MEMORY OF NATIONS

Democratic Transition Guide

[The Argentine Experience]

TRANSFORMATION OF THE POLITICAL SYSTEM

FERNANDO PEDROSA

INTRODUCTION

During the 20th century, Argentina experienced continuous *instability* in its political regime.[1] This marked a notable difference from other countries in the region that had few institutional interruptions (including Uruguay, Chile, Colombia and Venezuela) and others that maintained undemocratic regimes, but with a high level of stability (Brazil and Paraguay).

Argentina moved smoothly between democratic, undemocratic and semi-democratic regimes[2] although all of them were unable to generate any institutional stability. It was only with the presidential elections held between 1983, 1989 and 1999 that a democratic functioning was consolidated. However, this happened after the authoritarian experience of 1976, which produced a cut in the country's recent history, not only because of the disastrous economic and social consequences it brought about, but also because of the issues linked to State terrorism and defeat in the Malvinas-Falkland war.

The military repression targeted some of the sectors of the elites (in political, trade union, cultural and economic terms), which after the return to democracy occupied high-level positions, both state, governmental and non-governmental. For this reason, the issues related to the 1970s were of great importance from 1983 onwards, as well as being a sustained presence in the public debates of the following decade.

PREVIOUS SITUATION

There were several conditions that explain the military uprising in 1976. **Firstly**, the international and global geopolitical context can be mentioned. The Cold War in Latin America implied a reactivation of the presence of the Armed Forces in the internal life of countries in the name of fighting communism and within the context of the so-called *National Security Doctrine*.[3]

Secondly, the regional context which, related to the above, influenced the coups d'état in Chile and Uruguay in 1973. In 1975, Peru also joined the list that included Bolivia, Brazil and Paraguay well before that.[4]

Thirdly, the explosive internal situation led the country to a degree of uncontrol and violence unprecedented in its history. The death of the then-President Juan D. Perón led to a confrontation between the left and the right of his party. This resulted in increased guerrilla and vigilante activity, resulting in a significant increase in the number of political assassinations, kidnappings, exiles, bombs, command robberies, etc. The social weariness, the power vacuum and the absence of leaderships, contributed to create a growing expectation for a military intervention, waiting to recover some kind of order.[5]

Fourthly, the economic meltdown of the country in the context of the so-called global *oil crisis* must be mentioned. In 1975 there was a great inflationary crisis and a subsequent adjustment and devaluation of the national currency that marked the beginning of the end of middle-class Argentina, as well as the growing increase in poverty and inequality, later accentuated in the years of the dictatorship.

THE DICTATORSHIP

The self-styled "National Reorganization Process" took power on March 24, 1976. The new government was supported by a military junta considered to be the "supreme organ of the State" and composed of the three commanders. The *Junta*, formally, took precedence over the President of the Nation himself. From the very first minute, an equal distribution of power, territory and institutions between the three branches of the Armed Forces (Air Force, Army and Navy) and their respective civilian allies was agreed. However, this was quickly strained by the different ambitions and personal projects of the military.

The "Process…" did not formally change the National Constitution, but all application of its dogmatic part (rights and guarantees) was suspended. Above all, the military imposed above the current legal framework (including the constitution) a series of acts and statutes drawn up by themselves, in which they formalized the distribution of power, objectives and mechanisms of operation of the new regime. In addition, the national legal framework, apart from the political aspects and the restriction of freedoms, maintained its traditional structure.

During the first few years, the military government did not encounter any major obstacles to consolidating and developing its plans, especially in the repressive and economic fields. But by 1982, after six years in power, the military government was not responding to the social demands that had generated that initial consensus. Quite the contrary.

To the violence that the country had in 1976, the military government brought worse, illegal and clandestine violence, which was coming to light, especially, due to international pressure. The economic situation was far from improving. Unemployment, poverty, inequality, corruption and uncontrolled external indebtedness produced a great social discontent that was being exploited by the trade unions and the renewed presence of political parties.[6]

1 Luis Alberto Romero, *Breve historia contemporánea de la Argentina. 1916–2010*, Buenos Aires: Fondo de Cultura Económica, 2017.
2 Scott Mainwaring, Daniel Brinks, Aníbal Pérez-Liñán, "Classifying Political Regimes in Latin America, 1945–1999", in *Studies in Comparative, International Development*, 2001, (1), 37–65.
3 Genaro Arriagada, Manuel Garreton, "Doctrina de Seguridad Nacional y régimen militar", in *Estudios Sociales Centroamericanos*, 1979, (20), 129–153.
4 Manuel Alcántara, Ludolfo Paramio, Flavia Freidenberg, José Déniz, *Reformas económicas y consolidación democrática*, Madrid: Síntesis, 2006.
5 Luis Alberto Romero, *Breve historia contemporánea de la Argentina. 1916–2010*, Buenos Aires: Fondo de Cultura Económica, 2017.
6 In addition, the international context was very unfavorable: since the combination of Mexico's debt crisis, falling commodity prices and rising interest rates. Beginning in the 1980s, the period of economic contraction for Latin America began.

In that context, the military saw in the occupation of the Falkland Islands – in British hands – the possibility of exploiting a widespread nationalist sentiment that would renew their legitimacy to remain in power. Therefore, the defeat in the war left the government without any support and with the repudiation of the citizens. In this context, the government had to call for elections to return to a democratic regime and there the transition and a new opportunity for democracy was opened.[7]

DESCRIPTION OF THE TRANSITION

For a better description, the transition years will be grouped into three different times. First, in the so-called *liberalization of the regime*[8] between the years 1982–1983, then the first transitional government and its challenges (1983–1989), to end with the government initiated in 1989 that ended with the threats of an authoritarian setback beginning the period of consolidation.

1982–1983 THE LIBERALIZATION OF THE REGIME

The Argentine dictatorship collapsed in 1982 with no other plan than to leave the government as soon as possible and return to the barracks.[9] Argentine politicians were faced with the possibility of regaining power in the short term and without conditions. At the same time, they faced an extremely serious economic and political situation.

Despite the military's planned speedy exit, before leaving the government, they tried to resolve the problem that most concerned them: the possibility of being tried, above all, for human rights violations. To that end, shortly before the elections, they acquitted themselves of all crimes under Law No. 22.924, popularly known as "self-amnesty".[10]

Despite the problems with the immediate future, the political parties did not seek to confront them in a common and agreed manner and hardly agreed to press for the immediate holding of elections. The end of the dictatorship did not produce a considerable change in the ruling elites which, in turn, did not generate any space for foundational agreements, as happened in post-Franco Spain. This elusive behavior of the political elite influenced scenarios of recurrent political instability from 1983 to the present day.

On the other hand, the military managed to reach an agreement with some Peronist leaders, thinking that they would be the winners of the elections. The election was called under the current constitution, although some rules were added and removed to privileged political parties related to the dictatorship and Peronism.[11] On the other hand, the Peronist candidate stated that he would accept the *self-amnesty* proposed by the military in the withdrawal.

Things were different than expected. In 1983, the candidate of the Radical Civic Union, Raúl Alfonsín, who had been critical of the Malvinas-Falkland war and rejected *self-amnesty*, triumphed, proposing something unprecedented in the country's history: to try the military juntas for the crimes of state terrorism.

1983–1989 THE FIRST TRANSITIONAL GOVERNMENT

Although democracy was once again reigning in Argentina, the above-mentioned *collapse* referred only to the political regime, as military power and its support remained in place.[12]

The Armed Forces, the Catholic Church, the Peronist unions and the big businessmen sought to permanently condition the government with the support of important opposition sectors and the press. At the same time, the radical government was a minority in the Senate and had only a few pro-government governors. The situation that Alfonsín was dealing with resembled the perfect storm.[13]

Even so, Alfonsín repealed the *self-amnesty* and reformed the Military Code of Justice with the vain expectation that the military would initiate a process of purging and punishment while respecting legal procedures and providing for constitutional challenges. Far from that, they remained firm in what they did during the dictatorship, arguing for the annihilation of the subversive activities in decrees signed by the last Peronist government and for the social demand against violence.[14]

Alfonsín embarked on one of the most complex and paradigmatic processes in recent Argentine history: the trial of the military juntas.[15] To this end, he formed the National Commission on the Disappearance of Persons (CONADEP), whose function would be to gather information so that the judiciary could then act.[16] In April 1985, the trial began and after months of (harsh and convincing) allegations, the existence of a systematic criminal plan became clear and the members of the first three military juntas were condemned. At the same time, the leaders of the guerrilla organizations were also condemned.

The nostalgic sectors of the military regime redoubled their opposition, above all because the possibility of the prosecution of other ranks of the forces beyond the members of the juntas was opened. In fact, new trials began in 1986 that generated a climate

7   Guillermo O'Donnell, Phillipe Schmitter, Lawrence Whitehead, *Transiciones desde un gobierno autoritario*, Barcelona: Paidós, 1988.

8   Ibid.

9   Manuel Alcántara, Ludolfo Paramio, Flavia Freidenberg, José Déniz, *Reformas económicas y consolidación democrática*, Madrid: Síntesis, 2006.

10 Marcos Novaro, Vicente Palermo, *La Dictadura Militar 1976/1983: Del golpe de Estado a la restauración democrática*, Buenos Aires: Paidós, 2003.

11 Law 22.847 (July 1983) increased the minimum number of deputies per district to five, favoring small provinces where conservative parties and Peronism were stronger and added a 3 % threshold that complicated the left. In the Senate, the third seat per province that would have strengthened the radical party was eliminated. The military agreed with the Peronist unions on benefits and wage increases that conditioned the new government.

12 As the classic work of O'Donnell et al (1988) shows, *uncertainty* is one of the characteristics of transitions. The possibility of regression is always latent and it was so during Alfonsín's term in office, even more so considering that the region was still plagued by military governments.

13 In addition to the inherited problems, there was the upsurge of the Cold War with the arrival of Ronald Reagan to the US presidency, the explosion of the debt crisis with the Mexican *default* of 1982 and a dramatic fall in the international prices of the products exported by Argentina. See Luis Alberto Romero, *Breve historia contemporánea de la Argentina. 1916–2010*, Buenos Aires: Fondo de Cultura Económica, 2017.

14 Marcos Novaro, Vicente Palermo, *La Dictadura Militar 1976/1983: Del golpe de Estado a la restauración democrática*, Buenos Aires: Paidós, 2003.

15 It cannot be ignored that more than 40 % of the electorate voted for the Peronist candidate who had opposed judging the military. Interestingly, the greatest opposition came from human rights organizations, with technical arguments or, simply, prejudices against Alfonsín for not coming from the left.

16 CONADEP was composed of a plural group of personalities from the fields of culture, law and legislation, as well as members of some human rights organizations. The final report describes the cases of 8,961 missing persons and 380 clandestine detention centers. The CONADEP's report, called *Never Again*, is, to this day, an icon of democratic reconstruction.

of discontent and permanent conspiracy between the military and its civilian supporters.

The Armed Forces were divided between the top (the high ranks) and the non-commissioned officers with troop command. The latter were the most conflictive and produced three rebellions (between 1987 and 1988) that Alfonsín managed to contain with great difficulty. The military leadership, although confronted with the rebel group, did not support the transitional government either, which was required to *resolve* the issue of the trials definitively and therefore did not repress the uprisings.

The so-called *Final Point and Due Obedience laws*, which limited the universe of military personnel who could be tried, were the result of this conflict between the military and a government that already had scant political capital at that time. At the same time, the unions were constantly confronting the government, taking advantage of its multiple open fronts and producing a wear and tear that Peronism would later take advantage of in electoral terms. In 1989, the violent reappearance of a leftist guerrilla group further complicated the government's situation, especially on the military front.[17]

In addition to the military issue, Alfonsín tried to implement policies of modernization and democratization in various areas of society and the State. He was more successful in education, culture, the renewal of the Supreme Court and in some social laws, such as divorce and shared parental responsibility. At the same time, he failed to reform the trade unions and, above all, to manage the economy, which, at the end of its mandate, was in the midst of a hyperinflationary meltdown. This was key to the ruling party's defeat and the Peronist victory in the 1989 presidential elections.

Peronism defined his leadership in the leader from *La Rioja*, Carlos Menem. Since then, and until its decline, Menemism acted without any other type of interest than its own political benefit and the construction of a leadership that later O'Donnell[18] would include within the so-called delegative democracies. This forced Alfonsín to move forward with the handing over of his command due to the extortion he suffered from the president-elect and in the midst of a crisis that seemed to have no end in sight.

1989–(1990)1999 PERONISM RETURN.
THE END OF THE TRANSITION

The end of the transition may be in the late 1990s, with the fourth military uprising.[19] That time, the Peronist Carlos Menem managed to repress it with the strength that the previous government did not have from a series of strategies to defuse the military resistance. Menem had skillfully negotiated with the rebel groups to wear down Alfonsín, but then in power he agreed with the leadership, granting the pardons they demanded for the military chiefs convicted during the previous government. Satisfied with the presidential measure, the Armed Forces bloodily repressed the rebels in what would be, until today, the last military uprising.

In the context of the end of communism, Menem opened a new economic agenda, where the issues linked to the last dictatorship began to lose some of their validity. Through constant budget constraint, the firepower of the military was significantly reduced and, with the end of compulsory military service for 18-year-olds, the Armed Forces were deprived of a large number of troops and, at the same time, of access to a large section of the population.

In 1998 the Armed Forces carried out an important self-criticism for what happened during the dictatorship, which closed the circle of official policy on the recent past. Before the end of Menem's first term, democracy, in electoral terms, was consolidated and the military was no longer a threat. At the same time, new challenges, not minor ones, opened up, even for the stability of the system itself.

CURRENT STATUS

Argentina's current political problems are far from those it faced during the transition. However, the way in which that process was approached somehow influenced and shaped the course of politics to this day.

While there is no longer any danger of authoritarian regression or interruption of elections, political instability is a constant that Argentine governments have yet to face. This is especially true for those rulers who do not belong to Peronism, which continues to dominate the Senate, provincial politics and the trade union world, using the latter as a battering ram to regain power when it is defeated electorally.

Political parties rarely acted in a coordinated manner, even in times of great crisis. It was not until 1994 that the first major formal agreement between the parties for constitutional reform was reached. That was possibly the kind of pact they should have made 10 years earlier, in the face of the fall of the military government.

However, this late pact did not survive much more than the reformist process that, on the other hand, was opened up by Menem's need to achieve a re-election until now forbidden. In fact, the radical president who succeeded Menem in 1999 (Fernando De la Rua) suffered a strong boycott from Peronism, which – in addition to its own mistakes – ended in 2001 with his early resignation and the return of Peronism to the presidency, less than two years after losing the elections.

Menem's years had two important institutional impacts that reversed some of the policies of the Alfonsinist period and that are still being observed today. **Firstly**, a drastic deterioration in the course of justice.[20] This was symbolized by a reform of the Supreme Court that was placed under the political orbit of Peronism. The same thing happened with the main judicial positions in the country (the federal justice).[21]

Secondly, the prevalence of corruption and drug trafficking should be noted as a subject that would become nodal in the country's institutional life (which would extend even further into the Kirchner years). There was also a growing *informalization* of social and political life – in the context of increasing poverty

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17 Claudia Hilb, *Usos del pasado. Qué hacemos hoy con los setenta*, 2nd edition, Buenos Aires: Editorial Siglo XXI, 2014.

18 Guillermo O'Donnell, "Delegative Democracy", in *Journal of Democracy*, 1994 (1), 5, 55–69.

19 On the basis of what was pointed out by O'Donnell (1988) in 1983, the first stage of the transition was completed, but at the same time another stage was initiated that had to go on until democratic consolidation, that is, until the moment when the new regime no longer ran the risk of regression. In 1990, Argentina reached that point.

20 At the same time, the horizontal *accountability* bodies were distorted (O'Donnell, 2004) while the elements provided for in the new Constitution to contain the marked presidentialism of the Argentine political system were blocked.

21 The Peronist takeover of federal justice in the provinces began during the transition when radicalism gave up these spaces in exchange for co-existence in the national congress. These positions are approved by the Senate, which had a Peronist majority from 1983 until today.

and unemployment – which had repercussions for the emergence of new actors (social movements) and the growing discredit of traditional political parties.

After the frustrated mandate of President De la Rúa (1999–2001), Peronism completed the remaining period with Eduardo Duhalde (2002–2003) in the context of an unprecedented deterioration of the economic and social situation. So came the turn of a leftist variant of Peronism, led by Néstor Kirchner (2003–2007) and his wife Cristina Fernández (2007–2011 and 2011–2015) who, with populist rhetoric and in the context of a society that was unbelieving and desperate, but also in the midst of an accelerated economic recovery due to the reconfiguration of international prices of raw materials, remained in power for 12 years.

During that time, many of the debates that had characterized the transition returned to the political agenda, especially after the review of the human rights issue. The strongly *vindicating* rhetoric of the Peronist government's policy of the 1970s was supported in part by the renewed participation of numerous political actors in the 1970s and the transition. But at the same time, it was also a *discursive strategy* to legitimize its intention to hegemonically control the state apparatus that supported politically and economically the reappearance of this discursive axis.

This was also possible because the consequences of the dictatorial process had been resolved more by military pressure and the political groups that supported them than by a free and consensual social debate. In this context, the National Congress annulled Final Point and Due Obedience laws of the radical stage and this allowed the Kirchnerist government to promote the trials that had been truncated at the end of the 1980s, although the pardons issued by the also Peronist Carlos Menem were never annulled.

However, these issues were restricting their impact on very informed and involved sectors of public opinion. Among the population, interest in economic and social issues continued to prevail. In addition, the partisanship of the Peronist government produced a noticeable break in the social consensus on human rights issues, going back to the few agreements reached during the transition.[22]

This was seen, above all, in the manipulation of previously prestigious characters and institutions such as the Mothers and Grandmothers of Plaza de Mayo. The participation of important members of these groups in well-known corruption scandals or receiving government benefits generated a strong deterioration in public consideration, within the context of a growing social weariness with the primacy of these issues.

The accession of Mauricio Macri to the presidency in 2015 could mark the definitive end of the problems linked to the transition and the opening of new and more current political and social debates. At the same time, it can be observed that the State abandoned its pretensions to build and disseminate unique and closed visions of the past, as in previous years.

On the other hand, more than four decades later and with a renewed population generationally, the questions linked to this past are already part of the history and concern of some numerically reduced (although politically important) social groups.

LESSONS LEARNT

Argentine society does not learn easily. However, the events during the years of dictatorship and transition left some very strong and consolidated marks. This was because a large part of the generations that lived through those events are *still* actors in the public life of the country. However, this is already changing and will deepen as they produce the generational replacements that link these elites to that past.

A symptom of this situation was observed after the death of former president Alfonsín. While he was alive, he never recovered the large shares of social consensus of the 1980s, his figure had a strong vindication beyond his party's borders. Like any transitional government, it was subjected to a high degree of wear and tear due to the demands and challenges of the moment, especially in a very complicated global situation. The passing of the years allowed for a calmer and more objective look at this situation and the expertise required to carry it forward.

In terms of the lessons learnt, **firstly**, there is a sustained rejection of everything related to the military in public life. This is manifested in the impossibility of reiterating, even superficially, the strategies that this institution had proposed since 1930, with a constant pretension to get involved in the political decisions of the State. A certain anti-militarism (especially of the elites) led to the point that Argentina was the country in the region with the lowest military budget and zero rearmament.[23]

Secondly, it should be mentioned that the validity of the democratic system has not been questioned again, neither among the population nor, above all, among the political elites. The 2001 crisis that put an end to the De la Rúa government – whose triumph had created great expectations – could have led to the emergence of anti-political, outsider or Venezuelan-style military movements. However, it was resolved through institutional channels with the predominant participation of Congress and political parties.

This had not always been the case, in fact one of the central causes of the constant constitutional interruptions in Argentina was the lack of confidence in democratic rules to regulate social and political life and the absence of specific political clout of Congress.

The Latinobarómetro survey shows the Argentinean case to be always closer to those who value democracy than to those who disbelieve in it. On the democratic development scale (average per country between 2006–2017), Argentina ranks third after Uruguay and Costa Rica.[24] However, this is significantly reversed by consulting on trust in public institutions (Congress and the judiciary) and leading political parties.

Thirdly, Argentina is a country where various aspects that characterize a modern democracy are very present, such as a high level of organization in civil society, an abundant press and a more than acceptable level of freedom of expression in both traditional and digital media in the context of a dense cultural and intellectual life.

RECOMMENDATIONS

Argentina remains a country that finds it difficult to process political conflicts and definitions of state policies in a consensual

22 Hugo Vezzetti, *Sobre la violencia revolucionaria. Memorias y olvidos*, Buenos Aires: Editorial Siglo XXI, 2009.

23 Although this is a volatile issue, the Latinobarómetro survey showed that by 2017 only 50 % of the population had a good image of the Armed Forces. Retrieved from www.latinobarometro.org. Report 2017.

24 The question asked is "On a scale of 1 to 10, where 1 is 'undemocratic' and 10 is 'completely democratic'". Where is your country located? Latinobarómetro Report 2017. Retrieved from www.latinobarometro.org

and institutional manner. The Kirchnerist years were remembered for these issues, to which must be added the emergence of a process of social polarization which in the 1980s and 1990s appeared to be attenuated.

A *first* recommendation is that those issues related to the transition and the immediately preceding stages should be dealt again with equable, professional criteria and with the exact importance they have, within the context of a history that is already quite violent and polarized.

Secondly, and within the context of formal education, it is essential that the teaching and dissemination of these facts be done in the search for greater civic learning and a growing democratic commitment. That is why it is necessary not to continue to promote and point out culprits and to reiterate sterile discussions which, moreover, are anachronistic today.

Thirdly, the nationalist/territorialist approach to the Malvinas-Falklands issue should be reviewed, especially in the public sphere, as it remains an element that can potentially be used for possible authoritarian appeals.

Fourthly and finally, the pending issue remains the social question, especially in view of the high levels of poverty, insecurity (also linked to drug trafficking) and precarious employment conditions which, if not resolved, could become a danger to political stability and democratic life.

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[The Cambodian Experience]

TRANSFORMATIONS OF POLITICAL SYSTEMS

BERND SCHAEFER

INTRODUCTION

With the exception of Thailand, after 1945 all gradually emerging new states in Southeast Asia were post-colonial countries (Brunei, Burma/Myanmar, Cambodia, Indonesia, Laos, Malaya splitting into Malaysia and Singapore, the Philippines, Vietnam). They had all shed their imperialist rulers and patrons (France, Great Britain, Netherlands, United States) in more or less bloody, or more or less protracted, struggles for independence. In 1949, the largest and most populous country in Asia had turned into a socialist one-party state following the Soviet model and calling itself the People's Republic of China (PRC). This new China was supposed to wield ever growing influence on local Southeast Asian communists, and thus most Southeast Asian countries, before it became a financial and economic giant in Asia, with an exponentially oversized impact on everyone's investment and trade relations.

Cambodia obtained its independence from France in 1953 under Norodom Sihanouk (1922–2012) as the country's King (over the course of later history he also figured as Head of State, Prime Minister, ruler in exile, and again King). Norodom Sihanouk, like all Cambodian rulers after him, be it as President (Lon Nol, 1913–1985), "Brother Number One" (Pol Pot, 1925–1998), or Prime Minister (Hun Sen, born 1952), wanted to stay in power indefinitely, once they had attained it, temporary tactical power-sharing arrangements notwithstanding. All of them were, respectively are, disinclined to lose power through coup d'états, uprisings, wars, or as a result of elections. While only Hun Sen succeeded in this regard, all the rulers of Cambodia were always fully aware that survival in power required control over a regime's armed units, this is the military, special forces and guards, the police, and the intelligence apparatus.

With the exception of the period of internationalization of Cambodian politics following the 1991 Paris Agreement, and the aftermath of the United Nations (UN) intervention of 1992/1993, the country did not transition from a one-party to a multi-party democratic system based on shared acceptance of potential regime change as a result of elections. However, despite the absence of regime change, after 1993 the country went through partial democratization and developed features that differentiated it from patterns of authoritarianism in other Southeast Asian states.

The dynamics culminating in the 1992/1993 UN presence in Cambodia were a late result of the experience and aftermath of the utter devastation of the country with up to 1.7 million killed and dead Cambodians during the reign of the Communist Party of Kampuchea (CPK) under its leader Saloth Sar, who called himself Pol Pot, between April 1975 and January 1979.

DEMOCRATIC KAMPUCHEA [DK] (1975–1979)

Democratic Kampuchea (DK) replaced the Cambodian Republic under President Lon Nol after the complete military victory of its forces, with the occupation of Phnom Penh on 17 April 1975. Immediately afterwards, the CPK began with an evacuation of Cambodian cities, which it viewed as brewing places of "bourgeois" habits and the most important obstacle to the implementation of true communism. Exiled leader Norodom Sihanouk was lured from Beijing into Phnom Penh later in 1975 as 'Head of State' and used for one speech and a visit to the UN, before he disappeared into house arrest for the duration of DK.

In 1976 a Four-Year-Plan was promulgated that enforced collectivization and organized the entire population into CPK-run "Work Groups" to toil in hard manual labor for the production of rice and other crops. Ever afraid of infiltrations of "spies" and "enemies", in December 1976 Pol Pot decried a "sickness in the party" that led to never-ending, cascading chain effects of denunciations, arrests, torture, and executions. During the entire DK period, as results of malnutrition, exhaustion, and politically motivated killings, about 1.7 million Cambodians died or were executed.

The end of the DK came about as a result of external events and foreign military intervention. The PRC, the patron and partner of the DK in an anti-Vietnamese alliance, had hosted a DK delegation in October and a delegation of the Socialist Republic of Vietnam (SRV) in November 1977. As a result of these visits, PRC–SRV relations broke down into open hostility and the DK felt emboldened in late 1977 to go ahead with attacking the SRV to expand Kampuchea's borders. The DK and the SRV terminated mutual diplomatic relations and were in a de facto state of war with each other.

The Kampuchean incursions and the Vietnamese counterattacks temporarily occupying DK territory fostered a Vietnamese national security doctrine regarding Cambodia: Never can any anti-Vietnamese government be allowed to rule in Phnom Penh. From early 1978, Vietnam pursued a course of regime change in the DK: Plan A, as the preferred solution wanted to manage the overthrow from within the country with Cambodian forces, Plan B was SRV military intervention from outside. While Plan A began to fizzle due to a lack of sufficient numbers of Cambodian cadres and forces to overthrow the DK regime militarily, the SRV was afraid of Chinese military intervention, both into the DK and simultaneously into Northern Vietnam in case of an implementation of Plan B. Ultimately seizing on Chinese domestic political distraction through the highly important December 1978 Third Plenum of the Chinese Communist Party in Beijing, the SRV invaded the DK during this month and captured most of the country until early January 1979. China did not intervene militarily on the side of the DK, as Pol Pot had hoped. Instead, the PRC engineered the flight of CPK leaders and fighters to the Cambodian/Thai border region and brought Norodom Sihanouk back to Beijing into exile.

PEOPLE'S REPUBLIC OF KAMPUCHEA [PRK] (1979–1989)

Former Cambodian CPK cadres, who had defected to the SRV since 1977, and anti-CPK Cambodian exiles from Vietnam, formed the nucleus of the new Cambodian government, installed in Phnom Penh under SRV guidance and supervision. Following the Vietnamese political model, a "People's Republic

of Kampuchea" (PRK) was supposed to emerge, and was tied to the SRV through an official Treaty of Friendship early in 1979.

It was a dilemma, however, from the perspectives of the Vietnamese advisers and their Cambodian allies that building up socialism SRV-style required the creation of a new all-controlling Marxist-Leninist Cambodian party basically from scratch. With the CPK gone, few non-compromised former Pol Pot supporters were left, and overall weariness to join another communist party in a widely ruined country, the efforts of the new Kampuchean People's Revolutionary Party (KPRP) fell mostly flat. It took two years until the first official Party Congress was held in 1981, followed by a 2nd, and what turned out to be the last Party Congress in 1985. Cadre recruitment and training was constantly deficient, membership numbers remained insufficiently low. It was not just that Kampuchea was infertile ground for another communist party after the DK experience. Party problems were also due to the fact that in the eyes of most Cambodians the KPRP was suffering from a "national deficit": It was viewed as a SRV-managed political entity, and accordingly treated as a Vietnamese appendix by friends and foes alike.

Furthermore, from its onset the PRK suffered from an anti-Vietnamese and anti-KPRP insurgency. Remnants of Pol Pot forces, the former DK leadership, and Cambodian refugees from the Northwestern part of the country were equipped with arms and other means by Chinese, Thai, and American efforts. Together with forces loyal to exiled Norodom Sihanouk, in 1982 a Coalition Government of Democratic Kampuchea (CGDK) was formed that operated in parts of the country with bases near the Thai border. Its military wings created disarray and disruptions in the country through sabotage and tenacious guerrilla fighting. The new PRK Army and the Vietnamese started counteroffensives and mined the country. For most of the 1980s, Cambodia experienced protracted civil war within its borders. It took both sides painful experiences of exhaustion, before realizing that there would not be any decisive military solution in the cards for either side to end this Civil War.

The situation in Cambodia would not have changed without changes in the Soviet Union ("Perestrojka" or "Reform") from 1986 and subsequent changes in the SRV beginning in the same year ("Doi Moi" or "Renovation"). In the shadow of Vietnamese domestic preoccupation and open debate within the Vietnamese Workers Party about the costs and worthiness of SRV engagement in Cambodia, the PRK leadership under Hun Sen began from 1987 to propagate national reconciliation with non-CPK forces of the Cambodian opposition with the intention of marginalizing and isolating Pol Pot and his supporters. In December of 1987 Hun Sen met Sihanouk for talks in Paris, followed by further two- and multi-party meetings during subsequent years including the DK. At the same time, the KPRP began to correct Marxist-Leninist "errors" from the doctrinal Party Congresses of 1981 and 1985. It allowed for limited pluralism and debate without touching One-Party-Rule for now, but the PRK began to change gradually and soon significantly from the model of the other four communist states in Asia (China, Vietnam, Laos, North Korea).

STATE OF CAMBODIA [SOC] (1989–1993)

Four-Party talks between Hun Sen, Sihanouk, Son Sann, and Pol Pot representatives to resolve the Cambodian civil war and allow for a Vietnamese military withdrawal continued in Jakarta in July 1988 and February 1989, culminating in extended Four-Party talks in Paris throughout July and August 1989. However, it turned out there was no solution possible if brokered exclusively by Cambodian parties. Foreign disengagement (Vietnam, China, USA) from the Cambodian conflict was needed first, and a final breakthrough was to be realized only through an internationalization of Cambodia peace talks mediated by the United Nations.

In the meantime, Hun Sen had undertaken measures at the home front that made a Cambodian solution more conducive. On 1 May 1989 the PRK was officially replaced by a new "State of Cambodia" (SOC) with a new flag and anthem. The Hun Sen government invited exiles from previous Cambodian regimes to return to the country, capitalist investment was encouraged, Buddhism officially recognized, minority rights were acknowledged. The complete withdrawal of the large Vietnamese military forces from Cambodia was arranged for December 1989 (though some undercover residual forces stayed behind).

After the fall of communism in Eastern Europe and the transformation of the Soviet Union, the years of 1990/1991 witnessed an international euphoria to solve all remaining global conflict spots through multilateralism. Cambodia became an early and prominent showcase in this regard. It was Australia that official proposed an UN role on site in Cambodia during a period of transition. The United States and China withdrew their support for the former Pol Pot government as the official Cambodian UN representation. After many rounds of negotiations, on 23 October 1991 the Paris Peace Agreement (Framework for a Comprehensive Political Settlement of the Cambodia Conflict) was signed by the four domestic factions (Hun Sen, Sihanouk, Son Sann, Pol Pot), the members of the UN Security Council, and the members of the Association of Southeast Asian Nations. A Supreme National Council (SNC) was to be formed in Cambodia during a transition period leading to free elections.

