manifested itself after the elections on one hand in the division of positions of power among the winners, and on the other hand by their considerations about keeping their promise from before the elections, that they

would dissolve themselves after the elections, and also considerations about the distribution of the gained mandate among other political subjects.

After the elections, after the short proclamatory offensive of the "second revolution" against "dark powers" and "mafias", the promising of postrevolutionary mobility, the securing of the coming of the new political order by good staffing and the substitution of administrative regulations for a "second revolution" caused a certain calming, perhaps the calm before the storm. During this period we probably also passed over the political and legislative opportunity to establish in local elections effective municipal self-government. This could have been the only mechanism holding together the state, both the Czech and the Slovak republics, because of the fact that at certain levels of power the self-governing power would be autonomous from both the great politics of the centers of political power and the pursuit of individual interest along with party disputes going on at the level of great politics. If self-government, which is one of the main supports of democracy, worked well, the focus of citizens' political attention and activity would quite naturally be their real political preferences [Herzmann 1992] and municipal and regional problems. If this were the case, the central organs could not intervene so much in local politics and the central problems themselves would have different instrumentation. The regional (associative) arrangement itself, which is a common organic basis of federalism, then would not have to be the ideal for the future. The disintegration of our state society, of our political and economic scene, which arises paradoxically from the sphere of antinomies in great politics, could be efficiently prevented (in a situation without the existence of the new links still to be brought by the market economy) only by the functioning autonomy of towns and villages.

Autumn local elections succeeded despite the time pressure. Only strange party coalition combinations and the quantity of communist mayors that came out of them caused slight surprise.

Only after the installation of the new political power, towards the end of 1990, could the antinomy of the non-political politics finally be fulfilled: the functioning of political and state power in the society and its carrier, a party or non-party, which was taken by surprise by the harsh manners of competence disputes, which called attention to the basic antinomy of the last fifty years of Czechoslovak existence; the Czech - Slovak relationship, which has further harmonized the cacophony of all our politics in a *tempo furioso* to the present day.

The antinomies of great politics and its monopoly in 1990 opened the Pandora's box of the basic political insecurities of the state's existence, restrained real and necessary public activities, delayed the launching of the economic transformation and blocked the adoption of a new constitution.

## 6.

This was the situation at the beginning of 1991, the year of the launching of the economic transformation. It was started by the liberalization of prices, the new functioning of banks and "small" privatization. The political events, successes and failures of 1991 were to a great extent predestined by the developments in 1990. The contradictions in the political reality in the CSFR after November 1989 are

determined by the transformation from totalitarian egalitarianism and the tension between the values of a civic society (in the Czech lands) and those of a national society (in Slovakia), both leading toward a different political expression. This contradiction was, in the preceding period, integrated by the asymmetry of state and political organs and the two-in-one existence of the communist party. After the collapse of the party's power, no real political power exists which can integrate the common state, except for the moral authority of president Havel. Further development will show to what extent moral respect can also be political power. The political representation gained a mandate for establishing a new democratic constitution and launching economic reform. Constitutional and legislative disputes and disputes arising from the contradictory basis of the situation in the two national communities came to the fore and showed in bright light the disintegrating influence of the basic antinomy of Czecho - Slovak coexistence. One way of resolving this antinomy was imposed on us by right-wing German nationalist totalitarianism during the second world war, and the other way by left-wing Soviet totalitarianism after the war.

7.

The determining antinomy, which can be called the antinomy of aims and means, is the effort to solve problems that can be solved only on a democratic basis and by democratic methods and mechanisms, without the basis and mechanisms existing, before they have developed. The active basis of the different attitudes towards solving this dispute is either a tragic lack of understanding of the philosophy of democracy and its potential or, on the contrary, grasping the only suitable opportunity to realize some narrow political interests of the time, when valuable democratic chances for resolving these problems have not yet been created, while non-democratic repressive chances are already democratically tabuized. The fear on the part of some of the new political elites of the citizens' will, expressed by the means of a referendum about the issue, the only democratic mechanism available for today's new political democracy, and the growing divergency of the formerly unified value orientations and preferences of the representatives and the represented, does not convince us of the democratic orientation of some of the members of the new political elite.

In the declarations of some of the political powers we can see the intention of using the solving of this fundamental question as a subject in this year's elections, which could therefore take on the character of a "quasireferendum". This solution is presented by them as exclusively democratic. Rather than democratic orientation, this tells more about either the high political intuition of the manipulators or their unusually high political professionalism.

