

The principle of national self-determination in Czechoslovak constitutions 1920–1992

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We, the Czechoslovak nation, declare that we will endeavor to carry out this constitution [...] in the spirit of the modern principles embodied in the slogan of self-determination...

From the preamble of the 1920 Czechoslovak Constitution

Introduction

The principle of national self-determination holds that there should be one state for every nation and one nation for every state. In its heyday after the First World War, however, the principle was used to justify several states in Central and Eastern Europe that were almost as multi-national as the empires they replaced. One of these states was Czechoslovakia. Despite the fact that the national minorities comprised a third of the population, Czechoslovakia was from the outset officially presented as the unitary nation-state of the 'Czechoslovak nation with two tribes'.¹ The 1920 Czechoslovak constitution was adopted in the name of this Czechoslovak nation, and imposed a unitary state form and a centralized political set-up.

After the collapse of the Berlin Wall, the principle of national self-determination was again used to justify new 'national states'. Five states, including Slovakia, even invoked this principle in their constitutions, all on behalf of the core nation.² The very same principle that was used to justify the founding of Czechoslovakia in 1918 was thus used to justify its demise 74 years later; only this time the principle was invoked on behalf of the Slovak nation.

New constitutions were formulated in all post-communist countries after 1989, but Czechoslovakia was the only country where the failure to agree on a constitution contributed to the division of the state. The underlying long-term conflict that drove Czechoslovakia apart was a conflict about the character of the political community, which can be formulated as a 'Slovak question' with two dimensions: The question was first, whether the Slovaks should be recognized as a separate nation, different from the Czechs, and second, whether recognition should be followed by political autonomy for this Slovak nation within Czechoslovakia.

¹ According to the 1921 census, Czechs comprised 50.8 percent, Slovaks 14.7 percent, Germans 23.4 percent, Magyars 5.6 percent, Ruthenians 3.5 percent, Jews 1.4 percent, and Poles 0.6 percent (*Sčítání lidu v republice československé ze dne 15. února 1921*, 1924: 60, 66). Today the Czechs today comprise 95 percent of the population in the Czech republic. The Slovaks comprise 86 percent in Slovakia, while the Hungarians are the largest minority (around 10 percent, according to the 2001 census). www.statistics.sk/webdata/slov/scitanie/namj.htm

² The other four were Belarus, Estonia, Slovenia and the Ukraine. See <http://confinder.richmond.edu/> for the constitutions of the Central and Eastern European countries in English.

The purpose of the present article is to trace how the conflict about the character of the political community was reflected in the five subsequent Czechoslovak constitutions and constitutional amendments and later in the Czech and Slovak constitutions. For our purposes, constitutions are important not only because they establish the 'rules of the game' in terms of individual and collective rights, the powers of the state, and amendment procedures (Lane 1996), but perhaps even more so because of their status as founding charters of the political community and powerful symbols of belonging. What is at stake is therefore not only interests, but also identities. An extra conflict dimension is added to constitution making in multi-national states, since constitutions express the status and recognition of national groups and grant them the collective rights and powers that correspond to their status. This is not to deny that there will always be some discrepancy between the formal, written constitution and the implementation of the articles, respectively the actual rights, institutional setups and practices – even in democratic states, not to mention in authoritarian and totalitarian regimes.

The principle of national self-determination can be used to justify political sovereignty for groups who define themselves (and are recognized by others) as nations. The purpose of the first part of the article is to identify the alleged state-forming subjects, i.e. the nation(s) that were recognized in Czechoslovak constitutions as state forming, and to demonstrate to what extent the principle of national self-determination was explicitly invoked on their behalf.

The second part of the article addresses whether constitutional recognition of the Slovaks as a state-forming nation and the presence or absence of the principle of national self-determination had any practical consequences in terms of institutional set-up and national minority rights. Short of secession, the principle of national self-determination implies some sort of political autonomy for the nation in question. Theoretically, if the Slovaks were recognized as a state-forming nation, they should therefore be entitled to political institutions with powers in matters of vital importance. Conversely, it is often assumed that national states are what Rogers Brubaker (1996) calls 'nationalizing states', i.e. that (newly independent) national states use state power to promote the specific interests of the core nation, in order to compensate for earlier discrimination. Theoretically, national minority rights should thus be less extensive if the principle of national self-determination is invoked in the constitution.

The third and final part of the article focuses on the Czechoslovak constitution making process after 1989 with a view to understand how the failure to agree on a new constitution relates to the underlying long-term conflict, especially about the institutional setup and division of power, and to the principle of national self-determination.

The principle of national self-determination

The principle of national self-determination is as ambiguous as the nation concept itself. In old Rome, the word *natio* was used about foreigners from the same geographical region, who were below the Romans in status. In modern time, *nation* has come to mean a sovereign people and a unique people (Greenfeld 1992). In the former case, the nation is coterminous with the citizens (a 'civic' nation); in the latter case, the nation is a culturally ('ethnic') distinct people.

In the original meaning, derived from the American declaration of independence (1776) and the French declaration on human rights (1793), the doctrine of self-determination meant popular sovereignty, i.e. the right of the people to choose their government without coercion. This could be interpreted either as internal democracy or as freedom from external intervention. In its heyday during World War I and in the subsequent peace settlement at Versailles, however, the principle of national self-determination came to be understood in a third meaning – as the right of culturally distinct nations to have their own state.

The allies wanted to remedy two ills by national self-determination: The refusal of the multinational empires of Europe to grant autonomy to national groups and the lack of democratic control within the states. The American president Woodrow Wilson tended to confuse the two issues, and for him, national self-determination essentially meant popular sovereignty. In Central and Eastern Europe, however, the nation concept was – and still is – predominantly cultural or ethnic, and national self-determination was therefore interpreted as the right of culturally defined nations to have a state of their own (Sharp 1996).

Czechoslovak constitutions and national self-determination

Most states today have written constitutions. The American (1787) and the French (1791) were the first, and served as models for many later constitutions.³ In the 74 years Czechoslovakia existed, three full constitutions were adopted, in 1920, 1948 and 1960. Two major amendments were made: The 1938 amendment inaugurated the short-lived Second Republic, and the 1968 amendment turned Czechoslovakia into a federation. Finally, the Slovak republic and then the Czech Republic adopted their own constitutions in 1992.