As a direct consequence of the agreement, in 1992/1993, an international peacekeeping United Nations Transitional Authority in Cambodia (UNTAC) was established to pacify the country and to prepare for elections in May 1993. UNTAC was the biggest and most ambitious UN mission ever: It was tasked with establishing a ceasefire, disarmament, repatriating refugees, supervision of a democratic political process and the drafting of a new Cambodian constitution and the preservation of human rights. This agenda was too ambitious to meet all expectations, but it achieved most of its objectives. Hun Sen and his Cambodian People's Party (CPP), renamed in 1991 after the end of the KPRP, displayed only limited cooperation with UNTAC, and the remaining Pol Pot forces were non-cooperative to openly hostile, boycotted the parliamentary elections, and turned out to become the future losers. What the massive international effort by UNTAC had paradoxically achieved, however, was the final "de-internationalization" of Cambodian domestic politics. For the first time in its history, Cambodian political factions were no longer an instrument of outside players (Vietnam, China, United States), but from now on they had to solve, or fight out, their differences by and on their own.

KINGDOM OF CAMBODIA (SINCE 1993)

In UNTAC-supervised elections between 23 and 28 May 1993, almost 90 % of Cambodians turned out to vote. In the 120-member Cambodian National Assembly, the royalist party "United National Front for an Independent, Neutral, Peaceful, and

Cooperative Cambodia" (Funcinpec) under Prince Norodom Ranariddh, a son of Norodom Sihanouk, won 58 seats (45.5 %), Hun Sen's CPP 51 (38.2 %) and 11 seats went to different parties. The CPP disputed the results and, after much haggling and threats of violence and secession, a compromise was brokered with Norodom Sihanouk featuring Sihanouk, first as Head of State and, from September 1993, again as King. Ministries were divided evenly between Funcinpec and CPP, with Ranariddh serving as First, and Hun Sen as Second Prime Minister. Relations between both sides were contentious from the beginning, and in July 1997 CPP armed groups, especially Hun Sen's Bodyguard Unit, staged a conflict with Ranariddh's networks. In a violent coup they arrested opponents and ousted Funcinpec from the government. Ranariddh fled into exile and returned for the 1998 Cambodian elections, where the CPP won an absolute majority of 64 seats while gaining 41.7 % of the national vote.

In 1997 rivalries broke out among the remaining former DK leaders in their remote holdout. After Son Sen and his family were murdered, Pol Pot was arrested and tried by his former comrades. He died in house arrest in 1998 facing deportation, while his decimated former fighters ultimately surrendered after several military defeats and defections. For the first time since the 1960s, Cambodia was free of violent conflict and the government in full control of Cambodian territory within its internationally recognized borders.

In subsequent elections, the CCP gained absolute majorities in 2003 (73 seats / 47.4 %), 2008 (90 / 58.1 %), and 2013 (68/48.8). In that last election, the opposition Cambodian National Rescue Party (CNRP) led by Sam Rainsy and Kem Sokha came close and won 55 seats. The latter protested the vote count and weren't seated in parliament until a compromise was signed with Hun Sen in July 2014. In 2016 Sam Rainsy was forced into exile again, a year later Kem Sokha was arrested and the CNRP stripped of its assembly seats and dissolved by Cambodia's Supreme Court in November 2017. The next national assembly elections were scheduled for July 29, 2018. They featured Hun Sen's CPP and a large number of smaller, if not dubious parties. With just token opposition, the CPP won with 78 % of the vote claiming all 125 seats in the National Assembly. The ruling party's nervousness over low turnout and significant numbers of invalid ballots before the election gave way to the CPP's elation afterwards of having the country turned into a de facto one-party-state. With Prime Minister Hun Sen in power for a time of his choosing, future trends to observe include the role of the military and dynastic politics in terms of the roles for Hun Sen's sons Hun Manet and Hun Many.

LESSONS LEARNT

The geographical location of Cambodia with its neighbor, the one-party, nominally communist Socialist Republic of Vietnam (SRV), plus its proximity to the one-party, nominally communist People's Republic of China (PRC), has determined, to very high degree, Cambodia's foreign relations and political systems since the 1950s. Relations between Cambodia and Vietnam on the one hand, and with China on the other hand, were always asymmetric in military and political terms. After 1993, and especially so during the recent decade, the economic disparity between Cambodia and China, as well as with Vietnam, has grown enormously and is ever widening. According to 2015 numbers, China's 'poorest' province alone (Yunnan in the Southwest north of Laos) has a higher GDP per capita than the three poorest members of ASEAN combined (Cambodia, Laos, and Myanmar). Vietnam's GDP per capita, with a much larger population, is now double the GDP of Cambodia, after both countries were on comparably low levels about 25 years ago. This economic gap and corresponding dependencies are providing both China and Vietnam with leverage over Cambodia, with Chinese influence growing, and now dominating at the expense of previous Vietnamese influence.

All Southeast Asian countries organized in ASEAN have a solid history of authoritarian one-party systems with a high aversion to, and skillful avoidance of, peaceful regime change through elections. Only the Philippines, Thailand once in a while, Indonesia after 1998, and Malaysia in May 2018, have gone through such an experience. After 1993, Cambodia had for the first time a two-party-system with relative freedom of expression. However, this turned out as unsustainable by as early as 1997. With China and Vietnam encouraging, the United States disengaging after 2016, and members of ASEAN non-interfering, if not understanding, the CCP was able to cement Cambodia de facto as a one-party state with a lifelong ruler.

Cambodia's weak economic and political foundations, in combination with a widespread system of patronage, corruption, and coopted elites, did not prove solid enough to establish a multi-party democracy with regime change options through elections. Throughout the entire history of Cambodia after 1953 the respective government in power wanted to stay so permanently. The current CCP government under Prime Minister Hun Sen, the longest serving ruler in Asia, and for now basically 37 years the leading figure in Cambodian politics, is so far the only government in Cambodian history that has succeeded in this quest.

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MEMORY OF NATIONS

Democratic Transition Guide

[**The Chilean Experience**]

TRANSFORMATION OF THE POLITICAL SYSTEM

MIREYA DÁVILA

INTRODUCTION

This chapter deals with the main transformations of the Chilean political system during the transition from dictatorship to democracy at the beginning of the 1990s. The military dictatorship that ruled Chile for 17 years (1973–1990) introduced deep transformations in Chilean society that impacted on the transition process itself, as well as on the political system inaugurated in March 1990. The main changes introduced by the dictatorship included a new political Constitution and the introduction of pro-market reforms in the economic sphere, a change in the territorial organization of the country (with the creation of new administrative), a new binominal electoral system, reduced powers for Congress and therefore, a hyper-presidential system. These changes constituted the framework within which the political system has had to process subsequent political dynamics and conflicts over social, economic, and political change.

INITIAL CONDITIONS

The initial conditions of the transition process in Chile were influenced by the particular characteristics of the Chilean military dictatorship, including the nature of military rule, its long duration, and the transformations it introduced.

The Chilean military dictatorship began on September 11, 1973 with a coup. All three branches of the Armed Forces, plus the Carabineros (uniformed police) participated in the coup. The ensuing dictatorship, led by the Army, and its Commander-in-Chief, General Augusto Pinochet, was characterized by massive political and social repression. This included violation of the human rights of the population in general, and members of left-wing political parties in particular.[1] A new political order was centered on Pinochet, and founded on deep neo-liberal economic reforms.[2] Although the first military *junta* had four members (the heads of each of the three Armed Forces, plus the uniformed police) *de facto* powers of government soon came to be concentrated in the hands of Pinochet and the Army High Command. Economic management was meanwhile delegated to neo-liberal civilians (Varas, 2017). Pinochet simultaneously served as President of the Republic, President of the Government Junta (until 1980) and Commander-in-Chief of the Army. The Military Junta became the legislative branch of government.

The coup of September 1973 also meant the end of the institutions and organizations typical of a democracy. Congress was closed; the political parties that had made up the overthrown previous governments were banned,[3] and other parties were obliged to go into recess; the electoral rolls were burned; press freedom was restricted and censorship was established; and public universities were intervened and radically modified. The trade union movement was persecuted.

During the 1970s, the dictatorship developed a strategy for political legitimization that sought to embed the authoritarian regime on a basis other than the previous one of fear. This strategy embraced attempts to create historical legitimacy by deploying anti-Marxist and anti-Communist discourse to condemn the deposed socialist government of Salvador Allende (1970–73).[4] It also sought legal and constitutional legitimization by imposing a vision of an authoritarian and protected democracy, and pursued economic legitimization based on the success of a new, neo-liberal, economic model.[5]

New rules of the political game were a fundamental part of the changes introduced during the dictatorship. The new institutional design was enshrined in the new, 1980, Constitution, which began to be implemented in 1981.[6]

A set of institutions established in this 1980 Constitution gave the Armed Forces an important role in the political order, and placed them in a privileged situation relative to other state organizations. Dispositions included dissolving civilian authorities' power to remove commanders-in-chief of the Armed Forces or internal security agencies; plus the creation of a National Security Council, an advisory body of the President of the Republic on national security matters, in whose decisionmaking the Armed Forces were to play an important role. In addition, the Constitution established a set of rules that favored a concept of so-called "protected democracy". This involved the creation of non-elected (designated) Senators, whose number was to include former commanders-in-chief of the armed forces and security services.[7] Other aspects included the introduction of high quorums, designed to make any future reform of this Constitution and associated constitutional organic laws more difficult. A new, binominal, electoral system was also introduced. This tended, at least in the early years of its operation, to favor the political Right, who were political allies of the military and the dictatorship.

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1 The Dictatorship had two agencies responsible for repression: the National Intelligence Directorate (Dirección Nacional de Inteligencia, DINA), created *de facto* in 1973 but formalized in 1974, and the National Information Center (Centro Nacional de Información, CNI), created in 1977 to replace the DINA.

2 Carlos Huneeus, Carlos Huneeus, *The Pinochet Regime*. Boulder: Lynne Reinner, 2007.

3 Outgoing parties that had formed part of the deposed Popular Unity government (Unidad Popular) were banned: Decree Law 77 of the Military Junta banned the Communist and Socialist parties, the Popular Socialist Union (*Unión Socialista Popular*), the Unitary Popular Action Movement (*Movimiento de Acción Popular Unitario*, MAPU), the Radical and Christian Left parties, Independent Popular Action, and "all organizations that promoted Marxism".

4 For more details see: Carlos Huneeus, *The Pinochet Regime*. Boulder: Lynne Reinner, 2007; Ricardo Ffrench-Davis, *Chile entre el Neoliberalismo y el Crecimiento con Equidad. Reformas y Políticas Económicas desde 1973*, Santiago: J-C.Sáez Editor, 2008.

5 The exception was the national copper company, CODELCO, which continued in the hands of the State.

6 It was ratified in a plebiscite in September 1980.

7 The Constitution of 1980 established the figure of designated senators, appointed by the President of the Republic. The categories of person eligible for these senatorships were: former presidents of the Republic; two former Supreme Court judges; a former comptroller-general of the Republic; former commanders-in-chief of the Armed Forces; a former rector of a state university; and a former Minister f State.

The design of the new political system also included new laws governing political parties and the electoral roll.

One of the singular features of the Chilean Dictatorship is undoubtedly the fact that it came to an end as a result of following its own institutional standards, as established in the Constitution of 1980. This set down regulations for a long transition period, with Article 25, for example, stipulating that, as of March 11, 1981, General Pinochet was to continue in office as President for at least eight more years, i.e. until March 1990. The transitory provisions established that the commanders-in-chief of the Armed Forces, plus the General Director of the Carabineros (i.e. the members of the military Junta) would then propose a new candidate, to be ratified or otherwise via a citizen plebiscite. This candidate, if ratified by the plebiscite, would occupy the position of President of the Republic in the subsequent presidential period, which was to run between March 1990 and March 1997. On August 30, 1988, the Governing Junta nominated Augusto Pinochet as their candidate for the plebiscite.

The plebiscite was duly held on October 5, 1988, after campaigns involving the regime and a now-tolerated political opposition. Against all odds, the "NO" vote won,[8] with 55.99 % of the votes, to the 44.01 % obtained by the "YES" vote that would have confirmed Pinochet in the presidency for seven more years.[9] Accordingly, Pinochet would continue only for another year, at which point – in 1989 – open presidential and parliamentary elections would be called.[10]

The plebiscite and subsequent electoral process were notable for the large size of voter turnout, are despite the years of dictatorship, fear and repression. For example, 7,435,913 citizens registered to vote in the plebiscite, a figure that represented 97.5 % of all citizens theoretically eligible to vote that year. This represented a first in the country's history: never before had such a large percentage of eligible citizen actively registered to vote.[11]

THE TRANSITION PROCESS

The Chilean Transition was an orderly process that occurred according to a timetable laid down by the dictatorship. The Army, and especially General Pinochet, retained control of the process due to the institutional power that was vested in them by the Constitution, combined with Pinochet's by then unquestioned authority over the other branches of the Armed Forces and security services.

Despite the abundance of scholarship on the process of transitions from authoritarian to democratic regimes, there is no single agreed definition of "transition".[12] In the case of Chile, the concept of transition (defined as the change from one political regime to another) is often applied to the period between October 5, 1988 and March 11, 1990, with the latter constituting the date on which the first democratically-elected government took power after 17 years of dictatorship. Following a similar logic, one might instead argue that Chilean electoral democracy fully restarted in March 1994, the date on which the second President elected in this new democratic cycle took power. Others feel, however, that the democratization process cannot yet be considered fully complete, as there has not yet – as of 2019 – been a process of creation of a new constitution, one that fully meets democratic standards and has been debated and approved by the country's citizens.

However, we could date Chile's transition as a process that was at least begun with the October 1988 plebiscite, and whose first stage lasted until March 1990, when Patricio Aylwin, leader of the opposition, took office at the head of this first democratically-elected government since 1970.

The creation of a political opposition to the Chilean dictatorship had in itself nbeen a lengthy and contested process. As far back as the early 1980s, a range of political groups attempted to constitute a cohesive opposition, capable of confronting Pinochet and recovering democratic rule. The opposition tendency that finally gained the ascendant was one that proposed accepting the rules of Pinochet's game, i.e. the Constitution of 1980, and the schedule set down in it for a return to electoral democracy schedule. Other alternatives, including outright rejection of the 1980 Constitution and a strategy of taking up arms against the regime, did not in the end attract majority support. The political coalition that became the main official opposition to the dictatorship, demanding free elections, was mainly formed along an axis taking in Christian Democrats and a renewed group of Socialists Broad international political support was decisive for strengthening this opposition movement. The role played towards the end of the regime by the US[13] also helped in allowing the emergence of an effective political opposition, avoiding the danger of counter-reaction by regime forces seeking an excuse to cancel the plebiscite.

Once it became clear that the opposition had triumphed in the 1988 plebiscite, opposition parties began preparing to compete in the presidential and parliamentary elections of December 1989. A broad coalition was formed, the *Concertación de Partidos por la Democracia*, known as the *Concertación*. This coalition brought together Christian Democrats and Socialists,[14] plus other groupings including the Radical Party (*Partido Radical*, PR), the newly-formed Party for Democracy (*Partido por la Democracia*, PPD) and 13 other parties.

The political right-wing, which had supported and defended the dictatorship, organized itself into two political parties for the 1989 presidential and parliamentary electoral campaign: the Independent Democratic Union (*Unión Demócrata Independiente*, UDI) and National Renewal (*Renovación Nacional*, RN).

Meanwhile, the military government devoted the time between October 1988 and March 1990 to creating a set of legal

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8 "Estudio Nacional de Opinión Pública, Septiembre 1988", Documento de Trabajo 1, Santiago: Centro de Estudios Públicos, 1988; Felipe González, Mounu Prem, "¿Por qué ganó el NO? La historia detrás de la historia", Santiago: CIPER Chile, 2019, www.ciper.cl

9 In 1985, the Electoral Registration Tribunal (*Tribunal Calificador de Elecciones*, TRICEL) had been put into operation, and in 1986 the electoral register had been reopened.

10 Had the Yes *(Sí)* option triumphed in the plebiscite, the existing President of the Republic, i.e., Pinochet, would have taken office once more, with an additional eight year mandate.

11 "Plebiscito de 1988 marca el fin del régimen military", www.bcn.cl At the time, Chile's electoral system was based on voluntary registration.

12 Juan J. Linz, Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-communist Europe*, Baltimore: The Johns Hopkins University Press, 1996.

13 See: Report of the US Senate Investigation Commission on undercover actions in Chile, 1963–1973; Peter Kornbluh, "Desclasifican nuevas conversaciones entre Nixon y Kissinger para derrocar a Allende", CIPER-Chile, 2008, https://ciperchile.cl/2008/09/10/desclasifican-nuevas-conversaciones-entre-nixon-y-kissinger-para-derrocar-a-allende/

14 During the dictatorship, Chilean socialism experienced a difficult process of division focused, among other things, on disputes about strategies to deal with the dictatorship. One important current underwent a process of ideological renewal that involved reconciling socialism with a commitment to liberal democracy. This was the tendency around which the Concertación was founded.

provisions that granted privileged positions to those who had been in power for seventeen years. Examples include the binominal electoral system, and a decree preventing 35,000 civil servants from subsequent dismissal. In addition, constitutional reforms carried out in 1989 boosted the autonomy of the Armed Forces by investing laws and regulations on issues such as military career structure, and the military budget, with constitutional rank. This protected existing favourable arrangements, by increasing the legislative quorum necessary for any subsequent reform.[15] In the December 1989 elections, the opposition candidate, Patricio Aylwin, won with 55.7 % of the vote (against 29.4 % for the pro-military government candidate, Hernán Büchi). A second right-wing candidate, Francisco Javier Erráruriz, obtained 15.4 % of the vote).

The Congress that came into session in 1990 did so according to the new regulations established by the 1980 Constitution. Under these provisions, 120 lower house deputies and 38 senators were elected. The former would all serve for four years. Senatorial terms meanwhile differed according to the district that was represented: half would serve an eight year term, half, only four years. Nine designated (non-elected) Senators made up the full strength of the upper house. Ninety-five per cent of the country's 7,557,537 eligible citizens emitted a valid vote in the 1989 elections: a total of 7,158,422 votes. Overall, the Concertación obtained 51.49 % of the votes in the legislature, compared to 34.18 % of the right-wing. Considering the non-elected senators, the right nonetheless controlled 50 % of the upper house. The Christian Democratic Party was the major political force, with the Concertación overall obtaining 69 (of 120) elected deputies and 22 (of 38) elected Senate seats.[16]

The first administration of this first transition period lasted for four years (1990–1994), and was a transitional government in many senses of the term, including the need for careful handling of countervailing political tendencies in Chilean society if economic, political and social stability were to be achieved. The government promoted a set of socioeconomic policies aimed at increasing public resources for social policy targeting education, health, and the reduction of poverty.

In the sphere of human rights, Patricio Aylwin's government introduced a set of State policies in truth, memory, reparations, and justice. During his first term, President Aylwin created a truth commission, despite resistance not only from the right-wing and the Armed Forces, but also from some within his own coalition. The National Commission on Truth and Reconciliation – known as the Rettig Commission after its chairman, lawyer Raúl Rettig, was charged with establishing the historical truth about human rights violations, including the number of victims killed and forcibly disappeared during the Dictatorship. In 1991, President Aylwin informed the country of the Commission's results, apologizing to the country on behalf of the Chilean State and setting in motion the drawing up of reparations policies. Right-wing sectors and the Armed Forces sectors nonetheless rejected the report's conclusions. General Pinochet, who was to continue in his post as Commander-in-Chief of the Chilean Army between 1990 and March 1998, stated that: "The Chilean Army certainly sees no reason to apologize for having participated in this patriotic work." [i.e. the military regime] ... "[The Army solemnly declares that it will not accept being placed in the dock for having saved the freedom and sovereignty of the country, in compliance with the repeated requests of citizens."[17]

Military civil relations during these first years of transitional government could be described as a "tense calm". There were, however, two episodes that increased tension, making headlines and grabbing public attention. In the first episode, which became known as the "Pinocheques" case, Pinochet had the Army called to battle stations, in December 1990. The move was intended to send a signal to the government that a corruption case, in which one of Pinochet's sons was involved,[18] should not be reopened before the courts. The second case, which occurred in 1993, came to be called "*el Boinazo*" (named for the black berets, or *boinas*, worn by troops). In May 1993, the newspaper *La Nación* reported that the case related to Pinochet's son, involving fraudulent checks, would be reopened. In response, Pinochet again pressured the government to ensure his son was not investigated. This time, Pinochet called other military officials to the Armed Forces headquarters – symbolically located directly in front of the Presidential palace – escorted by armed soldiers in combat dress.

The democratic electoral process was deepened, under the first transitional government, by the holding of mayoral elections (during the dictatorship, mayors had been directly appointed by Pinochet). The elections returned 334 municipal mayors and their respective town councils, made up of 6, 8 or 10 councillors, depending on the number of voters in each district. In these elections the Concertación again obtained a majority of votes cast, with the highest vote for a single party going to the Christian Democrats, who obtained almost 29 % of the votes.

March 1994, saw the accession of the second democratic administration elected since the Dictatorship, after scheduled elections in December 1993 saw Christian Democrat candidate Eduardo Frei Ruiz Tagle elected with 57.98 % of the votes, defeating both the the right-wing, and alternative, more left-wing, candidates fielded by other parties of the Concertación.

This first democratic election since transition marked the process of democratic consolidation in Chile. Although important areas of Chile's institutional and *de facto* power structure still remained unchanged since the dictatorship, democratic elections finally became the only possible way to formally gain power.

THE PRESENT-DAY POLITICAL SYSTEM

From the point of view of stability, the Chilean political system is secure. One requirement of democracy is successful alternation in power. The Concertación ruled for 20 years, between 1990 and 2010. In 2010, right-wing candidate Sebastián Piñera, was elected president. In 2014, a new version of the Concertación coalition took back government, this time with the inclusion of the Communist Party in the ruling coalition. In 2018, Sebastián Piñera was elected once again.

Although democracy is consolidated, some democratization processes remain pending. These include a new Constitution, and mechanisms allowing greater citizen participation in public

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15 Claudio Fuentes, "Mirando el pasado, definiendo el futuro: Diseño Constitucional en Chile 1980 – 2005", Paper presented at the 28th Congress of the Latin American Studies Association, LASA, Rio de Janeiro, June 11–14, 2009.

16 www.bcn.cl

17 Minutes of a session of the National Security Council, held on March 21, 1991, www.latercera.com

18 Augusto Pinochet Hiriart

policy formation.[19] As elsewhere, Chilean democracy has also had to contend with dwindling political participation, and a crisis of legitimacy of essential institutions of the democratic system, such as political parties and the legislature.

Between 1994 – the year in which the second democratically-elected government took office – and the present (2019), a range of important changes have affected issues that remained pending at and after transition. As has already been stated, Pinochet remained as Army Commander-in-Chief until March 1998. Upon retiring from that post he became a designated Senator, as laid down in the 1980 Constitution. However, his arrest in the UK in 1998 became a turning point for the balance of power, in terms of the transition and the sway that the Armed Forces and Pinochet continued to hold in Chilean society. The arrest, over allegations of human rights violations being investigated by a Spanish judge, led to extradition wrangling that was to lasted for a year and a half. While the incident at first generated an intense and polarized reaction in Chilean society, it ended up removing Pinochet from the political scene, and amplifying legal proceedings already open against him in domestic courts. Finally, the 2004 discovery that the General had a large personal fortune hidden in the US Riggs Bank weakened Pinochet's domestic image.

In addition, in 2005, an important set of reforms to the Constitution put an end to the designated senator system, restored the power of the president to remove Commanders-in-Chief of the Armed Forces, and modified the composition of the National Security Council.

Chile's political party system is consolidated. New parties have emerged alongside the two, center-left and center-right, coalitions that emerged during the dictatorship. The new movements and parties include, on the right-wing, a movement known as Political Evolution (Evópoli). On the left-wing, a group of parties created a grouping called Frente Amplio, ("Broad Front"). This coalition, similar to others in the region, such as Uruguay's Frente Amplio, brings together left-wing parties and movements that propose deeper reforms to the neo-liberal development model. On Chile's extreme right-wing, meanwhile, José Antonio Kast was (in 2019) in the process of creating the Republican Party.

In electoral terms there have been two major changes. The first was the replacement of the previous system of voluntary registration and mandatory voting. The new system features automatic registration, combined with voluntary voting. The change has however led to a large decrease in electoral participation. The second change is a new, proportional, electoral system. In the most recent round of parliamentary elections, this system allowed for a greater representation of citizen diversity in Congress. Since the system also incorporates gender quotas, the number of female legislators also increased.

One problem facing the Chilean political system – one which it shares with many other countries – is a decrease in citizens' he electoral participation. For example, 51.02 % of those authorized to vote in the second round of the 2017 presidential elections did not do so. The percentage of abstentionism is even higher among the younger population. In fact, more than 62 % of people between 20 and 29 years of age who were eligible to vote, did not do so.[20] This tendency toward decreasing political participation has been a steady trend since since the return to democracy.[21]

Other political system issues that have been on the agenda in recent years include scandals linked to illegal financing of political parties. In response, there have been important changes to as campaign financing, and moves to improve transparency in the use of public resources for political representation. Corruption scandals linked to political financing also led to the creation of a special commission: in 2015, the second presidential administration of Michelle Bachelet (2006–10; 2014–18) established the Presidential Advisory Council against Conflicts of Interest. This Commission, colloquially called the Engel Commission after its chairman, economist Eduardo Engel, was to propose regulation of the relationship between money and politics.

Despite this decrease in electoral participation, Chilean society is however still active in mobilization around particular demands or issues that attract public attention. Concerns around education, and over the environment, for instance, have created sustained periods of citizen mobilization over the past decade (since 2010). There is also a noticeable organized civil society around issues such as sexual and gender diversity.

LESSONS LEARNT

Like any complex political and social process, the Chilean transition and its impact on the political system contains areas of light and shade. We might highlight, for instance:

- The democratic political system was installed and consolidated in Chile against a backdrop of economic, political and social stability, and with very little violence. On the other hand, the political costs of this stability included reduced levels of participation on the part of the civil society groupings that fought for the return of democracy, with a concomitant growth in the domination of politics by an elite political class .
- The prioritization of stability, and the particular public policies implemented in economic matters, allowed for a reduction in poverty and the generation of greater well-being for Chilean society. However, objectives and principles such as stability were prioritised while others, such as reforms to the economic model, the deepening of political participation, or greater justice regarding human rights, were left aside.
- The balance of power in the dictatorship and during transition was clearly tipped in favor of the military and its political allies, who did not want human rights violations to be addressed. Nonetheless, the first transitional administration chose to move forward with the National Commission on Truth and Reconciliation, which at least established a first step for human rights policies.
- One warning note, or negative learning point, should be struck as regards the institutional and *de facto* power preserved by Chile's Armed Forces – especially by the Army, and General Pinochet. While this was perhaps unavoidable during the first transition government, subsequent administrations failed to generate greater civilian control of the Armed Forces. This failure

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19 To this day there is a discussion in Chile about whether the reforms of 2005 were sufficient for the post-2005 Constitution to be considered qualitatively distinct from the one imposed in 1980. Then-President Ricardo Lagos chose to replace the existing signature in the preface of the text – that of General Pinochet – with his own, a symbolic attempt to mark a distinction. Nonetheless, the post-2005 text still contains dispositions that are at odds with a fully democratic Constitution, for example in relation to the Armed Forces and the concept of National Security.

20 www.servel.cl

21 "Diagnóstico sobre la participación electoral en Chile", Project Promoting Electoral Participation in Chile, Santiago: United Nations Development Program (UNDP), October 2017.

encompassed not only human rights, but also defense-related matters including the military budget, education, and weaponry.

■ The incoming authorities faced a tension between political and economic stability, versus pressure for transformation of the economic model, since the latter had been an initial component of social and political opposition to Pinochet. In the end, a subsidiary State model was imposed. Neo-liberal reforms introduced in the dictatorship, such as the privatization of basic services including water and electricity, were maintained. Tax changes that might have increased the tax base, or tax revenues, were not implemented.

RECOMMENDATIONS

Based on the experience of the Chilean case, the following recommendations can be made:

■ Transitional coalitions that achieve a social majority are needed. It is important to build spaces of cooperation between the groups that demand democratization. This implies generating strategies for cooperation strategies, and compliance mechanisms for any agreements that are reached.

■ Representative democracy needs to be valued, as a fundamental tool for resolving conflicts.

■ Human rights should be addressed and defended. Transitional justice policies should be designed in a way that takes political and social viability into account, without compromising on essentials. Policy design requires information-gathering and analysis, which will require state capacity and financing.

■ It should be understood that transition processes are multi-dimensional, involving political and socioeconomic aspects. This should be taken into account when governance strategies and public policy are drawn up.

■ There is a need for those who take charge of government in transition contexts to have technical and political knowhow.

■ For effective administration, priorities need to be established within the government agenda. Governing is always difficult: it is doubly so, in transitional contexts.

■ The participation of civil society and citizen movements in policy design should be encouraged and institutionalized.

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[The Czech Experience]

TRANSFORMATION OF THE POLITICAL SYSTEM

LADISLAV MRKLAS

COMMUNIST REGIME IN CZECHOSLOVAKIA (1948–1989)

The beginning of the communist regime in Czechoslovakia can be dated from 25 February 1948 when the resignation of democratic parties' ministers was accepted and a new government of the "revived" National Front was appointed, and its end can be set on 17 November 1989 when an authorised student demonstration commemorating 50 years from the death of Jan Opletal, a student killed by the occupation totalitarian regime of Nazi Germany (1939), was dispersed. The intervention against the student gathering launched the fall of the regime which had been in power in Czechoslovakia for more than four decades.

Over these decades, the nature of the regime changed several times, totalitarian phases alternated with post-totalitarian and democratising ones. In its first phase, until 1956 (1958), the regime is designated as a classic communist totalitarian model and its beginning may be identified as the most repressive period, ending by the death of the soviet dictator Joseph Stalin and then by the death of the first national communist leader Klement Gottwald. In the 1960s, at first, there was a phase of loosening which ended when a unique attempt at democratization from the inside was made (post-totalitarian democratising regime, also called "socialism with a human face").[1] On 21 August 1968, the armies of five states of the Warsaw Pact with the Soviet Union in the lead entered Czechoslovakia and ended the democratisation process. From 1969, at first, we can talk about the period of purges from the reformist powers and of consolidation of the regime (normalization) which was replaced by the freezing of the regime in the first quarter of the 1970s, i.e. stabilisation of the positions created during normalization. It is not until the end of the 1980s and mainly under the influence of Perestroika by Mikhail Gorbachev, but also thanks to the ongoing transition in other former Eastern-Bloc countries (Poland, Hungary, the German Democratic Republic), that the dynamics of the society development started to increase which the regime was no longer able to react to.

DEVELOPMENT OF CONSTITUTIONAL AND LEGAL FRAMEWORK OF THE COMMUNIST REGIME

The constitutional and legal framework of the political system was changing quite significantly, too. Until June 1948, the Constitution of 1920 was formally in force; however, many of its parts were not implemented any more. The Czechoslovak coup d'état in February 1948 was crowned by the adoption of the "May Constitution" (on 9 May 1948), drafted entirely by the Communist Party of Czechoslovakia. The Constitution already mentions the "people-democratic" nature of the state, the initiated journey towards socialism and the power of the working class.

