

BRATISLAVA INTERNATIONAL SCHOOL OF LIBERAL ARTS

**Lost in Translation? Quality of Democracy on Paper and in
Practice in Slovakia**

Bachelor Thesis

Bratislava, 2014

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Declaration of Originality

I declare that this bachelor thesis is my own work and has not been published in part or in whole elsewhere. All used literature and other sources are attributed and cited in references.

Bratislava, 30 April 2014

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Signature: _____

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Abstract

This paper is focused on observation of democratic principles being put into practice under the rule of various political elites in Slovakia. Through the perspective of institutionalism, this thesis demonstrates the concrete impact of specific political elites on the quality of democracy in Slovakia since 1989.

As human rights are taken to be a direct measure of the depth of democracy the effect of certain circumstances on specific outcomes of the implementation of human rights policies in Slovakia are described. The hypothesis is supported by legislative as well practical evidence and it demonstrates that in real political circumstances human rights measures prove to be not accurately applied in accordance with the prescribed legislation in Slovakia. Although Slovakia after 24 years has the image of settled democracy the institutional structure is not well established and fragmentation of elites is just part of that problem. This comparative political analysis leads to a more detailed examination of human rights policies and practices in this country.

The given data are an instrument for measuring the broad impact of specific elites, taking into account the overall fragmentation, or consensus, of this section of our society. This leads to a

comprehensive report about policies which in turn leads to the conclusion of my hypothesis that fragmented elites are inevitably harmful to the political stability and policy making process in Slovakia. The solid democratic institutional structure is under a significant challenge. A comparative method has resulted in extensive data comparison and a solid basis for this research. Human rights policies – as captured in legislative, institutional and human rights reports of various domestic and international institutions provide support for the dependable conclusion about the stability and quality of democracy in Slovakia. This paper also reflects on the political culture of the Slovaks which, over the longer period of time, have shown that the transition of Slovakia is advancing more in economic than in social terms.

Implementation of human rights policies in Slovakia and the civic value orientations is compared to those in the older European democracies. Human rights are a valid indicator of the functionality of democracy in well-established societies. Therefore, they are also important criteria for the evaluation of the level of consolidation of democracy in Slovakia.

From the empirical evidence we can conclude that human rights rhetoric, perception, and implementation are not deeply settled in Slovak life. The ambiguity of the political agenda can be traced to the disunity of political parties and lack of consensus. Presented evidence also shows the disregard for human rights by the elites and the public in Slovakia and is related to the historical legacies of political culture.

Kvalita demokracie na papieri a v praxi na Slovensku

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Kľúčové slová: fragmentácia elít, inštitucionálny dizajn, ľudské práva, politická kultúra, kvalita demokracie

Abstrakt

Táto práca je zameraná na pozorovanie dodržiavania demokratických princípov v praxi vzhľadom na rôzne politické elity na Slovensku. Cez optiku inštitucionálneho dizajnu je na danej téze demoštrovaný konkrétny dopad konkrétnych politických elít na kvalitu demokracie na Slovensku v rôznych časových obdobiach od roku 1989.

Dané okolnosti sú demoštrované na špecifických výsledkoch ľudsko – právnych zákonov na Slovensku, pretože ľudské práva sú základným parametrom pre zisťovanie hĺbky demokracie. V hypotéze sú konfrontované legislatívne ako aj praktické skutočnosti, ktoré demoštrujú, že v politickej realite ľudské práva nie sú na Slovensku uplatňované v súlade s deklarovanou legislatívou. Napriek tomu, že Slovensko po 24 rokoch má imidž konsolidovanej demokracie, inštitucionálna štruktúra nie je dostatočná a fragmentácia elít je iba jedným z viacerých problémov. Táto komparatívna analýza nás vedie k detailnému výskumu ľudsko – právnych zákonov a postupov.

Zistené dáta sú nástrojom merania širokého dopadu daných elít na demokraciu s ohľadom na ich celkovú fragmentáciu alebo jednotu. Vedie to ku komplexnej správe o daných zákonoch, ktorá potvrdila našu hypotézu, že fragmentované elity sú nevyhnutne deštruktívne pre politickú ako aj zákonodárnu stabilitu procesov na Slovensku. Stabilita a základná inštitucionálna demokratická štruktúra je na Slovensku pod značným tlakom. Komparatívna metóda viedla k rozsiahlemu porovnávaniu dát, ktoré sú spoľahlivým základom pre výskum.

Ľudsko – právna politika zahrnutá v legislative, inštitúciách, Ľudsko – právnych správach rôznych domácich ako aj medzinárodných inštitúcií je spoľahlivým zdrojom, ktorý preukázal stupeň stability demokracie na Slovensku. Táto práca takisto odzrkadľuje politickú kultúru na Slovensku, ktorá počas dlhšieho časového obdobia preukázala, že premena Slovenska pokročila viac v ekonomickom ako sociálnom zmysle.

Implementácia Ľudsko – právnych zákonov a občianskej hodnotovej orientácie je porovnávaná s krajinami Európy s dlhodobo zavedenou demokraciou. Ľudské práva sú platnými indikátormi funkčnosti demokracie v stabilných demokratických spoločnostiach. Preto je to takisto dôležitým kritériom pre posudzovanie stupňa konsolidácie demokracie na Slovensku.

Z daných empirických zistení vyplýva, že Ľudsko – právny jazyk ako aj jeho vnímanie a implementácia, nie je dostatočne udomácnенý v Slovenskej realite. Nejednoznačnosť tejto politickej agendy môže byť pripisovaná nejednotnosti politických strán a ich lídrov. Dané závery takisto poukazujú na historické okolnosti tohto vývoja s ohľadom na pretrvávajúcu politickú kultúru minulosti.

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CHAPTER 1

1.1. Introduction

In the last 24 years, Slovakia has undergone the difficult processes of democratic development, which aimed at producing a modern democratic society, a stable institutional structure and a transparent decision making political procedure. Slovakia does not have a long history of democracy but despite this, Slovaks showed a strong devotion to the democratic path and also a willingness to learn how to implement various mechanisms into the political changes taking place in their society after the Velvet Revolution of 1989; perhaps though mere enthusiasm was not enough though, as later developments unfortunately proved.

The plain fact of separation of Slovakia from the Czech and Slovak Federated Republic was a milestone in the polarization of the Slovak society. In the years of our independence after 1993, the nationalist movement overwhelmed and suppressed the dialogue about the future orientation of Slovakia in the political as well as in the economic field. The strong leadership of Vladimír Mečiar dominated the political arena and discourse and he created a very narrow oligarchic elite around him which, without any consensus with the political opposition or voices from the civil society, predestined the progression of the Slovak society to a compromised course of political development.

Nothing, from the purely formal point of view, indicates any non-democratic tendencies in the political processes. If we take a strictly procedural definition of democracy, the expectations of formal democracy were met. “Fair, honest, and periodic elections” (Huntington, 1991, p. 5). Slovakia does have democratic legislation, institutional frameworks and participatory procedures, but the structures and institutions do not possess the necessary habits, attitudes, and value orientations of the elites or the people - it is a situation of “old wine in new bottles” that is, the persistence of the same old approaches with the bad habits of the past but superficially dressed up in modern names and structures.

This paper is looking for a more extended definition of democracy, with consideration of long term indicators of democracy represented most visibly in the implementation of human and civil rights. For the latter, we can look at Sen’s lead in his *Development as freedom*: “Corresponding to multiple interconnected freedoms, there is a need to develop and support a

plurality of institutions, including democratic systems, legal mechanism, market structures, educational and health provisions, media and other communication facilities and so on. The state and the society have extensive roles in strengthening and safeguarding human capabilities” (Sen, 1999, p. 53). His account of democracy aims at the basic presupposition that this may be achieved only through accommodation and negotiation between cooperative elites and there is no alternative.

The increased fragmentation of political elites has been demonstrated in the suppression by the ruling party of the participation of the opposition parties regardless of their political affiliation, in the political decision making processes. This had a direct impact on the quality of democracy in Slovakia as it became ostracized from international bodies for systemic series of actions directed at elimination of a number of human and particularly political rights of the Slovak citizens (see Chapter 3, Fragmented political elites).