Constitutions in Czechoslovakia were fairly extensive (exceeding 100 articles), and were written by lawyers. The 1920 Constitution was a liberal constitution, adopted by the revolutionary National assembly consisting of Czechs and Slovaks only. This constitution was modeled on the French and American constitutions, preserved parts of the 1867 Austrian Constitution, and included parts of the post World War I peace treaties (Gerloch et al 1999). The 1938 Constitutional amendment was formulated by the autonomist Slovak People's Party and adopted after the fateful Munich agreement. The 1948 Constitution was prepared before the communist takeover, but adopted afterwards. The 1960 Constitution was the first explicitly 'socialist' constitution, while the 1968 Constitution was prepared during the Prague spring and adopted in October, i.e. after the Soviet invasion. The constitutions that were adopted during communism were in part modeled on the Soviet constitution.⁴

The state-forming subjects according to the constitutions

So who were the state-forming subjects, according to Czechoslovak constitutions? Although the formal subjects vary, two things stand out: First, Czechoslovakia was consistently presented as the nation-state of the Czechs and Slovaks, while the national minorities were not at any point regarded as state forming. The difference is that while the 1920 constitution was adopted on behalf of the Czechoslovak nation, the subject of the 1968 constitution was 'We, the Czech and Slovak nation'. The former signals a Czechoslovak nation-state, the latter a Czech *and* Slovak nation-state.

³ The text of the American constitution may be found at www.house.gov/Constitution/Constitution.html and the French constitution at www.eur.nl/frg/iacl/armenia/constitu/constit/france/france-e.htm.

⁴ For the texts of the constitutions, see: *Sbírka zákonů a nařízení státu československého* (1920: 255), *Ústava Československé Republiky ze dne 9. května 1948* (1948); *Ústava Československej Socialistickej republiky z 11. júla 1960* (1967); *Ústavní zákon o Československé Federáci ze dne 27. října 1968* (1972). See also the websides of the respective constitutional courts: <http://www.concourt.sk> and <http://libra.concourt.cz>.

Table 1: The formal 'subjects' of Czechoslovak, Czech and Slovak constitutions

1920:	We, the Czechoslovak nation
1938:	The Parliament
1948:	We, the Czechoslovak people
1960:	We, the working people of Czechoslovakia
1968:	We, the Czech and Slovak nation
1992, Czech:	We, the citizens of the Czech republic in Bohemia, Moravia and Silesia
1992, Slovak:	We, the Slovak nation

Second, apart from the 1938 amendment, all Czechoslovak (and later the Czech and Slovak) constitutions were adopted on behalf of a big 'We', following the American example. However, while the phrase 'We, the People of the United States' in the preamble of the American constitution refers to all citizens, reflecting a *civic* principle, Czechoslovak preambles consistently reflected a *cultural* nation concept.

In the 1948 and the 1960 preambles, some version of the 'the people' admittedly figured as the formal subject of the constitutions (Table 1), but in both cases, the working class content of the term 'people' (lid/l'ud) is quite clear from the context, and moreover, both preambles explicitly presented Czechoslovakia as the nation-state of the Czechs and Slovaks. The preamble of the 1960 constitution stated that 'the two nations that formed the Czechoslovak republic, the Czechs and Slovaks, live in fraternal concord'. The preamble of the 1948 Constitution went further, declaring that 'our liberated state will be a nation-state, freed from all hostile elements', and presented the Czechs and Slovaks as 'two fraternal nations' – the champions of freedom, progress, humanity, democracy and social justice, who always had fought against feudal exploiters, the Habsburg dynasty, and the German archenemy (!).

Since the first part of the preamble of the 1920 Constitution was so clearly modeled on the American preamble, Czech scholars (e.g. Broklová 1992a: 148) have argued that 'We, the Czechoslovak nation' should be interpreted in civic terms (i.e. as 'the citizens'): 'We, the Czechoslovak nation, desiring to consolidate the perfect unity of our nation, to establish the reign of justice in the Republic, to assure the peaceful development of our Czechoslovak homeland, to contribute to the common welfare of all citizens of this state and to secure the blessings of freedom...' However, this interpretation is not reasonable the second time 'We, the Czechoslovak nation' appears in the same preamble, where this 'We,' promise to carry out the constitution 'in the spirit of our history as well as in the spirit of the modern principles embodied in the slogan of self-determination'. In Central Europe, national self-determination was understood as the right of culturally defined nations to have a state of their own. Moreover, a cultural understanding of Czechoslovak nationhood is consistent with the wartime propaganda aiming at independence for this 'Czechoslovak nation' as well as with the official Czechoslovakism of the First Republic. Finally, this interpretation is even confirmed by the parliamentary debate (Bakke 1999: 336–38; Broklová 1992b: 72–73).

The 1992 Czech constitution is the only constitution that was ostensibly based on civic principles. The formal subject was 'We, the citizens of the Czech Republic in Bohemia, Moravia and Silesia...', but the rest of the preamble leaves the impression of a Czech nation-state: '...at the time of the restoration of an independent Czech state, being loyal to all good traditions of the ancient statehood of the lands of the Czech crown as well as the Czechoslovak State...' Here and elsewhere, the Czech Republic was consistently regarded as the restoration of former Czech statehood, and Czechoslovakia was as a part of Czech state traditions (For the debate on the Czech constitution, see www.psp.cz/eknih/1992cncr/stenprot/010schuz/).

National self-determination for whom?

To what extent was the principle of national self-determination explicitly invoked in the various constitutions, and on behalf of what national subject(s)? As we have seen, the preamble of the 1920 Constitution invoked 'the slogan of self-determination' on behalf of the 'Czechoslovak nation'. The principle was invoked again in the 1968 constitution, this time on behalf of the Czech and Slovak nations, and finally on behalf of the Slovak nation in the Slovak constitution of 1992. In all three cases the Czechs and Slovaks were defined as the state-forming nation(s), relegating the national minorities living on Czechoslovak (or Slovak) territory to a secondary status.

In the 1920 Constitution, the principle of national self-determination was mentioned only once, in the preamble. In the 1968 Constitution, by contrast, it was invoked in the preamble as well as in Article 1. In the preamble, it was mentioned twice: 'We, the Czech and Slovak nation, (...) recognizing the inalienable right to self-determination even to the point of secession, and respecting the sovereignty of every nation (...), convinced that a voluntary federal union is an appropriate expression of the right to self-determination and equality, (...) decided to form a Czechoslovak federation.' According to Article 1, 'The foundation of the Czechoslovak Socialist Republic is a voluntary union of the equal nation-states of the Czech and Slovak nation, based on the right to self-determination of each nation.'