However, the top constitutional document became the "Socialist Constitution" approved in July 1960, many times and quite significantly amended later on, but formally in force until the dissolution of Czechoslovakia at the end of 1992. It mentioned not only "building up socialism" which corresponded to the change of the official name of the state to the Czechoslovak Socialist Republic, but especially Article 4 anchoring the leading role of the Communist Party of Czechoslovakia which is designed as the "vanguard of the working class" and a "voluntary union of the most active and most conscious citizens who are labourers, peasants and intellectuals." Article 6 furthermore limits the plurality in the field of social organizations, as it defines the "National Front of Czechs and Slovaks uniting social organisations". In practice, it meant that no association or interest organisation (including, for example, animal breeders, gardeners, fishermen or hunters) could exist outside the framework of the National Front. The Constitution also includes a declaration of Marxism-Leninism with the binding state ideology and a single scientific opinion. This constitution does not mention the traditional concept of the division of powers any more.

As of 1 January 1969, the amendment of the Socialist Constitution came into effect thus making a federation of what up to then used to be a unitary state. Although it was a partial victory of the autonomously-minded part of the Slovak Communists, federalization took place already when the reformist movement was defeated, and thus, it had actually no impact on the real division of powers.[2]

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1 Discussions about the nature of the Prague Spring and its direction have been going on until today. It is certain that within the competition of various influential groups and dodges in the leadership of the party and the state, the reformist wing got a lot of important positions in the party and state hierarchy. Antonín Novotný left his position as the leader of the party and later his position as the President of the Republic. The reformist Oldřich Černík became the Prime Minister, Ota Šik, the author of the economic reforms proposal, became the Deputy Prime Minister, Josef Smrkovský was elected the president of the National Assembly and Alexander Dubček, a Communist from Slovakia, became the General Secretary of the Communist Party of Czechoslovakia and even though he was not directly a member of the reformist wing, thanks to his age and unique manners he soon became one of the symbols of the political loosening. He was active in the following fields: criticism of the existing direction of the regime as a deformation of socialism, democratization of public life, official abolishment of censorship, rehabilitation of a part of the victims of repressions, opening the space for many forbidden and new social and political organisations (Sokol gymnastics movement, Scout Movement, Club of Committed Non-Party Members, Social-Democratic Party, K 231 – Association of former political prisoners), a shift in the foreign policy from the direct vassalage to the Soviet Union, state-law transformation of Czechoslovakia into a federation, but also the program of economic reform which aimed to introduce limited market mechanisms, widen the autonomy of businesses and the renewal of small business.

2 Formally, a federation of two republics was created – the Czech Socialist Republic and the Slovak Socialist Republic. This way, three political structures emerged – federal (federal government and two-chamber Federal Assembly), Czech and Slovak (with their own governments and parliaments – National Councils). This amendment proved itself to be a very important element especially in the period of political transformation. State law questions became, especially for the Slovak part of the society, one of the key points of their political agenda. It was prohibited to get a majority in one of the Chambers (House of Nations) of the Federal Parliament which became one of the breaks of a faster transformation of the legal order and, as a matter of fact, also one of the factors of the process that culminated in the division of the federation following the parliamentary elections in 1992.

If we think about the legal framework of the regime, it is necessary to take into account especially its ideological foundations. Legal thinking was based on the ideology of Marxism-Leninism built on social class stratification being the basic standard. It is very well illustrated by its characteristics written by the important communist law theoretician Viktor Knapp who wrote in 1950: "similarly as the state power in our people's democratic republic is the only and unified power, our people's democratic law is also the only one law, being the will, functioning as a law, of the governing working class and all the working people, defined by the material living conditions of our society".[3] This corresponded to the significant superiority of the public law over private law, which very strongly reflected the idea of common ownership. After 1948, acts and later codes reflecting these ideological foundations were gradually adopted. Some legal fields were degraded or almost disappeared (administration law, commercial law, the majority of the civil law), others were "blossoming" (criminal law, labour law, etc.).

In this context, it is necessary to recall that one of the essential requisites of the communist regime in Czechoslovakia was the almost 100 % nationalisation (or other forms of collectivisation, such as creating cooperatives) of the economy and its strict subordination to the state planning (especially to the five-year plans). In this respect, Czechoslovakia was sadly at the top of the countries in the whole Eastern Bloc. This fact answers the question why it was the economic transformation, including an extensive privatisation of state property, market liberalisation and deregulation, which became the key issue of the whole democratic transition.

LEADING ROLE OF THE COMMUNIST PARTY

Until November 1989, the real power was fully in hands of the party leadership, the Presidium of the Central Committee of the Communist Party of Czechoslovakia which started again to use the extensive repressive apparatus (state political police, special units and party militias). This time, the Communist Party of Czechoslovakia did not use the massive and drastic repressions already known from the turn of the 1940s and 1950s. It did not even strive for the active participation of the masses in building socialism. The motto was rather passivity and depoliticization of the society. Repression was used to bully those who did not want to accept the conditions established by the normalization regime. Non-conformists were denied various material advantages, the possibility of further education and a professional career, and only the most escalated cases ended up in criminalisation, usually by using flexible provisions of the Criminal code on disorderly conduct, incitement to riot or parasitism.

On the top of the power pyramid, there was the General Secretary (formerly the First Secretary) of the Communist Party of Czechoslovakia. From April 1969, this position was executed by Gustáv Husák, a Slovak Communist and originally a moderate supporter of the reforms. He remained in this position until his abdication in December 1987 when he was replaced by Miloš Jakeš who would be the leader of the Communist Party of Czechoslovakia until November 1989. The key decisions were taken by the Presidium of the Central Committee of the Communist Party of Czechoslovakia, usually consisting of 11–12 members. From the beginning of normalization until the late 1980s, the composition of this body did not change very much. It was

dominated by people linked with the suppression of the revival process and close cooperation with, or more precisely vassalage to, the Soviet communist leadership. Formally, the party power was in the hands of the party congresses organised approximately once in five years, announcing long-term goals, including the five-year economic plans, and praising the successes in building socialism.

There was no political pluralism in the period of 1969–1989 in Czechoslovakia. Elections to the Federal Assembly and to both National Councils, as well as to lower-level representative bodies, were held, nevertheless, they represented a mass manifestation of loyalty towards the regime rather than being true elections. The reason for this was not only the absence of any alternative to the candidate lists of the National Front, but also the absence of many other institutes typical for a democratic establishment (free press, legal opposition, judicial control over the power, etc.) Political parties united in the National Front, i.e. the Czechoslovak People's Party, the Czechoslovak Socialist Party, the Freedom Party and the Revival Party, were just satellite organisations of the Communist Party of Czechoslovakia. There were independent candidates and representatives of social organisations (trade unions, youth or women organisations, etc.) in the unified candidate lists of the National Front as well, but these candidates were always carefully vetted and appropriately conformed to the regime.

The number of members of the Communist Party of Czechoslovakia evolved in cycles corresponding to important development phases. In the time of its creation (1921), the Communist Party of Czechoslovakia united about 130 thousand members, however, after Bolshevization in the end of the 1920s, many of them left the party and their number dropped to 40 thousand. After WWII, the Communist Party of Czechoslovakia became a mass organisation and on the eve of the 1946 elections, it comprised of more than one million members. The absolute maximum number of members was achieved in 1948, when the coup d'état took place and the member base had almost 2.5 million individuals. Consequently, the number of its members was steadily dropping. In the time of the revival process at the end of the 1960s, the Communist Party of Czechoslovakia had almost 1.7 million members. After the purges within normalisation, their number dropped to 1.15 million members, and then it immediately started to increase. In the period of the fall of the communist regime in 1989, the party had about 1.5 million members.

POWER AND REPRESSIVE STRUCTURE OF THE COMMUNIST REGIME

After February 1948, the nature of the National Front changed. From the originally people-democratic coalition of political parties which was created as a result of the cooperation of the London and Moscow exile centres of the resistance against the Nazi regime,[4] and partially of the national resistance as well,

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3 Viktor Knapp, "Právo veřejné a soukromé" in *Právník*, 1950, No. 2, 98.

4 During WWII, there were two exile resistance centres abroad and their ideas about the after-war development differed significantly. The exile centre in London with the ex-president Edvard Beneš in the lead and including the representatives of the majority of democratic parties was very shortly acknowledged as the representative body of the Czechoslovak statehood. It strived to remove the real and alleged imperfections of the political system of the First republic, including the ostracism of a part of the centre-right parties (especially the Agrarian Party) that were not to be renewed after ▶

the National Front was transformed into an institution with various organisational levels and apparatus. In the first days and weeks after the coup d'état, Action Committees were being formed. They carried out purges in the whole of society, especially at the levels of individual enterprises, factories, offices, at schools, medical facilities, simply at the lowest levels. Hand in hand with these, the National Front did not serve as a real power centre determining the basic political line any more. This role was assumed by the Communist Party of Czechoslovakia itself. On the other hand, the National Front became a power tool for enslaving the civil society. Out of more than 60 existing organisations and associations, only 683 remained legal and these were obliged to become a part of the National Front.

Other important segments of the power structure were the National Committees, i.e. quasi-constitutional bodies at the community, town, district and regional levels, inspired by the soviet model of public administration. In fact, they had very limited power and they served as a leverage of the regime. Regional National Committees were subordinated to the Ministry of the Interior and individual departments of the Regional National Committees were subordinated to departmental Ministries. A similar relationship of subordination was established between the Regional and District National Committees. This was particularly apparent in financial issues being dealt with a clear hierarchy.

Right after February 1948, the public opinion itself ceased to fulfil its role of political pressure and control of power. Not only its freedom, but in the end also the public truth disappeared. The communist leadership monopolised the creation and influence of the public opinion via public meetings that usually published various consenting resolutions to individual events and happenings, and also via the media. The press, radio and later on television, run by the state or official political and social organisations, stopped to fulfil their function of non-distorting informers and were turned into tools of spreading the official ideology, adoration of the government and party politics, celebration of friendly countries with the Soviet Union and its Communist Party in the lead. All the media, including the press office, were subject to a rigid censorship. The leadership of the Communist Party of Czechoslovakia determined what the media should write and broadcast and how to interpret individual situations and phenomena.

Very soon, the communist regime destroyed the principle of judicial independence. This part of the power structure was attacked in two ways. The independence of judges was destroyed, many of them were "acted-out"[5] and replaced by reliable successors, people who were not qualified,[6] but devoted to the party. Judges of the Supreme Court were elected by deputies of the National Assembly (later on called the Federal Assembly) and judges of the District Courts even directly by citizens. Their mandate was imperative, they answered to their electors with reports on their activities and the activities of the court. They could be repealed on the basis of such a report. Besides these, there were also exceptional courts in the form of a State Court, a special court for "the fight against reaction",[7] and also exceptional People's Courts that were already used before 1948 to judge people accused of collaboration with the Nazi regime. In court proceedings, prosecutors became the key and de facto superior institution; their suggestions were binding for courts. The 1960 Constitution already with no scruples at all proclaimed the position of courts and prosecutor's office that "protect the socialist

state, its social establishment and rights and legitimate interests of citizens and organisations of the working people". In various phases of the development of the communist regime, the judicial system, of course, underwent certain changes. Thus, it experienced a period of certain unbinding from the direct political power of the Communist Party at the end of the 1960s; nevertheless, the direction of justice in the period of normalisation was again very directly pro-regime.

A specific role within the communist regime was played by the armed forces: the army, police, prison service and party militias. In the army, which had already been subject to political supervision since 1945, there was a purge at first, after February 1948, that focused mainly on the Officer's Corps with experience from the western resistance and repressions did not exclude even many soldiers fighting on the Eastern Front. The purge was followed by a strict Sovietization, i.e. full subordination of arms and powers to the Soviet leadership which was embodied by Soviet counsellors in Czechoslovakia. The police was organised according to the Soviet model and in cooperation with Soviet counsellors, too. The National Security Corps was established already in 1945 consisting of two forces: the Public Security (VB) and the State Security (StB). Whereas, the Public Security executed activities that are usually undertaken by the police, the State Security served as the political police. Its importance culminated after February 1948 when it participated in many judicial murders. It was the most feared element of the repressive apparatus. Investigation methods used by the State Security did not differ from the methods already known by many people who were imprisoned during the period of the Nazi regime. The main mission of the State Security in the first years after the coup d'état was to prepare and control political procedures that revealed saboteur and opposition centres, either real or completely concocted. The position of the State Security in

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▶ the war. The communist emigration in Moscow was entirely dependent on the Soviet Union and its leader – Stalin. Together, they perceived the war as an opportunity to easily export the communist revolution into a restored state. Their cooperation was reflected in the Friendship Agreement on Mutual Aid and After-War Cooperation between Czechoslovakia and the Union of Soviet Socialist Republics which was concluded in December 1943, and mainly by the creation of the National Front government in April 1945 which adopted the "Government programme of national and democratic revolution of Košice" on the basis of which the restoration of power in the territory of the liberated state was carried out from May 1945. For the first time, Communists were represented in the government, executing the very important positions of two Deputy Prime Ministers, the Minister of the Interior, the Minister of Education, the Minister of Agriculture and the Minister of Information. General Svoboda, the commander of the army section of the exile in Moscow who was very close to the Communists, became the Minister of Defence.

5 That is removed from office on the basis of their class or political unreliability which was usually proclaimed by the locally competent bodies of the National Front, now fully in the hands of the Communist Party of Czechoslovakia or its agents in other political parties and organisations.

6 Many new judges and prosecutors were labourers with no secondary school education and their only qualification was graduation from the Law School of the Working People under the Ministry of Justice where the education usually lasted only a few months and focused mainly on Marxism-Leninism studies. Such "educated labourer prosecutors" consequently occupied the vast majority of leading positions.

7 In the four years of the State Court existence (1948–1952), almost 27 thousand individuals stood trial at this court and it delivered in total 249 death sentence verdicts out of which only a few were granted pardon and changed into life imprisonment sentences. The State Court trial had a purely formal character as it had previously been prepared in meetings of judges and procurators.

various phases of the regime fluctuated; however, it remained the strongest one among all the elements of the repressive apparatus. The State Security got new tasks during normalisation and especially in fighting the opposition which started its formation in the mid-1970s. Even though the methods of its work consisted much more in psychological rather than physical terror, many violent excesses committed by the State Security investigators against dissidents are known. The State Security also had another function, that is to get selected individuals from all social layers, people of many different political opinions, including representatives of the academic spheres, culture, sport, and last but not least, members of the dissent itself, to cooperate with the regime. The role of informers aimed not only to get the information about developments in various segments of the society, but also to sow distrust among the opponents of the regime. At the same time, many prison guards, especially those who worked in forced labour camps[8] in the 1950s were detrimentally known for their brutality. And finally, the last important repressive force were the People's Militias, i.e. labourer combat units created by a decision of the Central Committee of the Communist Party of Czechoslovakia in February 1948 when they played an important role in demonstrations to support the coup d'état, as well as being the deterring element of the upcoming new regime. In later phases of the regime, they played an important role especially at times with a certain revolutionary drive, i.e. in times of normalization and in the final phase of the regime when they were repeatedly used to disperse demonstrations in 1988–89. At that time, they consisted of about 80 thousand members.

OPPOSITION AGAINST THE COMMUNIST REGIME

Similarly to all segments of the political system, the opposition, too, had significantly developed during the forty years of the regime. To understand the transition towards democracy, the important phase is the period interconnected with normalisation and the following 1980s. The opposition was not formally organised in any way. This was caused both by many objective and subjective reasons. Whereas the opposition activities against the Soviet invaders and their allies in the state and party governance were of a mass uprising kind (petitions, demonstrations, strikes) at the turn of the 1960s and 1970s, after the suppression of the demonstrations in August 1969, the mass opposition activities disappeared for almost two decades. Following the intermezzo when the last remnants of the student movement were destroyed, as well as the seeds of the radical-left youth movement and the remnants of resistance inside some official organisations, the opposition activities were subdued until 1977.

There were several impulses for the new phase of the opposition activities – the Helsinki Process,[9] as well as interventions against the remains of the unofficial culture (mainly the trial concerning the musical underground). The declaration of Charter 77 was drawn up at the turn of 1976 and 1977 and it pointed out the contradiction of the communist regime propaganda and reality. It called for the dialogue of the regime governance with the citizens who were willing to get engaged. The reaction of the regime was very sharp, the initiators and spokespersons of the Charter (Václav Havel, Jan Patočka, Jiří Hájek and others) were watched, interrogated, imprisoned and otherwise bullied.

There was a media campaign against Charter 77. Despite a certain kind of suppression, Charter 77 succeeded in pursuing its activities until 1989. Later on, other initiatives were created, especially the Committee for the Defense of the Unjustly Prosecuted in 1978. Nevertheless, the circle of dissidents remained limited and quite isolated until the mid-1980s.

The nature of the opposition movement started to change only in the second half of the 1980s when the number of citizens involved increased and the scope of opposition activities was widened, too. Some of them even gained a true political drive and various ideological streams started to shape them.[10]

TRANSITION TO DEMOCRACY

In November 1989, the political regime in Czechoslovakia changed. This change was quite quick, mainly in comparison with the neighbouring countries. The democratisation itself was preceded by a certain level of liberalisation of the public space which occurred more or less spontaneously, often despite the leadership of the Communist Party of Czechoslovakia. The key impulse was the change in the leadership of the Communist Party of the Soviet Union – that is the arrival of the reformist group with Mikhail Gorbachev in the lead. Its reformist course was received by Czechoslovak Communists with embarrassment. This was only very logical, as the majority of the communist leaders in power gained their positions during the normalisation process, i.e. when the results of similar revolutionary processes from the end of the 1960s were eliminated.

Although the normalisation leadership of the party resisted the changes, gradually, some cosmetic compromises had to be taken. Under the reconstruction[11] slogan, the position of a part of businesses changed and there was new space for small business from 1987. The changes were largely cosmetic ones. The media, more and more accentuating the critical tone towards various abuses, opened more space for discussion. Inside some power structures, interesting analysis materials were created and they

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8   According to realistic estimates, as the exact data are missing, about 100 thousand citizens went through the forced labour camps ("communist camps"), many of whom had already experienced the Nazi concentration camps during WWII. Many prisoners never came back from the camps, or they did, but their health was in such a bad state that they died immediately after their return from the camp.

9   The Helsinki Process refers to a system of international negotiations and agreements issuing from these negotiations the objective of which was to ensure peace and deepen the cooperation between the European states, the USA and Canada which were usually on opposite sides of the bipolar division of the world. This process culminated in the formation of the Conference on Security and Co-operation in Europe and its main result was the signing of the Helsinki Accords on 1 August 1975. In Helsinki, the highest representatives of 33 Europeans states, Canada and the USA signed a document consisting of 5 parts. One of them was also the principle of respecting human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief. Opposition leaders in several countries referred to the signature of this very document, in which the communist countries as well, including Czechoslovakia, committed themselves to respect human rights.

10   The Movement for Civic Freedom attempted to make a broad association of various streams, the most important of which were the social-democratic, Christian-democratic and liberal-conservative ones. Compared to that, the Democratic initiative composed of "realists" represented a more streamlined movement which was to a great extent in opposition to Charter 77.

11   The then analogues of the Soviet Perestroika.

– sometimes very openly – named the economic and societal problems.[12]

Rather silent or politically resistant parts of the society became active as well – young people and students, ecology activists, a part of the culture community. The number of various petitions demanding the release of political prisoners, dialogue of the political regime, reforms, respecting human rights, increased very sharply. The *Několik vět* (A Few Sentences) Petition drawn up in June 1989 had several tens of thousands of signatories and the petition on the separation of the church from the state and on religious freedom was signed by 600 thousand citizens of Czechoslovakia.

At the beginning of January 1988, mass demonstrations against the regime started again, organised not only in Prague, but also in other towns. The majority of them were not authorised, they were dispersed and their participants persecuted. However, the regime was not strong enough any more to prevent effectively the repetition of demonstrations and an increase in the number of their members.

Real changes were launched by the already mentioned violent suppression of an authorised demonstration. Two days later, two umbrella movements were created, representing a broad civic platform. The Civic Forum in the Czech part of the federation and Public Against Violence in Slovakia took over the initiative and demanded an open dialogue on democratisation. The creation of the Civic Forum was very spontaneous and its activities were spreading quickly from Prague to other bigger towns and from there all over the country. From the beginning, there was a strong centre created within its framework created by representatives of the dissent together with a part of the cultural front[13] and also by personalities from the grey zone.

An important point in the development of the transition was the establishment of a dialogue between the federal government led by Ladislav Adamec and the Civic Forum representatives with the aim of government reconstruction. At that moment, the party leadership was dragged into the events and was not capable of reacting appropriately any more. A week after 17 November, Miloš Jakeš, the General Secretary of the Communist Party of Czechoslovakia, resigned together with many other of the most compromised representatives of the governing party.

The development was further accelerated by the increasing demands of the Civic Forum and Public Against Violence to create a "Government of National Understanding" with an important representation of the opposition. However, it was already led by a member of a younger generation of the communist nomenclature, one of the important players in the peaceful transition towards democracy, Marián Čalfa. Following the creation of the new government, Gustáv Husák, the former General Secretary of the Communist Party of Czechoslovakia and President, stepped down.

Another important milestone in the way towards political plurality was the removal of articles regarding the leading role of the Communist Party of Czechoslovakia and the National Front in Czechoslovakia and also the removal of the article concerning Marxism-Leninism. Many other partial changes to the federal constitution and other acts followed, regarding the direct functioning of the pluralist democracy which was being born. From this point of view, co-options of new Deputies of all the legislative assemblies were especially important, as, besides the fundamental change of their political composition, they led towards the real renewal of Parliamentarism.

The transition towards democracy in Czechoslovakia is usually described in foreign literature as a "shift" characterised by the cooperation of the old communist elite and the opposition (Huntington), "transition by reform" when mobilisation of the masses forces the governing regime to compromise (Karl-Schmitter), or "collapse" mainly characterised by an important change of all structures that moves the representatives of the previous regime to the edge of events (Linz-Stepan). Mr. Novák, a Czech political scientist, calls it a transition "forced" by the mobilisation of the masses, opposition powers and international circumstances. The fact is that one of its important characteristics is its high speed that resulted in the blending of the liberalisation phase with the democratisation phase, and also in forming the strategy of individual players only during the transition. With regard to this point, it is very often mentioned that neither the opposition, nor the Communist Party of Czechoslovakia leadership were prepared for the revolutionary situation, even though they could have expected it. Thus, in different phases of the transition, anti-authoritarians represented by the anti-party and anti-hierarchy movements of the Civic Forum and Public Against Violence, and especially their moderate parts, inclined to negotiate with the pragmatic part (however, not with the reformist one, because, as was already said, it de facto did not exist) of elites of the departing regime.

The cooperation of the main players, including the leadership of the Civic Forum and Public Against Violence and a part of the communist government representatives (initially with Adamec, and later with Čalfa in the lead), and also the representatives of the revived parties of the National Front, was reflected, for example, by the already mentioned repeated reconstruction of the legislative assemblies which enabled not only constitutional changes to be carried out, but also Václav Havel, the opposition leader, former spokesperson of Charter 77 and repeatedly imprisoned playwright, to be unanimously elected as the President of the Republic. He was even elected by the Federal Assembly, at that time only partially reconstructed, already at the end of December 1989. At the beginning of 1990, a bill of the "small act on political parties" was prepared for negotiations, enabling the creation of new political parties and movements, and also a constitutional act on shortening the election period of all three parliaments which opened the way towards free elections and stipulated that the first freely elected legislative assemblies will have only a two-year term of office.[14] Furthermore, the existing parties and movements agreed on the form of the electoral system to be a proportional representation system, partially

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12 As an example we can mention the Prognostic Institute of the Academy of Sciences with its many economists of very different opinions on the socialist economy. Many of them gained positions in high state functions after November 1989 (Prime Ministers and Presidents Václav Klaus and Miloš Zeman, and ministers Dlouhý, Komárek, etc.)

13 Theatre actors were the first ones to support the representatives of students in November 1989 who entered into a strike and demanded an investigation of the intervention of the repressive apparatus against the student demonstration on 17 November.

14 The act stipulated the conditions of the legal creation of new political parties and movements. The present parties of the National Front were proclaimed as already existing parties and movements that were not obliged to meet these conditions and could immediately start to prepare for the first free elections. These were namely the Communist Party of Czechoslovakia, the Czechoslovak People's Party, the Czechoslovak Socialist Party, the Democratic Party, the Party of Freedom and also both movements – the Civic Forum and Public Against Violence.

modified by an inclusion of the election threshold of 5 % for getting represented in the Chamber.

Therefore, the transfer and taking of power in Czechoslovakia was to a great extent quite improvised. A lot of things remained untouched institutionally. This was also reflected by the fact that until the division of Czechoslovakia after elections in 1992, or more precisely at the end of 1992, the constitutional deed consisting mainly of the "Socialist Constitution" from 1960, complemented by later adopted amendments, although ideologically built on the complete opposite to liberal democracy, still remained in force. The second very important result of such improvisation and of the fact that a part of the communist elite continued to participate in establishing the new democratic rules is the successful survival of the practically non-reformed communist party to this day. Contrary to many countries of Central and Eastern Europe where the communist state parties were banned, their property confiscated, or they at least changed fundamentally ("socio-democratised") and distanced themselves from their past, the Communist Party of Bohemia and Moravia is the direct successor of the former Communist Party of Czechoslovakia.

The birth of the new system of political parties took place in several important phases. The first one dates from November 1989 to the first free parliamentary elections in June 1990. In this period, institutional foundations were laid, as was described above. Until the elections, it is not possible to call it a party system in the strict sense of the term, as it is not clear which of the formations might be considered as relevant at all. However, the important thing is that the development of the political spectrum was going on separately in Bohemia and in Slovakia.

The crucial moment of this phase was a decision of the Civic Forum and its sister Slovak movement Public Against Violence to participate in the elections and to represent both various political and in fact non-political streams of the opposition against the Communist Party, or more precisely against communism. Their overwhelming victory in the elections only highlighted the predominance of the Civic Forum on the Czech side and the very good position of Public Against Violence in Slovakia. Other relevant formations that obtained representation in the Federal Parliament were the Communists that as the only party stood for the elections as a single party in both parts of the federation, the Christian-democrats standing separately and with different political programmes, and the "Moravians" demanding the autonomy of the historical territory of Moravia and Silesia within the Czech Republic, Slovak nationalists in Slovakia with their program of independence, and a movement defending the interests of the Hungarian minority. After the elections, the Civic Forum, Public Against Violence and the Slovak Christian-Democratic Movement made a coalition at the federal level. Marián Čalfa again became the head of the federal government, this time already as a nominee of Public Against Violence.

The second phase of the birth of the spectrum of parties takes place in parallel inside and outside the framework of both "catch all movements". Parties already created before the elections function within the Civic Forum and besides these, there are new political streams being created, some of which will turn out to be essential. Moreover, conflicts inside the wide-spectrum Civic Forum and Public Against Violence are increasing as well. Besides the left-right conflicts about the speed and depth of the economic transformation which became the most important topic in the Czech part of the federation, there are more and more disputes concerning the idea of the constitutional arrangement of Czechoslovakia. And these disputes turn out to be the principal division factor within Public Against Violence which forms two main streams – supporters of the federation and the federal government model of a quick economic reform versus a very nationally oriented part that together with larger independence demands the right for Slovakia to choose the course of the economic transformation. The Civic Forum is further divided by the question of the future of the movement itself with supporters of the transformation towards a standard, but still relatively widely anchored party on the one hand, and on the other hand with those who are persuaded that the Civic Forum should continue to represent the widest spectrum and provide space for strong individuals to succeed. Moreover, some already well-shaped political parties leave the Civic Forum and set off on their individual paths. Other streams are formed in parallel with the already existing parties outside the Civic Forum which is best proved by the existence of several "groupings" of a social-democratic type.

In the end, the Civic Forum breaks up in winter 1991 into two successor entities which commit themselves to finish the term of office in cooperation. That is the Civic Democratic Party which became the most centre-right, liberal-conservative force for more than the next 20 years, and the Civic Movement which represents the supporters of the further existence of the movement, however, experiencing a bitter defeat in parliamentary elections in 1992.

Public Against Violence also divides into two different formations – the national-authoritarian Movement for a Democratic Slovakia which later on brings the already independent Slovakia into international isolation, and the Civic Democratic Union which loses the 1992 elections and consequently disappears, merging with other centre-right parties.

Outside the framework of both catch all movements, various political parties and movements dynamically revive, appear, regroup, merge, dissolve and disappear. Within the majority of the federation, they can be divided, for example, according to their origin to historical ones, out of which only the Social Democratic Party succeeded; to parties created within the dissent, including primarily the Civic Democratic Alliance, the second liberal-conservative party created originally within the Civic Forum; and to completely new parties which include, for example, the Green Party, the cooperative-peasant Agrarian Party, the above mentioned "Moravians" or extreme-right republicans. The development of Christian-democratic politics stands as a specific chapter. In the 1990 elections, it was represented by the coalition of the People's Party (which used to be a part of the National Front), the anti-communist Christian Democratic Party with roots in dissent and several smaller interest groupings. Later on, the Christian Democratic Party became closer to and finally merged with the Civic Democratic Party, and the People's Party appropriated the brand of "Christian and democratic" and became an integral part of the political scene with a high potential of making a coalition. Even more interesting is the revival and development of the Czech Social Democratic Party. The Czech Social Democratic Party is actually the only historical party of this type in Central and Eastern Europe which succeeded without the need of having to change its policy in any significant way. It was revived thanks to the activity of the exile social democrats as well as to various domestic sources. First of all, many people with family ties to historical social democracy joined the party, and later on, members of the "Obroda" (Revival), a group of reformist Communists created in 1968, entered the party, and finally,

many deputies elected under the Civic Forum and later under other political parties joined the party as well.

The real and symbolic end of this development phase was the second free elections in 1992. They brought very different results in both parts of the federation which significantly contributed to the dissolution of the common state, but also completed the phase of the dominance of the forum-type movements. Elections in the Czech Republic were clearly won by the Civic Democratic Party in coalition with the small Christian Democratic Party, winning 30 % of votes and an even higher number of seats. The Communist Party of Bohemia and Moravia came second again, but it associated with other left-wing parties and formed the Left Bloc. This period can be described as the only period when the Communists under their former leadership tried to distance themselves from the past. The election threshold of 5 % in these elections was also achieved by the Czech Social Democratic Party, the Liberal Social Union,[15] the Christian and Democratic Union – the Czechoslovak People's Party, The Republicans, the Civic Democratic Alliance and the Moravians, getting from 5.9 to 6.5 % of votes. Nevertheless, the latter two parties were not represented in the Federal Parliament, but only in the Parliament of the Czech Republic which, however, proved to be the most important one after the dissolution of Czechoslovakia. The new government coalition at the national level was formed by the Civic Democratic Party, the Christian Democratic Party, the Christian and Democratic Union – the Czechoslovak People's Party and the Civic Democratic Alliance. Václav Klaus, the head of the Civic Democratic Party and one of the symbols of a quick and deep economic reform, became the Prime Minister. At the federal level, a transient government was created and its only task was to prepare the dissolution of Czechoslovakia.

LESSONS LEARNT

Analyses of the Czech political system from the beginning of the new millennium agreed that the Czech political system was, apart from minor exceptions, a consolidated democracy. They stated that the constitutional system and positions of specific players, e.g. the media, the armed forces or the intelligence services, were transformed successfully, the consolidation of the main political players was on the right track with the success of political parties that were relatively standard or shaped by their programs or interests, and the consolidation of interest groups was also quite successful, even though both types continued to have problems with a lack of interest in membership. Certain problems were experienced in the party system, too. The opposition of the Communist Party remained strong and other parties refused to make coalitions with it, thus making it impossible for the parties to fully alternate in power or to create coherent and operational governments.