Political life in Slovakia suffers under this heritage of unhealthy non-cooperation between our political elites right up to the present time. After significant defeat of the undemocratic forces in our society in the election of 1998, Slovaks demonstrated their determination to implement and safeguard their internal democratic conduct. By joining the European Union, accompanied by implementation of various international policies into domestic legislation, Slovakia has practically accomplished this goal. This could be taken for an apparent consolidation of the democratic system in Slovakia. Such consideration, however, does not take into account consolidation of elites. Continuing fragmentation of the elites emerged again in recent developments, where we can observe lack of political cooperation in order to accomplish adequate human right policies in Slovakia. Polarized elites behave in a “winner-take-all” manner after each election. This thesis seeks to prove that only consensually united, cooperating elites can be the corner stone of a permanent, “deep” democracy in Slovakia. But that is not the case in Slovakia where the fragmented elites cannot overcome the bias position in the political arena in order to work together in order to implement human rights policies in daily reality which may be beneficial to every citizen without regard to their political inclinations.

Hypothesis

Democracy in Slovakia is considered formally consolidated. However, such an evaluation of democracy is limited to formal structures and procedures. The *quality of democracy*, as

measured through indicators of human rights implementation and value orientations is still greatly lacking. This thesis posits that the gap in Slovak democracy is caused by:

- a) Inadequate human rights institutional design
- b) Poor implementation of human rights in the minds of the politicians and the people in everyday life
- c) Stagnating and divided political culture, which is translated into
 - a. fragmentation of the political elites,
 - b. politicization of human rights agenda.

1.2. Democracy and human rights – definition

The “value” of human life has been of interest since the time of ancient Greece in many academic fields such as history, philosophy, political theory and from the newer disciplines of sociology and international relations. “Human rights”, as we understand them today are a fairly new concept and one of the persistent themes of these fields has been the difficulty in providing a definition of human rights. But in the last century, the need to identify the nature and essential qualities of human rights emerged with greater urgency than ever before. “To be sure, the founding documents of the United Nations, which make the connection between human rights and human dignity explicit, were clearly a response to the mass crimes committed under the Nazi regime and to the massacres of the Second World War” (Habermas, 2012, p. 73) The development of international organizations and international law required a common attitude towards the resurrection of human dignity and respect for human life which was buried in the ashes of the world wars in the beginning of the 20th century. The spread of democracies afterwards demanded further incorporation of human rights into national constitutions of nation states and also into international law.

Democracy is recognized for its respect for human rights. These two concepts share the same values of inalienable rights, both civil and political, of a human being, but over the years the categories of human rights were refined into social, economic, cultural and the rights of solidarity. This new approach is also intertwined with technological and economical improvement of Western countries and is an answer to the new problems which have arisen in this highly globalized modern world. From this standpoint, we can observe the unexpected side effects of human actions and witness the shift in value orientations of societies which

have become predominantly technological. The normative shift in interpreting desirable living standard – or life in dignity – is miles away from the reality of 50 years ago. Even before the twentieth century, human rights had their advocates who were able to clearly formulate the visions of human equality and right to individual determination. “International human rights appeal to a Lockean or liberal progressivist understanding of civilization and a social contract conception of the state as an instrument to realize the rights of its citizens” (Donnelly, 1998, p. 14). This has been superseded more recently and new categories have been created by which we can characterize human dignity in ways which are not always immediately obvious to us. Although the interpretation of human rights may change in one or another way over time, the solid basis is always there. “I would like to show that changing historical conditions have merely thematized and made us aware of something that was inscribed in human rights implicitly from the outset, namely, the normative substance of the equal dignity of every human being that human rights only spell out” (Habermas, 2012, pp. 6-77). We are still developing new categories and this process will continue as we become increasingly aware of the reality of daily life of millions of people as it changes for the better or the worse for, unfortunately, technological improvement does not invariably bring along a rise in human standard of living. Donnelly also urges a normative shift in the legislation process which should be inseparable from the psychological and ethical awakening of social progress. “Here I will focus on procedural grounds for claiming that incorporating human rights into the regulative norms of international society represents moral progress” (Donnelly, 1998, p. 20). These psychological and ethical components of the process are of special importance to the Slovak transition.

There are several very appealing scholarly definitions of human rights especially in light of the new restructured categories; the elementary rights by now are an inseparable part of democratic societies. “Human rights are, literally, the rights that one has simply as a human being. As such they are equal rights, because we are all equally human beings. They are also inalienable rights, because no matter how inhumanely we act or are treated we cannot become other than human beings” (Donnelly, 1999, p. 612). But often human rights are interpreted very vaguely and people and governments tend to shift into interpretations which more or less serve their needs. If we go deeper into the definition above, looking for a uniting element in the definition of human rights, we come to the concept of dignity. “Whereas recognition of the inherent dignity and of the equal and inalienable rights of all

members of the human family is the foundation of freedom, justice and peace in the world” (OHCHR, 1948).

Human rights are often the subject of emotively loaded discussion because people usually interchange the inalienability with the enforcement of these rights. This is a very questionable assumption. “Enforcement of authoritative international human rights norms, however, is left almost entirely to sovereign states” (Donnelly, 2007, p. 283). Donnelly is not denying that there are some exceptions when, for example, international bodies are engaged in various crises in order to apply human rights in a territory or sovereign state. But in general these interventions do not find solid ground in international law for their legitimacy. But it can be claimed that dignity is a question of social interactions and therefore individual human beings are important factors in regard to this idea of sovereignty. In the last 15 years the concept of sovereignty has evolved significantly. At the beginning of new millennium Kofi A. Annan introduced the new evolution and global reach of human rights norms in a way that was not before conceivable. His interpretation of sovereignty did not refer to the states but directly to people as citizens of states. “No shift in the way we think or act can be more critical than this: we must put people at the centre of everything we do. No calling is more noble, and no responsibility greater, than that of enabling men, women and children, in cities and villages around the world, to make their lives better“ (Annan, 2000, p. 7).

This approach challenges the sovereignty of states over their responsibility to their own people but global public opinion is becoming more critical of the internal policies of some states and this is reflected in the views and, indeed, actions of some international bodies such as the United Nations and the European Union. Thus increasingly, international law enforcement is becoming a legitimate source of power and influence in international politics as exemplified in the 2005 World Summit Outcome (chapters 138-139, United Nations, 2005) and by the fact that: “the states (or regional defensive alliances) place their military potential at the service of the world organization [which] is an expression of the shift in the relationship between national sanctioning power and law which has begun at the UN level and has already been accomplished in the European Union” (Habermas, 2012, p. 61).

The agenda of human rights is being constantly challenged by new problems arising as a consequence of societal development. For example in the Vienna Declaration and Programme Action held in Vienna on 25 of June 1993 we can find a clear focus on the environmental agenda – a relatively new issue. “The right to development should be fulfilled so as to meet

equitably the developmental and environmental needs of present and future generations” (OHCHR, 1993, p. 4). Evolution of the catalogue of human rights is therefore ever responding to new situations and problems, being guided by the core principle – human life in dignity. As mentioned before A. Sen in his works established new category for measuring the human progress. The individual freedom is no longer measured just by political and civil freedom but by the quality of life that the people may enjoy - it is based upon many other factors other than just economic growth. “While economic prosperity helps people to have wider options and to lead more fulfilling lives, so do more education, better health care, finer medical attention, and other factors that causally influence the effective freedoms that people actually enjoy. These ‘social developments’ must directly count as ‘developmental,’ since they help us to lead longer, freer and more fruitful lives, *in addition* to the role they have in promoting productivity or economic growth or individual incomes” (Sen, 1999, p. 295).

Further international treaties must deal with deeper interpretations of human rights values and embody them prominently in their declarations. The quality of democracy is no longer as narrow as it was initially (such as freedom of the press, freedom of speech) but is dealing with a spectrum of new problems which present themselves to modern society. “The rights enshrined in the International Covenant on Economic, Social and Cultural Rights and subsequent human rights instruments covering group rights (e.g. indigenous peoples, minorities, people with disabilities) are equally essential for democracy as they ensure inclusivity for all groups, including equality and equity in respect of access to civil and political rights” (United Nations). To preserve the democratic tendencies in our society we must reflect on these new appeals in the course of responding to changing demands and priorities.