As for the Slovak Constitution, the principle of national self-determination was again invoked only in the preamble: 'We, the Slovak nation, bearing in mind the political and cultural heritage of our predecessors and the experience gained through centuries of struggle for our national existence and our own statehood (...), recognizing the natural right of nations to self-determination, together with members of national minorities and ethnic groups living in the Slovak republic (...) thus, we, the citizens of the Slovak republic hereby, through our representatives, adopt this constitution'. Slovakia is here clearly presented as a Slovak nation-state. The reference to 'we, the citizens of Slovakia' in the last sentence of the preamble does not change the main impression. The Hungarian deputies showed their dissatisfaction with the conception of Slovakia as a Slovak nation-state by marching out of the Slovak National Council prior to the final vote on the constitution (Stenographic records of the debate are located at www.nrsr.sk/indexarch.asp). A recent attempt by the Hungarian Coalition Party to change the preamble in a civic direction got no support even from the Slovak parties in the government coalition where the Hungarian Party took part (Mesežnikov et al 2001:157).

What about the rest of the constitutions? The preamble of the 1938 Constitutional amendment recognized the Slovaks as a separate and sovereign nation, but did not explicitly invoke the principle of national self-determination, although it was implied: 'The Parliament, departing from the fact that the Czechoslovak republic originated through an agreement of the sovereign wills of two equal nations...' (Printed as an appendix in El Mallakh 1979: pp. 234 ff.). As for the 1948 and the 1960 constitutions, Czechoslovakia was presented as Czech and Slovak nation-state, but the principle of national self-determination was omitted. Finally, the preamble of the Czech Constitution stands out in terms of its emphasis on civic virtues, human rights, democracy and the rule of law. Interestingly, the division of Czechoslovakia was not even once phrased in terms of *Czech* national self-determination. In all debates preceding the event, the focus was on the establishment of an independent Slovak state.

Consequences in terms of minority rights

As we have seen, the national minorities were not regarded as state forming in Czechoslovakia, nor in the successor states. The question is now first, whether status as a state-forming nation meant anything in terms of rights, and second, whether the three constitutions that referred explicitly to the principle of national self-determination, differed substantially from the others in terms of (formal) national minority rights.

According to the 1920 Constitution, all citizens were equal before the law and enjoyed the same civic and political rights (§128). This included the right to use any language in private and business, organize, and to have schools with instruction in their own language. In addition, the Language act granted minorities the right to address courts, offices and state organs in their own language, but only in communities where that national minority comprised more than 20 percent of the population. However, the 20 percent rule did not apply to the Czechs and Slovaks, and 'the Czechoslovak language' (Czech and Slovak) was the official state language. The state-forming nation was thus more equal than the others. It should be noted that status as a 'tribe' of the state-forming 'Czechoslovak nation' protected the Slovaks against the use of Magyar in Slovak areas, but not against the use of Czech.

The 1938 amendment retained the minority rights of the original constitution, but made Slovak the official language in Slovakia. The minority rights in the 1920 Constitution were *individual* rights, designed to carry out the obligations of Czechoslovakia specified in the peace treaties. Only the Ruthenians were granted collective rights through § 2, giving Sub-Carpathian Ruthenia 'the widest measure of self-government compatible with the unity of the Czechoslovak republic'. This autonomy was however not implemented until 1938.

In contrast, the 1948 Constitution did not contain any special provisions for national minorities. All citizens were equal before the law and had the same rights and obligations. This was a part of the postwar international shift from minority rights to general human rights. The 1960 socialist Constitution declared the equality of 'all citizens regardless of nationality and race' (article 20), and granted 'citizens of Magyar, Ukrainian and Polish nationality' all prospects and means of cultural development and education in their mother tongue (article 25). The Germans were omitted, although they were more numerous than both the Ukrainians and the Poles. Neither of these constitutions contained any reference to a state language.

Surprisingly, the 1968 Constitution granted national minorities more rights than any other socialist constitution. A separate constitutional law presented the Czechoslovak Socialist Republic as the 'shared state of the Czech and Slovak nations and the nationalities living on its territory' (article 1). Minority rights were extended to the Germans, and minorities got right to proportional representation in all political bodies, wide rights to use their language in official contacts, receive information and education in that language, right to cultural development and cultural organizations. The constitutional law also granted all citizens the right to decide their nationality on their own account, and freedom from oppression on national grounds.

Both the Czech and the Slovak constitutions have incorporated the 1991 Federal Charter of fundamental rights and freedoms. Both grant fundamental rights to all 'regardless of sex, race, color, language, faith, religion, political affiliation or conviction, national or social origin, nationality or ethnic origin, property, birth or any other status', including the right to decide your own nationality (article 12 and 3, respectively). Discrimination on national grounds is prohibited, and national minorities are granted various cultural rights, including right to education in the minority language, right to use it in official communication, and right to participate in decisions affecting the national minorities and ethnic groups.

The Slovak Constitution differs from the Czech in two crucial ways: First, it grants national and ethnic minorities 'the right to learn the official language' (that is Slovak, according to § 6). Second, it contains an extra provision, stating that 'the exercise of rights by citizens of a national minority (...) may not threaten the sovereignty and territorial integrity of the Slovak republic or discriminate against other citizens' (Article 34, 3). The Czech Constitution lacks both, and does not prescribe an official language.

So did status as a state-forming nation mean anything? It certainly did. As state-forming nations, the Czechs and Slovaks were always more equal than the rest. However, the various constitutions differ less than expected in terms of the rights they grant to national minorities, and minority rights were not inversely related to the principle of national self-determination. The prevailing principle was non-discrimination, combined with cultural rights. Moreover, these rights were by and large implemented, with the exception of the Roma, who have been – and are still – discriminated against in both republics. Also, the minority rights in the Slovak Constitution were curbed under the Mečiar regime (1994–98). (Nečas 1999; Vašečka 2000; Mesežnikov et al 2001: pp. 153 ff).

A possible domestic explanation for these fairly extensive (formal) minority rights is that the Czechs and Slovaks were sensitive to charges of discrimination, due to their history as victims of oppression – or perhaps they wanted to appear morally superior to their former oppressors. The latter motive was explicitly voiced in the debate on the 1920 Constitution (Bakke 1999: pp. 338–340). The fact that the two largest minorities, the Germans and Magyars, had kinsmen in border-states was probably a restraining factor. Finally, international influences clearly played a role. In 1920, Czechoslovakia had to fulfil legal obligations in the peace treaties. After 1989, the political elite felt morally obliged to introduce international human rights into the constitution – through the adoption of the 1991 Federal Charter. As for the socialist constitutions, the Marxist influence worked against national discrimination.

Practical consequences in terms of institutional setup and division of powers

We have seen that three of the constitutions invoked the principle of national self-determination: The 1920 Constitution on behalf of the *Czechoslovak* nation, the 1968 Constitution on behalf of the *Czech* and *Slovak* nation, and the 1992 Slovak Constitution on behalf of the *Slovak* nation. We will now see whether this had any practical consequences for the institutional setup and division of power in the various constitutions. This is partly a matter of administrative structure: For national self-determination to work, there would have to be some congruence between the political-administrative borders and national settlement patterns. More importantly, however, there would have to be some autonomy at the regional level.