Unfortunately, the indicated difficulties have not disappeared ever since, quite the contrary. Many new issues showed up and the old ones even deepened. The instability of governments, the real and alleged corruption excessively presented to the public and internal relations caused that standard political parties lost a lot of their popularity. Their ideological emptying and preferring the technology of power proved to be one of the legacies of the past. The institutional set-up of conditions for the functioning of parties and their cooperation, starting with the constitutional definition of the Prime Minister position and

too strong positions of individual legislators, and ending with the inconvenient form of the representative system for elections to the Chamber of Deputies, were found as problematic. Again, however, it is the relic of negotiations with the departing political power at the turn of 1989–1990. Moreover, recently there has been an unusual problem of interconnecting the power of the media, economy and politics which is also linked with the process of economic and political transformation. Many of the "oligarchs" embodying the concentration of power of today are the results of the processes from the period after the coup d'état when especially the younger generations of the nomenclature cadres and children of representatives of the communist regime participated successfully in the privatisation of the huge state property. To be able to do this, they benefited from their old contacts and social capital. Thus, more than 25 years after November 1989, people connected with the regime more than anyone else ever before are now pushing themselves to power.

To this must be added the influence of the developments in European countries on the national politics, as these countries are more and more confronted with not having been solving many problems which resulted in the feeling of estrangement, populism and political and religious radicalism and search for alternatives to the liberal democracy. The existing political parties are not able to face this and they succumb to fashion waves. This is most typically proved by changing the way of electing the President by a parliamentary vote into a direct vote which led to many principal shifts on the political scene towards a fundamental division of the society into uncompromising camps and to an increase in authoritarian moods in certain segments of the society.

RECOMMENDATIONS

Extensive compromise with the representatives of the past regime in issues regarding the institutional set-up of the political system is not a good deal. In most cases, it is not possible to totally eliminate the representatives of the departing regime, however, it is necessary to remove them from the real decision process regarding the constitution, electoral system, conditions of political parties functioning, their funding, but also from the course of the principal transformation processes.

There is a need to strictly insist either on banning the former state party, or at least on its effective transformation, including its public distancing from the past and the nationalisation not only of its property, but of the property of its branches as well (youth, women and other organisations).

It is absolutely necessary to carry out an exhaustive check-up of the former representatives of the regime, and possibly to confiscate their property, not only at the level of party representatives, but also of members of the nomenclature and leadership of the repressive forces.

When creating the constitutional system, it must be assumed that the executive power has to be strictly controlled, and on the other hand, it must be able to make operational solutions. This must be reflected in the powers of the Prime Minister, as well

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15 That is quite a bizarre union of socialists who used to be in the National Front, Green Party and the already mentioned Agrarian party that represented the interests of the management of the disintegrating farmer cooperatives.

as in the electoral system which should support the competition of parties anchored by their programs and the formation of stable and operational governments.

Each important change of the constitution must be considered with a cool head, especially the issues concerning the system of checks and balances of individual parts of power, and should not succumb to the pressure of the "streets".

The positions of the legislative assembly and its members must be defined, corresponding to the fact that it is supposed to be a control body in the first place, not a body where legislation is created and modified to a great extent and where government deputies often plot against their own government for their direct benefits.

Even in the case of very serious economic problems which often accompany the democratic transition, it is not possible to underestimate and to ignore its other features, starting with the legal environment and ending with the purification and transformation of the education system.

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MEMORY OF NATIONS
Democratic Transition Guide

[The Estonian Experience]

CEVRO

TRANSFORMATION OF THE POLITICAL SYSTEM

TOOMAS HIIO

LOSS OF INDEPENDENCE DURING WORLD WAR II[1]

Occupation. The member states of the League of Nations, Estonia, Latvia, and Lithuania were occupied by the Soviet Union in June 1940. Tens of thousands of the Red Army and Soviet Baltic Fleet soldiers and sailors were stationed to the territories of the Baltic states.[2]

After that the Estonian government resigned. The list of members of the next government, a puppet government, was proposed by the Soviet Legation in Tallinn. Andrej Zhdanov, a special emissary of Joseph Stalin, was sent to Tallinn and coerced the President of the Republic, Konstantin Päts, to appoint a puppet government. Similar events took place in Latvia and Lithuania. A "transitional period" in all three Baltic states created the illusion of the continuation of the former legal order with the so-called people's governments, controlled by Soviet special representatives, under the cover of the Soviet diplomats, and by the Soviet secret police, NKVD, was finalized by the formal incorporation of all three Baltic states into the Soviet Union in the beginning of August 1940. Three weeks earlier the Soviet-controlled and Soviet-type elections, with only one candidate in each electoral district, were carried out in each Baltic country. Elected puppet parliaments had voted unanimously for the reorganisation of their countries into soviet republics, and asked the Soviet government for incorporation of their states into the "friendly family of the Soviet nations".

Non-recognition policy of the USA. Simultaneously with the first session of the puppet parliaments in all three occupied Baltic states, on 23 July 1940, the US acting Secretary of State Sumner Welles issued a declaration, condemning the political changes in all three Baltic states. It was the beginning of the non-recognition policy of the Western countries in respect of incorporation of the Baltic states that continued until the collapse of the Soviet Union.

Soviet reorganisation of society. At the end of August 1940 the constitutions of all three Baltic soviet union republics, based on Stalinist constitution of the USSR from December 1936, came into force. The puppet parliaments declared themselves to the temporary Supreme Soviets and continued in this capacity until new supreme soviets were elected in 1947. Temporary Supreme Soviets appointed new governments, councils of people's commissars. Although some members of the "people's governments" continued in new councils of people's commissars, now also the former underground communists[3] and some citizens of the Soviet Union were appointed to the people's commissars' (ministers) posts respectively in Estonia, Latvia and Lithuania.

Before the end of the year 1940 the Soviet legislation was introduced, including the criminal code of the Russian Soviet Socialist Federal Republic of 1926. Estonian currency, kroon, was changed to the Soviet rouble using the extortionate exhange rate 1 kroon = 1,25 roubles.

During 1940–1941 Estonia was ruled in fact by the Plenipotentiary of the Central Committee of the All-Union Communist (bolshevist) Party and the Council of People's Commissars of the USSR in Estonia Vladimir Bochkarev and his staff. To each ESSR people's comissariat a deputy people's commissar, in fact a supervisor from respective branch institution of the party or the USSR government was appointed. The security services, the People's Commissariat of Internal Affairs (NKVD) and the People's Commissariat the State Security (NKGB), created in February 1941 with their branch offices (respective ESSR people's commissariats) had extraordinary important role.

Political terror and population losses. First arrests of the political opponents took place already in June 1940. Since autumn the massive political arrests began, culminating with the deportation of men, women and children from all three Baltic states on 14 June 1941. Repressions and deportation were directed against the bearers of the statehood: the politicians and higher state officials, military officers, policemen, part of educational elites, businessmen, enterpreneurs, wealthier peasants etc. During 1939–1941 Estonia has lost every tenth resident: when in 1939 there was about 1,134,000 inhabitants in the Republic of Estonia, so according to the registration of the population, carried through by the German occupation authorities in the end of 1941, there were little bit less than 1,000,000.[4]

After the German occupation in 1941–1944, according to the registration of the population carried through by the Soviet authorities in autumn 1944, only about 900,000 persons were present in Estonia, i.e during 1939–1944 Estonia has lost every fifth resident.[5]

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1 To this chapter see Toomas Hiio, Meelis Maripuu, Indrek Paavle, eds., *Estonia 1940–1945: reports of the Estonian International Commission for the Investigation of Crimes Against Humanity*, Estonian International Commission for the Investigation of Crimes Against Humanity, Tallinn: Inimsusvastaste Kuritegude Uurimise Eesti Sihtasutus, 2006; Andres Kasekamp, *A history of the Baltic states*, Basingstoke–New York: Palgrave Macmillan, 2010.

2 First Soviet military bases were stationed to the Baltic countries after the defeat of Poland beginning with October 1939 following another Soviet ultimatum, but though according to the agreements between the Soviet Union and each Baltic state.

3 The communist parties were illegal in all three Baltic states. The central committee of the Estonian CP was located in the Soviet Union and was subordinated to the Comintern and in turn to the All-Union Communist (bolshevist) Party of the Soviet Union. ECP was the smallest comparing to the other Baltic states with some 100–150 members in 1940.

4 Not all of them were direct victims of the Soviet repressions: among them were the more than 20,000 Baltic Germans, settled to the Germany after the Hitler-Stalin Pact was signed. In summer 1941 more than 30,000 men were mobilised to the Red Army from Estonia, but sent to the labour units, and more than 25,000 were evacuated (mostly the party and Soviet officials, but also skilled workers and specialists). The most of circa 7000 arrested and a majority 10,000 deported persons, who were sent to the Gulag camps or forced settlement in Northern Russia and Siberia, died during first few years. Circa 2000 political prisoners and civilians were executed in Estonia or murdered by the retreating staff of the state security institutions or the Red Army soldiers during the combat in Estonia from July to October 1941.

5 The biggest categories among them were more than 70,000 individuals who escaped to the Germany and Sweden in autumn 1944, including the men who were mobilised in the German armed forces, and probably also part of the men mobilised to the Red Army in Estonia during 1944–1945 (altogether about 20,000 men).

Estonia has lost all its national minorities: the Jews (0.4 % in 1934) who remained in Estonia became the victims of the Holocaust already in 1941 (more than ⅔ of Estonian Jews succeeded to escape to the Soviet Union and the most of them, who had survived there, returned after the end of the war) and the Swedes (7500 individuals) were evacuated to Sweden in 1943–1944. In 1944–1945 the parts of Northeast and Southeast Estonia with mostly Russian population were dispatched from ESSR to the Russian Federation. When in 1939 the proportion of ethnic Estonians in the whole population was little bit less than 90 %, so in 1945 more than 95 %.

SOVIETISATION AND THE SOVIET LIFE FROM 1944[6]

After the return of the Soviets in 1944 the Sovietisation continued. The model of 1930s with forced industrialisation, collectivisation of the agriculture was followed including the liquidation of private ownership and the sovietisation of educational system and culture. However, under the slogans of "blooming of the culture and education of the Soviet nations" the language of instruction in the schools and universities remained Estonian. The Russian-speaking population had their own schools. There were few Russian-language departments in the higher education establishments also.

Continuation of the political terror. The armed resistance of the so-called forest brothers was supressed up to 1950s. During 1944–1953 more than 35,000 individuals were arrested on political reasons and sent to Gulag camps. In 1949 more than 20,000 individuals, mostly peasants with their families, were deported to Siberia. After Stalin's death the survivors were released and returned to Estonia during the second half of 1950s, but remained under surveillance until the collapse of the Soviet Union.

Population change. According to last Soviet census of 1989 there were about 1,5 million inhabitants in Estonia. Only 64 % of them were ethnic Estonians yet. Other were mostly Russian-speaking immigrants. Big part of them were brought to Estonia as the workers of big industrial enterprises that mostly served the needs of the Soviet armament production and heavy industry. The labour craft of Estonian mining industry, producing oil shale, mostly used for fuelling of two big power plants, was predominantly Russian-speaking, too.

Estonia remained an important part of the Soviet military system with tens of thousands of soldiers and officers stationed in Estonia. Among others the medium range nuclear missiles were stationed in Estonia at the end of 1950s. In Paldiski a nuclear submarine training center was built up and a strategic air force base was located in Tartu, the second largest town in Estonia. Estonian young men were conscripted into mandatory military service to the Soviet Army. Absolute majority of them served in the units outside of Estonia.

Organisation of the Soviet government in Estonia. Estonia was governed by the local branch of the Communist Party of the Soviet Union (CPSU), the Estonian Communist Party (ECP), which was commanded and controlled by the apparatus of the Central Committee of the CPSU. The higher leadership of the ECP was appointed by the Politburo of the CPSU CC. Local Soviet authorities, the ESSR Supreme Soviet with its Praesidium and the Council of Ministers, were controlled by the ECP CC. There were three types of ministries in in the Soviet Union:

the all-union, all-union-republican and republican.[7] This allowed to subordinate all important fields to the direct control of central authorities in Moscow.

The dynamics of the personnel of the Soviet authorities in Estonia had four phases, however without very clear borders. During 1944–1950 the leading posts were in the hands of former Estonian underground[8] communists from the interwar period and their fellow travellers, who joined the party soon after the beginning of the Soviet occupation in June 1940. In 1949–1950 a lot of them were fired and many also arrested under the accusation of "bourgois nationalism". They were replaced with so-called Soviet Estonians (*liidueestlased* in Estonian), men and women, who had lived or were born in the Soviet Union during interwar period[9] and dispatched to Estonia in big numbers after the WW II, but also with Russians and members of other Soviet nations. Since 1960s they were replaced step by step by Estonians, who had born in Estonia and had lived in Estonia during interwar period, but had received their "baptism of fire" during the World War II in the Red Army Estonian national units or in the Soviet rear. Since 1970s the replacement of "old cadres" with younger men and women born in Estonia began. They were mostly persons without any strong conviction to the communist ideology, treating their membership in the Communist Youth League and later in the Party as an unavoidable step in their career. An important moment in the life of this generation was the short period of hope to the "human-faced socialism" during 1960s that was finished with the suppression of Prague Spring in 1968. At the same time, the Estonian branch of the Communist Youth League in Estonia became a mass organisation and the most of the youngsters beginning with the age of 14 were forced to join it.

During the whole period the power was firmly in the hands of old cadres. The 1st Secretary of the CC of the ECP Johannes[10] Käbin (1905–1999) kept this position from 1950–1978. He was born in Estonia but his parents moved to St. Petersburg already in 1910. He was replaced by Karl Vaino (born 1923 in an Estonian settlement Siberia) leaded the party during 1978–1988.

The Chairman of the Supreme Soviet of the ESSR during 1961–1970 Alexei Müürisepp died in the office and was replaced

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6 To the period until Stalin's death see Toomas Hiio, Meelis Maripuu, Indrek Paavle, eds., *Estonia since 1944: reports of the Estonian International Commission for the Investigation of Crimes Against Humanity*, Estonian International Commission for the Investigation of Crimes Against Humanity, Tallinn: Inimsusvastaste Kuritegude Uurimise Eesti Sihtasutus, 2009. On some more detailed issues see the articles, published on the website of Estonian Institute of Historical Memory: http://mnemosyne.ee/en/publications/. Shorter generalisations see Estonica: Encyclopaedia about Estonia, http://www.estonica.org/en/History/1945-1985_The_Soviet_Period/.

7 Subordinate departments in the soviet republics of all-union ministries were under direct control of Moscow central offices, for example the ministry of defence. The administration of all-union-republican ministries was a combination with central office in Moscow and subordinate ministry in the soviet republic. "Republican" ministries administrated the branches of economy of local importance and culture; there was a ministry of local industry in ESSR, for example.

8 They were called in Estonia "prison communists", because the most of Estonian communists were arrested during 1923–1924 and sentenced for long time forced labour. They were released with an amnesty in May 1938.

9 A lot of Estonians emigrated to Russia from the second half of 19th century until the Great War. The number of them was estimated in the beginning of 1920s in the Soviet Russia at more than 100,000.

10 In many documents and Russian-language texts the Russian version of Johannes, Ivan has been used.

by Artur Vader (1970–1978). Johannes Käbin was demoted to this ceremonial post in 1978. They all had come from the Soviet Union in 1940s. In 1983 Arnold Rüütel (born 1928) was appointed to this post. He held this position until the end of the Soviet Union. Rüütel was born in Estonia and was popular among Estonians. It is corroborated by the fact of his election to the President of Estonia in 2001.

The government, Council of Ministers, was chaired by Valter Klauson (1914–1988) during 1961–1984. He was dispatched to Estonia after the Soviet occupation. He was followed by Bruno Saul (born 1932 in Estonia). He and the last Chairman of the Council of Ministers of the ESSR Indrek Toome (born 1943) during 1988–1990 belonged to the new cadres already.

Soviet security service in Estonia. The State Security Service – Estonian branch office of the KGB – was a local office of the All-Union KGB. The chief or the KGB in Estonia during 1961–1982 was Major General August Pork (1917–2002), an Estonian born in Russia. During 1982–1990 he was followed with Lieutenant General Karl Kortelainen, born 1930 in an Estonian settlement in Siberia. The last KGB-chief dispatched in Estonia during 1990–1991 Major General Rein Sillar (born 1948) belonged to the new local cadres. The dynamics of the personnel in the KGB were similar to those of higher leadership of the party and Soviet institutions. Since 1960s young Estonian men and women with higher education were hired among others – especially for the fields of secret police work where the knowledge of the local language and circumstances was needed. As in all countries of the Soviet Bloc there was a big number of informal collaborators, mostly hired using their personal weaknesses or as a condition of forgiving the minor criminal offences.

Anti-Soviet resistance. After the end of armed resistance of the forest brothers in 1950s the resistance was continued by numerous Anti-Soviet organisations of the high school students. The most of them were exposed and the members were sentenced to the prison camps. During 1960s and 1970s the organisations were founded that demanded the finishing of the Soviet occupation. Small demonstations took place supporting the Hungarian uprising, Prague Spring and protesting against the Soviet invasion to Afganistan. The movement of the Helsinki groups after Helsinki summit of 1975 to supervise the following of the human rights in the Soviet Union was not active in Estonia; the Estonian, as also the Latvian and Lithuanian resistance members demanded the termination of the Soviet occupation. Their most important achievement was the Baltic Appeal, a public letter to the general secretary of the United Nations, the Soviet Union, East and West Germany, and signatories of the Atlantic Charter by 45 Lithuanian, Latvian and Estonian citizens, big part of them were the former political prisoners, that was sent on 23 August 1979, on the 40th anniversary of the Hitler-Stalin Pact. The signatories demanded public disclosure of the pact and its secret protocols and restoration of the independence of the Baltic states. The appeal constituted the basis of the European Parliament's resolution of 13 January 1983 on the situation in Estonia, Latvia and Lithuania.

Period of deterioration of the Soviet rule. After the new Soviet constitution was affirmed in October 1977, aiming among others the creation of the Soviet nation, the Russification in the national soviet republics was strengthened, including the increasing use of Russian language in the public life and expanding the teaching of Russian in the national schools and even kindergartens. These actions incurred one of the biggest acts of civilian resistance in Estonia before the collapse of the Soviet Union. In September and October 1980 the youth riots took place in Tallinn, protesting among others against the Russification, that were suppressed by the militia forces and KGB using violence. Following to that 40 Estonian intellectuals wrote a public letter, protesting the politics of the authorities in lessening the importance of national language and the indifference of the central agencies towards the interests of the ESSR. The letter was not published in the USSR, but was leaked via Finland and Sweden to the West and red out in the Estonian programs of the Voice of America and Radio Free Europe. The signatories were "prophylactised" (*профилактизация*, a procedure including the conversation with a state security officer with threats) by the KGB and punished with the ban of publication or public presentation, deprivation of some perquisites etc.

Membership of the Communist Party in Estonia. There was more than 100,000 members in ECP during the collapse of the Soviet Union. A little bit more than half of them were ethnic Estonians. The number of those party members among ethnic Estonians, who were dispatched to Estonia after the end of the WW II (i.e. Soviet citizens) is not known.

Differently from East European countries, which retained their independence, though as members of the Soviet Bloc, in Estonia the "Soviet-Estonian identity" did not emerged in fact. The absolute majority of ethnic Estonians regardless of their affiliation or non-affiliation to the party or the Communist Youth League felt themselves firstly as Estonians and only then, if at all, as the Soviet citizens. Majority of Estonian party members had joined the party for career or by opportunism or similar reasons. They left the party during a very short time in 1990 and a viable communist organisation was never restored in Estonia. But many members of Estonian parliament elected since 1992 were and are the former members of the ECP, belonging now to all parties from the left to the right.

RESTORATION OF INDEPENDENCE[11]

First political movements. The restoration of Estonian independence on 20 August 1991 began together with the reforms of Mikhail Gorbachev in the whole Soviet Union. In Estonian case an extraordinary important role had the members of Estonian exile organisations, who supported the independence movement in Estonia with information, books, printing facilities and money and raised the issue of the need of termination of the Soviet occupation in the media of their countries of residence and in international organisations.

During 1986/1987–1990 the groups emerged that formed the base of the new political movements. A movement of preservation of Estonian national heritage began already in 1970s with volunteer work in raising awareness of Estonian national heritage and taking care of national monuments that were not demolished by the Soviets. In December 1987 the Estonian National Heritage Society was founded and became quickly to a country-wide mass movement, supported financially by the Estonian exile

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11 See Mart Laar, *The power of freedom: Central and Eastern Europe after 1945*, Tallinn: Sihtasutus Unitas, 2010; Shorter generalisations see Estonica: Encyclopaedia about Estonia, http://www.estonica.org/en/History/1985-1991_Restoration_of_independence/.

organisations, but also by donations of members. In the 1980s, the Soviet Union had the increasing difficulties with supply with foodstuffs, caused by incapability of the Soviet agricultural sector. As one of the means in the framework of the Soviet Food Programme (1981) the extensive production of fertilisers was foreseen. In Northern Estonia the mining of phosphates was planned with strip mines. Thousands of miners and other needed labour craft were to be imported from other parts of the Soviet Union. A big protest movement against the plans of the Soviet central agencies of fertilisers production began in March 1987 (so-called phosphate war) that resulted in stopping of the development of the project of phosphate mining in Estonia. Part of the activists of this movement tried later to participate in Estonian politics under the flags of green movement, but not very successfully. National Heritage Society and the "phospate war" were able to mobilise the youth, especially high school and university students, to the activities connected with Estonian environment protection and national heritage.

In August 1987 an organisation MRP-AEG (Estonian abbreviation of the words The Estonian Group for the Disclosure of the Molotov –Ribbentrop Pact[12]) was founded by the former dissidents that demanded the recognition of the existence of the secret protocol of Hitler –Stalin pact by the Soviet Government and annulment of it. The members of MRP-AEG became the initiators of the first new Estonian political party, the Party of Estonian National Independence, founded in August 1988.

The year 1988 was a year of the beginning of the countrywide independence movement. The public appearance of the Estonian national symbol, the blue-black-white flag was prohibited during the Soviet period. In spring 1988 the Estonian national flags were taken largely into use at the public events. The most of them were old flags that had been hidden since the World War II. During the song festivals with some hundreds of thousands of participants in summer 1988 were sung already under blue-black-white colours despite of still valid ban to hoist them. On 24 February 1989, the 71st anniversary of the Republic of Estonia, the Estonian flag was hoisted on the parliament building instead of the ESSR flag.

The supporters of the Gorbachev's perestroika had established the Popular Front in Spring 1988 that united different people from the reform-communists to the nationalists and grow rapidly into a mass organisation. The supporters of the Popular Front belonged mainly to the middle-aged generation, while in the national heritage movement literally the grandparents with life experience of interwar Estonia and World War II found each other with their grandchildren.

Soviet Perestroika in Estonia. In summer 1988 Gorbachev expelled unpopular party chief Karl Vaino, and invited Vaino Väljas, who had been the Soviet Ambassador in Venezuela and Nicaragua since 1980, to become the ECP CC 1st secretary. Väljas was popular, he was Estonian and he supported the changes. On 16 November 1988 the Estonian Sovereignty Declaration was issued by the ESSR Supreme Soviet, asserting Estonia's sovereignty and the declaring the supremacy of the ESSR laws over the laws of the Soviet Union.

On 23 August 1989 the Baltic Way (Baltic Chain) was organised by the popular fronts of Estonia, Lithuania and Latvia. It was a peaceful political demonstration where approximately two million people from Estonia, Latvia and Lithuania joined their hands to form a human chain from Tallinn to Vilnius (more than 600 km) to commemorate their national states and citizens

who fell victims of the agreement of the Soviet Union and Nazi Germany, signed exactly 50 years earlier, on 23 August 1939.

Political directions inside of the independence movement. Two factions emerged in the Estonian independence movement. One, the Estonian members of the ESSR Supreme Soviet and most of the members of the Popular Front, wanted to achieve Estonian sovereignty with reforms in the framework of Gorbachev's perestroika, initally not declaring the goal of secession. The other, supported by the Party of Estonian National Independence and the Estonian National Heritage Society, demanded the restoration of the Republic of Estonia, occupied in 1940 by the Soviet Union, based on the principle of legal continuation with reference to the policy of non-recognition by Western countries.

The supporters of legal continuity began on 24 February 1989 with voluntary registration of Estonian citizens; those who were Estonian citizens on 16 June 1940, and their descendants. A special certificate of Estonian citizenship was issued to everybody who was accepted as an Estonian citizen by the registration boards. On 24 February 1990 the Estonian Congress was elected by the registered Estonian citizens that came to its first session on 11 and 12 March 1990. The Congress, with 499 elected delegates decided for the restoration of Estonian statehood on the principle of legal continuity and elected a 78-member executive organ, the Estonian Committee.

On 18 March 1990, the first free elections in the ESSR took place for the ESSR Supreme Soviet (Supreme Council). Instead of the earlier 285 members, the new composition had only 105 members. All adult persons on the territory of the ESSR had the right to vote. For the members of the Soviet armed forces in Estonia four seats in the Supreme Council were reserved. Supporters of independence won 73 seats. The new Council of Ministers was formed by the leader of the Popular Front, Edgar Savisaar. The former Chairman of the Praesidium of the Supreme Soviet, Arnold Rüütel, continued as Chairman of the ESSR Supreme Council.

In April 1990, the ESSR Supreme Council abolished Soviet conscription in the territory of Estonia. On 8 May 1990, the official name Estonian Soviet Socialist Republic was replaced with the Republic of Estonia and Estonian national symbols came into official use. On 7 August 1990, the ESSR Supreme Council stated that the relationship between Estonia and the USSR should be founded on the principles of the Tartu Peace Treaty of 2 February 1920.

Dissolution of the Communist Party. The Estonian Communist Party held its Congress on 23–25 March 1990. The party was split into two, Estonians who supported the creation of independent ECP with the goal of an independent state, while most Russian speaking members founded a new "ECP on the platform of the CPSU". A majority of Estonian members left the ECP soon after. The few Estonians who remained in the "independent ECP" reorganised their party in November 1992 to the Estonian Democratic Labour Party which did not win any seats in Parliament. "The ECP on the platform of the CPSU" was banned after Estonia had regained its independence.

The Gorbachev ideas of reforming the Soviet Union (1987–1989) appealed to the Estonian communists and many supporters of the Popular Front. But the idea of full independence in a form of restoration of the pre-war republic, gained

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12 Parallel name of Hitler-Stalin Pact of 23 August 1939 by the names of signatories Vyacheslav Molotov and Joachim von Ribbentrop.

ground also among them from Autumn 1988. Western powers supported the Gorbachev reforms, and were until 1990–1991 against the dissolution of the Soviet Union, warning Baltic politicians not to work against the reforms.

Pro-Soviet resistance to the independence movement. The third part of the political environment were the people who wished for the continuation of the ESSR in the Soviet Union. Russian-speaking workers and the staff of heavy industry plants founded the International Movement of Workers in the Estonian Soviet Socialist Republic (Intermovement) in July 1988, as an opposition to the Popular Front. Their best known action was an unsuccessful attempt to take over Parliament and government on 15 May 1990. The Chairman of the Council of Ministers warned the residents of Tallinn by radio, and the members of the Intermovement were forced to leave by volunteers, who had rushed to the government site. Intermovement was banned by the Estonian government on 25 August 1991.

Independence referendum. On 3 March 1991, a independence referendum was held. The active service staff of the Soviet armed forces in the Estonian territory had no right to participate. 83 % of the electoral lists participated and 78 % voted for Estonian independence.

Among the most important acts issued by the Estonian Supreme Council was the Republic of Estonia Principles of Ownership Reform Act, passed on 13 June 1991. This act became one of three main cornerstones for the restoration of Estonian statehood, the other two were the citizenship act and international recognition of the restoration of Estonian statehood. The act stated "nationalization, collectivization and expropriation of property in the course of unlawful repression, including mass repression, and by other methods […] during the period between 16 June 1940 and 1 June 1981 are deemed to be unlawful expropriation of property."[13] Paradoxically the abolishment of private property by the Soviets helped to restore it, because new private property relationships had not emerged during the Soviet period. The turn back to June 1940, through the restoration of statehood, also made the restoration of legal status of property possible.

Restoration of the independence on 20 August 1991. The decisive moment for Estonian independence was the unsuccessful coup d'état in Moscow on 19–21 August 1991. An airborne regiment of the Soviet Army was sent to Tallinn from Pskov on tracked infantry fighting vehicles and took control of the Estonian capital. Government sites, the radio and television center and the TV-tower were defended by the Volunteers. Volunteers were members of two paramilitary organisations: the Defence League, which had been restored in February 1990, and the Home Guard which was founded in May 1990 after the attempted putsch by the Intermovement. While the Defence League was supported by the Estonian Congress, the Home Guard men were mostly the supporters of the Popular Front.

The confrontation of the Estonian paramilitary organisations with the Soviet troops did not turn violent. Estonians had a few small arms against the Soviet regular troops and the guns of their infantry fighting vehicles. The Soviet officers, however, were confused and did not know exactly what they were tasked with.

The Estonian Supreme Council and the Estonian Congress agreed on 20 August that Estonian independence should be restored on the principle of legal continuity at once, de jure and de facto. With same declaration, the formation of the Constituent Assembly was decided; 30 members of the Assembly came from Supreme Council and 30 members from the Estonian Congress.

The restoration of Estonian independence was recognised by a number of countries.

Bearers of Estonian legal continuity in exile. Legal continuation of the Republic of Estonia during the Soviet occupation had been based on two institutions: diplomatic representations and the exile government. The Estonian Legation in London and the Consulate General in New York continued their activities during 1940–1991, and were recognised by a number of Western countries. Estonian passports, issued by these institutions were recognised as travel documents by many countries until 1991.

On 18 September 1944, when the Germans were evacuating their forces from Tallinn and the Red Army had not yet arrived, the last Prime Minister of Estonia in 1940, Jüri Uluots, now in the capacity of acting President of the Republic (President Päts was deported to the USSR in July 1940), appointed the government headed by Otto Tief. The actions of the Estonian politicians were not recognised by the German occupation forces, but in September 1944 the main goal of the latter was the evacuation of troops and offices from Estonia. The Red Army took Tallinn on 22 September and most of the government ministers were soon arrested by the Soviet State Security, but some succeeded in escaping to Sweden. Uluots died in 1945. The oldest member of the government, August Rei, took over the post of acting President of the Republic of Estonia and in 1953 appointed new members of the exile Government. After his death in 1963 he was replaced by the oldest member of the exile government at the time. The Estonian exile Government was treated as the bearer of legal continuity similarly to Polish government in exile.

RESTORATION OF THE STATEHOOD[14]

During the transitional period from August 1991 to October 1992, the Chairman of the Supreme Council of the Republic of Estonia, Arnold Rüütel, fulfilled the duties of Head of State, and Edgar Savisaar became the Prime Minister. Savisaar was replaced by Tiit Vähi in January 1992 after the government crisis. Most of the Soviet institutions, including the KGB, ended their activities in Estonia. A couple of months later, in December 1991, the Soviet Union itself was dissolved. Before that, in September 1991, Estonia and the other Baltic countries became members of the United Nations.

Despite of the deteriorated economic situation, the foundations of the renewed Republic of Estonia were completed within a year. The 1938 citizenship act was reinstated on 26 February 1992. According to the implementation regulation of this act, women and men, who were Estonian citizens on 16 June 1940, and their direct descendants, were legal Estonian citizens. The participation in the elections of hundreds of thousands, of possibly pro-Soviet voices, who came to Estonia after World War II were disenfranchised by this act.

Despite recommendations by many foreign economy experts not to, currency reform was carried out on 20 June 1992. The Estonian kroon was stated as the official currency of the Estonian

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13 See Republic of Estonia Principles of Ownership Reform Act, https://www.riigiteataja.ee/en/eli/525062015006/consolide.
14 See Estonica: Encyclopaedia about Estonia, http://www.estonica.org/en/Society/Development_of_the_Estonian_political_landscape_until_2006/?r=/en/Society/Development_of_the_Estonian_political_landscape_until_2006/.

territory, at fixed exchange rate of 8 kroon to 1 German Mark. This exchange rate remained until Estonia joined the Eurozone 19 years later, on 1 January 2011.