1.3. Why human rights? Human rights as norms and tools for measurement

The essence of human rights is their universality. Although we do not have a comprehensive account of the history of adherence to the agenda of human rights, the fact that human beings are unchanged in their essence since their appearance in social discourses gives us the right to claim that human rights are everlasting and universal. There is no doubt that the development of human societies required an evolving social construct and in order to prevent modern societies from reprising medieval atrocities a clear statement of human rights needs to be

constantly updated. “‘Modernization’ progressed, an ever range of dispossessed groups advanced claims for relief from injustices and disabilities” (Donnelly, 2007, p. 287). This notion of unacceptable human conditions in pre-modern states puts pressure on societies to come up with some solutions applicable world-wide on the political establishment and the political order in all countries. Today we can claim that “virtually all states accept the authority of the Universal Declaration of Human Rights” (Donnelly, 2007, p. 288). At least on paper, human rights are widely recognised even among totalitarian states and the most tyrannical leader will pretend that he is promoting a human rights agenda.

Another aspect of human rights is their normative character. Human rights are a part of legislation of every democratic country and although some countries may be not fulfilling all the criteria for a democratic country, they try to incorporate the human rights rhetoric in their legislation. If we speak about the human rights agenda, in the first place we think of the United Nations which was established in order to prevent human suffering. “The United Nations should be recognized as a politically constituted community of states *and* citizens and at the same time should be restricted to the core tasks of peacekeeping and of the global implementation of human rights” (Habermas, 2012, p. 57). The European Union is one of the examples of an international project based on political and economic cooperation which at the present discourse of deeper integration of European states is full of human rights language as one of the corner stone of this process. “With the change in attitudes on the part of member states, which are beginning to see themselves no longer as ‘sovereign’ powers but as *members* of the international community united by bonds of solidarity, the process of civilizing the exercise of political authority would continue on a higher level” (Habermas, 2012, p. 61).

In this urge for greater legitimacy of European institutions among its citizens, it is natural that there must be a clear consensus about values otherwise the project may fail. “‘Human dignity’ performs the function of a seismograph that registers what is constitutive for a democratic legal order – namely, just those rights that the citizens of a political community must grant themselves if they are to be able to respect one another as members of a voluntary association of free and equal persons” (Habermas, 2012, p. 81).

Dignity is without doubt a very complex concept and is represented in many indicators of psychological, economical and other measures. As Alison Brysk stated: “Growing numbers of new international issues, ranging from migration, to global trade and finance, to access to

pharmaceutical products are being framed as issues of human rights” (cf. Donnelly, 2007, p. 289). As she rightly points out, the human rights agenda is been used as an instrument by all kinds of lobbyists and not always in order to achieve the most desirable outcomes on the international field.

Although the political discourse on the indicators of fulfilment of human rights may seem to be heterogeneous, there is an obvious attempt to find a unifying consensus. The most frequent impediment to application of human rights for the development of society is cultural relativism. But in this claim, we can trace some advantage or convenience for countries which do not take human rights seriously or fail to meet the standards of human rights because of their demanding universality. “Relative universality of those rights is a powerful resource that can be used to help to build more just and humane national and international societies” (Donnelly, 2007, p. 306).

1.3.1. Significant indicators

In practice, for our own convenience we like to measure success in terms of money, power or honour. This is not desirable in terms of human rights. If we agree on the accuracy of the term dignity we need to find more nuanced indicators, always remembering that the strict language of numbers is not always the best solution. Amartya Sen, in his Nobel prize - winning work about the measurement of intensity and extensity of human rights in a society proposes to “include far-reaching proposals for incorporating individual entitlements, functionings, opportunities, capabilities, freedoms and rights into the conceptual foundations and technical apparatus of economics and social choice” (Vizard, 2001). Sen is arguing that we need to adopt a new approach to human rights and to look deeper for the correct indicators for interpreting their successful or failed adoption in order to measure the true development of a country. There is need for a broader picture and implementation of human rights into society. “The *absence or deprivation* of certain *capabilities or real opportunities* – as well as the denial of political and civil liberties – are relevant to the characterisation of freedoms and rights” (Vizard, 2001).

There is no doubt that a free society has a better predisposition for development but in this case the GDP (Gross Domestic Product) is not the most relevant indicator of success. Modern democratic society has moved from the twentieth into the twenty-first century where basic human rights are exercised by the majority of the population. Free and regular elections,

access to education, fair trial, etc. are certainties and democratic governments are liable to lose their legitimacy and popular support without these stable pillars of society. After the fall of the Iron Curtain, many countries from Central and Eastern Europe have taken the democratic path and nowadays are a part of the European Union and incorporate the human rights catalogues into their legislation. This is the right time to examine whether human rights have become an inalienable part of the daily life of the people in these new democracies. Therefore, human rights indicators which enable us to look deeper into the life of society will be more accurate and useful measures than economic growth.

“A second illustration relates to the dissonance between income per head (even after correction for price variations) and the freedom of individuals to live long and live well” (Sen, 1999, p. 5). The recent economic crisis has seriously challenged the standard of living in many countries, but the people, including politicians, do not know how to respond to this new situation. This situation has made many people doubt the advantages of democratic reforms and they blame democracy and the free market for the situation. But without a free market, there will be no real freedom of the individual. The tension between economic growth and the standard of living may be remarkable in some cases. There is a structural gap which needs to be filled with more extensive data which are relevant to the people and their well-being. “From a theoretical point of view, this is inevitable if one wishes to demonstrate how rights and freedoms are the ‘contents’ of democracy. In a democracy these include the right to health or to mental and physical well-being; the right to assistance and social security; the right to work; the right to human dignity; the right to strike; the right to study and to an education; the right to healthy surroundings and, more generally, to the protection of the environment; and the right to housing. There is not much variation on these rights from country to country, though all face obstacles to full realization and all can have greater potential for improvement than do political or civil rights” (Morlino, 2004). We can compare the quality of democracy in certain societies which have reached a particular level of development only through refined indicators of the depth of the democracy because the economic indicators are not sufficiently sensitive for this purpose.

The greatest problem of Europe today is not economic growth but unemployment. The hard economic data are not as alarming as the social despair amongst the people. “But unemployment is not merely a deficiency of income; unemployment contributes to the ‘social exclusion’ of some groups, and it leads to losses of self-reliance, self-confidence and

psychological and physical health” (Sen, 1999, p. 21). Democratic governments need to be in dialogue with all parts of society including non-governmental bodies which have a key role in creating a healthy society sensitive to issues of people’s rights. “Economic growth has to be judged not merely by the increase in private incomes, but also by the expansion of social services (including in many cases, social safety nets) that economic growth may make possible” (Sen, 1999, p. 40). It is inevitable that ignored social dissatisfaction of the people will lead to increased radicalisation of society. Basic civil rights can be seen as undesirable if there is a lack of fulfilment of the basic physiological needs of the people. The latter will be just one of the factors to be measured in the quality of democracy in addition to human rights in the country. The exclusion of parts of the society from work opportunities (for various reasons) is specifically one of the crucial problems of Slovakia; it is creating “hunger valleys”. “Hunger” is relative, for example the starvation in Sub – Saharan Africa is very different from that in Slovakia and so any measurements need to be sensitive to these differences and to any fine nuances in different situations and countries. For these purposes we need to choose carefully the measurement indices which will provide an accurate picture of the real situation.

1.3.2. The human development index

The Charter of the United Nations clearly states that one of the priorities is “to reaffirm the faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small” (United Nations, 1945). This is likely to be much easier to say than to introduce it in practice. The democratic structure and processes of countries may be more or less developed so there is a need for uniform practice to apply this ideal. For this purpose, the United Nations has developed the human development index, which measures the quality of life in each country. This is not simply a table of countries ranked by economic growth but a complex report on the status and prospects of the country in economic, social, and cultural rights. “The UNDP’s Human Development Reports are based on Sen’s approach and characterise human development in terms of the expansion of valuable human capabilities. “The Human Development Index captures the importance of three critical human capabilities – achieving knowledge, longevity and a decent standard of living” (Vizard, 2001, p. 2).

The strategy described by A. Sen has been adopted by several international organizations among which the most important is the UN. The normative shift in measuring the quality of

democracy was wider in categories which take in account detailed development of acceptable living conditions among more or less democratic societies. “In 2007, the Secretary-General’s Policy Committee, the highest decision-making body within the UN Secretariat, requested the development of an Organization-wide strategy that further defines the UN’s approach to supporting democracy, anchored in the three pillars of the UN’s work, namely, peace and security, development, and human rights” (United Nations).