Administrative structure

First to the question of administrative structure: Bohemia, Moravia and Silesia had belonged to the Austrian part of Austria-Hungary before 1918, and had their own Diets. There were substantial German minorities in all the Czech historical lands, but in Silesia the Germans and Poles together formed a majority. Slovak territory was an integral part of Hungary, and was divided in a number of small counties. Also Sub-Carpathian Ruthenia in present-day Ukraine (ceded to the Soviets in 1945) was originally a part of Hungary.

The 1920 Constitution abolished the former Moravian and Bohemian Diets. At the same time, it was decided to unite the existing small Slovak counties into six larger ones, turn Sub-Carpathian Ruthenia into a separate county, and divide the Czech historical lands (Bohemia, Moravia and Silesia) into 15 counties (not implemented). In 1928 four regions replaced the counties: Bohemia, Moravia-Silesia, Slovakia and Sub-Carpathian Ruthenia. The regional reform thus made Slovakia into a single administrative unit for the very first time. After the Second World War, Czechoslovakia was divided in two parts: the Czech lands and Slovakia, and in 1968, into two republics: the Czech Republic and the Slovak Republic.

Part of the reason why the county system was not implemented in the Czech lands, was that two of the Bohemian counties would have been nearly 100 percent German (*Scítání lidu...*, 1924, table VI). The motive was to prevent the former ruling nations from dominating the Czechs and Slovaks in 'their own state'. The same logic lay behind the decision to merge Silesia with Moravia in order to ensure a Czechoslovak majority in all regions.

Let us now turn to the institutional setup and division of powers, the way it was reflected in the constitutions. Table 2 below summarizes the information.

Table 2: State form, administrative structure and institutional set-up

Year	State-forming nation	State form	Administrative structure	Institutional set-up
1920	Czechoslovak nation	Unitary	22 counties; from 1928 four regions	Centralized, bicameral legislature
1938	Czech and Slovak nation	Federal	Four regions: Bohemia, Moravia, Slovakia, Sub-Carpathian Ruthenia	Asymmetric; bicameral & separate Slovak institutions with extensive powers
1948	Czech and Slovak nation	Unitary	Two regions, the Czech lands and Slovakia	Asymmetric; unicameral & separate Slovak institutions with limited powers
1960	Czech and Slovak nation	Unitary	Two regions, the Czech lands and Slovakia	Asymmetric; unicameral & separate Slovak institutions with more limited powers
1968	Czech and Slovak nation	Federal	Two republics, the Czech Republic and the Slovak Republic	Symmetric; bicameral, federal & separate Czech and Slovak institutions
1992, Czech	Czech nation (implicit)	Unitary	13 regions	Centralized, bicameral legislature
1992, Slovak	Slovak nation (explicit)	Unitary	8 regions	Centralized, unicameral legislature

Official Czechoslovakism and political centralism

The 1920 Constitution was in every respect the constitution of a centralized, unitary state. The bicameral Parliament had an assembly as well as a senate, but neither chamber represented national groups. In stead, the senate served as a safeguard against hasty decisions. The decentralization of power to the counties and later to the regions was not constitutionally protected, and was thus within the bounds of a unitary state. Each of the four regions had an assembly with rather limited powers; two thirds were directly elected, one third was appointed by the government. The Czechoslovak president (in reality the minister of interior) had the right to appoint the regional presidents, which favored the central level even more.

The purpose of this centralized set-up was to keep up the appearance of a Czechoslovak nation-state, where the 'Czechoslovak nation' utilized its right to self-determination. The principle of national self-determination also worked as the normative link between the idea that the Czechs and Slovaks were one nation, and a unitary, centralized state form. Having formed a Czechoslovak nation-state on the basis of Czechoslovak national unity, the Czechs and Slovaks must preserve national and state unity, so as not to jeopardize the integrity and future existence of the state. It was argued that separate institutions would drive the two 'tribes' of the 'Czechoslovak nation' apart. (Without national unity, Czechoslovakia would be nearly as multinational in composition as 'the prison of nations' it succeeded, and without state unity, it would be harder to withstand German demands for autonomy).

A concerted effort was made during the First Republic to convince the Czechs and Slovaks that they *were* one nation. Yet, this official Czechoslovakism was bitterly opposed by a substantial part of the Slovak political elite, who insisted that the Slovaks were a separate nation and demanded political autonomy on behalf of this nation. Again the principle of national self-determination provided the normative link, in this case between national recognition and political autonomy: The argument was that since the Slovaks were nation of their own, and nations had the right to self-determination, the Slovaks had the right to autonomy. Also the Slovak autonomists regarded Czechoslovakia as a nation-state, but in their view it was the nation-state of two equal nations, the Czechs and Slovaks.

(Hlinka's) Slovak People's Party was the main representative of the Slovak autonomists in the Parliament. The party drafted several constitutional amendments aiming at autonomy for Slovakia, all more or less federal (See Bakke 1999, Chapter 13, for details). The third of these autonomy proposals became the basis for the 1938 Constitutional amendment, which inaugurated the short-lived Second Czecho-Slovak Republic. The amendment granted Slovakia a legislative assembly with jurisdiction in all matters that were not defined as joint, a separate administration and separate courts. The Slovak government became accountable to the assembly, and got executive power in all matters under its jurisdiction, as well as many matters under central jurisdiction. Slovak became the official language in Slovakia, and a separate citizenship was introduced.

The central Parliament retained jurisdiction in a number of policy areas, including the constitution, foreign affairs, national defense, customs, infra structure, and economic policy, but the Slovak assembly was granted the right to sanction certain international agreements involving Slovak interests. The amendment also introduced veto for the Slovak deputies regarding votes of no confidence, presidential elections and constitutional amendments. This was a complete reversal of the existing policy of centralism and Czechoslovakism.

Recognition, but asymmetric solutions

After the war, official Czechoslovakism was abandoned for good in the declaration of the first postwar government, the Košice program of 1945: 'Departing from the recognition of the Slovaks as a separate nation, the government will (...) strive to realize the equality principle in Czecho-Slovak relations, in order to bring about real brotherhood of the two nations.' The government promised to reestablish the republic 'as the shared state of two nations with equal rights, the Czech and the Slovak', and to make the Slovaks the masters of Slovakia.