A week later, on 28 June 1992, a referendum was held to approve the new Constitution. 67 % of voters participated, and 92 % of them voted for approving the Constitution which entered into law on 3 July 1992.[15] The fourth constitution of Estonia (the former were adopted in 1920, 1933 and 1937/1938) was a constitution of a parliamentary republic, with a 101-seat unicameral parliament (*Riigikogu*). Members of Parliment were elected for four years. The President of the Republic, as head of state, had limited powers, was elected by the Parliament or special electoral council (in the third round; including in addition to the parliament the representatives of the towns and rural municipalities) for five years, with the right to stand for re-elected once.

On 20 September 1992, the elections to the Parliament, together with the first round of presidential elections were held. The parliamentary elections were won by the Pro-Patria Union (the followers of the Estonian Congress) who got 29 seats. The Chairman of the Pro-Patria Union Mart Laar became the first Prime Minister of independent Estonia. In October 1992, a second round of presidential elections took place, Lennart Meri was elected. The last acting President of exile government, Heinrich Mark, symbolically handed over his powers to Lennart Meri.

In August 1994 the last Soviet (then Russian already) troops stationed in Estonia left, according to an agreement between Russian President Boris Yeltsin and Lennart Meri.

Era of restitution. The first half of the 1990s was characterised as an era of the restoration of Estonian statehood, with the ultimate purpose of returning to Europe and joining Euro-Atlantic international organisations. The proportion of foreign trade to Russia decreased rapidly in favour of European countries and North America. The new government began with radical economic reforms that were supported by the majority of Estonian citizens. Besides the restitution of property and real estate, most enterprises from the Soviet era were privatised using the example of East German Treuhand model. Real estate, confiscated by the Soviet authorities, was returned to the former owners or their legal successors. The NGOs, closed by the Soviet authorities during 1940s, were restored. The monuments demolished by the Soviets were restored, financed by voluntary donations and supported with voluntary work. Most of them were the monuments to fallen men in the War of Independence (1918–1920) that were erected at graveyards of every parish, and demolished by the Soviets during 1940s. The number of exile Estonians who returned to the homeland was relatively small, compare with the number of Estonians who had left Estonia in 1944. Some of them played influential role in Estonian state and society, including some government ministers, the Commander of the Armed Forces during 1993–1995, and the President of the Republic during 2006–2016.

In the middle of the 1990s, the Estonian parliament decided to apply for membership in the EU and NATO. Estonia joined both international organisations in 2004.

LESSONS LEARNT AND RECOMMENDATIONS

Despite the events of worldwide importance, like the collapse of the Soviet Union and the Eastern Bloc, we have to avoid superficial generalisation. Every political ideology uses a current social and political environment to take the power, democratically or violently, or supported by a military invasion of another country. The restoration of Estonian statehood became possible due to the collapse of the Soviet Union, but how it was realised was defined by national preconditions and the decisions of the people who did participate in the turn.

National identity should not be forgotten here. Estonian national identity is based on language and culture, but also on a similar background (an absolute majority of Estonians belonged to the peasantry until the Great War). The biggest achievement of the Estonians was independence, proclaimed in 1918. Due to the Lutheran faith and parish schools, founded at the end of 17th century, the majority of Estonians were literate. Democratic tradition is important. In the Estonian case, it began during the 1860s with about a thousand rural municipalities of self government by the peasantry. The period of 1918/1920–1934 was a period of a parliamentary republic with frequent changes of governments. During 1934–1940, Estonia was ruled in an authoritarian way, but the regime was among the mildest, compared with other authoritarian regimes and dictatorships at this time Europe. This was supported by a common background of Estonians, and the homogeneity of the population. Estonian national identity was anti-German and anti-Russian. Estonian lands were part of the Russian Empire since 1710 but most of the members of the local higher classes were, from the 13th century to the Great War, the descendants of crusaders and merchants and later immigrants, coming mostly from German lands. The Germanization and later Russification of Estonian peasants did not take place due to the small number of members of local higher classes, the restrictions against Estonian peasants to join the legal-public associations of noblemen, merchants, craftsmen an clergy, and last but not least, the very different language.

The communist ideology was treated as a form of Russian imperial supremacy in Estonia. The land reform of 1919 made most Estonians small landowners. Soviet collectivisation of agriculture in the 1940s, and the confiscation of landed property disinclined Estonians furthermore against the Soviets. One has not to forget the cruel political repressions directed against the young elites of the Republic of Estonia, and the forced attempts of Russification. In 1980s, the only real supporters of the Soviet regime were the people sent to Estonia, beginning in the 1940s, from other parts of the Soviet Union. In contrast with the strong national identity of Estonia, most of the people who were sent to Estonia had only a Soviet identity which lost its foundations with collapse of the Soviet Union.

The agreement achieved between the Estonian Congress, with the goal of the restoration of the Republic of Estonia by way of restitution, and the ESSR Supreme Soviet and Popular Front, initially trying to find a more moderate way of secession from the Soviet Union, was accomplished finally on the restoration of "old" republic with the recognition of Western countries. A referendum held in the beginning of 1991 supported the independence and the Estonion citizenship definition helped to lessen the pro-Soviet political influence. An antagonistic confrontation between different directions of independence movement was avoided. This was supported by a strong national identity and by the fact that irrespective of

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15 The Constitution of the Republic of Estonia, https://www.riigiteataja.ee/en/eli/521052015001/consolide.

their political affiliations, the absolute majority of Estonians supported independence.

An important lesson learnt is that the attempts to win the hearts and minds of the pro-Soviet, Russian-speaking part of the population, who mostly immigrated to Estonia after the World War II, could have been more active. But here, the big number of late immigrants, about ⅓ of whole population, who are strongly influenced by Russian TV-channels in a country bordering with Russia should be taken into account. The strongest argument for supporting Estonia among the pro-Soviet people was the living standards in Estonia versus Russia. In this comparision, the most Russian-speaking Estonians preffered to stay in Estonia. That was not the case in many other former non-Russian parts of the Soviet Union.

A recommendation derived from Estonian experience of the years 1987–1992 is to avoid the escalation of unneeded conflicts between the different factions of the independence movement. This recommendation is corroborated by the numerous attempts of pro-Soviet forces to create such conflicts. A general recommendation is not to try to import the experience of one nation, to a political environment of another nation or another time. History and culture make every nation and fate unique, a simple copy-paste could result in fatal consequences.

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MEMORY OF NATIONS
Democratic Transition Guide

[The **Georgian Experience**]

TRANSFORMATION OF THE POLITICAL SYSTEM

GHIA NODIA

INTRODUCTION / THE DEFAULT POSITION

During 1989–95, Georgia underwent a transition from a Soviet-style autocracy (or totalitarianism) to a hybrid, semi-democratic (or semi-authoritarian) regime. Notably, though, at the starting point of political transformation, Georgia was not an independent polity: it was one of the fifteen member-states within a quasi-federal structure of the Soviet Union. The two processes of creating an independent nation and of transformation of the political system ran parallel to each other, with one often complicating the other.

The Soviet structure should be called *quasi*-federal, rather than a genuine federation, because of the discrepancy between the formal institutional set-up and actual functioning of power. The Soviet Constitution suggested a model of a parliamentary republic, whereby an elected legislature (the Supreme Soviet) created an executive brunch (Council of Ministers). This structure was replicated in each of fifteen union republics that supposedly had quite broad rights of self-rule, including a right to secession not qualified by any preconditions (Article 72 of the 1977 Constitution).[1]

In practice, however, the monopoly of power belonged to the Communist Party with no other party allowed to function. The Party was built on the principles of "democratic centralism" implying full control exercised by its Central Committee, and a small Politburo on its top, over all regional branches. The party (represented by its vast bureaucracy) was the principal policy-making body responsible for hiring and firing personnel for all important offices. The General Secretary of the Communist Party was the effective political leader of the country. The cabinet of ministers including the military and the security apparatus, was only responsible for technical implementation of decisions made by the Communist Party. Elections to the Supreme Soviets of every level were a formality, because only candidates approved by the Communist Party could run, and there was a single candidate in each constituency.

The list of important offices where appointments were to be made by the Communist Party bodies were called "nomenklatura"; party ruling bodies of every level had its own such lists. Therefore, the power elite of the communist societies was informally called "nomenklatura".

The Communist Party of Georgia was a regional branch of the Soviet Communist Party, responsible for implementing its decisions on Georgia's territory. However, within the Soviet "nationality policy", local nomenklatura almost exclusively consisted of ethnic Georgians (as was the case in all other union republics). Conversely, ethnic Georgian party leaders had only miniscule chances to pursue their careers on the all-Union level. Moreover, there was a universal system of education in the Georgian language, which most of the ethnic Georgian population used, as well as mass media in the Georgian language. This contributed to the creation of a national elite that came to consider its own and its country's interests somewhat separate from that of the all-Union identity and interests.

Soviet nationality policies also implied existence of ethnically-defined autonomous regions for some (though not all) ethnic minorities residing within Union Republics. Georgia, thirty percent of whose population was comprised of ethnic minorities (according to the 1989 census[2]), had three such units: the Abkhazian and Adjarian autonomous republics, and the South Ossetian autonomous Oblast (*oblast* had somewhat lower rank than *republic*). This was the second largest number of autonomous units within a union republic after the Russian Federation; it is also notable that Adjaria was the only region in the Soviet Union that had autonomous status based on religion rather than ethnicity; Adjarans consider themselves ethnic Georgians, but many of them are Muslims, therefore a minority within a traditionally Orthodox Christian country.

THE PROCESS OF CHANGE

The process was initiated by a gradual liberalization of the Soviet communist regime launched by Mikhail Gorbachev, known as *Perestroika* (restructuring) and *Glasnost* (openness). This implied loosening control rather than substantive institutional change: political prisoners were released, censorship of the media gradually weakened, criticism of the government tolerated, etc.

In Georgia, this led to the creation of independent political and civic movements and groups that were referred to as *arapor-malebi* ("the informals"). These groups had nationalist agenda, guided by the idea that Georgia had to restore its independence that it had lost after the Russian Bolshevik invasion in 1921. It was also presumed that independent Georgia would be a European-style democracy. Between 1987 and 1989, this developed into a large-scale pro-independence movement. However, in parallel to these developments, similar movements also developed in Abkhazia and South Ossetia that looked either for further strengthening of autonomous rights, or, preferably, secession from Georgia and joining the Russian Federation (in Abkhazia's case, full independence was also considered as an option).

The violent crackdown of the Soviet army against pro-independence demonstration on April 9, 1989 (21 people were killed, mostly teenage girls) led to a radical discrediting of the communist regime. The nationalist movement gained the moral high ground and got nearly full freedom of action without any changes to the institutional structure of power. The Abkhazian and South Ossetian nationalist movements became more active in their demands as well, which led to some skirmishes, and the creation of armed militias on all sides, which the weak and demoralized regime did not try to disarm. Moreover, there were sharp divisions and occasional violence between different

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1 Constitution of the Soviet Union (1977, Unamended), Article 72, https://en.wikisource.org/wiki/Constitution_of_the_Soviet_Union_(1977,_Unamended)#Chapter_1._The_Political_System

2 "Ethnic Groups of Georgia: Census 1989", European Centre for Minority Issues, http://www.ecmicaucasus.org/upload/stats/Census%201989.pdf

Georgian nationalist groups that could not agree on issues of tactics and leadership.[3]

In October and November 1990, the first multi-party elections were held in Georgia based on a mixed proportional and majoritarian system. The Round Table coalition, led by Zviad Gamsakhurdia, a veteran dissident and the most charismatic of the nationalist leaders, carried the election getting 124 mandates out of 250 (with 54 percent of the vote in the proportional system), with the Communist Party coming second with 61 MPs. No other party cleared the five percent threshold.[4]

At this moment, Georgia was still formally part of the Soviet Union, even though the center had largely lost control over its domestic political life. The new government abstained from proclaiming independence outright, opting instead for declaring a transitional period towards independence. It also did not go for substantive institutional transformation and made only a handful of changes to the Constitution, such as removing provisions regarding the leading role of the Communist Party, taking out the words "Soviet" and "Socialist" from the name of the country, etc. Zviad Gamsakhurdia was elected the chairman of Parliament (Supreme Council), but it was understood that he was the leader of the country, with the prime minister being the technical executive. The new law on local government was adopted that provided for locally elected municipal councils, but also centrally appointed prefects that held the most important powers on the municipal level.

In December 1990, the Supreme Council abolished the autonomy of South Ossetia in response to the latter's Supreme Council declaring sovereignty.[5] This led to armed hostilities for actual control of the region that continued until July 1993.

In March 1991, a referendum was carried out on Georgia's independence, followed by the Supreme Council proclaiming independence of April 9 the same year.[6] A new position of a strong executive president was introduced, and on May 26, Zviad Gamsakhurdia won the elections with 86 percent of the vote, setting a precedent for overwhelming majorities for popular leaders.[7]

However, the new system did not prove stable. In September the same year, a group of Gamsakhurdia's chief lieutenants defected from him and joined vocal opposition. Part of the newly created National Guard followed Tengiz Kitovani, its creator and leader, to the opposition. In the end of December (this coincided with formal break-up of the Soviet Union), a military stand-off between the insurgents and the government forces ensued, which led to Gamsakhurdia fleeing the country in January 1992. A two member Military Council took responsibility for the governance and soon invited Eduard Shevardnadze, a veteran communist leader who had earlier served as the foreign minister of the Soviet Union.

A period of turmoil and virtual implosion of state institutions ensued. A provisional State Council proclaimed restoration of the 1921 Constitution (that of the short-lived independent Georgian Republic that existed in 1918–21), but this was a symbolic gesture, which did not have any relevance for the actual distribution of power that effectively depended on resources of different warlords and power clans. In October 1992, a multi-party parliamentary election led to the creation of a fragmented Parliament; in a separate vote, Eduard Shevardnadze was elected the chairman of Parliament and Head of State (with 96 percent of the vote). However, the actual powers of these bodies were rather limited. The country was immersed in ethnic wars for separation in Abkhazia and South Ossetia, and a standoff between the new government and supporters of Zviad Gamsakhurdia who controlled part of western Georgia. Adjaria, while not having ambitions for full separation, demonstrated its effective independence from central power as well.

Through a series of Machiavellian moves, Shevardnadze gradually consolidated power. Both territorial conflicts were lost and ceasefire agreements signed that became the ground for a lengthy period of the so-called "frozen conflicts". The pro-Gamsakhurdia insurgents, on the other hand, were defeated. Later, major warlords were neutralized and put in jail, and their followers disarmed. The status of Adjaria, ruled by a local strongman, Aslan Abashidze, remained ambiguous.

The process of consolidation of a new system came to completion in 1995: in August, a new Constitution was enacted and in November, Eduard Shevardnadze was elected the president with 74.3 percent of the vote. His party, Citizens Union of Georgia, gained effective majority in Parliament.[8]

GENERAL CHARACTER OF THE NEW SYSTEM

The newly consolidated system, however, cannot be considered democratic; it is usually referred to as a hybrid regime that combines features of democracy and autocracy. Despite changes in power and of the Constitutional design since, this general assessment has been quite stable throughout the period if 1995–2017. For instance, during this period Georgia's scores in the *Freedom of the World* ratings have been oscillating between 3 and 4, with 1 standing for a fully free or fully democratic regime, and 7 – for a fully autocratic one.[9] The discrepancy between recognition of liberal democratic values and norms in the formal Constitutional system, and the semi-autocratic character of established political practices, may be the most important characteristic of such a regime.[10]

Apart from assessing Georgia's political system along the scale of democracy-autocracy, there is an important dimension of stability and efficacy of the system. Being born out of ethnic and political conflict, throughout the 1990s Georgia was often described as a "failing" or "failed" state, unable to ensure territorial control, enforce monopoly of the legitimate use of power, collect public revenues and provide for public goods. Despite ending armed conflicts and getting rid of illegal militias, under Eduard Shevardnadze's rule Georgia was an especially corrupt country unable to pay anything close to reasonable salaries to its public servants

3   Stephen F. Jones, *Georgia: A Political History Since Independence*, London: I.B. Tauris, 2012.

4   The elections were conducted according to a mixed, proportional and majoritarian system. See "Georgia – History of Elections 1990–2010s", http://infocenter.gov.ge/elections2017/history_en.pdf

5   Law of the Republic of Georgia on Abolition of the Autonomous Oblast of the South Ossetia, http://www.parliament.ge/files/426_5649_580559_10.pdf

6   "Secession Decreed by Soviet Georgia", in *New York Times*, 10 April 1991.

7   "Georgia – History of Elections 1990–2010s", http://infocenter.gov.ge/elections2017/history_en.pdf

8   Ibid.

9   See "About Freedom in the World: An annual study of political rights and civil liberties", Freedom House, https://freedomhouse.org/report-types/freedom-world

10 David Aprasidze, 25 Years of Georgia's Democratization: Still Work in Progress, in Ghia Nodia (ed.), *25 Years of Independent Georgia: Achievements and Unfinished Projects*, Tbilisi: Ilia State University, 2016, 91–129.

and provide for most basic public services or social benefits.[11] The government of the United National Movement (UNM) that came to power after the so-called "Rose Revolution" achieved a breakthrough in that regard: Georgia became the least corrupt country in its neighborhood, and the effectiveness of public services increased manifold.[12] This period of reforms, carried out mostly in 2004–2007, may be called a second transition in Georgia; however, their success in establishing modern public institutions in Georgia did not bring about genuine democratization of the political system.

CHANGING LEGAL FRAMEWORK

Starting from 1995, Georgia's Constitutional framework changed several times. However, these changes did not lead to substantive changes in the nature of the political system. Frequent changes, however, indicate the disaffection of the political elites with the functioning of the political system. The division of power between the legislative and executive, national and local governments, and the electoral system, constituted the principal dividing issues. When it came to defining civil and political rights and freedoms, the Constitutional provisions were generally deemed corresponding to accepted international standards and usually did not become a point of contention.

The 1995 Constitution[13] was loosely based on an American system: It provided for relatively strict separation between the legislative and executive powers, and this allowed parliament to be a relatively independent political actor. The electoral system was mixed, with 150 out of 234 MPs elected through a proportional system of national party lists, and the rest through single-mandate constituencies. However, the Constitution left open the issue of territorial arrangement of the country due to political sensitivity of the problem and a failure to achieve consensus in Parliament. The system as defined by a separate law was rather centralized, with leaders on the municipal and regional level (*gamgebelis* and *governors*) being directly appointed by the president; weak locally elected municipal councils (*sakrebulos*) could not balance the power of central appointees.[14]

In 2004, the Constitutional system was switched to a mixed one whereby a position of prime minister was introduced, nominated by the president and confirmed by a parliamentary majority; the president could dissolve Parliament in the case of disagreement on the composition of the Cabinet, or the budget. This was done in the name of increased flexibility and effectiveness of the executive, but in practice further increased the power of the presidency and weakened the legislative. The issues of subnational power were still left out of the Constitution, but a new local government legislation provided for local gamgebelis and mayors elected by municipal sakrebulos rather than centrally appointed.[15] Based on a referendum decision, the number of MPs was reduced to 150 with a balance between MPs elected through proportional rather than majoritarian system changed in favor of the latter (73 MPs were elected through single-mandate constituencies).

In 2010, still another overhaul made the system closer to parliamentarian one, with the president's powers significantly reduced and these powers moved to the cabinet, and the prime minister turning into the principal political leader (this and most other provisions were supposed to come into force after the next presidential elections in 2013). This was done in response to the criticism of too strong a presidency encouraging autocratic tendencies, but suspicions were widely spread that this was a way for then president Mikheil Saakashvili to remain in power after the end of his last term. For the first time, the issue of territorial distribution of power came to be spelt out in the Constitution, though without changing the existent system (with the exception of local mayors and gamgebelis now elected directly).

In 2017, the Georgian Dream majority in parliament carried out one more overhaul of the Constitutional system. The President's powers were further curtailed making this a ceremonial position, and direct elections of the president abolished (the 2018 presidential elections are supposed to be the last direct elections of the president). Georgia thus moved to a fully parliamentary model. The electoral system was changed to fully proportional, but it will not be enacted until after the next parliamentary elections; this means that if the current and next parliament serve their full terms, the new system will only come into force in 2024.

GEORGIA'S DOMINANT POWER SYSTEM

As said, however, thus far these series of constitutional changes did not affect the basics of the hybrid political system that had been consolidated in the middle of 1990s. Its nature can be defined, using a term proposed by Thomas Carothers, as a dominant power system.[16] This means that while at most times there exists an opposition that genuinely challenges the government, truly independent and critical media, vibrant and combative civil society, there is no level playing field between the party in government and the opposition. The former fully dominates all branches of power: It has a strong (often constitutional) majority in parliament, controls all (or almost all) municipal governments, has an influence over most popular media, as well as most powerful business organizations, etc. The opposition is typically weak, divided, irresponsible, and fully focused on discrediting powers that be instead of proposing alternative policies.

Moreover, in the Georgian case the dominant political powers have not been represented by institutionalized political parties, but by organizations existing around strong political personalities, such as Zviad Gamsakhurdia, Eduard Shevardnadze, Mikheil Saakashvili, and Bidzina Ivanishvili. In the latter case, between October 2013 and May 2018, Bidzina Ivanishvili did not even hold any political position at all, but he was widely recognized to be the real guiding force behind the power of the Georgian Dream party. In May 2018, Ivanishvili took the formal position of the party chairman.

11 Ghia Nodia, Trying to Build (Democratic) State Institutions in Independent Georgia, in Gerhard Mangott (Hrsg.), *Brennpunkt Südkaukasus: Aufbruch trotz Krieg, Vertreibung und Willkürherschaft*, Wien: Braumüller, 1999.

12 *Fighting Corruption in Public Services: Chronicling Georgia's Reforms*, Washington: The World Bank, 2012.

13 For 1995 Constitution and different amendments to it see Legislative Herald of Georgia, Constitution of Georgia, https://matsne.gov.ge/en/document/view/30346

14 *Adgilobrivi tvitmmartveloba sakartveloshi 1991–2014* (in Georgian; "Local Self-Government in Georgia 1991–2014"), Tbilisi: International Center for Civic Culture, 2015.

15 Ibid.

16 Thomas Carothers, "The End of Transition Paradigm", in *Journal of Democracy*, 13 (1), 2002, 5–21.

In the absence of internal party democracy, the domination of the party in power translated into an exceedingly centralized system. Therefore, some increase in the formal powers of municipal authorities described in the previous section did not have any effect because the overcentralized nature of the dominant party ensured full compliance of municipal bodies to national authorities.

Despite such unipolarity, the system allows for occasional changes of power: since 1990, there have been four different governments in Georgia; such rate of rotation of power may in itself be acceptable for a fully consolidated democracy as well. However, in two cases (1992 and 2003) the power changed hands through unconstitutional means. Each of the mentioned changes was celebrated as a democratic opening supposed to replace the hitherto existent autocratic system with a more democratic one. However, in each of the cases, the dominant power system soon fully reproduced itself.

This allows to speak of an essentially cyclical character or the Georgian political system: a democratic opening with radical opposition replacing the incumbent power (October 1990, January 1992, November 2003, October 2012) led to genuine public enthusiasm translating itself into extremely high electoral scores for the incoming leader and his party. This then led to a consolidation of a new dominant power system, followed by a gradual process of public disaffection with it. The period of political apathy continued for several years until popular discontent reached a critical point and a new popular leader emerged that could mobilize the masses towards a non-constitutional or electoral change of power. This cannot be understood as a prediction for the future development of the Georgian political development, but summarizes its nature and path of development so far.

LESSONS LEARNT, PROSPECTS AND RECOMMENDATIONS

Why was it that so many democratic openings based on genuine expressions of people's power all ended up in repeated frustrations? Can we pin down some typical mistakes of democratic reformers and the democracy-promoting community?

One such mistake may be overestimating the importance of formal institutional reforms. Over years, Georgia has made a lot of progress in this direction. While legislation is always open to debate, it can be argued that the Georgian Constitution and other legislation generally conform to recognized international standards. However, different legislative changes promoted by pro-democracy activists, such as moving to parliamentary system from the presidential one, disconnecting politicians from the process of appointment of judges, introducing full formal independence of local government, adopting extremely liberal media law, and many others, have failed to substantively democratize the system. This does not imply saying that the mentioned institutional reforms were not worth the effort; but other factors may be more important.

The second is exaggerated reliance on specific political players. At different times, international democratic community, as well as a large part of domestic actors, obviously overestimated the capacity and commitment of specific new leaders and parties to advance democratic norms: Eduard Shevardnadze (due to his role in Mikhail Gorbachev's government, and his readiness to invite young reformers to his government), Mikheil Saakashvili (who was a western-educated reformer and appointed leading NGO activists to key government positions), and Bidzina Ivanishvili (who included into his initial coalition political parties that had most consistently promoted democratic norms before). Conversely, failures of democratic consolidation were later blamed on alleged defects of the same personalities, who in different ways displayed propensity for monopolizing power instead of sharing it.

Having said that, the same experience may be summarized from the positive angle as well: Georgia is by far the most successful democratic reformer in its region, which is an important achievement in its own right. While all its governments have displayed leanings to fully monopolize power and marginalize its opponents, none of them fully succeeded in these efforts. This may be explained by two main factors: (1) resistance of the Georgian civil society – including opposition parties, media, NGOs, as well as different informal groups, and Georgian public at large; (2) strong leverage and linkage of/to the western democratic community[17] that in its own turn may be explained by the centrality of the objective of European and Euro-Atlantic integration in the country's policies.

The last two factors are the most important grounds for optimism in the future: If Georgia is going to succeed on its way to democratic consolidation, the way to this lies in the empowerment of its civil society, and close involvement of the democratic international community. Political society represented by political parties has probably been the weakest link so far and are in an especially great need of further development.

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17 Stephen S. Levitsky, Lucan A. Way, "Linkage versus Leverage. Rethinking the International Dimension of Regime Change", in *Comparative Politics*, 2006, 38 (4), 379–400.

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MEMORY OF NATIONS
Democratic Transition Guide

[The German Experience]

TRANSFORMATION OF THE POLITICAL SYSTEM

Hans Altendorf

INTRODUCTION

Meanwhile, the communist dictatorship history within the Soviet Occupation Zone (SOZ) and the German Democratic Republic (GDR), the previous history as well as the Peaceful Revolution of 1989 has become a very profoundly and holistically researched topic of contemporary history, of social and political sciences and is part of a number of popular scientific and journalist works. This both applies for overviews as well as for numerous singular studies on the state and society.

The following political system transformation outline can highlight merely a few of the most significant aspects.

Within the context of profound changes in Europe's political order which took place in 1989–1991, dealing with the Soviet Occupation Zone (SOZ) and the GDR requires one fundamental introductory remark.

- On the one hand, the Peaceful Revolution within the GDR that took place in the autumn of 1989 and paved the way towards the reunification of the two Germanies on October 3rd 1990, is partly a story of how the communist dictatorships in Eastern and Central Europe were overcome. There are many parallels regarding the onset, the regime structures, the secret polices' operational methods etc. with the central and eastern European "fraternal countries" belonging to the Soviet imperium.
- On the other hand, the development within the GDR, its fall and the transformation into a democratic constitutional state are most closely linked with the very specific situation prevalent in the separated Germany following WW2: The Soviet Occupation Zone that became the GDR in 1949, and the Western Allies' Zones that called themselves the Federal Republic of Germany from 1949 and became a stabilized parliamentarian democracy, embedded into western pacts and value systems. The whole transformation process that was linked to taking over the rules and structures applicable in the western part of Germany, is influenced by this very specific character in many ways (from the political, economic, administrative and societal point of view). This is why the German transition is substantially different in comparison to that in other states from the formerly Soviet-governed sphere.

SITUATION GIVEN AT THE BEGINNING: THE GDR SYSTEM

The allied victorious powers (USA, USSR, Great Britain, France) divided the land following Nazi-Germany's unconditional surrender in 1945 into four occupation zones, with Berlin being divided in the same way, yet being assigned special status.

Following the allies' victory against the mutual opponent, the contrasts between their systems rapidly became apparent again. Different countries were established: within the western zones, it was the Federal Republic of Germany in May 1949, and in the eastern zone, it was the GDR in autumn 1949.

As far as the development of the GDR (and the SOZ) is concerned, different phases and events can be listed:
- The path to a dictatorship has been eagerly paved already in the Soviet Occupation zone by the USSR.
- The process of "Establishing Socialism" was marked by Stalinism.
- The workers' uprising from 1953 has shattered the system.
- The ongoing refugee movements from the GDR to the FRG: From 1949 until 1961 2.7 million GDR citizens left the country.
- The construction of the Berlin Wall that had started on August 13th 1961 prevented a mass refugee movement to the West to a large extent.
- The 1960s witnessed a cautious opening within the interior accompanied with simultaneous striving for international acclaim, attempts at modernizing the economy; all this being linked with reinforced suppression.
- During the 1970s, there was a "controlled opening" within the interior, the influence of the policy détente became visible and the Helsinki Final Act issued at the Conference on Security and Cooperation in Europe appeared (CSCE).
- The 1980s: economic decline, the Socialist Unity Party of Germany's inability to undergo reforms, the formation of an opposition

The number of GDR inhabitants declined from 19.1m in 1949 down to 16.4 m in 1989. In comparison – the FRG's number of inhabitants was 47.7 m in 1950 and 63 m in 1989.

Summing up, it can be said that the GDR's system was a dictatorship shaped by the Soviet Union and a regime where the Socialist Unity Party of Germany (*Sozialistische Einheitspartei Deutschland*, hence the abbreviation *SED* in German) as the Marxist-Leninist workers' class party, i.e. a communist party in effect, was ascribed the key role. There were neither free elections nor an independent judiciary. Both the division of powers and administrative as well as constitutional law matters were unknown to this system. The Ministry for State Security, the Stasi, operated as a secret and uncontrolled police with comprehensive powers and was used to provide for the maintaining of power and suppressing of the opposition or people having a different opinion. Censorship, a non-existent freedom of press, freedom of expression and freedom to travel as well as the persecution of the political opposition were the characteristic traits of this state system. Yet exerting the domination throughout the GDR's 40 years of existence differed: there was the Stalinist repression during the foundation phase, the violent suppression of the uprising in 1953, internal opening phases, concessions in line with international détente processes (e.g. as a result of the Conference on Security and Cooperation in Europe – Helsinki Final Act) accompanied by an ongoing repression of the opposition within the country. Furthermore, it was important that suppressing the freedom of press and freedom of opinion became an important counterbalance as far as the western media and the east-west travelling were concerned.

THE GDR RULERS PRIOR
TO THE PEACEFUL REVOLUTION

The Secretariat of the Central Committee and the Socialist Unity Party of Germany Politburo consisted of approximately 40 persons who formed the power core within the GDR. 500 to 600 people can be regarded as the top power elite. Apart from the already mentioned elite, these people were the members and candidates of the Central Committee, the First Secretaries of the Socialist Unity Party District administrations, the Heads of Department within the Central Committee apparatus as well as the top governing committees of the so-called mass organizations. Ideological and social homogeneity was provided for by a targeted cadre policy including careful control exerted by the Ministry for State Security (MfS).

As a second tier, we can name the administrative service class: members of the State Council, of the Ministerial Council, of the People's Chamber, of the managing committees within the State Control Commission, of the combines, of the Stasi and military units, of the higher Socialist Unity Party of Germany managing level, of the so-called block-parties and mass organizations, of the scientific institutes within the Central Committee and of the Academy of Sciences.

Below this kind of administrative service class, we can detect an operative service class that contained the middle level management within the Socialist Unity Party of Germany and within the state apparatus as well as within the state owned enterprises as well as highly qualified state employees such as professors, doctors, engineers and teachers, furthermore, employees within the administrative bodies and further scientific personnel. Loyalty to the system was a precondition that was mostly documented by membership of the Socialist Unity Party of Germany.