1.4. Methodology

This paper focuses on observation of democratic principles being put into practice under the rule of various political elites in Slovakia. The methodology for this purpose is reading through the whole scale of sociological, legal and other indicators. This thesis will demonstrate through the viewpoint of institutionalism the impact of the specific political elites on the quality of democracy in Slovakia at different time periods since 1989. The effect of given circumstances on specific outcomes through the policies of human rights in Slovakia will be demonstrated, as human rights are taken to be a direct measure of the depth of democracy. The hypothesis (see section 1.1) will be used to compare the results of classical and new theories and demonstrate that in real political circumstances neither will prove to be accurate in the Slovak case. After 24 years, Slovakia has the image of a settled democracy, but the institutional structure is not well established and fragmentation of elites is just a part of that problem. This comparative political analysis will lead us to a detailed research of human rights policies and practices. We will see the extent of the impact of the elites and their outcomes, by examining the way in which the different groups co-operate on the observed outcomes. The given data collected from various sources will be an instrument for measurement of the broader impact of specific elites on the quality of democracy, taking into account the elites overall fragmentation or consensus. A comprehensive report about human rights policies – as captured in legislature, institutions, and human rights reports of various domestic and international institutions will provide the background to evaluate the current state of the democracy in Slovakia. Comparing data derived from different methods should lead to a solid basis for this research. Careful examination may conclude that the hypothesis is wrong, that is, that fragmentation or unification of elites does not play such an important role in the democratic processes, in which case other important variables would need to be identified which may explain the result.

The main source of data will be from governmental legislation and its subsequent implementation of human rights on multiple levels of society. It will be important to collect data from various governmental bodies to measure not only legal but also cultural and social arrangements which stem from the legislation. Several case studies will provide a range of evidence not only about implementation of human rights but also of the stratification of society in this field and fragmentation of the functioning of the elite groups on this issue.

In particular, the ground for our research will be the legislation process and outcomes of the Ministry of Foreign and European Affairs of the SR, Department for Human Rights, The Public Defender of Rights Office (ombudsman), Council of the Slovak Government for Human Rights, National Centre for Human Rights. But in this project, we are not looking just for hard data. We are aiming for deep evaluation of implementation of legislation aimed at improving human rights perception among the Slovaks and their respect and desirability for it. This will involve assessing institutional design at local levels around Slovakia. Secondary sources will come from the broader international arena for the Implementation of Human Rights –Universal periodic reports (Human Rights Council), reports of the UN Committees and other monitoring human rights treaty bodies, OSCE reports and Council of Europe recommendations. An important role in this process is also played by active civil and nongovernmental bodies that produce annual reports on this issue such as human rights NGOs – Amnesty International, Human Rights Watch, the Slovak Governance Institute, Institute for Public Affairs, EuroBarometer, Transparency International, World Bank Institute etc.

Another indicator of great importance is the political cultural agenda in terms of the perception of human rights among political elites as well as among the ordinary citizens. “The political culture also plays an important role in sustaining or undermining the rule of law. A democratic rule of law is diminished in many countries by the diffuse cultural attitude that views the law merely as an impediment to realizing one’s own interest, a nuisance to be circumvented in any way possible” (Diamond & Morlino, 2004, pp. 9-10). The whole human rights program as embodied in recent public discourse on the National Strategy of Promotion and Protection of Human Rights incorporates the sensibility of this issue in Slovakia and the deficient emphasis which was put on this problem by the previous governments and consequently the undernourished public views on this very important component of democratic society.

Chapter 2. Institutional Design

2.1. International human rights standards and their application in Slovakia

After the fall of the Iron Curtain, Slovakia found its way into the European Union although not without some difficulty. Strictly speaking, the human rights agenda was not that new for Slovakia because, still as a part of the Czechoslovak Socialist Republic, Slovakia had acceded to the Universal Declaration of Human Rights, signed the International Covenant on Civil and Political Rights and International Covenant on Social, Economic, and Cultural Rights. The latter two were ratified by the Czechoslovak Parliament on 23 December 1975. At the same time, the Czechoslovak Government signed the Helsinki Final Act, which also included a „basket“ of human rights principles. “Czechoslovakia’s adhesion to the Helsinki accords opened up an organizational opportunity for the human rights activists in Czechoslovakia. Groups like Charter’77 and the Committee for the Defence of the Unjustly Persecuted continued to function, despite regular jailings, more or less continuously from 1977–78 until the Velvet Revolution” (Linz & Stepan, 1996, pp. 318-319).

But for a new democracy, this area was a wholly unknown field of civil and political rights which have never really been exercised to a great extent in Slovakia. The spread of democracy in the former communist bloc countries also challenged the European Union in its core beliefs. The newly accepted countries such as Slovakia in 2004 were making less progress than expected not only economically but also culturally. In 2007, The European Union introduced the Charter of Fundamental Rights of the European Union and with the deeper integration of European countries, there was a clear demand for uniting and unifying the policies in the field of human rights. The diversity of countries which joined the EU was so wide that social and cultural background became one of the most important factors in their cooperation. This ambitious project needed not only economic solutions and rules but also cultural and other integrating initiatives. As stated in the Charter: “The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values. Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice” (EU, 2007). This had been also a great inspiration for Slovakia – to

adjust its legislation to comply with the core concepts of political practice based on human dignity as one of the fundamental human rights. It seemed to be an uncomplicated process for Slovakia because the basic human rights requirements appeared to be already met at the desirable standard. The constitutional design corresponded with the international covenant on human rights mentioned below. The institutional design of appropriate governmental bodies for human rights agenda and their implementation was also inspired by “The Paris Principles” (OHCHR, 1993). These principles were bound to the national structure in order to promote and secure the human rights agenda into national constitution and institutional design. However, the implementation of these rights in everyday reality took an unexpected turn from the quite straightforward process that was envisaged. “Thus, the Slovak Constitution declares many human rights and freedoms [in the Bill of Fundamental Rights and Freedoms], but almost none of them is absolute. However, constitutional rules were often not clearly drafted, and on several occasions have been violated without sanction.” (Zielonka, 2001, p. 373; 376). The freedoms guaranteed in the constitution are not enforceable without effective bureaucratic apparatus and thus this administration deadlock where on one hand Slovakia had the appropriate legislation but on the other hand enforcement of these laws was non-existent and actually created a false impression that anyone can claim suppression of his rights but with no follow through from the governmental bodies supposedly responsible for solving the problem. “Alternative institutional structures were frequently proposed.” (Zielonka, 2001, p. 374). Almost all the constitutions are more or less general and therefore we can expect that it will create many possibilities and problems. We can trace differences between consolidated democracies with long traditions of rule of law and the new born regimes which are still going through early developmental problems (“baby illnesses”). Persisting prejudices in the Slovak society which can be changed only with educational shift and by solid and substantial support from official bodies is only just one of the examples. “This determination requires breaking stereotypes and removing all division of the poor into those ‘deserving help’ and those who are ‘not worth’ our help. It requires a change in the view of the majority of the public; it considers the poorest people on the margins of society a burden and has no interest in trying to integrate them into the mainstream society“ (Kusá, 2010).

The lack of cross-societal discussion on this issue is alarming. The human rights agenda is complicated in technical terms of using the appropriate language but also in the need of constant vigilance from responsible authorities to introduce and explain this problem to the

public. Otherwise human rights become some remote issue not perceived as one of the cornerstone of democracy in both legal and practical terms.

Relative freedom for interpretation of the laws with an unstable institutional design in Slovakia caused problems and damage to the human rights agenda and the perception of people of their vital importance for the democratic principles of life. The recent development of the discussion of this topic in Slovakia has created very lively debate. This will be discussed later in this paper.