The Košice program also gave Slovakia a substantial measure of autonomy. The Slovak National Council, which *de facto* controlled the liberated parts of Slovakia, was recognized as the authorized representative of the Slovak nation, and an executive Board of Commissioners was established (*Program...* 1945: 16–17). The First Prague agreement of June 1945, signed by the central government and the presidium of the Slovak National Council, extended the competency of the central level compared to the 1938 Constitutional amendment, but at the same time confirmed the role of the Slovak national council as the bearer of legislative and executive power in Slovakia. The Board of commissioners was made accountable to the Slovak National Council as well as to the central government and got executive powers in both jurisdictions.

The tug-of-war between centralists and autonomists over the power distribution and political-administrative organization of the state was, however, by no means over. The second and especially the third Prague agreements redressed the balance in favor of the central level, by gradually placing the Slovak organs under government control and stripping them of executive powers (Chovanec & Mozolík 1994: 38, 114–122; see also Rychlík 1998: 27–51; Barnovský 1998: pp. 119 ff.; Plevza 1989: 72–76). The third Prague agreement was, unlike the other two, an agreement between the parties in the National front of the Czechs and Slovaks, which comprised all legal parties after 1945, and where the Communists were the leading force. Part of the reason for the effort to curb the power of the Slovak organs was the victory of the Democratic Party in the 1946 elections, which convinced the Communists that Slovakia could not be trusted.⁵

New steps were taken in this gradual re-centralization of power in the first two postwar constitutions. All postwar constitutions recognized the Slovaks as a separate nation, and defined Czechoslovakia as the state of two equal fraternal nations. However, the institutional setup provided by the 1948 and 1960 constitutions was that of a centralized, unitary state. The Parliament was now unicameral. The 1948 constitution devised an asymmetric solution with limited power and competence for the Slovak organs, and the 1960 Constitution reduced them even more. A Czech parallel structure was not established. (The wartime Czech National Council was abolished when the Czechoslovak exile government returned to Prague in 1945). Article VIII of the 1948 Constitution recognized the Slovak national organs as the bearer of state power in Slovakia, the representative the individuality of the Slovak nation, and a guaranty of 'the equality of the Czechs and Slovaks in the spirit of the people's democracy'. The legal jurisdiction of the Slovak National Council was confined to national or regional matters, insofar that it was necessary to ensure the full spiritual and material development of the Slovak nation (§ 96). Executive power in Slovakia was vested in the Board of Commissioners, except in cases involving national defense, foreign policy and foreign trade. The Board of Commissioners answered to the government in matters under state jurisdiction,

⁵ In the Czech lands, the Communists got 40.2 percent and the socialist parties nearly 80 percent of the vote; in Slovakia, the bourgeois Democratic Party won the election (62.0 percent), while the Communists got 30.4 percent. M. Barnovský & E. Ivaničková (eds): *Prvé povojnové voľby v strednej a juhovýchodnej Európe* (1998: 215–18); J. Krejčí & P. Machonin: *Czechoslovakia 1918–92. A laboratory for social change* (1996, Ch. 3).

otherwise to the Slovak National Council. Slovak autonomy was restricted in several ways: The central government had the right to appoint and dismiss the Board, and to decide whether laws adopted by the Slovak National Council were in conflict with the Constitution – which of course took precedence over these laws (§ 110, § 114).

The 1960 Constitution was even more centralist than its predecessor, and less nationally oriented. The Slovak national council was no longer 'the representative of the individuality of the Slovak nation'. Legislative powers were still confined to national or regional matters, but now 'in harmony with whole state legislation' (article 74), and the constitution no longer specified what these matters were. The Parliament had the right to annul laws given by the Slovak National Council, if they were in conflict with the constitution or other laws (article 41). The main difference in terms of the division of power was, however, that the Board of Commissioners was abolished, although some of its executive functions were transferred to the 16 members presidium of the Slovak national council.

Otherwise, the Constitution was brought up to date: the leading role of the Communist party was made explicit (article 4); cultural policy and education was to be conducted in the spirit of the Marxist-Leninist ideology (article 16), the principle of democratic centralism was introduced (article 18); and socialist symbols were introduced into the Coat of arms.

Two equal, sovereign nations in a federal state

During the First Republic, the principle of national self-determination had served as the normative link between the idea that the Czechs and Slovaks were one nation and the unitary, centralized state form. At the same time, the Slovak autonomists used the principle of national self-determination to justify political autonomy for the individual Slovak nation. In the first two postwar constitutions, the identity question had been divorced from the question of state organization, and no reference was made to the principle of national self-determination. With the adoption of the 1968 Federal Constitution, however, the principle of national self-determination was reintroduced into the constitution, this time linking the recognition of two state-forming nations, the Czechs and Slovaks, to a federal state form.

The 1968 Constitution was the outcome of the reform movement called the Prague spring, which combined 'socialism with a human face' with new emphasis on the Slovak question. The pretext was the de-Stalinization process in the 1960s, the release of political prisoners, and the rehabilitation (in 1963) of the Slovak Communists who had been accused of bourgeois nationalism. The federal Constitution was the only innovation of the Prague spring to survive the period of 'normalization', but the power of the republics was reduced (Krejčí & Machonin 1996: 45–47; Chovanec & Mozolík 1994: 48–52; Gerloch et. al 1999: 51–54).

The 1968 Constitution presented the federation as a 'voluntary union of the equal nation-states of the Czech and Slovak nation' (article 1), the Czech Socialist Republic and the Slovak Socialist Republic. The institutional set-up was for the first time in Czechoslovak history symmetric, meaning that parallel Czech and Slovak institutions were established. The Constitution distinguished between matters under federal jurisdiction, joint matters, and republican matters (the rest). The supreme organs of state power in the republics were the respective national councils, which represented 'the national individuality and sovereignty' of the Slovak (Czech) nation (article 102). At the federal level, a bicameral Federal assembly was established. The Chamber of the People was based on the principle 'one man, one vote', while the Chamber of Nations was based on the principle 'one nation, one vote'. The Chamber of Nations was therefore designed to represent the equal position of the two republics cum nation-states within the state (article 31).

Combined with prohibition of majority rule, this institutional set-up gave each nation a safeguard against being out-voted by the other party. Since the Czechs were twice as many as the Slovaks, this provision was in practice a guarantee for the Slovaks. A three-fifths majority was required in the Chamber of the People, as well as in the Czech and Slovak parts of the Chamber of Nations, in order to adopt Constitutional laws, elect the president and declare war. Majority rule was also prohibited in cases involving votes of confidence, acquisition and loss of citizenship, internal order, security and control – and some federal economic matters. 38, respectively 31 deputies in the Chamber of Nations were enough to block a decision.