In democracies it is a rule that in electoral programs many things are brought together (in contrast to the issue of the referendum). The voters do not always understand exactly what they are voting for, and the parties do not always formulate their programs earnestly enough, as we can imagine without any special political experience. However, an active and positively-oriented citizen wants to vote, and he votes either for candidates if it's possible or for parties. He votes

consciously or unconsciously for what is offered to him and approximates best what he agrees with. An example of this is the elections of 1946. A close reading of the electoral program of the Communist Party of Czechoslovakia reveals that it not only wasn't communist, but was not even a socialist electoral program. That is why their list of candidates was acceptable to the wider public. The fact that they voted for what followed was then foisted upon the voters who voted for this program.

8.

A democratic political system is a function of the division of powers between parliament, government, and the president. In modern democracies the role of executive power, composed of specialists is growing. This is demanded by the complexity of policy in industrial state societies.

In our conditions, between November 1989 and our future democracy, especially in recent times, the situation is confused. It seems that the federal parliament reacts to the antinomies of non-political politics and cabinet politics, and to its former exclusion by this politics (especially in terms of solving the problems of state organization) by claiming the largest share of the powers, which is not an unusual tendency either in history or in present-day democracies. But it would be unusual and tragic for democracy to fail to hang the Sword of Damocles above their heads by threatening its dissolution, not only in the case of failing to approve the state budget, as is allowed by the still effective old constitution. At this point the parliament is going through its own test of maturity. The problematic functioning of a parliament approximately a year before elections and a year after them is a quite common thing in democracies. With respect to this fact and with respect to the unfortunate two year mandate that was given to our parliament, the situation could have been even worse.

The deadlock arrived at in the state arrangement antinomy caused the failure in the basic task that was entrusted to the parliament, the adoption of a new constitution. The validity of the present problematic constitution is a Trojan horse for the next post-election political representation mainly because as a constitution of a totalitarian regime it does not contain the safety measures and brakes on power that are necessary for a democratic system. Paradoxically, it could, before the article about the leading role of the communist party was included, have made the impression of being much more democratic than many other democratic constitutions. This is exactly how it could threaten the establishment of our democracy most in today's situation. Such a situation does not make it possible to solve problems that should have been solved long ago, and especially the problems that Slovakia is posing for the fifth time in our history, the solution of which was prevented last time by the military aggression of the Soviet Union and communist manipulations before that. On the other hand, this situation makes it possible to transpose the whole problem beyond the issues of democracy, beyond the problems of civic society and local and regional authority, to the level of the national state and maybe national democracy.

9.

In post-war Germany, which is not completely different from our situation today, three factors played a positive role in the establishing and functioning of democratic institutions and democracy:<sup>8</sup>

1. a positive economic balance;
2. the adoption of a constitution which fundamentally influenced political stabilization and civil security;
3. the rapid change in social and psychological orientation and feelings of the population from despair and catastrophic expectations connected with the war, insecurity, bomb attacks, migrations, diseases, material shortages, etc. to optimism [Almond 1987].

The results of our political development in the past two years are quite the opposite. From a united will and optimism towards break-up, a feeling of a split in the civic political will and its representation (namely parliamentary and party), towards insecurity and fear, whose legitimate basis calls out the questionable nature of the legal fabric of the state, of the constitution, its function, and the consequences coming out of it, by the present impossibility of solving this problem.

It is not clear what, in the first half of 1990, was in the way of solving this problem (for example, by adopting a temporary constitution), neither is it clear if this fundamental step was even under consideration by the renovated pre-election representation. The solution of today's and the future's insolvable problems, including the territorial organization of the state, could have been positively marked, if not found, by this.

10.

Also, the principal of proportional election, despite the warning voices, was more forced upon the society than adopted after the serious analysis of its known consequences.

The decline of the inter-war democracies and the following dictatorships were a reaction to the model of "the state of parties" and a phenomenon of the "crisis of democracy", a reaction to the paralysis of political life, the fragmentation of the political scene, the creation of uncertain governing coalitions which usually could not satisfy any big concrete interests, a reaction to the model that originated as a result of universally valid proportional elections. Proportional elections do not enable the will of the majority, which bound the government in the inter-war period, to be formed by the will of citizens in the elections. The creation of the will of the majority is transferred by proportional elections to the parliament and its representatives. Proportional election considers that the principle of representation, not the principle of decision should be formed by the majority. The

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<sup>8</sup>) We totally agree with the reminders of the author of the review of our article, that the main factor could have been an unmentioned fact: the presence of a democratic winner in a defeated country and his influence on the economic and political processes of the growing German state society.

parliament usually fails, thanks to the mosaic of representatives, to decide, especially on the most important issues. The incapability to decide and to form majorities leads to exclusion of the parliament from political decisions and leads to a transfer of disputes from the parliament to the government, and to the breakdown of the government. It carries in itself the immediate danger of a political radicalization which threatens democracy. Democracies have often ended in political crisis when a radical right or left wing, as the communists have sometimes done, declared the necessity of uniting around one program to eliminate anarchy and the narrow-minded quarreling of parties, the necessity of governing in accordance with the people's will.