International society has faced more demanding appeals to implement these new ideals into its legislation. The interconnections of the community of people around the world raised varying issues such as women's rights, racial and gender discrimination, refugees, migration, child pornography etc. Therefore, we can consider the creation of Convention on the Elimination of All Forms of Racial Discrimination (1965), Convention on the Elimination of All Forms of Discrimination against Women (1979), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), Convention on the Rights of the Child (1989), International Covenant on Economic, Social and Cultural Rights (1966), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), Convention on the Rights of Persons with Disabilities (2006), International Convention for the Protection of All Persons from Enforced Disappearance (2006) etc. as a necessary culmination of these processes in the international community which included Slovakia. "Slovak Republic is a Party to almost all core human rights treaties of United Nations" (MFA). The general course of prevailing tendencies to incorporate a deeper interpretation of human rights into daily life of people meant also a stronger pressure on the international community to create worldwide recognized treaties and covenants within the United Nations as well as within the European community. European tendencies for wider collaboration among the states resulted in several changes in their structure and value orientations. From being merely economic partners, the European countries become more culturally and socially intertwined, which in turn changed their economic and political cooperation into more integrated structures.

In the Slovak case, the lack of correspondence between the normative developments of the legislation and the daily experience of the people in Slovakia is an obvious discrepancy. While Slovakia did sign the vast majority of all the key international human rights treaties, covenants, there are a few significant exceptions. Slovakia did not take part in several

treaties such as the Protocol No. 12 and No. 15 to the Convention for the Protection on Human Rights and Fundamental Freedoms (2000), Additional Protocol to the European Social Charter Providing for a System Collective Complaints (1995), Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2011), Convention of the Rights of Persons with Disabilities (2010) which are bound to the areas demanding the change of legislation or requiring intensive effort from governmental bodies as well whole society. Although we signed the European Convention on the Exercise of Children's Rights (1996) we do not follow the criteria to the fullest - the absence of a Public defender for children is just one of the shortcomings. One of the crucial failures in demonstrating the political will for respecting the human rights principles was also not signing Article No. 31 of European Social Charter (revised) where is stated: "Everyone has the right to housing" (Council of Europe , 1996). The recognition of this article will create the political pressure on the government to put that into practice which means creating the legal obligation for governmental bodies to provide everyone entitled to it with accommodation. This certainly provoked the debate about entitlements of marginalised groups of citizens who met these criteria. The lack of political will to deal with crucial problems like this may create a strong public discourse or even controversy. Also some of the NGOs raised their voices against this selective "rule of law" which the Slovak government tried to implement by not signing Article No. 31 (SAPN, 2013).

Slovakia, as part of the European family, has formally fulfilled all the legal requirements for joining the European Union but neither the domestic political elites nor ordinary citizens have enough experience with human rights norms and approaches to be capable of meeting the expected standards of Western countries in this field. The implementation of laws and norms into real life was often not followed through and in addition there was an absence of organizational structures for supporting these issues in everyday field. "The predominance of informal rules has emerged as a competing structuring principle shaping the behaviour of the political elite" (Zielonka, 2001, p. 376).

2.2. Legislative structure of human rights agenda in Slovakia

As mentioned above, the legal framework of the human rights agenda was present in the Slovak Constitution from the very beginning. Slovakia progressed in this field very rapidly and there is an institutional design (though unstable and frequently changing) for

implementation of this agenda¹. But the task is not only to be familiar with the problems of the society but to create legislative premise for dealing with these problems and the possibility of arriving at the desirable conclusion as in the theoretical legislative field as well in reality of life. “All the later generations have the task of actualizing the still-untapped normative substance of the system of rights laid down in the original document of the [democratic] constitution” (Habermas, 2001, p. 774). By this Habermas is referring to the constitution as one of the democratic processes which should be interpreted as an ongoing living process which is anticipating the changes of circumstances throughout the history. One of the milestones on this path was international recognition of Slovakia as a member of the UN Human Rights Council in 2008. Several institutions were established as a follow through of the aim of incorporating the human rights agenda into the reality of Slovakia. Examples are the Slovak National Centre for Human Rights as well as The Public Defender of Rights Office (ombudsman), Plenipotentiary of the Slovak Government for National Minorities, Plenipotentiary for Roma communities, Plenipotentiary for the Development of Civic Society or the Council of the Government for Human Rights. All these have been established in order to support and implement further legislation of human rights and to deal with the coming problems.

Anti-discrimination, from legislative, normative and practical points of view, represents one of the key problems of the Slovak society on all levels. Cooperation of Slovakia in introducing anti-discrimination legislation was warmly welcomed and, from an external perspective, the processes went smoothly and without any obvious obstacles. We established Slovak National Centre for Human Rights in 1994 and later on in 2001 the Public Defender of Rights and in 2005 the Centre for Legal Advices. Their main field of operation is realising and establishing processes for equal treatment and to avoid discriminatory treatment. NCHR was established by international covenant between the Slovak Republic and the United Nations on 1 of January 1994. Its long existence may indicate a well-established organisation that should have a solid reputation in this area. But the opposite is the true. “A short survey had shown that one of the problems at the centre on the institutional level could be its ‘invisibility’. The members feel no need to engage in what often happen to be unpleasant causes under the close attention of media. The normative definition of the centre’s competencies causes its actual potential to be overshadowed by appearing to only function as

¹ The shifts in the institutional design after each new government administration assumed power will be described in greater detail in Chapter 4

a ‘research institute’” (Fridrich, p. 81) (transl. by author). This is common in other institutions besides the Centre and it should not therefore be surprising that its members do not feel tempted to engage in often unpleasant affairs protracted in the media. The reason for such approach may not be lethargy or lack of will. But it may be due to low financial support and competencies, connected to the perception of the Centre by other institutions with stronger position as marginal. These factors pose obstacles in the work of those members who are willing to approach their work responsibly. Given the normative scale of the Centre’s competencies, the whole potential of the Centre is lost, because in reality it merely conducts „research activities“. The output we will encounter in the media also represents various research studies done by the Centre. These are important; however, they represent only one of the functions the Centre should be fulfilling.

The Anti-discrimination Act, passed in 2004, has a very turbulent genesis. As early as 2003, we can already find considerable lack of enforcement of dealing with anti-discriminatory language in Slovak legislation: “One of parliament’s most serious backlogs, in terms of legislative protection of human rights and fundamental freedoms was the Bill on Equal Treatment, also known as the ‘anti-discrimination act’. The bill’s legislative procedure was frozen in June 2002. It has been postponed several times since” (Mesežnikov & Kollár, 2003, p. 101). One of the further examples of how unknown and unprocessed this agenda is in Slovakia is the use of terminology in the law: “One of the notorious points often criticised is the usage of phrase “‘identical (the same) treatment’” in legal norms, instead of using ‘equal treatment’, although we have mentioned before that ‘identical treatment’ may lead to inequality (in the material sense)” (Fridrich, p. 15) (transl. by author). The right interpretation of law in particular socio-economic circumstances is crucial for the satisfactory implementation of human rights. Human rights rhetoric is not perceived with great sympathy in Slovak society – it is almost as if it is a foreign concept.

We can find many problems of this technical nature in legislation as well institutional design in Slovakia. “Slovakia does not have the national human rights institution (NHRI) in line with the Paris principles. According to the Chart of the Status of National Institutions by International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) we belong to the category “institutions whose accreditation has lapsed“ (ICC, 2014, p. 9). Accreditation of the Slovak National Centre for Human Rights (SNCHR) as the Slovak NHRI in the “B – Not fully in compliance with the Paris Principles” category expired in March 2012“ (Human Rights Council, 2013). This

inconsistency in the process of integration of the human rights agenda is very disturbing and uncovers the loose relationship it has with governmental bodies. The Slovak National Centre for Human Rights is a permanent point of critique from several international monitoring bodies because of its inadequate design and inaction in practice. Even the Government's Council of the Slovak Republic for Human Rights is constantly pointing to the incompetence of the SNCHR.

Although the Slovak Government has formally recognized the importance of human rights issues, it has not put sufficient effort into processes which would improve the situation of marginalised communities. Furthermore, institutions created by the government have not established the credibility expected of these offices. There has been no political will to making hard decision-making process to follow through the ideals presented in the legislation. A missing comprehensive study in this field in Slovakia is also considerable symbol how the human rights agenda is ostracized in Slovak reality.