Altogether, there were approximately 250,000 people pertaining to the administrative and operative service class.

GOVERNING AND CONTROL
STRUCTURES WITHIN THE GDR

Power was vested in the hands of the Socialist Unity Party of Germany that had a claim for absolute leadership which was also anchored within the constitution and based upon Marxism-Leninism. The organization and leading principle of a "Democratic Centralism" as developed by Lenin was applied. Already from the establishment of the GDR onwards, any decrees, acts, ordinances and decisions taken by the People's Chamber and the Government underwent an approval process by the Politburo or rather the Politburo Secretariat. There were clearly hierarchical order structures within the party. The Nomenclature principle was to provide for the rookies staying on the path that had been shown and that they were willing to obey and subdue. The Socialist Unity Party membership number rose from 1947 (when it was 1.8m) up to 2.4m in 1988.

The SED Politburo General Secretaries were: Walter Ulbricht in the period of 1950–1971 and Erich Honecker within the 1971–1989 period.

The Ministry of State Security, i.e. the Stasi, considered itself to be the "shield and sword" in safeguarding these power structures. It was not a "state within a state" nor the covert, actual power centre (as it had been or is the case in dictatorships elsewhere), but served as a secret police with extensive competences and its

own self-perception of providing for the safety and stability of the party's reign.

Furthermore, other state institutions such as the People's Police or the military performed indispensable governance or control tasks for the SED-dictatorship.

REACTION OF THE OLD SYSTEM
TOWARDS THE CHANGE

When the political and societal changes in the other Eastern block countries and especially within the USSR became apparent at the end of the 1980s, the Honecker-led SED stuck to its orthodox hardline policy. It was unable to undergo reforms. It has become clear from the files that the SED-leadership had already been in decay during this phase of the Peaceful Revolution. Yet the citizens were not aware of this at all as the state functions were upheld, including all their flaws. The demonstrating people could not have foreseen the party's and state leadership's reactions towards their protest.

The communal elections in 1989 became the starting point of a broader opposition movement that was supported, as it had been in previous years, by the Evangelic Church to a significant extent. There were many protests and numerous criminal charges brought against the state-organized electoral frauds.

During the summer of 1989, the emigration and refugee movement was manifested and openly perceivable due to the Federal Republic of Germany's embassies in Budapest, Prague and Warsaw being cramped with GDR refugees. Apart from the economic crisis situation, this contributed to destabilizing the SED-regime.

Until September 1989, the GDR reacted with repressions towards demonstrations and activities organized by opposition and church groups, using both the police and Stasi to arrest hundreds of people.

As we know today, the mass demonstration in Leipzig on October 9th 1989 gained historical importance – about 70,000 people went to the streets. The police and special forces were ready to intervene. The people feared to a significant extent that this democratic protest would be suppressed by military power – in a way as a reference to the bloody suppression of the protest on Tiananmen Square in Beijing in June 1989 – i.e. lead to a "Chinese solution". Yet the guards were not finally deployed as the respective order from East Berlin didn't come nor did the local authorities within the Party or the State apparatus order them to do so, following rather the societal power that put a lot of emphasis on dialogue. The fact that Leipzig had remained peaceful on this day had an enormous influence on the subsequent development of the Peaceful Revolution.

In the light of these events, the ongoing refugee movement and the desolate economic situation the SED-leadership was aware of, the dismissal of the SED General Secretary Erich Honecker and the election of Egon Krenz on October 18th was meant to bring about the "turn". Yet certain personnel shifts and corrections within state policy did not calm down the situation. The refugee movement went on. New rules for travelling abroad were intended to enable appropriately organized private journeys abroad. Following a press conference where the question regarding the point of time since when this regulation would come into effect was answered with "Now, immediately.", nothing could stop the development of this situation further. GDR citizens gathered at the checkpoints from East to West Berlin, the passport

control officers finally heaved up the barriers – the Berlin Wall fell in the night from the 9th to the 10th October. The SED including the state leadership were virtually unable to act.

Within a few weeks, the SED rapidly lost its influence. 600,000 members left the party. The managing committees agreed upon dissolving themselves as early as in December 1989, leading members were expelled from the party. There was an attempt at a restart by renaming the SED-party the Party of Democratic Socialism (PDS).

Dissolving the Stasi, the secret police of the collapsing regime, first became apparent on December 4th 1989 when the Stasi offices in Erfurt were occupied; for further information on this issue, see also the following chapter.

Altogether we can say that the old system was significantly weakened during the end phase without the citizens knowing whether the system became less willing to become violent or less dangerous. Yet the regime's attempts to maintain its influence by putting through a modified "reform" course and through the resignation of the old leaders which were also attempts to convince the citizens of the will to bring about changes remained unsuccessful. Also the criminal prosecution of those who had committed electoral fraud that was prohibited even within the GDR didn't change anything about this. Following the first free election in the GDR, the People's Chamber elections in March 1990, the prospect for a reunification with West Germany became clear. Yet this required negotiations and agreements with the allies. The reason for this being Germany's sovereignty that had been limited since the Second World War.

LEGAL FRAMEWORK CONDITIONS FOR THE CHANGE

Following the "self-liberation", a "self-democratization" followed within the GDR. The legal issues regarding the transition towards a democracy are partially those that referred to the GDR's internal rules as this country had opened itself up in autumn 1989 in a peaceful and revolutionary way in order to overcome the SED-dictatorship. A former state party fundamentally deprived of power came across a split opposition that was suppressed within the GDR and didn't really have a solid position.

The amendment made to the GDR constitution on December 1st 1989 was rather symbolic: In Art. 1, the passage saying that the "workers' class and its Marxist-Leninist party" performs the leading role was erased. Thus, the SED lost its dominance also in a formal way.

Although the "Central Round Table" – established according to its Polish model – didn't have any formal parliamentarian nor executive function, it played a very significant role from December 1989 until March 1990 during the peaceful transition. It was composed of one half of the representatives of the old system, with the other half being occupied by various opposition powers and the task was to openly declare the ecological, economic and financial situation and present proposals for overcoming the crisis. Many cities and communities witnessed round tables being established according to this model and these round tables served for having a dialogue with the state institutions and controlling them.

On March 18th 1990 the first and only free, democratic People's Chamber elections took place in the GDR. The result was to be understood as a clear vote for a rapid reunification. The opposition movement, the decisive political powers of the peaceful revolution and the round tables, became only a minor group within the parliament.

It was at the latest at this point when the legal framework conditions were influenced by the contract negotiations with the allies and by the perspective for a reunification of both German countries. It was not the GDR-law adaptation to the new, constitutional law and democratic rules that were of the utmost importance as in the other countries of the former Eastern bloc, but the transition modalities into the state of the FRG which had been existing since 1949 which was to be clarified. As we have already mentioned above in section 1, this was a significant characteristic of the GDR's transition process.

As far as this path of German reunification is concerned, which is a highly complex legal as well as politically creative task, there are certain important key legal issues:

- A treaty on establishing a monetary, economic and social union was concluded on May 18th 1990 between the Federal Republic of Germany and the GDR. Taking into consideration that the East German economic system was virtually dissolved and that an East-West mass movement prevailed (mostly a young and highly qualified workforce), rapid and effective measures for establishing a well-functioning social market economy became necessary. The State Treaty was approved by both the West German Bundestag and the East German Volkskammer with a vast majority. Thus, on July 1st 1990, the economic and social structures were transferred from the Federal Republic of Germany to the GDR and the D-Mark had been agreed upon to become the one and only legal currency.
- The Two-plus-Four-Treaty concluded by the four allied victorious powers and both German states was concluded on September 12th 1990: According to international law, this treaty fulfilled the role of a peace treaty providing the reunited Germany with full sovereignty within the country itself and in foreign relations. This treaty defined, among other issues, the German territory (FRG, GDR and Berlin), acknowledging the Oder Neisse border as Poland's Western border.
- A treaty on Establishing a unified Germany (The Unification Treaty) that became effective on October 3rd 1990: This extensive treaty that was ratified by the West German Bundestag and the East German Volkskammer with more than two thirds of the votes basically regulated and in detail the GDR accession to the Federal Republic of Germany. Adapting the legal and administrative structures from the GDR to those in the Federal Republic of Germany became a norm to a significant extent.

ESTABLISHING THE NEW SYSTEM

Carrying out the basic political and economic decisions as well as the international law and national law conditions outlined in section 6, the foundations for establishing a new order within the former GDR were laid down.

As far as the political and the administrative structures were concerned, this meant that there were five new federal states established on the former GDR territory, federal state parliaments were elected and federal state governments came into office. Jurisdiction was built up according to the Federal Republic of Germany's model, the administration was established, profound restructuring within the health and education sector took place

just as they were put through at universities. East Germany's National People's Army (*Nationale Volksarmee – NVA* in German) was dissolved and integrated into the Bundeswehr at a significantly smaller size. The Ministry for State security had already been dissolved earlier when the GDR had still been in existence. Political as well as administrative support provided for this process came to a significant extent from the western federal states. More than 35,000 West German workers became active in East Germany for this purpose.

Altogether, we can say that the new state structures were established relatively fast and successfully.

In order to build up the economy within the new federal states, the large-scale "Aufbau Ost" program *(i.e. East Germany Rebuilding Program)* was called into life that calculated with enormous financial transfers to support these federal states. Yet, the economic situation in this area deteriorated further, the East German economy was mostly desperately inferior to its Western competitors given the East German products and prices. Mass dismissals followed. Unemployment rose rapidly. The privatization of formerly state owned companies brought much less money than expected. Building up a new powerful economy turned out to be far more complicated than had been expected and this process is one that has not yet been completed even after almost thirty years.

TRANSFORMING THE POLITICAL LEADERSHIP

The very specific situation occurring during the German reunification process enabled the exchange of the elite to a significant extent, some even say that the GDR elite "was wiped out". The former GDR top leadership was almost entirely exchanged. According to a survey that was carried out in 1995, only 2.7 % of the 410 top positions within the former GDR were occupied by members of the former GDR elite. Thus, the SED-apparatus including its 44,000 functionaries and the 91,000 Stasi staff ceased performing their previous jobs.

Yet the removal of the former political power elite from its positions didn't happen on the higher socialist service level, which means on the functional elite below. This kind of elite managed to maintain its old positions in a profoundly reduced scale or it switched to other functions – often with the support provided by its old network – and these functions were often in the economic sphere.

About 40 % of the East German top positions were occupied by West Germans – the higher the rank was, the higher the Western employee percentage became.

Thus, within the sphere of the judiciary, the heads of the Highest Courts as well as the heads of the Constitutional Courts came from the west; out of 3,000 judges in the GDR, only 1,000 remained in office.

Only approximately 10,000 of the 50,000 professional and temporary professional soldiers in the National People's Army were absorbed into the Bundeswehr.

Within the schools, approximately every sixth teacher was fired.

All in all, we can say that the rebuilding of the new federal states took place to a large extent under West German leadership – with the degree being different in the individual areas of state duties and the economy.

As far as the further exertion of tasks by former functionaries or taking over new tasks was concerned, the processes that served to check whether a person had been collaborating with the Stasi on an employment basis or unofficially within the GDR played an important role. (For this issue, see the Chapter "Lustration and the process of vetting".)

LESSONS LEARNT AND RECOMMENDATIONS

- A (peaceful) revolution and the subsequent rebuilding process towards a politically and economically new state order mustn't be underestimated as far as their complexity is concerned. Overcoming the old order and depriving it of power – as had been brought about in the autumn of 1989 due to the people's movement – became a necessary precondition for the subsequent development. Yet the revolution participants were not those who had the necessary competence and capacity necessary for rebuilding the new. Finally, within the reunited Germany, these resources – i.e. large numbers of qualified personnel and a lot of money – from the old Bundesrepublik, i.e. the Federal Republic of Germany, were relatively easily accessible. Yet this is a condition that's quite unusual and is normally not given.
- On the one hand, the victims of the old system are the winners of such an overthrow, because the old oppressors are not in power anymore; yet they are not winners in the sense that they would be successful in the new order. These expectations may be disappointed.
- A new constitutional state order sets limits on the criminal prosecution of the actors from the dictatorship that is overcome. These limits are especially vested in the constitutional law principles "Nulla poena sine lege" – no punishment without law – and "In dubio pro reo" – benefit of the doubt. These constitutional state principles were those that led to the old system's victims' disappointment. What's important – as frustrating as it might be in individual cases – is that the criminal law processing is classified realistically.
- It is very important to provide for the dictatorship legacy to be recorded as profoundly as possible. This applies especially to the secret police files. Even if society does not agree upon how to provide access to these files, protecting them against being destroyed or against undergoing an interest-led selection, is important. It is then necessary to carefully clarify what a usage of the files based on constitutional state principles shall look like – taking into consideration the personality and data protection on the one hand and opening the files in order to carry out a reappraisal on the other.
- Overcoming a dictatorship that had lasted for 40 years needs time. Although the basic decisions regarding the main paths for the new legal as well as economic orientation were taken rapidly – as was the case in Germany – the personnel, structural, economic and cultural development steps consume quite a significant time stretch when going into detail. This is something we can also state with respect to Germany and considering a comparison of its highly privileged framework conditions after more than 25 years.
- All this means that: false and unrealistic promises that do not correspond to the challenges of such a complex transition process, are something to be left out. The same applies to promises directed at relieving the suffering that the dictatorship

caused to its subordinates. It is surely necessary to strive for this as far as possible, yet the suffering can only be remedied within limited borders.

■ External experts should be welcome in such a rebuilding process with the condition being that they do know the respective subject matter, behave respectfully and sensitively.

Yet it is probably going to turn out that it is indispensable for a country to receive strong support. This should be done in a self-confident way, yet also having in mind that in order to create a transition process and create the new, one also needs the expertise provided by already established constitutional states and that this is then highly valuable.

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MEMORY OF NATIONS
Democratic Transition Guide

[The Polish Experience]

TRANSFORMATION OF THE POLITICAL SYSTEM (1988–1991)

Franciszek Dąbrowski

INTRODUCTION

The democratic transition in Poland ended a 40-year long communist dictatorship. The most important factors of the political change were economic crisis, popular rejection of the communist dictatorship, and withdrawal of Soviet support for the ruling communist party.

The country's communist-controlled economy was inefficient, ideologically biased, and was generally directed at fulfilling the military obligations of the Soviet overlord rather than the needs of nation. The so called "economy of planned deficiency" suppressed private enterprises and property. Foreign trade structure drained the country of the most needed resources. The continuous austerity of life periodically worsened, and two such low points marked the last two decades of dictatorship in the years 1976–1983 and 1987–1988. Foreign debt was an additional burden for the economy.

The Solidarność trade union, established in the summer of 1980, was a major, peaceful, anti-regime organization (8 million members in a nation of 37-million). The movement was mostly crushed by martial law declared by the militarized communist government on 13th December 1981. Repression followed to supress the trade union and to break its structures; however, the potential resistance in Polish society was still significant.

The Soviet Union in the '80s was on the verge of collapse, caused by economic crisis and military competition with the West. By the end of the decade USSR was not able to efficiently control and support its satellite states, Poland included. Gorbatchev's solution was to rearrange the policies in satellite countries to maintain pro-Soviet forms of government with minimal engagement; this meant that USSR was unable to directly control its local proxies, and left them to manage themselves.

All of the abovementioned factors combined to contribute to the start of the political transition in Poland.

POLITICAL SYSTEM AT THE DAWN OF TRANSITION

THE LEGAL FRAMEWORK OF THE POLITICAL SYSTEM

The communist dictatorship in Poland was the result of the Soviet occupation which began in 1944. The basic laws concerning the form of government were formally democratic, but some features of the legal system were designed to keep the communist party at the helm of state. The 1952 constitution stated that a leading role in the country's rule belonged to the working class; the other clause stated, that Polish People's Republic (Polska Rzeczpospolita Ludowa, PRL) is to be "organized as planned economy", "contains, disowns and liquidates social classes living on the expense of workers and peasants". Formally the 1952 constitution shaped the government's as a democratic republic, where the highest powers were allocated to parliament, with a separate judiciary, and executive power. Amendments to the 1952 constitution in 1976 formally acknowledged the actual state of affairs; that the PRL is a socialist state, the leading role in the state's life belongs to the communist party, PZPR, and the country's social and political life is organized in the syndicate body called the Front Jedności Narodu (FJN, "Front of the Nation's unity"), in fact PZPR-controlled facade organization. The 1976 amendments also embedded the alliance with Soviet Union in the constitution. The electoral law did not allow registering candidates from outside of the FJN. The parties or movements not under the control of the PZPR were not allowed to register and were considered illegitimate. From 1947, all of the elections were rigged.

POSITION OF THE COMMUNIST PARTY BEFORE THE REGIME CHANGE

The country's communist party, Polska Zjednoczona Partia Robotnicza (PZPR, "Polish United Workers' Party") was the sole ruler of state. The party's apparatus (central and local committees) effectively controlled the government, local, social and industrial institutions and other bodies. The legally allowed political parties (Stronnictwo Demokratyczne, SD, and Zjednoczone Stronnictwo Ludowe, ZSL), state-organized and controlled trade unions (Ogólnopolskie Porozumienie Związków Zawodowych, OPZZ) and some minor organizations were in fact subordinated as members of FJN and treated as puppets for the "national unity".

NUMBER OF POLITICAL ENTITIES IN 1989

After the 1981–1982 PZPR membership overview (when a significant number of members resigned or were expelled), approximately 2 million members were counted. Approximately 120 thousand members were counted for the SD. Approximately 300 thousand were counted for the ZSL. Approximately 4 million members were counted for OPZZ, the state-acknowledged trade union network.

In the years 1988–1989, "Solidarność", in the process of re-establishment, the member's count did not reach that of 1980–1981 (more than 9 million of members). Several hundred "Solidarność" committees were acting openly (although not legally) in 1988. The re-registration of its committees were allowed on April 17, 1989, for the workers' trade union and on April 20,1989 for the farmers' trade union. The number of "Solidarność" members in the 1989 may be estimated at more than 2 million.

CONTROL OF THE POWER STRUCTURE

The communist constitution did set up a number of judiciary and control bodies: the control chamber (Najwyższa Izba Kontroli, NIK, since 1957), the administrative court (Najwyższy Sąd Administracyjny, NSA, since 1980), the constitutional court (Trybunał Konstytucyjny, TK, since 1982), the tribunal d'etat (Trybunał Stanu, TS, since 1982), the ombudsman (Rzecznik

Praw Obywatelskich, RPO, since 1987). In fact, those bodies did not contribute to any effective judiciary or administrative control over dictatorship activities. The abovementioned bodies were only a simulacra of the republican institutions, and served as a façade for party decisions, providing formal cover for the twists of party's policy and as internal system regulators.

Prior to the 1989 transition, the parliament, the judiciary, state controlled government bodies, and local governing bodies were in fact dependent on the communist party structures, and acted as its executives. Units of the central committee of the communist party covered the most important areas of governance, and were the real centres of power. In every institution, an organization or office existed a party committee that effectively controlled the dealings of the unit. The system of "nomenklatura" (nomination of leadership of the organization reserved for the party's decision) was at the core of the personal policy in pre-1989 period.

DEMOCRATIC TRANSITION IN POLAND 1989–1991

REACTION OF THE POLITICAL SYSTEM TO THE CHANGES AND THE TRANSFORMATION OF THE COMMUNIST PARTY

The economic crisis caused by the inefficient communist governance was worsened in 1987 and 1988. This caused two waves of strikes in the spring and summer of 1988, demanding the restoration of the "Solidarność" trade union. On the 25th of August, 1988, at the high point of the second wave of strikes, Lech Wałęsa issued a joint statement from opposition leaders promising to stop the strike action, if the authorities would start talks concerning the free trade union movement. The reaction of the communist leadership was slightly different than in 1981; although the state apparatus was prepared to use force again, the minister of internal affairs, Czesław Kiszczak (head of SB), publicly proposed talks with the opposition on 26th August 1988. The extraordinary meeting of central committee of communist party also agreed to start negotiations. At the start of the talks with the opposition, the communist party simultaneously tried to rearrange itself. The central committee was reshuffled and reorganized, the then head of government Zbigniew Messner resigned, and was replaced by Mieczysław Rakowski. Jaruzelski had the support of Gorbatchev, who visited Poland in July 1988 during meeting of heads of Warsaw Pact states.

The initial talks were held in secrecy in September 1988 and next months, as a preliminary step to the wider negotiations held in public.

The public negotiations, the so-called "Okrągły Stół" (Round Table) was held from 6th February to 5th April 1989. The participants were assembled with three "sides of negotiations": the "party and coalition side" (representing the communist party and the minor organizations of the ruling block), the "opposition-Solidarność side" (representing the democratic opposition), and "trade union side" (representing the party-controlled trade union OPZZ). The talks of the three main teams were about political reform, economic reform, social matters, and trade union matters. The numerous "sub tablets" and working teams were established to discuss matters of lawfare reform, media, associations and local government, health service, education and science, agriculture, mining, youth, housing policy, and ecology. The most important agreements concerned parliamentary elections, and freedom of associations and press. The communist party agreed to elect a new parliament with special provisions concerning the division of seats: 65 % of seats in the lower chamber of parliament were reserved for the candidates of communist party and its minor allies. 35 % of seats in the lower chamber were allocated for "party-less candidates", or free open competition. This solution formally guaranteed the dominance of the communist party. The agreements were signed on the 5th of April 1989. The relevant acts concerning the Round Table core agreements were passed on the 7th of April 1989. The date of election was appointed at the 4th of June 1989. The 4th of June 1989 election was the beginning of the real transition. The landslide victory of the Solidarność candidates (the majority of votes going to candidates of the lower parliamentary chamber, and 99 of 100 seats in upper chamber taken), had a shock effect on the ruling party. The ruling block succeeded in electing former dictator Wojciech Jaruzelski as president of PRL, but the bid to designate his right-hand man Czesław Kiszczak to the seat of prime minister failed. In August of 1989, the solidarity of the ruling block was finally broken, the representatives of the minor allies of PZPR, SD and ZSL agreed to form a government together with Solidarność. On the 24th of August 1989, the new, non-communist Prime Minister, Tadeusz Mazowiecki, was appointed by parliament. Only two seats in government were, for the time being, reserved for the former rulers: the ministry of national defence, Florian Siwicki and ministry of internal affairs, Czesław Kiszczak, the latter in charge of the secret service, SB. The decomposition of former ruling party deepened, and during its 11th general meeting on 28th January 1990, the party dismissed itself. The dismissal of communist party, and the subsequent formation of next-generation post-communist parties had a detrimental effect on the position of communist ministers and president. Kiszczak and Siwicki were finally dismissed in July 1990. The presidential term of Jaruzelski was shortened by a parliamentary act on the 27th of September 1990; the act proclaimed the general election of president. The presidential election had two rounds, and on the 9th of December 1990, Lech Wałęsa won. The counter-candidate, acting Prime Minister Tadeusz Mazowiecki, resigned from the post, and the new government of Jan Bielecki was formed.

The disintegration of the PZPR and its apparatus resulted in the foundation of several successor parties and movements. Formed in 1990, Socjaldemokracja RP (SdRP), then the coalition Sojusz Lewicy Demokratycznej (SLD) were the most important of the post-communist movements, and until 2015 remained major parliamentary parties, in 1993–1997 and 2000–2005 Sojusz Lewicy Demokratycznej (SLD) was the ruling party. The ZSL adopted the name "Polskie Stronnictwo Ludowe" after the anti-communist peasant party dismissed in 1949 and absorbed some independent peasant activists; PSL is still an important political player in Poland. SD's continued its existence without successes: the party never achieved more than several parliamentary seats.

The matter of parliament's reliability as representative body in the new situation appeared to be urgent; the parliamentary term was shortened, and a new general election was announced in the fall of 1991. The new parliament was elected without previous obsolete limitations.

LEGAL FRAMEWORK OF THE CHANGES

The act altering the constitution passed on 7th April 1989, formed an upper parliamentary chamber, the Senat (Senate), and

the institution of State's President, dismissing the former collective head of state office Rada Państwa, State's Council. The Electoral laws on parliamentary elections passed also on the 7th of April 1989, secured the Round Table's agreement concerning the proportions of parliamentary seats allocated to ruling block's candidates and those given to free competition. At least 10 % of seats were guaranteed to the so-called "country's list" (i.e. voted in all constituencies), reserved for candidates of the ruling block. The upper chamber election had no such limitations. Also on the 7th of April 1989, other acts concerning the most important elements of Round Table's agreements were passed – i.e. the act on societies, allowing free associating, concerning political activities, and acts on trade unions, and amendments to the labour code allowing free workers' and peasants' trade unions.

Laws dismissing the coercive socialist economy were passed between 1988 and 1989, for example, on economic activities allowing free trade and enterprises on the 23rd of December 1988, banking law on the 31st of January 1989, laws concerning foreign currencies trade on the 15th of March 1989. and laws concerning the stock exchange were passed on the 22nd of March 1991.

The freedom of movement was empowered by the government's decree on the 7th of December 1988 concerning the issue of passports; the communist passport laws were finally replaced by the parliamentary act of 29th of November 1990.

The surprising outcome of the 4th of June 1989 elections which showed the popular denial of voting for regime candidates and the "country's list" resulted in passing of the 12th of June 1989 decree allowing a new vote in the constituencies where parliamentary seats guaranteed the ruling block candidates were not taken.

The new election code was passed by parliamentary act on the 10th of May 1991, abolished previous guarantees for the former ruling party and their allies, and established fully democratic rules.

An act on the 8th of March 1990 concerning local government ended the existence of the communist-controlled local administration and established democratic local governing bodies.

An act on the 23rd of November 1989 abolished the office for the religious affairs, ending the existence of a state body controlling religious communities.

An act on the 11th of April 1990 abolished the censorship office and amended the press code to support freedom of press.

An act on the 28th of July 1990 on political parties finally allowed the registration of political parties (instead of previous regulations concerning associations). An act on the 23rd of May 1991 amended the former law concerning the matters of trade unions.

The 29th December 1989 adjustment to the constitution changed the name of state from PRL to Rzeczpospolita Polska (RP, Republic of Poland), annulled all of former constitutional provisions concerning the socialist character of state and the role of communist party, and added fundamental civil rights provisions. The amended constitution was the basic law in Poland until the voting for the new constitution in 1997.

ESTABLISHMENT OF THE COMPETITIVE POLITICAL SYSTEM

The provisions of the Round Table agreements were not meant to establish democratic rule. As Jaruzelski allegedly said, the agreements left the "control packet" of power in the hands of former rulers. However, the political process led to the alienation and demise of the PZPR, and as a result, the deeper changes which enabled the transition to a democratic republic and fully democratic elections in 1991. In the course of the "contract parliament" term, new laws concerning basic civil rights, free market, and abolishing coercive institutions were passed. The first free parliamentary elections in the fall of 1991 marked the end of the first, most important, period of democratic transition in Poland.

LESSONS LEARNT

The Polish transition, after 1989, is seen as a composite of successful changes and unfulfilled wishes.

The conversion from the communist-designed "rationed revolution" to a real democratic transition was the major positive outcome of the Polish experience of 1989. The PZPR plan was to establish the half-dictatorship, with the "control packet" still in the hands of communists, with limited (and possibly the most troublesome) segments of power commissioned to the representatives of nation. The disintegration of the PZPR parliamentary block resulted in real democratic change, and opened the way to a far more advanced reform of politics, economics, and foreign relations in Poland.

The peaceful transition was seen as a value itself, especially in comparison with the events of the Rumanian revolution. The potential reaction of the army and the security services was seen as a possible significant threat to the transition. The reluctant stand of Tadeusz Mazowiecki's government towards the eventual, untimely, settlements of the security services affairs, the liquidation of communist party and its assets, and even movement towards the fully democratic elections are seen as a hesitancy resulting from the assumed incertitude of the political position and the overestimated strength of the communist party and its apparatus. The peaceful change was a smooth way to adapt the former regime functionaries to the new situation. The initial lack of any effective transitional justice, the massive fraud schemes called "endowment of nomenklatura", and the many other flaws of transition were seen as a price for democracy, or as the cost of the power swap negotiated during the Magdalenka and Okrągły Stół talks. Mazowiecki's "thick line" policy seemed to be a working option for the transitional government until the moment of visible decomposition of the communist party and the subsequent dismissal or decomposition of its apparatus and ruling schemes. The eventual danger of reaction by the post-communist structures appeared to be overrated. However, the opportunity for deepening changes appeared, it was never taken serious advantage of, and served only as an excuse for the Wałęsa's "acceleration" campaign, and the subsequent divisions in the "Solidarność" movement.

So-called "The Zero Option", the general purge of communist functionaries from the state apparatus or at least from significant segments of it, was never carried out. Also, the key to the eventual transitional justice, the barring of communist personalities and organisations from public posts, was never performed. The lack of general solutions concerning the settlement of communist crimes resulted i.a. in the lack of clear and just procedures for property restitution. Nevertheless, the transition of ex-communists to democratic public life, although flawed and marked by corruption, appeared peaceful and did not result in major threats to the republic, for example, there was no coup-d'états.

One of the results of not barring communists from public life was the relatively quick return to power of post-communist parties in 1993, and the constant impediments in dealing with the past, especially concerning access to the archives of the former regime. The integrity and efficiency of the state was seriously impaired by retaining former regime men in governing and judicial bodies.

The legal system in post 1989 Poland might be described as corrected continuity of the communist legal system. The laws were amended step-by-step to adjust them to the standards of modern rule of law and democracy; nevertheless, the status of laws passed in the period 1944–1990 was only partially challenged. The legitimacy of the communist state was declared inexistent, but the legal consequence of communist lawfare was never summarily questioned. The effect was the permanence of communist legal dealings that were to be challenged in separate legal actions.

RECOMMENDATIONS

Recommendations concerning political transition are highly political in nature and cannot be applied, without adjustment, to local terms and potential of the national and social community. The objective of transition is to establish a stable, lawful, and democratic republic, with fair, independent, open justice system.

Any delays in settlements may cause irreversibility for the injustices committed by the former regime.

Legal system: The legal system of the former regime should be taken under scrutiny to restore the rule of law and to mend the losses suffered by citizens under dictatorship as quick and profoundly as possible. The legitimacy of regime laws cannot be recognized automatically or without examination of their consequences.

Sanitization of the political and governance system: The integrity of the state cannot be undermined by the admittance of former regime members and organizations to public life. The regime organizations, parties, coercive institutions should be abolished and their assets seized by state. The former regime functionaries and collaborators are not fit to serve a democratic republic; the proper procedures (following the "Epuration" or "Denazification" proceedings) of assigning criteria and level of responsibility, and eventual punishment or limitations of personal rights should follow open judicial procedure.

Settlement of the regime crimes: The crimes of the regime should be prosecuted without procedural or political reservations. The legal system should guarantee the rights of the victims of the regime, and restitution of property and other lost entitlements first, as far as it is possible in the common interest.

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MEMORY OF NATIONS
Democratic Transition Guide

[The Romanian Experience]

CEVRO

TRANSFORMATION OF THE POLITICAL SYSTEM

STEFANO BOTTONI

THE IMPOSSIBLE TRANSFORMATION OF THE CEAUȘESCU REGIME FROM WITHIN

The configuration of the postcommunist Romanian political system was heavily influenced by the abrupt and violent overturn of the Communist regime, led since 1965 by Nicolae Ceaușescu. Romania was the only Eastern European country where the communist system collapsed in December 1989 upon a popular uprising that ended up in a bloody revolution claiming more than one-thousand victims. The peculiarly oppressive and personalized feature of the Romanian communist regime had made it impossible in the 1980s for the emergence of a moderate, businesslike, pro-Western faction within the ruling party. Those who were dissatisfied with Ceaușescu's personality cult did not attempt to modernize the system, but contrived palace revolutions based on the models of the interwar political machinations that had occurred in Romania, or the military putsch that had overthrown Marshal Antonescu in August 1944. Ceaușescu's potential party opponents were marginalized, and even disappeared, while opposition activity among Romania's intelligentsia remained confined to a few individual exceptions, and this also prevented the internal reception of Soviet perestroika and glasnost. Between December 21 and 22, 1989, the active intervention of the Army and the discrete support from the political police (Securitate) played a decisive role in bringing down Ceaușescu's absolute power. The exceptionally closed nature of the Romanian dictatoship predestinated it to a non-negotiated, violent falldown.