As long as the Communist Party ruled according to the principle of democratic centralism, the constitutional division of powers did not matter much in practice. However, the funny thing about institutions is that their effect changes with the circumstances: The rather impotent Slovak National Council worked as a vehicle of Slovak demands for federalization once the Prague spring was under way in 1968 (Štefanovič 1999:89; Žatkuliak 1996: 7). And the 1968 Constitution acquired new importance after the velvet revolution of 1989, due to the new political elite's strong emphasis on continuity and legality. The elite could have started from scratch, leaving the legacy of the communist era behind. In stead, the 1968 Constitution defined the *procedures* for the adoption of a new constitution, and also became the point of departure for the negotiations about the *contents* of a new constitutional settlement. It turned out not to be possible to agree on a new Constitution, and the 1968 Constitution therefore remained in force until the formal dissolution of Czechoslovakia on December 31st, 1992. However, in the meantime the Federal Parliament adopted 35 constitutional laws, mostly concerned with the removal of the Communist legacy (Gerloch et.al. 1999: 56–60; Chovanec & Mozolík 1994: 54–55).

Two nations and two states

Finally, with the promulgation of the Czech and Slovak constitutions in the fall of 1992 and the subsequent dissolution of the state, the full circle was completed. The difference is that while the First Republic was the unitary nation-state of the Czechoslovak nation, Czechs and Slovaks are now the state-nations of their own independent states. Both states are unitary, but only the Czech Constitution says so explicitly (article 1). Legislative power is vested in the unicameral Slovak National Council, and the bicameral Czech Parliament. Executive power is vested in the government and in the president, who is also head of state. According to the original 1992 constitutions, the parliament elected the president in both countries. A constitutional amendment in 1998 made the Slovak president directly elected from 1999.

The principle of national self-determination and the institutional set-up

In the introduction to this article, I argued that theoretically, recognition as a state-forming nation should lead to the establishment of political institutions with powers in matters of vital national importance. This holds true: The constitutions that invoked the principle of national self-determination also provided the (formal) institutional means of political sovereignty for the nation in question. The principle of national self-determination served as a normative link between recognition as a state-forming nation and the institutional setup and division of power. The principle could thus be used to justify a federal setup in 1968, as well as a unitary and centralized structure in 1920 (Czechoslovakia) and 1992 (Slovakia).

The 1938 Constitutional amendment, the 1948 and the 1960 constitutions all recognized the Slovaks as a separate nation and Czechoslovakia as the nation-state of two equal nations, but this was not reflected in the institutional setup. There was therefore a time lag between recognition of the Slovaks as a separate nation and the granting of political autonomy on a symmetric basis. In the postwar period, the power and competencies of the Slovak organs were in fact gradually reduced, from the Košice program to the 1960 constitution. And regardless of formal structures, communist regimes were inherently centralized, since the Communist party was above the state, the party was run according to the principle of democratic centralism, and the recruitment policy was centralized.

Initially, the limits on Slovak autonomy were probably in part due to the outcome of the 1946 election. During the period of 'normalization' after 1968, the need to defend the revolution, combined with Stalinist influences and 'bourgeois' influences were oft-cited reasons for this centralism. In contrast, the 1968 federalization of Czechoslovakia was presented as the fulfillment of Leninist nationality policy principles, and compliance with the great Soviet example (*Česko/slovenské vzťahy* 1989: 7, 37, 75, 80, 91–93, 161; Barto 1968: 24–34; Plevza 1971: 347). Yet, the federal setup of 1968 probably had more to do with the national and democratic currents of the Prague spring than with the Leninist legacy, which was more like icing on the cake. As Walker Connor (1984) shows, the Marxist heritage pointed in several directions, and could thus be used to justify many different courses of action.

From the velvet revolution to the velvet divorce

The remainder of the article centers on the Czechoslovak constitution making process after 1989, with a view to understand how the failure to agree on a new constitution, which ultimately led to the break-up of Czechoslovakia, was related to the long-term conflict about the institutional setup and division of power.⁶ The analysis will focus on the conflicts surrounding the constitution making process and address to what extent they can be interpreted in terms of the principle of national self-determination.

The time factor obviously played a crucial role for the outcome, along with inexperienced and changing actors, rigid procedures for constitutional amendments, and conflicting economic priorities. The velvet revolution happened fast, and there was no time to craft an institutional settlement, let alone a constitution. It was decided to leave the promulgation of a new constitution to the first democratically elected Federal Parliament, which was elected in June 1992 for only two years. Former Czech Prime minister Petr Pithart (1998: 130) has argued that the early deadline was foolhardy, given the complexity of the task.

After the elections in June 1990, the Federal Parliament assigned the task of drafting a new constitution to an inter-parliamentary commission, where the respective national councils as well as the Federal Parliament were represented. This structure was vulnerable to competency disputes, and the republican governments took over the responsibility for the negotiations early in 1991. A complicating factor was the ruptures in the two leading opposition movements, the Civic Forum and Public Against Violence, in the spring of 1991. In order to increase the legitimacy of the negotiations, the opposition was therefore included in June 1991. No agreement was reached, and after the 1992 elections, the negotiations turned into a

⁶ The causes of the break-up are complicated, and cannot be discussed in full here. See e.g. J. Musil (ed.): *The end of Czechoslovakia* (1995); *Rozloučení s Československem. Příčiny a důsledky česko-slovenského rozchodu* (1993); E. Stein: *Czecho/Slovakia. Ethnic conflict, constitutional fissure, negotiated breakup* (1997).

standoff between the winning parties in the two republics, the Movement for a Democratic Slovakia and the Civic Democratic Party. Rather than giving in to the other party, they preferred to divide the Czechoslovak state in two.

Finally, the decision to adopt a new constitution according to the rigid amendment procedures of the 1968 Constitution, which required a very broad consensus, made it more difficult to reach an agreement than it could have been.

Prelude: The 1990 'hyphen war'

The 'hyphen war' in the Federal Parliament in the spring of 1990 was a foreboding of the conflicts that lay ahead. The pretext was a proposal from president Václav Havel to amend the 1968 Constitution in order to remove the Communist legacy from state symbols. Havel wanted to remove the word 'socialist' from the name of the state and the armed forces, and communist symbols from the Coat of arms (Stein 1997: pp. 57 ff.).⁷ Once the name of the state was on the agenda, however, the spelling of the word 'Czechoslovak' became an issue. The Slovak view was that it should be spelled Czecho-Slovak with a hyphen, in order to acknowledge Slovak national individuality and to demonstrate the equal standing of the Czech and Slovak nations in the federation. Havel changed this proposal in order to accommodate the Slovaks, but the spelling *with* a hyphen was unacceptable to the Czechs, who regarded it as a dividing line and (implicitly) as an expression of Slovak separatism.⁸ Their alternative way of expressing national parity was to introduce the word 'federal'.