2.3. Slovakia in the eyes of international human rights community

The internationally evolving human rights agenda is challenging the traditional interpretation of the law and requires certain flexibility in thought and understanding. The core element - individual freedom - is not just a political and civil category anymore, but is necessarily intertwined with social, economic, and cultural circumstances. The freedom to participate in political decision making process means more than merely participation in an election. Even in the field of classical indicators of stable democracy as free elections, freedom of the press etc. Slovakia is not that strong. We can see in the long term reports of the Freedom House the declining score of the Democracy score since 2004 – 2013 from 2.08 to the 2.57 (Habdank - Kolaczekowska, 2013, p. 21). This indication can be traced also in categories of the civil society governance, judicial framework and independence. Also Transparency International comes to the similar finding in their surveys of corruption from 2013 where we together with Czech Republic, Romania etc. stand with the score 47 nearer to the end on the given scale to highly corrupt societies (Transparency International, 2013). In this environment it is perhaps not surprising that human rights have not been given a high priority: people are too selfish to consider the welfare of minorities. The issue will require a much higher profile especially in legislation (which can change attitudes, as was demonstrated e.g. on cases against racial discrimination in the USA), in education and in the behaviour of the elite groups who need to be encouraged to be more mature in their debates with each other. Human rights encompass a

spectrum of human activities which necessarily become a part of modern democratic societies. Only in societies where the citizenry is adequately educated and all have the right to express their freedom in ways most natural to them can we speak about equal opportunity being practiced.

Slovaks, reinforced or even encouraged in their nationalist tendencies by the political elites have not yet been able to anticipate the globalising demands on a multicultural environment. The Slovak society has stayed closed and the European Union as well as nongovernmental organizations has been urging necessary reforms. Responding positively to the increasing migration in the modern world may bring enormous benefits to us all, provided we work for this goal positively and purposefully, reflecting the new challenges in our institutional framework, and devising strategies for productive integration within society. If we underestimate or ignore it, it may cause problems in the political, economic, and social life of our country. The low number of cases in which Slovakia granted citizenship to foreigners living here is well known. Slovakia belongs among countries with the lowest number of citizenship acquisitions in Europe. From 1993, we encountered 57,660 asylum seekers but Slovakia granted citizenship to only 221 people out of them in our whole history. (Ministry of Interior of the Slovak Republic, 2014). Slovakia also ranks third from the last within Europe on integration of immigrants. “Foreign residents will see a path to citizenship that is even less based on the law and facts, thanks to the 2007 amended Citizenship Act. The interior minister presented the longer wait and subjective conditions to ‘the growing danger of organised crime and international terrorism’ under the pretext of Slovakia entering the Schengen Zone. However, they may be more related to populist-nationalist coalition’s focus on ‘proving cultural acclimatisation’. Rather, these amendments make problems of discretion slightly worse, with slightly more obstacles discouraging integration“ (Migration Policy Group, 2010).

Another aspect of discrimination happening in Slovakia did not escape the attention of the international community. If we look into the “Resolution CM/R es CMN (2011)15 on the implementation of the Framework Convention for the Protection of National Minorities by the Slovak Republic” from 2011, we will find several crucial issues which persist in the Slovak society in spite of the declared willingness of the Slovak government to solve them in short term horizon:

“A more comprehensive legislation could be adopted to cover the use of minority languages, the financing of cultural activities of national minorities and, as a whole, the protection of persons belonging to national minorities.

The possibility of imposition of fines by the Ministry of Culture in case of a breach of certain provisions of the 2009 State Language Law, even if not applied in practice, also raises an issue of compatibility with the Framework Convention. Furthermore, there is a lack of clarity as to what extent the law applies to the private sphere.

The overall situation of the Roma is problematic. Many continue to face discrimination in access to employment, housing, education and healthcare. Roma are also affected to a much greater extent than the rest of the population by poverty and social exclusion. Data on the situation of persons belonging to national minorities, including the Roma, in the different sectors remains limited” (Committee of Ministers, Council of Europe).

A very similar conclusion is made also by the Human Rights Council (and Amnesty International):

“In this respect, Amnesty International (AI) regretted the rejection of the recommendations made during the first cycle of the universal periodic review to implement measures to end discrimination of Roma in education and considered that the government had so far failed to effectively address this problem” (Human Rights Council, 2013, p. 9).

These are just a few of the examples in which human rights fail to be implemented into the daily reality of its citizens. The political will was not strong enough to persistently promote the global appeals made to the Slovak community and it just made it reinforce the exclusivity instead of the inclusiveness of the Slovak society. The political rhetoric, which became even more populist throughout the economic crisis in recent years, supports the antisocial mood towards minorities as well immigrants in Slovakia.

“The government made only limited progress on its national minority strategy, which incorporated a wide range of education, employment, housing, and social integration policy recommendations from the Romani advocacy community. While the government allocated approximately 200 million euros of EU structural funds to projects that specifically addressed the needs of the Romani community, NGOs complained that none of the funds had been spent and that the government lacked a comprehensive approach to Romani integration” (US. Department of State, 2013, p. 30).

The inconsistency of political processes in the human rights agenda, in spite of the ongoing festering unsolved problems, is provoking. The critique is not coming just from abroad and external sources, but also from domestic NGOs. Their reports made serious allegation about the suppression of human rights in several cases. IVO Barometer’s publication *The quality of democracy in Slovakia in the first two quarters of 2013* states: “MPs from Smer-SD took an unprecedented stance towards the report on activities of the office of ombudsman for human

rights Jana Dubovcová, submitted to parliament for its consideration. These MPs approved the resolution ordering ombudsman to revise this report, which pointed out the critical problems and shortcomings existing in the area of human rights in Slovakia. However, provisions of the Constitution do not postulate any opportunity to return such reports for re-writing, parliament can only take such reports into its account” (Institute for Public Affairs, 2013).

The dissonance between the proclaimed and the actual status of human rights implementation is not a short-term problem. An almost endless list of cases can be made in which suppression of human rights took place. If we analyse these cases, it demonstrates that there is no way of improving the condition in Slovakia by using partial solutions. That task would involve changes in political structures and institutional design as well as promoting public discussion and a broad human rights education. In democracy, everyone has the right to participate in the public affairs and we need to learn how to exercise this right.

CHAPTER 3: Impact of Political Culture on the State of Human Rights

Although Slovakia has signed most of the key international human rights treaties there are a few significant indicators pointing to a conscious lack of political will to fully integrate human rights agenda into the value system of all of the parties currently shaping the political scene. The actual implementation of laws and norms into real life is too often not followed through when it comes to issues concerning human rights. In addition there is an absence of organizational structures for safeguarding human rights in everyday life. While several institutions were established with the aim to incorporate the human rights agenda into the reality of Slovakia, for instance the already mentioned Slovak National Centre for Human Rights or The Public Defender of Rights Office (ombudsman) and others, their position, remains weak and lacking in authority. There is international pressure on the Slovak society and government to face up to the challenge of aligning the practice in the area of human rights with the ideals reflected in the legal framework, treaties and verbal promises, however, the political will is not strong enough to persistently promote the global appeals to the Slovak community with the result that it only reinforces its exclusivist tendencies rather than allowing the principles of inclusiveness to prevail. This chapter will take a deeper look at the causes.

If we want to discuss the political culture and its relation to the quality of democracy, as measured through human rights norms and practice in Slovakia, we need to define what it is. “The term ‘political culture’ refers to the specifically political orientations – attitudes toward the political system and its various parts, and attitudes toward the role of the self in the system” (Almond & Verba, 1989, p. 12). That must be immediately followed by an explanation of why we are interested in this topic. There will be no possibility of change in appreciation of human rights significance in order to improve the quality of everyone’s life without public involvement and pressure on the authorities particularly given the background of inadequate civic engagement throughout the last century. Human rights have evolved from below – from the ordinary citizens and not from the elites. It has not been a process of governments willingly granting rights to its citizens. History of democracy is the story of liberal citizenship. The status of citizenship and the rights that come along with it have been fought for, often violently, and gradually expanded from the few to all members of a society. Without these pressures modern liberal democracy would not have developed. This has been the case in Slovakia as well, but on a different trajectory from that in Western Europe. The

dominant attitudes and value orientations can be traced back almost a century, showing the long lasting impact of political culture on the political reality of today. On this historical path according to various authors as Grigorij Pop–Eleches or Vladimír Krivý, are pointing out that we should be looking for indicators such as the Western Christian/religious heritage and their greater ethnic homogeneity; *prior statehood* experience, *energy intensive economies* and *low urbanization* ” all of which may lead us to the better understanding of recent development of the Slovak society (Pop-Eleches, 2007, p. 920;924) (Feglová, Balko, & Krivý, 1996, pp. 11-14). The pre – war period is crucial from the socio–economic prospective and that is not just important precondition for economic stability but it has its long term impact on the patterns of the civic culture and orientation until these days in Slovakia (Gould & Szomolányi, 1997, p. 6). The remaining patterns of the communist heritage, especially in the political arena, are easily traceable. Forty years of totalitarian rule of one party significantly affected the political culture in this country.