THE 1989 REVOLUTION AND THE NATIONAL SALVATION FRONT

According to the database of the Romanian Revolution of December 1989, no less than 1,290 casualties could be identified on December 17–31. Most of them were civilians and were shot dead during the convulsive days between the fall of Ceaușescu's dictatorship on December 22, and the execution of the presidential couple. Nicolae and Elena Ceaușescu faced a drumhead court-martial, created at the request of the Council of the National Salvation Front (CNSF) which happened on December 25, after a short mock trial. The National Salvation Front (NSF) was a transitional power structure created on December 22, 1989 to handle the chaotic situation of the victorious revolution. The first public statement of the new power structure was issued early on the evening of December 11. The communiqué of the NSF was broadcast by the state television and read by Ion Iliescu, a former party apparatchik who had been marginalized by Ceaușescu, but enjoyed the support of both the internal opposition and the Soviet embassy in Bucharest. The crucial text was based on a draft prepared before the flight of Ceaușescu from Bucharest, and amended by Silviu Brucan, a former communist propagandist and diplomat who had

turned into a dissident during the 1980s, and who played a key behind-the-scenes role in the setting-up of the new power structure. The preamble announced the creation of FSN, which was "supported by the Romanian army" by "all the healthy forces". It announced the dissolution of all "power structures": the government and the State Council. The entire executive power was assumed by the Council of the National Salvation Front, formed by 38 members who represented a heterogeneous conglomerate of Army staff, former communist bureocrats, genuine revolutionaries, artists, and intellectuals. On December 27, Ion Iliescu was elected head of the CNSF. The second part of the proclamation contained ten main objectives, the first of them being the abolition of the one-party system (the PCR was outlawed by decree on January 12, 1990, and on January 18 another decree ordered the nationalization of all party properties) and the establishment of a multiparty and democratic government. The declaration called for free elections in April of 1990, and declared the separation of powers between the branches of governement. Other provisions concerned the restructuring of the economy, stopping the destruction of villages, and the protection of civil rights of national and ethnic minorities. The chaotic transition from the personalized dictatorship of Ceaușescu to a pluralist political system went along with the public debate over the "misteries" of the revolution. The bloody overturn of the Ceaușescu regime had left open questions, the most important of which was the never attempted identification of those "terrorists" who were responsibile for the death of hundreds of people. Behind this, the most sensitive issue was around the ambiguous role played by the security forces. How was it possible that the all-powerful Securitate failed to suppress the small demonstration of solidarity with the persecuted protestant reverent László Tőkés in Timișoara, on December 15–16, paving the way for the emergence of a revolutionary movement? From the first moment, the new power structures overemphasized the positive role of the Romanian Army, underlying the beneficent function played by the only political institution that had emerged from the upheaval, the NSF. The logical and factual shortcomings of the official narrative started to emerge shortly after the events, when it became clear that the Army and other state agencies had been involved in mass shootings before changing sides. Anti-communist revolutionaries from Timișoara and those affiliated with liberal right wing (anti-Iliescu), post-communist political parties conceded that the 1989 events started as a genuine popular revolt but ended in a "hijacked" or "expropriated" revolution. Most scholars agree that Ion Iliescu and "Gorbachevist" pro-reform communists coalesced around him seized power on December 22 and expropriated the revolution via the National Salvation Front. Despite its democratic appearance, the CNSF became the expression of authoritarian tendencies because it acted as the only legitimate representative of the newly established democracy. Not surprisingly, the key personalities of the Romanian transition were two former party and nomenklatura members: Ion Iliescu and Petre Roman.

REBRANDING THE OLD ELITE: THE EARLY POST-COMMUNIST POLITICAL SYSTEM

Ion Iliescu (b. 1930) belonged to a group of old-guard Communist activists dismissed by Ceaușescu, and who opposed his personal rule; they were supported by the CPSU first secretary, Mikhail Gorbachev, as an alternative leadership for Romania. After the Timișoara riots, on 22 December 1989, Iliescu took the lead of the CNSF. In February 1990 Iliescu became head of the Provisional Council of National Unity (PCNU), while contrary to the previous promises, the CNSF announced that it had transformed itself into a political party to participate in the impending national elections. Miners from the Jiu Valley attacked participants in the enormous anticommunist demonstrations that the newly reconstituted "historical" liberal and peasant parties organized in early 1990. The National Salvation Front won a landslide victory in national elections held on May 20, 1990, receiving more than two-thirds of all votes cast, and NSF leader Ion Iliescu was elected president for a two-year term with 85 percent of the vote. The weak and scattered opposition tried to challenge NSF revolutionary legitimacy by transforming itself into a permanently mobilized anticommunist force through the students' protest in Bucharest and in other major cities. The moral rejection of the Iliescu-led semiauthoritarian system marked the birth of the myth of the "unfinished revolution" and entrapped the pluralistic public sphere in the binary logic of "us" against "them". Starting from these premises, the activity of the unofficial pro-NSF militia culminated in the bloody procession of miners marching through the streets of Bucharest between June 13 and 15, 1990. The first, infamous and violent demonstration, labeled Mineriad, claimed dozens of victims and was followed through autumn 1991 by three other episodes of the incumbent use of politics by other means. What made the Romanian situation special in an Eastern European comparative perspective, was the upward spiral of extra-institutional pressure from the streets on systemic transformation.

The fate of the government led by Petre Roman, between May 1990 and October 1991, illustrates well the distressing nature of the institutional transformations in post-communist Romania. Petre Roman (b. 1946) was the son of Valter Roman (b. Ernő Neuländer), a prominent member of the early communist nomenklatura. A trained engineer, Roman spent several years in France during the 1970s, and then entered the Romanian academic sphere. He started his political career at the end of December 1989, when, after the toppling and execution of Ceaușescu, he joined Ion Iliescu and the founders of the National Salvation Front. Roman became a member of the Provisional Council of National Unity, and on 26 December 1989, prime minister of a provisional government. Between 1990 and late 1991, the government, led by Petre Roman, was assigned the impossible task of navigating a heterogeneous coalition of unreformed socialists and nationalists into the unknown realm of Western-type democracy. In the parliamentary elections of May 1990, Roman won a mandate and remained in office until 1 October 1991, when he was forced to step down by striking miners from the Jiu mining region. Leaders of the Jiu strike were suspected of connections with President Iliescu, who had entered into conflict with Roman over leadership and over the rate at which economic liberalization was unfolding (Roman favored an acceleration).

During his first and second term in office (1990–96), president Ion Iliescu relied massively on the former Communist apparatus and the reshaped the political police to slow down market reforms. In December 1992 he was reelected president, formally resigning from the leadership and membership of the NSF, which, after a split and the departure of its liberal and anti-Communist activists, changed its name to the Democratic National Salvation Front, and then to the Party of Social Democracy in Romania, in 1993. In 1992–96 market reforms were slowly introduced, but Iliescu and the PSDR-based government were reluctant to integrate the country within the European Union and NATO. Until 1995, Iliescu and the PSDR cooperated with the extreme nationalists and took a distinctively pro-Russian stance concerning major security issues, as shown by the appointment of a former pro-Soviet high officer, Mihai Caraman, as the director of the "new" Foreign Intelligence Service. Caraman was dismissed on April 1992 upon strong pressure from NATO general secretary, Manfred Wörner.

A SMALL STEP FORWARD: THE 1991 CONSTITUTION

From 1990 to 1996, the collapse of the communist party structures did not put forward any strong democratic alternatives to the Ion Iliescu-led "original democracy". The latter was a definition Iliescu repeatedly used to describe Romania's post-communist political path, as envisaged by the National Salvation Front and by its successor parties. In the creative interpretation of the Western democracy, the multiparty system would have been a mere facade, since genuine competition was jeopardized by the infrastructural and media preponderance of the successor party. The new Constitution adopted by the Romanian parliament on November 21, 1991, and approved by popular referendum defined Romania as a "national, sovereign, independent, unitary, and indivisible state", and enshrined the return to multiparty democracy and the rule of law. However, the structure of powers and the collective mentality inherited from the communist period made it challenging to effectively make the declared principle of the separation of executive, legislative and judicial powers. Iliescu and its pundits made extensive and often nontransparent use of the administrative resources at their disposal, contributing to the weakening of the freshly adopted system of checks and balances. The French-inspired Constitutional Court operated in Romania until the early 2000s as a mixed juridical-political institution with a marginal impact on the country's juridical culture. The juridical system inherited the pre-1989 communist-trained staff, and during the 1990s only partially emancipated itself from the legislative and executive power through a gradual accumulation of legal procedures and competences. The Nordic institution of *ombudsman* (literally "attorney of the people"), whose role is to defend the rights of citizens against public institutions, was established in the 1991 Constitution, which only became effective in 1997. The slow progresses toward a full-blown democracy were sanctioned by the Council of Europe, which initially rejected Romania's application upon its failure to comply with basic European democratic standards (Romania had to wait until 1993 to gain full membership).

THE 1996 "SECOND REGIME CHANGE": SUCCESSES AND FAILURES

The first major change in the institutional setting and the political culture of the ruling elites was pushed forward by the 1996

presidential and parliamentary elections. Iliescu's post-communist party was ousted from power by a coalition of democratic and anti-communist groups in alliance with the civil society, and the formerly marginalized party of Hungarian minority, Democratic Convention of Romania (DCR), under the leadership of university professor Emil Constantinescu. In November 1996 the DCR won the parliamentary elections, and on 17 November 1996 Constantinescu defeated Iliescu in a dramatic runoff of the presidential election. During his term, which lasted until December 2000, Constantinescu supported steps toward the accession of Romania into the European Union and NATO. He gave his backing to the NATO intervention in Kosovo, causing distress in the pro-Serbian sectors of Romanian society. He tried to introduce structural reforms leading to the strengthening of the market economy and civil society, and he also attempted to come to critical terms with the country's dictatorial past through the establishment of a vetting institution. Nevertheless, Constantinescu failed to lead the country out of economic recession. In the presidential elections of 2000 he backed Prime Minister and National Bank governor Mugur Isărescu, who nevertheless lost to Ion Iliescu and the post-communist left. Constantinescu famously claimed he had been defeated by the former secret services and their intact power system. In fact, the right-wing coalition of 1996–2000 did not possess the administrative capacities and the political skills that the country's catastrophic state would have required.

THE LAST 15 YEARS: BETWEEN EURO-ATLANTIC INTEGRATION AND SKELETONS IN THE CLOSET

The incumbent Social Democratic Party followed, until 2004, a different agenda from the isolationist course of the early 1990s. The central figure in this evolutive process was international lawyer Adrian Năstase, a former scholar with an extensive, albeit shady, Western background. Năstase had spent the years 1980–82 on scholarships in Great Britain and Norway working at the UNESCO Department of Human Rights and Peace in London and at the International Institute of Peace Studies in Oslo, and subsequently served as director of the International Institute of Human Rights in Strasbourg and researcher at the French Society on International Law in Paris. The young talented Năstase was loyal to the Ceaușescu regime after 1989, but then put himself at the service of the post-communist political sphere. In 1990 Năstase began a political career in the National Salvation Front, became an MP, and was foreign minister until December 1992. From 1992 to 1996 he chaired the Chamber of Deputies of the Romanian parliament. When the left lost the elections of November 1996, Năstase was elected, in 1997, to deputy chairman of his party and a member of the Romanian delegation to the Parliamentary Assembly of the Council of Europe. He criticized the NATO air raids on the new Yugoslavia in 1999, as well as to the concessions of the reform government to the Romanian Hungarians. Năstase became prime minister after the 2000 election, in a very difficult economic moment for Romania. His government announced the creation of a "socially oriented" market economy, a struggle against corruption, and efforts toward Romania's integration into NATO and the European Union. During his tenure, Năstase had to face a major scandal linked to the publication in the domestic and international press of a series of anonymous and controversial emails

called the "Armageddon Reports". The seven releases, apparently produced by persons and/or institutions close to the subject or even involved in internal fighting with the security apparatus, exposed the continuity between the old and the new political elite, especially concerning the secret services staff. The injection of unverifiable, but most probably, classified information about those former Securitate officers and sources who continued to hold key posts in the intelligence services after 1989 happened during the final talks that preceeded Romania's integration into NATO. The authors of the leak wanted to demostrate that former Securitate officers are still in control of the country's intelligence structures, a fact that might have jeopardized the Romanian efforts to convince its Western partners about the contrary. Between 2004 and 2014, Romanian political life had been dominated by President Traian Băsescu, a maverick right-wing politician who has strenghtened Romania's Western committment and gained large, albeit temporary, support among the liberal intellectual elites for his resolute standing for the disclosure and condemnation of communist crimes through the Presidential Commission that operated between 2006 and 2007, under the direction of political scientist Vladimir Tismăneanu. However, historian and civil activist Marius Oprea, who had previously led a fierce battle against the reluctance of public authorities to tackle the issue of communist crimes, denounced in a documented pamphlet the involvement, starting in the 1970s, of President Băsescu with the communist secret service as an undercover officer with the economic foreign intelligence. More recently, a similar case based on newly released archival evidence has been made against former Prime Minister and long-standing respected governor of the Romanian National Bank Mugur Isărescu, who was also exposed as former undercover officer of the foreign intelligence.

LESSONS LEARNT AND RECOMMENDATIONS

The structural and personal intertwining between the political sphere and security structures is not an exceptional feature in the postcommunist power structures. Romania, however, plays a peculiar role for the extreme personalization and the heavy influence of the operative mindset of the former Securitate on the formally democratic secret services. Romanian secret services have been widely criticized for being under the political control of one man or one group, rather than under the control of elected bodies. In any case, they have been continuously useful for political infighting. The internal security agency has also been accused of illegally investigating journalists, media agencies, and politicians. The leadership of the Minister of Interior is a very important factor with regard to controlling the political arena and the business sector in Romania. This point mostly refers to the controversial "secret service" of the security services, the General Directorate for Intelligence and Internal Protection (Direcţia Generală de Informaţii şi Protecţie Internă, DGIPI), that was partly reorganized in 2016 in order to make it more accuntable. Since its creation in 1990, DGIPI has functioned as a "deep state" within the labyrinth of Romanian politics. The leadership of the DGIPI had access to the archives and resources of the institutions and consequently had compromising information about politicians and businessmen, and used this information to either boost or weaken the popularity of a political party. The countless scandals that have exposed the connubial relationship between

the Romanian secret services and domestic political life show that the Communist past still casts a shadow over everyday political practices, and represent a serious obstacle to the emergence of a full-blown democratic culture in Romania. To prevent the ubiquitous secret services from capturing other state agencies and the political sphere, a more effective supervision of the activities of the secret services would be necessary. This move should be accompanied by a comprehensive reform of the internal security system, aimed at making it financially more transparent and juridically more accountable.

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MEMORY OF NATIONS
Democratic Transition Guide

[The Russian Experience]

TRANSFORMATION OF THE POLITICAL SYSTEM (1988–1993)

NIKOLAI BOBRINSKY

INTRODUCTION

The process of dismantling the Soviet totalitarian communist regime and establishing the new Russian state is most often associated with the word "Perestroika", which usually stands for the political and economic changes in the USSR that preceded its collapse in 1991. The fall of the Soviet Union is a separate event, closely related to the failure of the communist regime. In turn, these historic events are closely related to the Cold War and its termination.

This chapter discusses only those aspects of the above mentioned processes that are associated with Russia. In this respect, we should note that the Soviet Union included a considerable part of the lands which had been a part of the Russian Empire before its collapse in 1917. Having seized power in Russia, the Communist Party divided its historical territory into several separate republics, and in 1922 it united them into the Union. One of these republics was the Russian Soviet Federative Socialist Republic, or the RSFSR. Being an artificial political unit in the USSR over the largest part of its history, the RSFSR gradually grew into an independent political entity from 1989 onward – and after the fall of the Soviet Union it became an independent state.

THE SOVIET POLITICAL SYSTEM AT THE DAWN OF PERESTROIKA AND THE ROLE OF RUSSIA IN THE SYSTEM

By the mid-1980s the Soviet Union was a centralized single-party dictatorship. De facto the supreme power in the state belonged to the Political Bureau of the Central Committee of the Communist Party (CPSU) headed by its General Secretary. It was enforced via governmental bodies that were under the complete party control. Regional, republican and All-Union parliaments (called Soviets) were formed out of the candidates approved by the party units at the respective level. The election of deputies was by ballot, where one or more party-approved candidates participated. The party assigned people to all the key positions in the governmental and non-governmental organizations (the list of these positions is usually referred to as the "nomenklatura", or the political establishment).

The Communist Party itself was also organized in a strictly centralized manner, where inferior subdivisions followed and performed the decisions of the superior ones. The number of Soviet Communists in the second half of the 1980s reached 19 million people.

The power of the CPSU was based on its total penetration into the society – party units were organized in entities and institutions, party membership was an informal precondition for any career promotion – on the systematic ideological dictatorship and suppression of dissent as well as on the well-developed structure of the political secret police – the State Security Committee (KGB).

The ideology of the Soviet Communist regime was Marxism-Leninism, which provided for the establishment of the future classless communist society that did not recognize private property and market relations. Individual entrepreneurship was prohibited and prosecuted. Moreover, Marxism-Leninism imposed the fight against religious beliefs and practices. All the parties, except for the communist one, were prohibited. The activities of unauthorized public associations were not allowed.

After the death, in 1982, of Leonid Brezhnev who had headed the CPSU for 18 years, and the short-term rule of Yuri Andropov followed by Konstantin Chernenko, in March 1985 Mikhail Gorbachev became the Communist Party General Secretary and the actual leader of the Soviet Union.

Unlike other republics in the Union, by the beginning of Perestroika the RSFSR did not have its own communist party. According to the 1978 Constitution the highest state authority was the Supreme Soviet. It passed laws and was called for time-limited sessions. The regular body of the Supreme Soviet was its Presidium. Similarly to other soviets of different levels, the deputies of the RSFSR Supreme Soviet were in fact appointed by the Communist Party and then "elected" with no alternatives. The RSFSR executive power was headed by the Council of Ministers. The RSFSR authorities enjoyed the powers assigned to them by the Constitution of the Soviet Union.

THE MILESTONES OF PERESTROIKA IN THE USSR BEFORE THE POLITICAL SEPARATION OF THE RSFSR

The political understanding of Perestroika in the Soviet Union may be generally described as the search for new political means to reform the state management system, which brought in new public powers that were out of the regime's control, and the CPSU first lost its monopoly on power, followed by the power itself. One of the Soviet system institutions, which had been just a fiction for years, but had gradually attained a larger political significance, was the republics of the Soviet Union, including the Russian one. The process of gaining independence from the Union centre began only during the fifth year of Perestroika, in 1989. It had been preceded by a number of important events.

In early 1986 Mikhail Gorbachev announced the policy of Glasnost, which initially meant revealing and publishing the drawbacks hampering Perestroika and the acceleration of the technological and socioeconomic development in the Soviet press. After the Chernobyl nuclear power station catastrophe on April 26, 1986, the prohibition of showing negative news on the situation in the country was removed as well as on the public debate of the flaws and problems of the Soviet society. Over

two years, glasnost led to a drastic change in the attitudes in the Soviet society. The changes, however, seemed insufficient for Gorbachev's team, who expected to rely on the public support and encourage the party bureaucracy to adopt the policy of socioeconomic reforms. Therefore, in the middle of 1988 it was decided to move forward from the freedom of speech to the democratization of the political system. At the 19th CPSU Conference the principle of "alternative" elections (i.e. involving competition) to the soviets at all levels was proclaimed as well as granting them real powers. It was also planned to expand the rights of the Union republics.

For the purpose of these principles in December 1988 the USSR Constitution was amended: the Supreme legislative body of the Union was the Congress of People's Deputies, elected for 5 years and convened once a year. The Supreme Soviet was turned into the Congress regular body, elected by it. The first election of the People's deputies was scheduled for spring 1989.

Gorbachev's line towards democratization led to the rapid growth of independent non-communist movements and groups, which were first informal. Though at the 1989 election the CPSU did not have organized party opponents yet, in many districts its members were defeated by popular independent public figures. At the Congress they organized the first Soviet legal political opposition – the Interregional Deputies' Group. One of its co-founders and the actual leader was Boris Yeltsin. He came from the top level of the party and headed the CPSU committee of Moscow during the first years of Perestroika. In 1987 he publicly criticized conservative members of the political bureau and was dismissed from office. Nonetheless, despite Soviet traditions, Yeltsin's political career did not terminate at that point: 18 months later he gained a clear victory at the election of the People's deputies in the Moscow district and was elected to the Supreme Soviet.

At the Congress of People's deputies the opposition united demanding to terminate Article 6 of the USSR Constitution, which stipulated the "leading and guiding" role of the CPSU in the Soviet state and society. This demand grew in popularity, and early in 1990 unprecedented mass demonstrations were held in Moscow to support it. In these conditions Mikhail Gorbachev, mainly following his own tactical reasons, agreed to abolish the CPSU monopoly on power and to introduce a multi-party system along with establishing the post of the USSR president. Thus, Gorbachev, though allowing for limitations in the political positions of the Communist Party, took the highest newly created office in the state. The abolishment of Article 6 of the Constitution was a vital step in the emancipation of once strictly and centrally controlled Soviet regional and industrial elites, whereas now they were becoming increasingly independent. It also opened the way to establishing new political parties.

DEMOCRATIZATION AND THE POLITICAL SEPARATION OF RUSSIA

In autumn 1989 the RSFSR performed the constitutional reforms, following the previous year's changes in the All-Union Constitution: a two-chamber parliament was introduced, elections of people's deputies by the universal, equal, and direct suffrage and secret ballot were declared. Parliamentary elections were held in March 1990. The candidates of the Democratic Russia opposition bloc won in many large cities. Boris Yeltsin managed to become the chairman of the RSFSR Supreme Soviet.

Further political separation of Russia was influenced by the personal ambitions of the new RSFSR leader and his team as well as by the wide public support of the measures to dismantle the communist system in politics and economics, which forced Russian politicians to oppose the cautious and hesitating position of the Union centrists. The first and brightest manifestation of the Russian republic as a new political subject was the Declaration of Sovereignty adopted on June 12, 1990 by the overwhelming majority of the RSFSR Supreme Soviet. The declaration announced the supremacy of the Constitution and laws of the RSFSR across its territory. As a result there emerged the "war of laws" between the RSFSR and the Union centre. In October 1990 the RSFSR Supreme Soviet introduced liability for the enforcement on its territory of the USSR regulations, which were not ratified by the Russian parliament. After that the entities which were subordinate to the centre were transferred to the RSFSR jurisdiction. The 1991 budget law introduced a single channel tax system, depriving the Union centre of its own revenues.

Another manifestation of the growing significance of the RSFSR was the establishment of the Russian Communist Party in summer 1990. It united the representatives of the CPSU conservative wing, who did not agree with Gorbachev's weak and inconsistent policies. At the same time Boris Yeltsin declared that he was leaving the CPSU and moving on to a clearly anticommunist position. He was followed by many democratic politicians, including the mayors of Moscow and Saint-Petersburg Gavriil Popov and Anatoly Sobchak.

Mikhail Gorbachev attempted to stabilize a USSR that was gradually falling apart by encouraging the republics to sign a new union treaty. One of the remedies in his fight for the Union was the referendum in March 1991. Three quarters of the Soviet voters opted for its preservation. In Russia the referendum was completed with a question on introducing the post of the president of the republic, elected by universal suffrage (and not by the Supreme Soviet, as it was at the All-Union level). This proposition was supported, thus opening the way to electing Boris Yeltsin the president of Russia. At the election of June 12, 1991, he won in the first round with 57.3 % of the votes. Now Yeltsin's power was based on the will of the people, and not on the semi-communist Supreme Soviet. Along with the presidential election there was a referendum in Leningrad. The majority of the northern Russian capital's citizens voted for a return of the city's historic name of Saint-Petersburg instead of the name given by the Bolsheviks after the founder of their party.

By summer 1991 there was a tense political and socioeconomic situation in the country. Prices were soaring. Even in Moscow it was hard to find foods and consumer goods. Negotiations on signing the new union treaty were close to completion. According to the draft, the USSR was to turn into a loose confederation, fully dependent on funding from the republics. After signing the new union treaty, Mikhail Gorbachev expected to get rid of the conservative people in the union government who stood for the idea of preserving the "strong" USSR. In response, they proceeded to plot a coup d'etat, aiming to prevent the reforms and fully restore the central power and the power of the Soviet Communist Party.

The coup attempt commenced on August 19, 1991 and lasted three days. A state of emergency was announced across the country as well as the transfer of the country leadership to the State Committee for the State of Emergency (which was immediately

informally called a "junta"). The State Committee for the State of Emergency was headed by the USSR vice-president Gennady Yanayev. He was joined by the chairman of the USSR Cabinet of Ministers, the Minister of Defense, the Head of the KGB and a number of other Soviet high officials and public persons. Armed troops were sent to Moscow.

However, the conspirers were indecisive. Boris Yeltsin was not arrested. The "White House", the seat of the Supreme Soviet of Russia became the centre of resistance to the coup. Tens of thousands of people gathered to protect it and built barricades. Meetings protesting against the State Committee for the State of Emergency were held in many cities of the USSR.

Yeltsin entered into negotiations with the commanders and officers of military units that had been sent to Moscow. By the morning of the third day of resistance it became clear that the troops would not fire. Representatives of the State Committee for the State of Emergency flew for negotiations to Gorbachev, who had earlier been isolated by them in the Crimea, but the latter refused to meet them. Upon returning they were arrested on Yeltsin's order.

From August 22, Yeltsin and Russian democrats began reaping the rewards of their political victory. The Russian national white-blue-red flag was lifted at the "White House". On August 23, Yeltsin announced the suspension of the activity of the RSFSR Communist Party in Russia, forced Gorbachev to appoint loyal people to the Russian Government such as the Defense Minister, Foreign Minister and the Head of the KGB, as well as dissolve the Union government. Union ministries were resubordinated to the Russian Council of Ministers. At the same time Gorbachev resigned as the General Secretary of the Central Committee of the CPSU and offered the Central Committee to dissolve itself. The buildings of the Central Committee and the Moscow city committee of the CPSU were vacated and sealed. On August 29, an extraordinary session of the USSR Supreme Soviet suspended the activity of the CPSU across the Soviet Union. In September the Congress of the USSR People's Deputies dismissed the supreme authorities of the USSR (except the president) and terminated its activity.

On November 6, Yeltsin ended the story of the Communist Party that had ruled Russia for nearly 74 years. Pursuant to his Decree, the activities of the CPSU and the RSFSR Communist Party were terminated, and their organizational units were dismissed. The dissolution of the 19-million Soviet Communist Party did not lead to any attempt at resistance or protest, in particular, due to the fact that the president specifically prohibited any prosecution of citizens for membership of the party. One of the brightest symbols of the democratic victory and the final failure of the communist power was the demolition of the Moscow monument to the founder of the VchK-KGB, Feliks Dzerzhinsky. However, the larger part of the public communist symbols are still there.

Despite the thumping victory, many recollect that in the first months after the coup Yeltsin and his supporters were rather passive. In particular, he did not try and hold new elections to the RSFSR Supreme Soviet. As a result the following two years the president sought to carry out radical reforms having the old Soviet parliament, elected early in 1990 under the considerable influence of the CPSU.

Nevertheless, in spite of Gorbachev's efforts, it became impossible to preserve the Soviet Union after the August events in 1991. The final verdict on the USSR was the referendum on the independence of the Ukraine, held on December 1, 1991.

90 % of referendum voters were for independence. On December 8, the presidents of Russia, Ukraine and Belarus signed an agreement, where they called the republics represented by them independent states and established the Commonwealth of Independent States (CIS) in lieu of the USSR. On December 21, in Almaty, the CIS was joined by eight more Soviet republics. In one of the Almaty decisions it was declared that the foundation of the CIS meant the termination of the USSR as a state.

DISMANTLING SOVIET POLITICAL INSTITUTIONS IN AN INDEPENDENT RUSSIA

The RSFSR independence coincided with the removal of the references to the Soviet regime and socialism from its name. The new state was named the Russian Federation – Russia.

The new name, however, did not free Russia from the vast Soviet political and legal heritage in the form of the Constitution, legislation, parliament, state borders (repeatedly changed during the Soviet times under the transfer of Soviet territories between the Union republics) and administrative division. Radical economic reforms that began in 1992 were performed almost exclusively with the support of President Yeltsin, who, for some time, even assumed the duties of the Head of the Government.

Former leaders of the RSFSR Communist Party tried to appeal in the Constitutional court (the new judicial body, established in 1991) against the validity of President Yeltsin's decrees on terminating the activity of the CPSU and nationalization of its property. In response a group of the Supreme Soviet deputies asked the court to recognize the CPSU and the RSFSR Communist Party as non-constitutional. After a large number of hearings and having heard various witnesses the court passed a compromise decision: it dismissed the claim for recognising the party as non-constitutional, referring to the actual termination of its activities, but it substantially ruled for the validity of the decrees on its dissolution. Nonetheless, the court position enabled the restoration of the party under the name of the Communist Party of the Russian Federation (KPRF).

At the end of Perestroika the RSFSR-RF Constitution was subject to numerous and frequently controversial changes, therefore, the president's and the Supreme Soviet powers were often contradictory. The conflict between the parliament, Soviet in its origin, tending to conserve old economic rules and even nationalistic revenge, and the president, who adhered to building the market and privatization of state property, was inevitable. This confrontation lasted from spring 1992 till autumn 1993 and brought about a range of acute political crises, including an attempt to dismiss the president from his office. As a means of strengthening his own legitimacy, in 1993 Yeltsin used a referendum again. This time it was a vote of confidence in him as the head of state and the need to hold new elections to the Supreme Soviet. The president managed to win the support of most voters, but the result was insufficient to adopt a legally binding decision on the early parliamentary elections.

The political crisis was accompanied by work on the draft Russian Constitution. THowever, The prospects of its adoption were uncertain. In the end Yeltsin decided to untangle the deadlock. On September 21, 1993, referring to the impossibility of further cooperation with the legislative branch of power, which allegedly hampered economic reforms, and to the transformation of the Supreme Soviet into the "headquarters of the deconstructive

opposition", he issued a decree on gradual constitutional reform, ordering the Congress of People's deputies and the Supreme Soviet to terminate their activities. The powers of the people's deputies became invalid. The decree scheduled the elections to the new legislative body – the Federal Assembly – on December 11–12, 1993.

The majority of the people's deputies did not obey the decree. The parliament was also supported by the Constitutional court, which announced the president's actions non-compliant with the Constitution. The Supreme Soviet declared Yeltsin's dismissal from office and transferred his powers to the vice-president Aleksandr Rutskoi. Nevertheless, the government, Moscow city and regional administrations stayed loyal to Yeltsin. There emerged an armed hot spot around the "White House" (still the seat of the Russian Supreme Soviet). Inside the building armed groups supporting the parliament were formed, the militia tried to block passages to it, municipal services cut off the power supply and other utilities. The attempts at demonstrations to support the parliament were roughly prevented by the militia. The acute phase of the conflict lasted two weeks and reached its climax on October 3–4, when the supporters of the Supreme Soviet started attacking: they seized the building of the Moscow mayor's office and tried to take the television centre by storm. This attempt was stopped by the army and special police units. Dozens of people died. The following morning Yeltsin ordered the commencement of the counterattack on the "White House", using tanks there. By the end of the day the resistance of the Supreme Soviet supporters was suppressed, its leaders surrendered and were taken into custody.