To cut a long short: in March 1990, the Federal Parliament voted over two main alternatives, the 'Czecho-Slovak Republic' and the 'Czechoslovak Federal Republic'. Neither got the necessary 3/5 constitutional majorities in the Chamber of the People and the Czech and Slovak parts of the Chamber of Nations. A parliamentary commission was appointed, which came up with the absurd solution to spell the name with a hyphen in Slovakia (the Czecho-Slovak Federal Republic), and without in the Czech Republic. This caused public outcry and big demonstrations in Bratislava. In April 1990, the Parliament ended the hyphen war by settling for the *Czech and Slovak Federal Republic*, signaling that Czechoslovakia was a federal state, and that the Czechs and Slovaks were the state-forming nations.

Havel's proposal to change the Czechoslovak coat of arms fared better, maybe because it was designed to symbolize 'the equality and fraternity of the two nations'. Havel dismissed the original Coat of arms from 1920, and instead proposed a new one; a two by two shield composed of the original Czech and Slovak coats of arms.⁹

⁷ See Tisk 311, *Federální shromáždění Československé Socialistické Republiky 1990*; Zpráva o 26. společné schůzi sněmovny lidu a sněmovny národů, in *Federální shromáždění Československé socialistické republiky*. V. volební období (1990: pp. 249 ff.).

⁸ The argument took form of an untranslatable pun: The word for hyphen in Slovak is *rozdeľovník* (from *rozdeliť* – to divide), while the Czechs use *spojovník* (from *spojovat* – to join) or also *spojovací/rozdělovací čárka*.

⁹ The Czech coat of arms is the double-tailed lion, which was instituted as the coat of arms of the Czech kingdom already in the 13th century. The Slovak coat of arms is a silver patriarchal cross on a red background, over three blue hills. It was adopted in its present-day form during the 'spring of the peoples' in 1848. See *Slovakia and the Slovaks. A concise encyclopedia* (1994: 618); *Dějiny zemí koruny české*, Díl I (1993: 72–73).

Major conflict issues in the constitution making process

The constitution making process after 1989 departed from status quo. At a normative level, this meant that the Czechs and the Slovaks were recognized as equal, sovereign state-forming nations, each with the right to national self-determination 'even to the point of secession' (cf. the 1968 preamble) (Stein 1997: 42–43). In the same vein, Czechoslovakia was perceived as a federation of two national republics, the Czech and the Slovak Republic. At a practical level, it meant that the 1968 constitution was the point of departure for the constitution making process, not only in terms of amendment procedures, but also in terms of contents. The 1968 constitution represented the 'minimum solution' in the negotiations about the institutional setup and the division of powers. There was no turning back to a unitary state.

The tug-of-war between 'centralists' and 'autonomists' therefore changed character compared to the interwar period and the period right after the Second World War. The question was no longer whether the Slovaks (Slovakia) should have self-determination in the form of political autonomy, but the *extent* of that autonomy. There was a tacit understanding that anything less than a federation would be unacceptable. As we shall see, all the major conflicts can be understood in terms of the principle of national self-determination.

One of the *procedural* conflicts was a competency dispute, which was solved by shifting the responsibility for the negotiations to republic level in February 1991. A second issue with strong symbolic overtones was whether the federation should be formed top-down – through the devolution of federal power to the republics, or bottom-up – through the delegation of power from the republics to the federation. A final, related point of dispute was the Slovak demand that the Republics must ratify the Federal Constitution. In the beginning, there was a tacit understanding that a federal constitution should be adopted first. However, the Slovak position changed when Ján Čarnogurský's government took over in April 1991. The Slovak government wanted the two 'sovereign republics' to adopt their constitutions first. They should then sign a 'state treaty' that would allocate power and competence between the federation and the republics (Pithart 1998: 183; Chovanec & Mozolík 1994: 55–58). The Czech part opposed the idea of a 'state treaty', arguing that the federation already existed, but accepted an 'internal treaty' in the end. The Czech side also accepted the principle of republican ratification, albeit grudgingly.

As for the *substantial* points of disagreement, all agreed that the constitution should grant the republics (qua 'nation-states') the right to secession, but disagreed on how this right should be applied. Under what conditions should the right to secession be exercised, and how should assets be divided in case of a split? A constitutional law adopted in July 1991 required a referendum in the case of secession, while the question of assets was postponed. At this point, the division of Czechoslovakia was hypothetical, since it was not yet on the agenda.

A second issue was whether the state should be a dual or a tripartite federation, with Moravia as the third republic. Moravia was a long-standing historical province, and had been a separate region after the regional reform of 1928. The Slovaks vigorously opposed a tripartite solution, and the Czech (Bohemian) majority preferred to let the Slovaks have their way, although a federation based on the historical lands had substantial support in Moravia.

A third issue was the distribution of power and competence between the federal level and the republics, which was also a matter of state form. The Slovak negotiators pressed for a temporary settlement, and a constitutional amendment was indeed adopted in December 1990. This amendment basically reversed the allocation of power and competence to the original 1968 constitution, which meant removing the changes made during 'normalization'. The main difference was that macroeconomic matters were regulated in more detail than in the original constitution, due to the transition to market economy.

The final and most serious conflict concerned state form: Should the state be a strong federation, a looser federation or a confederation? The Slovak delegates always offered a continuum ranging from 'mildly' federalist to extreme separatist. The initial demand was to restore the allocation of powers between the federation and the republics as it was originally defined in the 1968 Constitution. Later the demands became gradually more confederate. On the Czech side, internal divisions were gradually overcome by the increasing influence of the right wing parties, who insisted on a 'functional federation' or nothing. The Magyar parties preferred a federal solution, probably because they thought this would best serve their interests (Stein 1997: 93–94, 325–26).

The core of the conflict about state form was the allocation of competence and power in two specific areas: Economic policy and international relations. The Slovaks pressed for Slovak 'visibility' in international relations, and wanted to allocate more power in economic matters to the republics. The Czech side favored a federal solution or a 'functional federation', where the federal level would be strong enough to carry out the necessary economic reforms, and where the state would speak with one voice internationally. A compromise was reached in the spring of 1992, the gist of which was that legislative power would be vested in the federation and executive power in the republics (Žák 2000). Yet, the presidium of the Slovak national council turned it down, and the Czech national council decided to leave it at that until the election.

The winner of the 1992 election on the Czech side was Václav Klaus' Civic Democratic Party, which preferred a 'functional federation'. In Slovakia, Vladimír Mečiar's Movement for a democratic Slovakia preferred a loose confederation or union. For both, the preferred solution of their counterpart was unacceptable,¹⁰ and neither party was willing to back down. The brief negotiations therefore ended in the division of Czechoslovakia.