Civic culture in a nation must be formed gradually from below and not imposed from above. But a precondition is that there must be sufficient awareness and drive from the populace and, it could be argued, sufficient anger over injustices. We are witnessing this lack of understanding and respect for basic principles of democratic regime in Slovakia nowadays. This is because of the mental disorientation of the people in their political beliefs as a result of very rapid political change and persisting nostalgia for the parochial past; there is a general lack of experience, imagination and appreciation of alternative ways of living. During the communist past people had little contact with the political establishment unless they were challenging the system, usually with harsh consequences. Daily life issues were more or less centred on the family circle and civic problems were not discussed openly. People held back from the public sphere and focused on their private concerns. Thus there was lack of any democratic tradition of taking part in any kind of common area of interest. “A parochial orientation implies the comparative absence of expectations of change initiated by the political system” (Almond & Verba, 1989, p. 17). From the euphoric feelings of freedom of the Velvet revolution in 1989, Slovaks quickly became disillusioned with everyday reality of democracy, probably because of unreasonably high expectations of the benefits of “freedom” which were not forthcoming and perhaps a lack of realisation of the involvement required of them in the new political circumstances. In Slovakia, the plurality of opinion and diversity were not common elements in the public space. The public issues were not discussed openly and with interest by the most part of the population in the country. “Slovak society does not

meet these requirements yet, and its value system rather resembles traditional societies abiding by values such as obedience, respect, dependence and civil passivity. The fact that these traditions have prevailed, and perhaps became even stronger during communist totalitarianism shows, that socialism was a political system founded on civil dependence, obedience and passivity. It also indicates that cultural modernisation had not nearly progressed as rapidly as structural modernisation“ (Feglová, Balko, & Krivý, 1996, pp. 45-46).

This completely suppressed every other aspect of life except for the economic development during the transition. Slovak reality was seen almost as independent from the global world movements and processes. The European Union was the only source of introducing us to the cross societal problems of migration, social exclusion and the consequences of economic distress of the introduction of a market economy. “In the first half of 1990’s poverty was considered an inevitable part of so called social cost of transformation“ (Kusá & Džambazovič, 2006, p. 246). One of the important factors inevitably bound with the economic development of the country was socio-economic exclusion of some marginalized groups such as the Roma community and the unemployed.

“Unlike the older EU member states, where academic and research sphere created a natural foundation for using the concept of social exclusion in public politics, social exclusion in our environment is so far an import and not a concept with any content. The form, in which social exclusion entered Slovak public politics is a result of a research tradition of the Western European countries” (Kusá & Džambazovič, 2006, p. 249).

This very narrow view also shaped other aspects of political life in Slovakia and people’s perceptions of social programs. “Citizens of Slovakia are accustomed to accepting changes of political systems initiated from above, or even from abroad. The issue remains the actual attitude of Slovak citizens towards thus initiated changes”. (Feglová, Balko, & Krivý, 1996, p. 158). This stayed with us as a heritage of the pre-war period experience of Slovakia with the way how the independent statehood was formed (Gould & Szomolányi, 1997, p. 6). An ideological vacuum and lack of clear political leadership in this matter created scepticism in Slovak society towards European institutions which were viewed as things that forced us to take into consideration problems as migration, discrimination, gender issue and many more, as something not usual for our nation and therefore not needing to be dealt with. The Slovaks describe themselves as a traditional society and the formation of the nation state in 1993

reinforced the idea of a homogeneous Slovak society where minorities are tolerated on the margins.

The truth, as usual, is somewhere in the middle. There had been, from the very beginning, also pluralist forces in the society formed by the fact of the relationship to the Czech nation as a vital force of forming our statehood in first place, than to Hungarian as the largest minority in Slovakia with our shared history for centuries, presence of the Roma minority etc. The worldwide economic crisis makes us realize that the democratic way of life is not just a phrase but it means something real. Words as solidarity, dignity, etc. followed by inaction will lead to consequences which may adversely affect the whole society. The market economy was not able to solve all our problems or fulfil all our expectations in economic as well as in social areas. The discrepancy between a brave sounding legislation and reality raised questions about the government's competence in decision making and governing. Traditional Slovak society does not grasp the concept that only participative civil society can change the pattern of social exclusion and give to those words their real meaning. In the mind of the people, economic prosperity is not intertwined with social inclusion and this creates the tension in the society with wide range of economic as well social implications of uneasiness and despair of the people who are trapped in this social exclusion. This narrow understanding by the majority of our society who are economically and socially secure means that they dislike the prospect of including those who are less fortunate than themselves. This could be a result of their prejudice or just ignorance.

“Especially after 1989 it became more strongly apparent to me, that Slovakia is a country undergoing a major identity crisis, which it was trying to overcome by putting an uncompromising pressure on the diverse identity of its citizens with the aim of eliminating all ‘inappropriate’ and ‘useless’ identities for the purposes of the so-called Slovak national project. Today I realise that the issue at stake is not that the Slovaks would be malicious or intolerant of others but in Slovakia the concept of diversity is not perceived as something natural and necessary, and that is particularly true of ethnic diversity. The issue of otherness and the people's diversity in the land under the Tatras is a serious structural problem, which cannot be solved without radical changes of self-perception of the dominant group and overall changes to the so-called “Slovak national project” (Vašečka, 2010, pp. 241-242).

Democratic principles developed in the last 20 years (or even earlier) in the Western world do not seem to have penetrated Slovak thinking. As stated above, we adapt all the necessary legislation but we do not change the course of our minds. The ethnic principle was not challenged. The Preamble of the Constitution illustrates this point perhaps most clearly – instead of having a uniting and inclusive character for all the people living in Slovakia, on the

contrary, it made those of different ethnicity believe they were unwanted and did not “fit in”. Slovak civil and political life was paralyzed by the inaction of the elite but also of the ordinary citizens. We try to treat the symptoms instead of looking for the cause. We claim the principle of equality to be of central importance, but it is not for everyone; of dignity – but only to the extent that it will not disturb our comfort. Social exclusion becomes a principle instead of a problem and solidarity does not reach further than our family circle. We need to alter our concept of citizenship upon which we wanted to establish this state. Instead of ethnic principles we should reach for the principles of civil society and political definition of a state. This may be reached only by introducing human rights education on all levels of educational process and across the public administration, putting more stress from the official authorities on the process of building tolerant civil society without highlighting the dividing points of the heterogeneous members of the society. Quite the opposite is desirable – to find the uniting constituents by which we can create an open and tolerant environment and by securing all the participants of this process of coexistence build upon democratic principles.

Fragmented political elite

The Slovak political environment has gone through several shifts in the process of transitions from the oligarchical type of rule in years 1993–1998, the integration into the European structures in 2004, and the subsequent period of consolidation of democratic mechanisms and strengthening of autonomous frameworks of distribution of political power across the whole political spectrum and also the judiciary branches. Each country has its own characteristic environment and Slovakia is no exception.

During this time, amidst many changes, one trait was permanent – the polarization of the Slovak political elite into two groups. The process of fragmentation of the elites in Slovakia has had a broad impact on the political development of the society and its political culture and also indicates the future value orientation of Slovakia. Because it is such a significant trait of our political scene, the question is how big an impact this organization of the political life - the circulation and fragmentation of elites – has had on the quality of democracy in Slovakia.

An institutional approach will provide useful indicators for this purpose. The concrete human rights policies of each government and its performance on the implementation of human rights provide us with solid evidence in terms of advancement or, on the other hand, obstacles to deepening the quality of democracy. This approach can map value orientation and

motivation of the elites, whether they are simply implementing policies required of Slovakia by the European Union or other external actors, or whether some of the policies arise also from the internal pressures from the domestic political scene. It will be relevant and very interesting to follow these processes in this continuing transitional stage of political life in Slovakia. The processes will shape the quality of public space and discussion as well as the decision making process in the long run, and importantly, this will be an important force on shaping the quality of the daily lives of Slovak citizens.