Nonetheless, there were no further repressions against the losers. As had been announced, on December 12 Russia held the elections to the State Duma and the referendum on the new Constitution, which resulted in its adoption.

LESSONS LEARNT

The history of the political transition of Russia from the communist totalitarian regime was not completed in 1993. It cannot be firmly stated that this transition has yet been completed, because the sustainable democratic order in Russia was never formed, and over the recent decade the power has been kept to a large extent by non-democratic means by the former CPSU officials, Komsomol (Young Communist league) and the KGB people. When naming the reasons for promoting this development, many usually mention the model of the state power originating from the struggle between Yeltsin and the Supreme Soviet, stipulated in the 1993 Constitution, where the president was given the leading role and the balances to his power were obviously insufficient. The very political crisis of 1992–93 could have been avoided if the Soviet constitutional form had been abandoned two years earlier, after the victory over the coup of the State Committee for the State of Emergency and the fall of the communist power. The possibilities which opened up to the country in autumn 1991 were soon irreversibly lost, the old political and economic elite, unlimited in terms of the political competition and lustration, rapidly restored its positions. The power ratio during the post-Soviet period was also influenced by the dramatic lack of non-Soviet human resources in the new Russian state authorities. Emigrants, who actively participated in the life of many other post-socialist countries, actually did not come back to Russia: due to the length of the communist rule in the USSR and the gradual assimilation by the early 1990s the Russian political emigration mainly dissipated. However, they were not specifically invited to Russia, only some people originating from the Russian Empire and the USSR were granted their citizenship back.

On the other hand, it cannot be denied that the political transformations were relatively peaceful. Unlike in the former Yugoslavia, in Russia, no full-scale civil war started at the initial stage. Unfortunately, in 1994 a war did begin – in Chechnya. This blood-drenched conflict took up significant resources and efforts as well as strengthened public disappointment in the new power.

Thus, in a nutshell, we could mention the following political transition lessons that post-Soviet Russia gave to the world: try to gain democratic legitimacy promptly, even at the cost of breaking the existing well-established rules. Invite people with experience of life and work abroad, mainly emigrants. And avoid wars.

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MEMORY OF NATIONS
Democratic Transition Guide

[The South African Experience]

TRANSFORMATION OF THE POLITICAL SYSTEM

CHRIS SAUNDERS

INTRODUCTION

The South African political system was transformed in the early 1990s with the introduction of a new constitution and the transfer of power from the National Party (NP) to the African National Congress (ANC). This meant a transition from apartheid to democracy, and from white minority rule to majority rule. As we shall see, the transition occurred though a constitutional process and did not involve the bloody racial civil war that many had predicted. Along with the political transformation, outlined here, went one from a state that had been to some extent excluded from the world economy to one now welcomed by the international community and which sought to be an integral part of the world economy.

The entire process of transformation was extremely complex, and its history and meaning remains contested.

THE APARTHEID SYSTEM

The South African political system that was transformed in the early 1990s was based on apartheid, the idea that racial classification mattered and determined one's political as well as other rights. In its most advanced form, apartheid was the most elaborate system of racial discrimination ever implemented anywhere. A system of racial segregation had developed over centuries, with its roots in the racism of the early settlers from Europe. Apartheid, a more comprehensive form of earlier segregation, began to be introduced by the NP government after it came to power in 1948. At its heart was a system of racial classification and racial ordering that was extended into almost all areas of life. The system began to break down in the mid-1970s and was substantially modified in 1984 with the introduction of a new constitution that provided that those classified Coloured (people of mixed descent) and Indian (people whose forbears came from India) could also participate in central government. The majority of South Africans, those classified as "Bantu" under apartheid, remained excluded from Parliament, which under the Westminster system inherited from Britain could pass whatever legislation it wished.

Black Africans had formed a South African Native National Congress in 1912 to try to win acceptance as citizens of the country but their representations over decades had no effect and instead they progressively lost what limited rights they had possessed when the Union of South Africa was formed in 1910. In the 1950s, responding to the decolonization of tropical Africa, and to try to justify denying black Africans political rights in most of South Africa, the Minister of Native Affairs, Hendrik Verwoerd, who became Prime Minister in 1958, developed the idea that black Africans should be given such rights in small areas of the country. Millions were forcibly resettled in these areas, which became known as the Bantustans. By the late 1980s, four of these had been led by the South African government to self-government and nominal "independence": the Transkei,

Bophuthatswana, Ciskei and Venda. Despite some modifications to apartheid, as the 1990s began, the pillars of apartheid remained in place: the Population Registration Act of 1950, providing for a system of racial classification; the Group Areas Act of 1950, which required residential segregation in urban areas (though it was no longer implemented with any rigour); and the Land Act of 1913, which divided South Africa between areas in which black Africans could own land and the vast majority of the country, in which they could not. As protest against apartheid mounted, its repressive nature became ever more apparent, and the 1980s was its most repressive phase, involving military occupation of townships along with mass detentions and assassinations during successive states of emergency. Yet at the same time a few skillful anti-apartheid judges were able to interpret some apartheid legislation in the interests of human rights.

Throughout the apartheid period, the NP dominated the whites-only political system. In the early 1980s there was a break-away to the right, with the formation of the Conservative Party (CP), which rejected any watering-down of strict apartheid. On the other end of the parliamentary political spectrum, the small Progressive Federal Party was critical of many aspects of apartheid and called for reform. It grew in strength as apartheid came under pressure and was transformed into the Democratic Party (DP) in 1989. In the general election among whites held in September that year, the NP lost support to both the CP and the DP. Though from 1984 there was increasing violence and a break-down of order in some parts of the country, the government retained the support of the security forces and poured vast resources into the police and the army. As the decade of the 1980s ended it was difficult to see how the government could be forced to give up power, for it was not seriously challenged by the armed struggle being waged against it by the exiled ANC.

Opposition to apartheid had taken new forms after the massacre of non-violent protestors at Sharpeville in 1960. Leading members of the ANC and the South African Communist Party (SACP) formed Umkhonto we Sizwe (known as MK; Spear of the Nation) in 1961 to wage an armed struggle, but after a campaign of sabotage the MK leadership was arrested, and Nelson Mandela and others were imprisoned on Robben Island. The ANC's struggle against apartheid was then led from exile, as was one by the rival Pan Africanist Congress. The ANC's close links to the SACP meant it long had difficulty winning support in the West, but by the late 1980s, with the winding down of the global Cold War, it had received significant recognition as the likely successor government in the West as well as in the countries of the so-called Eastern Bloc.

THE BEGININGS OF THE PROCESS OF TRANSFORMATION

It is not easy to say when the process of transformation began. The harsh suppression of the Soweto Uprising of 1976, which spread from Johannesburg to other major centres, brought new

international pressures for change, and in its aftermath the exiled ANC's armed struggle grew in significance, while the NP government began to introduce reforms, including the recognition of black African trade unions and the ending of the system of passes that restricted black African movement. A group within the NP that rejected these reforms broke away to form the far-right Conservative Party. At the same time, resistance to apartheid grew, in the non-violent form of the United Democratic Front, formed in 1983, and then the countrywide Township Revolt that began in 1984. The declaration of a state of emergency brought new international condemnation of apartheid. Some argue, however, that the financial sanctions imposed on South Africa in 1985 by international banks was the most important tipping point. Though they produced a major economic crisis, President P.W. Botha remained unwilling to jettison the major pillars of apartheid or to release Nelson Mandela, now a global icon as South Africa's leading political prisoner, unconditionally. As the 1980s ended, international pressure was building for further sanctions. But the settlement reached in 1988 in the major conflict in southern Angola, providing for the process to begin leading to the independence of South West Africa/Namibia, weakened MK by removing its military bases from Angola, and the Soviet Union now made clear to the ANC that it no longer supported its armed struggle and urged it to negotiate a settlement with the ruling white minority. Oliver Tambo, the President of the ANC, then won the approval of the Organisation of African Unity in August 1989 for a declaration, issued at Harare, Zimbabwe, setting out the conditions for negotiations with the South African regime.

REACTIONS TO A CHANGING SITUATION

1989 was a key year in the process of transformation. After President Botha suffered a stroke, F.W. de Klerk emerged as the new leader of the NP, taking over as President in September, a month after the Harare Declaration. De Klerk almost immediately allowed a major march in Cape Town, led by a leading anti-apartheid figure, Archbishop Desmond Tutu. Then in October De Klerk allowed the release of all the remaining ANC leaders from jail except Mandela, who by then had been allowed a measure of freedom to consult with colleagues on the way forward. A series of talks had been held between leading members of the ANC in exile and white South Africans, and in September a first meeting, held in Switzerland, took place between two ANC leaders and South African government officials. The various informal "talks about talks" helped break down stereotypical views of each other and laid the foundation for formal negotiations by helping to promote understanding between the parties of how a negotiated settlement could be reached. A necessary preliminary to negotiations was liberalisation of the political scene by unbanning the organisations that were prohibited, releasing political prisoners, and allowing the return of exiles, to enable them to participate in the making of the new order. The key breakthrough came after the collapse of the communist regimes in Eastern Europe in late 1989. Influenced by that, and realising that it was in his interests to try to retain control of the process, De Klerk announced in February 1990 that the ANC and other organisations would be unbanned, and Mandela released unconditionally. There then began a process leading to the formal multi-party talks.

Nineteen parties and organisations participated in what was called Convention for a Democratic South Africa (CODESA), held at the World Trade Centre outside Johannesburg, in December 1991.

ESTABLISHING THE NEW SYSTEM

Initially, after Mandela's release, the ANC refused to say that it would end the armed struggle, and it continued to accuse the government of using violence against it, but an agreement that both sides would work for the elimination of violence enabled a series of bilateral talks to begin. At one of these talks, in August 1990, the ANC agreed to suspend its armed struggle, after which, De Klerk lifted the five-year state of emergency. These steps helped make it possible for CODESA to begin. There, De Klerk berated Mandela for not having disbanded MK, to which Mandela replied by accusing the President of using the security forces to destabilise the ANC. Though the multi-party talks ended in November 1993, with an agreement on a new interim constitution for the country, the process to achieve this was by no means straight-forward. In May 1992, the talks broke down, and only a series of compromises enabled them to resume. One of these was the acceptance, by both the government and the ANC, of a Government of National Unity for a five-year period.

On 10 April 1993 Chris Hani, MK chief of staff and Secretary General of the SACP, was assassinated. Two right-wingers were speedily arrested, and Mandela's leadership prevented a descent into chaos; he called for the negotiation process to be speeded up. On 25 June, a group of armed right-wingers broke into the World Trade Centre where the multi-party negotiations were taking place. They were persuaded to retreat, and their intervention led the negotiators to decide to agree to a date for the first democratic elections, April 1994. An interim constitution would come into effect to provide for that election, and the new Parliament, then elected, would also be a Constitutional Assembly tasked to draw up a final constitution within two years. The final constitution had to be in line with a set of Constitutional Principles enumerated in the interim constitution. These proposals went from the unelected multi-party talks to the existing Parliament, which accepted them, providing for constitutional continuity. After the ANC won 62 % of the votes in the April 1994 election, Mandela was sworn in as the first president of a democratic South Africa on 10 May 1994.

In the process of negotiation the NP, representing the white minority, had to abandon its ideas for the protection of group rights. Its hope now was that the protection of individual rights and the provisions for nine provinces, instead of the existing four, might provide a measure of protection for minorities. The Bantustans were incorporated back into South Africa. Though De Klerk told his supporters that he had aimed for, and achieved, a sharing of power; in fact that was only on a temporary basis, with one of the compromises reluctantly accepted by the ANC being a Government of National Unity (GNU) for five years. De Klerk also suggested that what was happening was the extension of democracy, from one for whites, coloureds and Indians, to all South Africans, but that too was highly misleading, for the reality was that there was a transition to a dramatically different political and constitutional order, one based on liberal democratic principles. The whole process gained legitimacy by the fact that

the final constitution was drawn up by a democratically-elected body, which received over two million submissions from members of the public during its drafting.

THE LEGAL AND POLITICAL NATURE OF THE NEW SYSTEM

Besides adopting the idea of the separation of powers, with an independent judiciary at the heart of the new system, both the interim and final constitutions included a justiciable bill of fundamental rights providing, for the first time in the country's history, that all were equal in law, and including safeguards for individual liberty and checks and balances on the abuse of executive power. The final constitution, unlike the interim one, not only enumerated civil and political rights, but also included a set of social and economic rights, such as rights to housing, education, food and water, and stated that the state should, within available resources, work for the progressive realisation of these rights. The Bill of Rights could only be amended by a vote of two-thirds of the National Assembly. New institutions were set up in chapter 9 of the constitution to help monitor the way the constitution was to operate. Of fundamental importance, in the new constitutional order, Parliament was now no longer supreme. Instead the constitution itself was the highest law, and a Constitutional Court of eleven justices was established to adjudicate on whether the legislature was complying with the constitution. The first draft of the final constitution was not accepted by the Constitutional Court and it had to be revised by the Constitutional Assembly before Mandela signed it into law in December 1996. It took effect in February 1997.

With the NP wining 20 % of the vote in the 1994 election, De Klerk became one of the new Deputy Presidents but soon found that he and his party had little power in the GNU, and that the ANC was effectively in control. In 1996 De Klerk took the NP out of the GNU, and not long after the NP disappeared from the political scene. Under Mandela the other Deputy President, Thabo Mbeki, was responsible for much of the day-to-day running of the country, and in 1999 Mbeki succeeded Mandela as President of the Republic, for Mandela had made it clear from the time he was elected that he would only serve one five-year term. The ANC, which still projects itself as the party of the liberation movement that brought freedom to South Africa, remains in power to this day.

LESSONS LEARNT

- South Africa was fortunate to have two great leaders steer the transformation process. De Klerk showed great courage in taking the decisive steps to make the transformation possible, knowing many of his own supporters and many in the security forces were not in favour of it. He was able to hold the NP together as it underwent a sea-change in policy. Mandela emerged from jail a man of peace who skilfully projected himself as a statesman of integrity and one who championed reconciliation. As the founding commander of MK and because of his own personal sacrifices, he was able to take the majority of his supporters with him as he engaged in compromises with the apartheid rulers. A remarkable group of other leaders also played important roles in the process. A personal friendship that developed between the two chief negotiators, Cyril Ramaphosa for the ANC and Roelf Meyer for the NP, was important in ensuring that the negotiations finally succeeded.
- The two major players, the NP and the ANC, both recognised that there had to be compromises. The transformation began in a situation of stalemate, which made the conflict "ripe for resolution": the NP government was under immense and increasing internal and international pressure, while the ANC did not possess the means to overthrow the government and come to power. So both accepted that they could not get what they ideally wanted: in the case of the NP, the continuation of white power; in that of the ANC, a transition to unfettered majority rule. The two major parties also had to try to bring other lesser players on board, to achieve as much legitimacy for the new system as possible. Early in the process they agreed that it should be "home-grown" and not initiated or overseen by any international body, though the mission the UN sent to South Africa in 1992 did help bring the parties together again after the negotiation process had broken down.
- Every such transformation is unique and this one had special characteristics deriving from its particular historical context. The transformation was made possible by the fact that increasing internal pressures on apartheid happened to coincide with the winding down, and then the end, of the Cold War. The fear by Western countries that the ANC might come to power under the influence of the SACP and that South Africa might become a socialist state dissipated, and in the new post-Cold War climate the ANC, which had always been a broad church ideologically, was quick to buy into the so-called Washington Consensus and neo-liberal economics.
- Though the political scene was transformed by the mid-1990s, the economic order remained very similar. This, and the elite nature of the transition, helps to explain why, twenty-five years later, South Africa, though now a very different country, is in some ways at least as unequal a country as it was before the end of apartheid.

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MEMORY OF NATIONS
Democratic Transition Guide

[The Spanish Experience]

TRANSFORMATION OF THE POLITICAL SYSTEM

PABLO PÉREZ-LÓPEZ

INTRODUCTION

The Transition to democracy in Spain occurred after the death of General Francisco Franco in 1975. This political change established a democracy which had previously failed (1931–1936) and led to the tragic Civil War of 1936–1939. The memory of that failure was very present in the democratization process in the seventies.

In order to understand Franco's regime, it should be kept in mind that it was not an appendix to the defeated totalitarian regimes. It has sometimes been identified with the losers of World War II, as if the victors had been only democratic countries. Such an identification forgets that communist totalitarianism was also a great victor of the war, a fact that prevented the democratization of half of Europe. And an even more important issue: that the Spanish Civil War took place prior to World War II. Thus, it was neither a replica nor an anticipation of the World War, even if it was a precedent.

At the end of World War II, the Spanish Republican exiles promoted an intervention in Spain to depose Franco. Democracies opposed, recognizing that such a complicated problem was an essentially Spanish issue, and that the solution should be Spanish too. The Civil War had been the consequence of numerous breakups in the Spanish society: between right and left, revolutionaries and counterrevolutionaries, radicals and moderates, totalitarians and democrats, secularists and Catholics, separatists and advocates of national unity, republicans and monarchists, etc. Such divisions had crossed the interior of large political groups and had been the cause of an increasing violence which undermined the rule of law until it was finally demolished. The military uprising and the revolutionary movements that opposed it split the country in just two sides, but did not neutralized the differences within each of those groups.

Franco interpreted his victory as a personal triumph that confirmed the validity of his rather unsophisticated political ideas: the communist revolutionary threat was the worst enemy; individualist liberalism and democracy were disintegrating systems that had to be rejected to build a united nation, strong and in peace. The solution was to recognize the greatness of the Spanish past and edify the national coexistence upon it. Traditional institutions would be the way to achieve that restoration.

His approach was tested by the facts: within his own side there were opposed political factions competing for power – the most active one following the principles of fascism, a rising ideology at that time. But the most traditional Spanish institution was its monarchy, and there was in fact a pretender to the throne willing to return to Spain; the international situation was very complicated and threatened to drag Spain into a new war; the Catholics, who had sought refuge in the rebel army in the face of religious persecution, did not agree with the fascists and considered the political project too State dependent … The Army, which was the General's main support, silenced all dissent and established what would turn to be the main principle during the whole regime: Franco's own "persona" as the key legitimating principle of the political system.

The opposition to Franco abroad remained much divided. Socialists, anarchists and nationalists did not forgive the communists, while some monarchists became anti-Franco when they saw that he rejected the pretender's return. An agreement on how to effectively oppose Franco was not found, a fact that explains both why foreign intervention was the only hope of overthrowing him and why democracies decided not to interfere in the task.

LEGAL FRAMEWORK OF THE POLITICAL SYSTEM

The Civil War was understood by both parties as a confrontation between two incompatible ideas of Spain. The repression, accordingly exerted, attempted to make two things clear: first, that the destiny of those who were not victors was exile or death; second, that those held responsible for the war should pay for it. Franco's victory meant a harsh repression for all those who had supported the Republican regime, even before the military uprising. In its early stages, the regime focused on eliminating the opposition and subduing and unifying the factions that had supported it during the war. Franco did it with extraordinary forcefulness, especially against the defeated ones, but also against those who initially supported him and dared to dissent.

World War II began a few months after the end of the Spanish War and plunged the new Spanish regime into perplexity: Nazi Germany, Franco's friend, agreed to a compact with the Soviet Union (USSR), its greatest symbolic enemy, who on top of that attacked Poland, a Catholic country with which Franco and the forces that supported him joined in solidarity. In the first years of war, the German victories suggested that Spain should implement a Nazi-fascist-style regime and join the winning side; even more so when Germany attacked the Soviet Union in the summer of 1941. But by then, Franco had turned his initial circumspection into a permanent state of caution: Spain remained neutral or non-belligerent during the war; and when the United States entered, it progressively moved away from the powers that had supported it in the Civil War.

Mussolini's removal and Italy's armistice were the turning point: Franco realized that he had to find another way. That was not a problem for him, for the support of the military and the Catholics was his natural way out. But the political structure that he had created during the war did not change: a unified party, *Traditionalist Spanish Phalanx and of the JONS* (FET, *Falange Española Tradicionalista y de las Juntas de Ofensiva Nacional Sindicalista*). Despite being an untenable amalgam of pro-fascists, rightists, monarchists and traditionalists, this platform became Franco's instrument to attract politically interested people and tame them for his own benefit. The repression softened and the ideological backbone of the regime was put in the hands of politicians with a Catholic profile.

The political institutions of the regime were gradually defined. First, the "traditional constitution" of the country was evoked as the basis of the new system. Spain was defined as a kingdom, but without allowing the return of the King, nor name Franco

as a regent. It was thus stated that Franco was above the Monarchy. His political system claimed to embody the tradition of the Spanish people, which he represented, taking power in a moment of political crisis that, once surmounted, would be followed by the return of the power to a monarch. Almost unbearable for the monarchists, this idea – which resulted from the very victory of the civil war – was the guide of Franco's exercise of power. In 1947, a law of constitutional rank ratified in a referendum defined Spain as a Kingdom. Together with the empty throne, the Spanish parliament – the so-called "Cortes" – was established as a representation of the Spanish people. The parliamentarians were partly chosen by Franco, and partly elected by the entitled corporations: state unions (which included businessmen and workers), municipalities and universities, among others. In a very different fashion to the liberal individualist Western democracies, an "organic democracy" was created, attempting to be a synthesis of the traditional Spanish freedoms and the channel of an authentic representation of the people.

CHANGES DURING FRANCO'S MANDATE AND POST-FRANCOIST HORIZON

The regime's resistance and the inability of its adversaries to overthrow it found an ally in the international situation. The Cold War – especially after 1950's Korean War – transformed the American and part of the European conservatism into an anti-communism, and opened the possibility to an understanding with Franco, which was reinforced by the geostrategic interest of the Iberian Peninsula. The General did not miss the opportunity: his regime overcame international isolation through an understanding with the Vatican and the United States. Spain began to open up abroad and joined the United Nations in 1955. In the late 1950s the obvious need for economic reform pushed Franco to shift his policies: an economic opening began to transform the country's economic structure and sponsored a progressive and limited political openness. All this culminated in the adoption of new fundamental laws that slightly modified the architecture of the system and, above all, in 1969, led to the appointment of Franco's successor: Prince Juan Carlos de Borbón, son of the pretender Juan de Borbón and legitimate crown heir in the Royal House that had ruled until 1931.

The initial repression had softened, and civil freedoms were gradually increased. Several legal reforms tended to re-establish the Rule of Law – not without the restrictions of a system that lacked political freedom. At the same time, public administration was modernized; it became more effective and increased its responsibility before the law and before citizens. Freedom of opinion, still very limited, made its way since the mid-sixties. The new generations of professional and political cadres in Spain were formed within the idea of democracy as the future of the country, once the stage symbolized by the General as winner of the war was overcome. Society as a whole pointed towards the same direction. Politically inactive, it underwent very intense changes in the ways of life as a result of the strong economic growth experienced within a few years. Spanish per capita income grew, as well as the level of education. Spain became the tenth largest economy in the world in the late sixties. On the other hand, while it is true that, since the war, Catholicism had been a call to reconciliation, in the aftermath of the Second Vatican Council the idea that a confessional regime

was the best political option for a country with a Catholic majority vanished. Pluralism and religious freedom were the new paradigm.

PREPARING FOR THE TRANSITION

The idea of removing the General from power had proved illusory. The opposition began to think about what would happen after his death. The idea of a transition to democracy emerged among exiles and internal opposition. But there were also groups of university students, professionals, senior public servants and politicians within the regime that began to prepare a change. Different proposals ended up converging on the following solution: a political transformation from within the system into a democracy. To do so, several steps were necessary: first and the most important, the new Head of State, the King, should be willing to lead the change; and second, the Francoist political class should step back from power. It seemed difficult, but possible: there was a reformist minority among the Francoists, determined and young, who could convince the most recalcitrant of the convenience of doing so. It seemed a little bit more difficult that the Army, the most solid cornerstone of the regime, allowed that change. Finally, it was also necessary that society approved the change. It became increasingly clear that Spanish society preferred a peaceful change, without shocks or violence that would take away the danger of confrontation and a new war. Finally, it was essential for the process to have the support of the opposition. Since the late sixties, it seemed that something like this was possible: facing the dilemma of choosing between a Republic (as opposed to a Monarchy) and political freedoms, many Republicans – including some socialists and communists – had conceded that the most important issue was the recovery of political freedom, not the specific kind of constitutional regime. If a Monarchy granted political freedoms, it could be an effective way of transition to democracy. However, some elements of the opposition claimed that the rupture with Franco's regime was an essential condition for democratization.

THE TRANSITION: REFORM THROUGH AN AGREED RUPTURE

Franco died in November 1975 and King Juan Carlos I took the Office of Head of State. He immediately began to drive a democratization process that stagnated in the first stage. In order to accelerate it, the young King appointed a new President of Government in July 1976, Adolfo Suárez, who shared his intentions and skillfully handled the situation among the Francoist political class. His government approved a draft of the so-called *Political Reform Act* (Ley para la reforma política), a statute creating the conditions to transform the political institutions into new democratic ones. The project was sent to the Francoist parliament. By approving this Act, the single political party and the Cortes enabled their own dissolution. The Law was submitted to a national referendum in December 1976. The Spanish people approved it by an overwhelming majority: 94 % voted in favor, with a participation of 78 %. The Government had opened the door to democratization.

There were many dangers that could prevent the successful completion of the transition, but three of them deserve

a particular attention. First, the possibility of a reactionary backlash, especially if it relied on the military and pushed for a military coup; though attempted, it did not finally happen. Second, a radical denial of the opposition refusing to join the proposed transition process. Only the members of the terrorist organization ETA (*Euskadi ta Askatasuna*, "Basque Country and Freedom") and of some other far-left formations, as well as a small far-right faction, violently tried to prevent the Transition from succeeding.

By contrast, popular support to the project was high and solid. Juan Carlos#I and Adolfo Suárez became the spokesmen of that national will, negotiated with the political actors, and gained the support or acceptance to the project by almost everyone, especially the opposition. The last obstacle was the legalization of the Communist Party of Spain in the spring of 1977. With that, everything was ready for the first democratic elections, which took place in June of that year. They were won by the Union of Democratic Center (UCD) a coalition of reformist parties in which former Francoists and opponents of Franco co-existed. The second place was for the Spanish Socialist Workers Party (PSOE); third, the Communist Party; followed by the right-wing party closer to Franco and, finally, by some other groups, including the nationalist parties.

THE NEW CONSTITUTION AND ITS APPLICATION

The new democratic Cortes were commissioned with the task of drafting and approving a new Constitution. The different groups approached such enterprise with the will of working together, jointly, and not in opposition to each other. It was intended to be a work of consensus and not a partisan document, as had happened with the previous constitutions of the 19th and the 20th Century. The challenge was achieved in a relatively short period of time despite the strong terrorist onslaught of the ETA separatists and the economic difficulties experienced during that years – which were managed through a specific compact between trade unions and business organizations aimed *inter alia* at preventing the economic crisis from adding obstacles to the political task. The search for a fundamental political convergence went hand in hand with the granting of a broad amnesty. The amnesty put an end to the political repression of Franco's time and the criminal consequences of the lack of political freedoms, and it became a symbol of reconciliation. In parallel with the creation of the new Constitution, there was also a decentralization of territorial power that anticipated what would be enshrined in the Constitution: the so-called Spain of the Autonomous Communities. Relations between the parties continually sought "consensus", a word that became a descriptor and symbol of the constituent period.

All this was possible because of the social consensus found in the referendum and the elections. The people had expressed their support for the proposal of political reconciliation that reflected the one already lived within society. The Constitution was approved by the new democratic Cortes and ratified in a referendum held in December 1978 with an extremely successful outcome: 92 % voted in favor, with a very high participation (67 % of the electorate). Finally, the Constitution was sanctioned by the King, thus transformed into a Constitutional Monarch. Virtually everyone agreed that it had been a historic achievement.

The following year new general elections were held, and the UCD won them again. Local elections were also held, so that the first democratic municipalities were constituted. In the local

elections, although the UCD obtained a majority of votes, it did not obtain the mayoral office of several important cities, including Madrid. It was the symptom of a tendency that would manifest itself in the following elections: the UCD entered into a serious internal crisis in 1980 and the PSOE won by an absolute majority the elections of 1982. The arrival of the left in power with the new Constitution endorsed the validity of the system. Many people consider that moment the end of the Transition to Democracy in Spain.

Yet, before the Socialists arrived in power, there had been other events of great political significance. The first one was the consolidation of a system of distribution of territorial power that enshrined the creation of autonomous governments in all Spanish regions. It was a long-standing demand that was expected to be resolved with the new Constitution. The elections held in the new autonomous regions, first in Catalonia and the Basque Country, manifested the crisis of the political center and the strength of some nationalists. Second, it was hoped that this democratization and decentralization would mean the end of the ETA separatist terrorism, but it was not so. On the contrary, the terrorist group increased their violence and caused more deaths than ever in the first years of democracy, thus demonstrating that their war was not only against Francoism but against democratic Spain. Third, partly as a result of the terrorist offensive and doubts about whether decentralization could degenerate into disintegration, there was an attempted internal coup d'état, promoted by the military, in February 1981. However, it was aborted by the political forces due to the lack of adhesion of most of the Army. The King and the institutions were the key players in redirecting the situation. The judicial process that followed the coup helped to reaffirm the supremacy of civil power over the military and to prevent further coup attempts.

LESSONS LEARNT AND RECOMMENDATIONS

The Spanish Transition to Democracy surprised many by its effectiveness, its relative speed, and its peaceful nature. It was seen and studied by many as a beacon and inspiration for the replacement of a dictatorial regime with a democratic one. To a large extent it was that, but it should be noted that Franco's regime in the 1970s was more an authoritarian regime with features of a Rule of Law system than a personal dictatorship. J.J. Linz defined it as an authoritarian regime of limited pluralism. Although Franco kept the ultimate management of the levers of power and there were no political freedoms, respect for the law was a fact in many areas. It should also be kept in mind that a good part of the forces that had supported the regime were eager for a change to a more democratic society, and they publicly expressed it in a more or less explicit way. It was the case of most of the educated classes, the Catholic hierarchy, moderate right-wing groups, a part of the Army, a part of trade union organizations and most of the businessmen, etc. They were joined by a political opposition that understood the advantages of a pragmatic negotiation preventing a breakup in exchange for full and guaranteed political freedoms. The King acted as a pilot of that transformation and allowed an orderly change in which the symbol of power, the Crown, while not changing, completely transformed its role: from a rather limited personal power, to a neutral and symbolic one.

Over the years of political practice, some shortcoming of the process began to arise. The most important one was

the difficult integration of autonomous territorial powers into a unitary project. Certainly, the territorial model enshrined in the Constitution had been an audacious choice attempting to solve the difficult problem of combining diversity and unity, and it did not work as expected. In some cases, the autonomous governments became competitors to the central power, and that has put the State itself (and, consequently, Spanish democracy) at risk. At the same time, it seems to have left those who claim their own political personality unhappy. This political dissatisfaction has been connected with the terrorist problem and with the State's response to terrorism, since the most tenacious and bloody terrorism in Spain has had a separatist aim. When, after a long struggle, ETA stopped killing, it seemed that democracy had won the police and judicial battle against terror. Nevertheless, the same has not happened with the problem of political legitimacy. This was partly a consequence of the fact that, during the Transition, some political groups granted legitimacy to ETA as a fighter against Francoism, a support that was difficult to remove when it continued to fight against democracy. For many, it was a bitter lesson that some people paid for with their lives. Military power, despite appearing to be the greatest initial problem, has adjusted well to the functioning of democracy. Finally, the question of the victims of the Francoist repression and of the historical memory, which initially seemed resolved, was re-awakened as a political argument in the late 1990s. From this approach, a tendency to denounce the Transition as a process of deception and camouflage arose – a claim that is not supported by the available historical evidence. A clear balance of the victims and the historical memory, which could have been better managed, cannot yet be made.

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