These problems are well-known, they belong to the ABCs of political science, but they got lost in revolutionary euphoria, in the prevailing lack of knowledge of real political mechanisms, in thinking which is more law-normative than functional, and in the illusion of "non-political politics" in the big social movements.

## 11.

The majority of our parties is still searching for the interests they should represent, and the larger part of them will find them only in the future, when on the basis of privatization, the system of social inequality, social stratification and a spectrum of different interests will be stabilized.

Our analysis has shown the diversity of the parties' electoral programs in 1990 [Řehák, Řeháková 1991], but the general conviction prevails that the electoral programs of the parties were almost identical. Our probe of the left-right spectrum of political parties [Hudeček 1992] has shown that the spectrum is quite differentiated although the consciousness generally prevails that it is not specified enough. We can find the explanation for this discrepancy, if we do not consider always possible and only sometimes refutable methodological objections, in differences in the cognitive aspects applied to the same subject of examination, where the object examined was, first, the electoral programs of parties, and second, the political spectrum of the parties. Our attitude evaluated in both cases the differences between programs and parties. Public opinion, the voice of the people, which represents the "voice of God", evaluates in both cases more what each program and party represents, what interest they stand for, and in what way they differ from one another. This point of view intuitively reflects the already mentioned fact that the parties do not have their bases in interests and the social structure of the society, and works with it in opposition to the applied techniques of sociology. The parties and their representatives first and foremost choose their position, they more aspire to it than really try to achieve it or be it. They choose it usually with respect to other determinants than structural ones. They especially make the most of the aspects of a position's supposed political success with voters, of attractiveness (in which the aspect of passing political fashions is also included), mutual party sympathies and antipathies (e.g. to be more to the right than these, more in the center than those, etc.). Only some of the parties, especially those of the Czech left, already have their position historically ascribed.

This unanchored system of parties will for a long time not be a support, but rather a danger for democracy. It is anchored neither in a social nor an interest structure, and that is why the parties do not have regular voters. A common citizen, as survey results show, knows what is going on, but he should use his knowledge for the good of democracy in political parties, although he is not especially fond of them, because democracy cannot be realized without them.<sup>9</sup>

12.

The development of the party political system in our country in the past two years is, in short, a repetition of the historical genesis of classical political party diversification.

The condensation of the historical development of the party system is represented by the role that was played by the movements which won the elections and which, by their break-up half a year after the elections, especially by its consequences in both small and great politics in parliaments and governments, showed the illusory quality of "non-political politics" and the impossibility of making politics in a state society in another way than by means of political parties.

These movements, like the first "parties" of the 19th century, after the establishment of universal male suffrage, enabled people who could not take part in elections for various reasons, especially financial, to be candidates. They mediated between the people's will and its implementation and representation in political power. Later, these parties changed from being mediators to being candidates for political power themselves,<sup>10</sup> the candidates became first and foremost party members, parties wedged themselves between the represented and the representatives.

Our political parties do not in fact fulfil their basic function in the political system today, they do not guarantee that their representatives will fulfill the adopted party programs by their activities and they do not hold them responsible. The political movements are even less capable of doing this. Many surprises can be expected from the Slovak political scene from the leading movement, the Christian Democratic Movement, and from the potentially leading Movement for a Democratic Slovakia. The Slovak political scene is in contradiction with reality, only on the basis of the superficial impression coming out from its incomplete political spectrum is it generally considered to be more stable than the Czech political scene.

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<sup>9</sup>) The question of how to rule without political parties has been thought over by many politicians and thinkers, also democratic ones. Recently A. Toffler in his vision of direct democracy without the mediation of political parties and representatives in parliaments, foresaw a network of personal computers owned by citizens, that would replace the role of the representatives in parliament and political parties and which would realize the sort of direct democracy of the Greek polis in the conditions of post-industrial, computerized and informationalized societies.

<sup>10</sup>) This fact is the basis for all the definitions of political parties: a political party is an organized group of people trying hard with the hope for success in gaining political power in a state.

Measured by the principal of formal democracy, with the help of proportional voting rights (which parties only rarely allow to be replaced by a different one, less advantageous for them) our condensed development will lead, although today we perceive this development still as a consequence of other determinants, again towards a "state of parties", a "crisis of democracy" and the collapse of the state.

13.

The central points of the political antinomies - the non-existence of a philosophy (a conception) of politics, a philosophy of law, etc., the lack of philosophy in our posttotalitarian life in general, including shortcomings in political mechanisms - were up to now successfully substituted for by the moral authority and political activities of president Havel. The analysis of these activities will need a certain distance and especially more information.