The constitutional conflicts and the principle of national self-determination

All the Slovak positions in the procedural conflicts as well as in the 'hyphen war' and the conflict over state form can be understood in light of the principle of national self-determination. The insistence that the negotiations should be conducted between the republics (as sovereign 'nation-states'), the insistence on a 'state treaty' between them, and the insistence that the republics should ratify the Federal Constitution were all based on the same underlying idea, namely that Czechoslovakia was the voluntary union of two national republics. In this picture, the republican organs (the governments and the national councils) were the bearers of Czech and Slovak national sovereignty, and thus the only legitimate decision-makers.

The hyphen in Czecho-Slovakia and the demand for Slovak 'visibility' in international relations were both motivated by the need for tangible symbols of Slovak national individuality and sovereignty. Also, a tripartite federation was unacceptable according to the logic of the principle of national self-determination, because it would turn Czechoslovakia into a federation of historical regions rather than a federation based on sovereign nations.¹¹

¹⁰ Here Klaus and Mečiar were actually in line with the general public. Opinion polls showed that people in Slovakia preferred a federation or a confederation, while the Czech majority consistently preferred a unitary state, with hardly anybody wanting a confederation. See Table 12.3. in S. Wolchik: The politics of transition and the break-up of Czechoslovakia, in J. Musil (ed.): *The end of Czechoslovakia* (1995).

¹¹ Some 1.36 million people admittedly defined themselves as Moravians by nationality in the 1991 census, but most people do not recognize them as a separate nation. The number was reduced to 380 000 in the 2001 census. See *Sčítání lidu, domů a bytů 1991. Prameně dílo* (1994: 57), www.czso.cz/cz/slodb/index.htm.

Finally, the conflict over state form can be understood as a question of the *extent* of Slovak national self-determination. Demands for increased Slovak autonomy had been voiced since the middle of the 19th century, and thus in once sense represented the long line in Slovak political history. However, the demands for sovereignty were more far-reaching in the 1990s than ever before. What was proposed in the end was a very loose confederation, where little more than the army, the president and foreign representation would be shared. On the Czech side this was labeled a 'Slovak state with a Czech insurance policy'.

What about the Czech positions? As the numerically stronger party, the Czechs had nothing to fear from a unitary state in the inter-war era, nor from a strong federation in 1990–92. The power (or indeed the *existence*) of Czech political organs was irrelevant, and thus not a matter of concern. Instead, the Czech priority was to maintain a federal level that was strong enough to finish the economic reforms and secure membership in the European Union and NATO. The defense of status quo was not formulated in national terms, but in terms of economic necessity and fulfillment of Czechoslovakia's international obligations. The initial Czech resistance to a 'state treaty' and ratification by the republics can be seen as a part of the general unwillingness to increase the power of the republics at the cost of the federal level.

Finally, once the decision to divide Czechoslovakia was made, the Czech government parties simply adopted the arguments of their Slovak counterparts, consistently presenting the division as a matter of *Slovak* self-determination. As the argument went, the Slovak nation had expressed their will to form their own, independent state, and the Czechs must respect the Slovak right to national self-determination.¹² This makes eminent sense, considering that the Czechs have always regarded Czechoslovakia as their own state – and still do. As far as they are concerned, the Czechs got their independence in 1918. Despite an explicit agreement to the contrary, the Czech Republic thus kept the Czechoslovak flag, and still celebrates October 28th (the Czechoslovak independence day) as state holiday. And as we have seen, the preamble of the Czech constitution explicitly invokes Czechoslovak statehood traditions.

Summary and Conclusion

As I pointed out in the introduction, the principle of national self-determination was used to justify the establishment of the Czechoslovak Republic in 1918, as well as its division and the subsequent establishment of an independent Slovak Republic 74 years later. Ironically, both states were (in varying degree) multinational – in contrast to the Czech Republic, which is nationally more homogeneous than ever. As the only state that was close to being a nation-state, the Czech Republic did not explicitly present itself as a Czech nation-state in the 1992 Constitution, nor did it invoke the principle of national self-determination. Instead the preamble of the Czech constitution stands out in terms of its emphasis on civic virtues, but nevertheless presents the Czech Republic as a restoration of Czech statehood.

The principle of national self-determination was explicitly invoked in two of the Czechoslovak constitutions, in addition to the Slovak. What difference did this make? Two findings stand out: First, the formal minority rights changed surprisingly little throughout the existence of Czechoslovakia, and were not correlated to the principle of national self-determination, with one major exception: the institution of an official state language. The 1920 Constitution and

¹² For the debates, see Zpráva o 4. společné schůzi sněmovny lidu a sněmovny národů, 29.–30.9.1992, Zpráva o 5. společné schůzi sněmovny lidu a sněmovny národů, 18.11.1992, 25.11.199, in *Federální shromáždění České a Slovenské Federativní republiky*. VII. volební období, 1992.

the 1992 Slovak Constitution proclaim a 'Czechoslovak', respectively a Slovak state language, while the 1968 Constitution declares equality between the Czech and Slovak language. The rest of the constitutions are silent on this. Otherwise, the national minorities always had equal civic and political rights, and apart from the 1948 Constitution, all constitutions explicitly granted them certain cultural rights. Contrary to expectations, the 1968 Constitution was the most comprehensive in terms of minority rights, and even granted the national minorities special political (proportional) representation rights.

Second, there was a clear internal logic in terms of institutional design and division of power. In the 1920 Constitution, the principle of national self-determination was invoked on behalf of a unitary Czechoslovak nation, and the political organization was highly centralist. The principle was absent in the 1948 and 1960 constitutions. Here the Czechs and Slovaks were recognized as separate nations, but the institutional design and division of power were still quite centralized, and even more so in practice than in principle. The identity question was thus temporarily divorced from the question of political organization. With the 1968 Constitution, the equal right of the Czech and Slovak nations to national self-determination was institutionalized through a symmetric federation.

After 1989 the Czech and Slovak elites sought a new institutional foundation for the shared state. Although the time factor played a crucial part, along with changing actors, rigid procedures for constitutional amendments, and escalation of the constitutional conflicts due to a fusion with economic conflicts, the failure to agree on a new constitution must in the end be understood in terms of the long-term conflict over the institutional design and distribution of power. The Czechs and the Slovaks simply had different interests or priorities.

The Czechoslovak experience is an ample illustration of the dictum that your point of view depends on where you stand, with a certain ironic twist: Under Austrian-Hungarian rule, the Czech and Slovak political elites were in favor of autonomy for their own groups. Once Czechoslovakia was established, the leading Czech politicians were against autonomy, while parts of the Slovak political elite still were in favor. And once Slovakia was established, the Slovak political elite unanimously refused to grant political autonomy to the Magyars.

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