The preferences and value orientations of the population found out by IVVM and AISA<sup>11</sup> show that in the limelight are not the values dominating the great political scene, values of state organization and national states, but economic transformation, democracy and ecology. These values, however, lack programmatic articulation and mobilization. The original consensus still works. This consensus will function as long as the population's patience with and tolerance of the vaudeville burlesque of our political scene with its frequent *faux pas* continues. This consensus is not positively politically utilized enough yet, but can be a source of relative optimism. The people (citizens) who have been preserving democratic values for two or three generations through informal structures and family heritage (literature, attitudes, tradition) have only a very small tendency towards party particularism and disputes, and all in all they are more reasonable than a major part of their political representation.

This positive aspect is, on the other hand, negative for the functioning of political democracy, because then the citizens trust their political representation only to a limited extent (except for the president) and especially because they do not trust the political parties, and mainly because they refuse to take part effectively and actively in politics through the political parties, which are the only permanent democratic possibility of enforcing public will. Therefore, the political will of the citizenry does not have any efficient political articulation and opens space especially for individual party interests which they refuse. It is only thanks to the fundamental consensus of the population and the president's activities, which positively correspond with this consensus and which are applied always at the last moment as the catharsis in the political drama, that the situation is not worse. But

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<sup>11</sup>) This is proven by as yet not analytically examined empirical data, beginning with our own research of the MPs of the federal parliament of 1990 (200 respondents) [see Rak 1992], showing the former consensus in the value orientations of the represented and the representatives, followed by two year's continuous research on election preferences done by the Institute for Public Opinion [see Herzmann 1992], and completed by research on the political climate in Czechoslovakia, done by AISA for the Friedrich Naumann Stiftung, January 1992.

this provisional arrangement, based on the president's activities along with the real powerlessness of the presidential office, cannot last for long and cannot guarantee a functioning democracy.

14.

The burden on today's concepts of legality, the juridical system and law, arising from the validity of the problematic constitution and the concept of the legal state, can be seen especially in the attempts at solving Czech-Slovak relations<sup>12</sup> and also in solving many court cases, especially those of political nature (still solved according to the rules of the socialist law) in the past two years and especially now. More than two years after November 1989 it is still not clear what the philosophy of our legal system is. In the mass media many of our political representatives sermonize that the law is the one which is enacted, but the heritage of the wisest thinkers, despite the distance of centuries, tells us that law is being looked for and found all the time. There rises the question of whether the "philosophy" of the contemporary law itself is not only an echo of totalitarian consciousness and a summary of the postulates learned in the university lecture halls of the period of normalization, and if, according to the same philosophy, the political activity of November or December 1989 or the spring of 1990 could not also at any time quite legally be prosecuted.

A social-psychological consequence of the unsolved philosophy of law is the growing feeling of living in legal vacuum and arbitrariness. Yet it would not be so difficult to find the solution in the depths of history. The problem of Nazi crimes that, similar to the crimes of the communists regime, had legal legitimacy is very similar. One of the subjective keys to understanding the situation may lie in the law-normative and sterile way of thinking and reflecting on reality of some of the members of the new political elite instead of sociological or political functional thinking. The activities of the "dark forces" are, with respect to this, only secondary because it is in fact being made legitimate by the ruling philosophy of law.

The coming elections could in this situation and in case these tendencies continue, end up very similarly to the elections of 1946, not in outer attributes but in functional terms, that is, predestined by a purposeful philosophy, again different in the Czech Lands and Slovakia:<sup>13</sup> to offer to the citizens, positively motivated by ideals, values and feelings of the exceptionality of the historic situation in which they are taking part, a spectrum to choose from that is incomplete, shaped in advance and shifted to the left or to the right, to offer in party programs a formulation which cannot be disagreed with, as was done by the Communist Party

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<sup>12</sup>) This philosophy of law, based on the principal that law is what is enacted and only the present law represents the legal state (in which we were interested in opposition to totalitarianism), has been blocking and will be blocking the search for effective solutions to the problem of relationship between the Czechs, Slovaks and Moravians and also other problems. Most recently it has manifested itself mainly as lack of openness to Slovak interests.

<sup>13</sup>) In 1946 the Democratic Party won the elections in Slovakia with 62 % of the votes cast. It was probably the only party with nationwide activity which could have competed with KSČ, which received 43 % of the vote in Bohemia, and 34 % in Moravia.

of Czechoslovakia in 1946. In Slovakia it could easily be some formulations about the sovereignty of Slovakia.

A democracy that states the formal principals of the political system cannot lack philosophy. "We'll never have the democracy we wish to have, if we rely on the law" (T. G. Masaryk). Democracy has never been and never will be obvious.

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