The impact of the quality of the elites (their composition and diversity) as well as their fragmentation on the structure of practical political life and decision-making is too vaguely formulated in order to come to a functional conclusion. The important outcome of this discussion is that no matter how well established an elite may be, its internal fragmentation may lead to ineffectual decision-making process and, what is more, endanger democratic principles. In the case of the elite being so fragmented that there is practically no interaction between the individual groups, camps or sects, it may result in an oligarchical type of rule. Gallina goes further in the estimation of damaging consequences in the comparative analysis of the political environment in the East Central European countries: “As a consequence, state reform did not advance rapidly” (Gallina, 2008). Gallina is rightly pointing out that the process of achieving a stable government acceptable to the citizens and to the EU is not finished yet and the failure of a broader cooperation between the elites may determine the nature of the democratic political system in various countries of ECE.

In Higley & Burton’s detailed research, *Elite Foundation of Liberal Democracy* (2006), a clear distinction between united and disunited elite is formulated. There is no doubt that disunity and fragmentation cannot be a solid basis for a stable democracy. It necessarily ostracizes one part of the political spectrum and greatly contributes to extensive corruption. O’Donnell “reminds those who believe in the transforming power of democratic election that they are often compatible with long-lasting competitive authoritarian, delegative, or other hybrid regimes located in a ‘gray zone’ between democracy and its absence” (Higley & Burton, 2006).

Institutional theorists, as for example Arend Lijphart in his book *Patterns of Democracy* (1999), are in agreement with the argument of the need of consensually united elites (see Chapter 1). In societies strongly fragmented on ethnic, religious or political grounds, the way out of a political stalemate, when political decision making is made by the majority, is

consensual democracy. “What such societies need is a democratic regime that emphasizes consensus instead of opposition, that includes rather than excludes, and that tries to maximize the size of the ruling majority instead of being satisfied with a bare majority: consensus democracy” (Lijphart, 1999, p. 33).

But there is a broader spectrum of processes which are necessary for the development of democracy in East Central European countries, which come from a similar cultural background. As Pop-Eleches (2007) rightly points out, more than a divorce from a communist regime is necessary for a healthy democratic society. “The quality of democratic governance ... hinges on the vitality of civil society and the competence of the public administration, and should, therefore, not be expected to flow automatically from the mere absence of formal restrictions on civil and political rights” (Pop-Eleches, 2007, p. 919).

The problems which hold back the harmonious diversity in the Slovak society include fragmentation of the elites as well as the religious basis of many of the common citizens. This can be traceable in the Slovak society from the very beginning. Traditional interpretation of family life in religious terms has been a part of the Slovak culture ever since the fall of communism in Slovakia. Even during communism when religion was officially discouraged it was very popular between the people because it created an illusion of a community and the feeling of fellowship in the society. The traditional values of homogeneous family life promoted by the Catholic Church introduced their vision of a traditional society also into the political programs of certain parties and from the very beginning it create tension and fragmentation of society on religious basis. The religious rhetoric is very appealing for the closed Slovak society and make almost impossible to introduce the dialogue with the social forces of different opinion. Issues as divorce, abortion, gender equality and partnership of the people of the same sex were seen as unhealthy forces indoctrinating our environment with unhealthy western cultural excesses. “We can conclude that religious traditionalism is typical for Slovakia. For the future, it poses a problem of coexistence of religious tradition and a desired social modernisation, the latter being an attribute of the European integration” (Bunčák, 2001, p. 68). The very indifferent approach of these themes by the political elites no matter of what political orientation leads to the polarization of society and deeper fragmentation where almost no further dialogue is possible. We can hear loud voices of these fragmented forces nowadays in coordinated uniformity calling for action with greater vehemence than ever before. “A hundred years from now it will be completely irrelevant that in two weeks’ time there are presidential elections in Slovakia and that a left wing (!) prime

minister and a presidential candidate Robert Fico needed to make himself attractive to conservative voters. He formed a union with his ideological arch enemy (Christian Democrats) and in a glorious gesture they promised the people that in line with Putin's example they will protect the country from the homosexual lobby and moral decay of the West" (Šimečka, 2014). That just showed how the political fragmentation of elites on all levels after 25 years is deeper instead of having developed a mature political discussion which should lead to the solution of accepting a diverse society. We are closing our eyes in the hope that if we cannot see it, the problem ceases to exist.

It is surprising and unfortunate that in the twenty-first century, the Slovak public is continuing to question the basis of human rights and that the voice of freedom and liberal values seems to be losing their power to attract reasonable debate. Social groups in the society calling for a referendum for the constitutional protection of a traditional family, do not see that it is a road to perdition because by suppression of the voices of minorities by the majority in a democratic state, we go back on the path of un-freedom and oppression unacceptable for modern European state as we like call ourselves.

"Alliance for family therefore started collecting signatures for a petition to hold a referendum containing approximately 5 statements. Apart from the definition [of marriage], they demand that no other form of cohabitation is given equal status to that of a marriage between a man and a woman" (Mikušovič, 2014).

CHAPTER 4: National Plans and Strategies for the Implementation of Human Rights

The development of a society is bound to its history, cultural heritage but also depends on the visionary strategy of its leaders. The capability to foresee future circumstances is not just “a good guess” but a combination of serious study of several academic disciplines and also of human brilliance. Therefore, we are not left with some visionary prognosis here, but we can depend on the previous experiences of the people in this field and on rational predictions of possible future events. This is a feasible option if the society understands the need of this approach. Slovak society has not made good progress in this area because of the lack of interest from governmental bodies as well as from the people. The human rights agenda is a good example because this process has at times been going backwards in Slovakia and it was not seen as an important priority by our society but rather as a burden. The lack of cross – societal studies, lack of resources for the research on the state of human rights and several changes in the institutional structure dealing with human rights are quite alarming. It took almost 20 years for this issue to be considered as vitally important and an inseparable part of a solid democratic society. Often the topic of human rights was narrowed down just to the Roma community and to chauvinistic attitudes towards the Hungarian community. In reality we do not grasp the whole concept of human rights as a complex process engaging all sorts of issues from the educational and judicial to the procedural aspects of the process - and this in spite of the fact that several human rights oriented institutions were established in Slovakia as mentioned previously. This chapter will take a look at the genesis of the human rights institutional framework in relation to the changing administrations and several strategies that were to outline the priorities and steps of action in the area of human rights for individual governments. The reader can note the lack of continuity in this agenda in succeeding administrations, which will be placed in the context of the excessive changing policies of the elites and their internal fragmentation. As a result, human rights policies and institutions are constantly and unnecessarily reinvented to the detriment of the human rights process and its progress in Slovak society.

4.1. Genesis of the institutional design.

“In order to fulfil specific tasks in area of national minorities the Government Office of the Slovak Republic established the role of Government Plenipotentiary for National Minorities and Human Rights and the role of the Plenipotentiary of the Government of the Slovak Republic for Roma communities“ (The office of the Plenipotentiary of the Slovak Republic for National Minorities, 2013, p. 63). None of the institutions has advocated this agenda thoroughly because the constant changes in structure and of the personnel in these institutions leads to a lack of competency in executing policies.

“In September, Parliament abolished the position of the Deputy prime minister for human rights, dividing the portfolio among several ministries. Many human rights organizations criticized the measure strongly, insisting that the newly divided portfolio lacked central coordination and responsibility for human rights policy“ (US. Department of State, 2013, p. 14).

This did not go unnoticed by Slovak NGOs and the international community, but prime minister Fico was very reassuring that this was not a misconceived action but actually a carefully chosen step to improve human rights institutions’ credibility and transparency.

“The evidence of maintaining continuity, according to his words, is the fact that the government Council will continue in its role within the same structure that had been established in the last elections. The agenda of the previous government remains unchanged in the area of human rights protection, and a national strategy of human rights protection will be created for the Slovak Republic. Apart from this, an Office of a High Commissioner of the SR Government for Minorities has been created, the Office of the High Commissioner of the SR Government for Civil Society has been preserved, and the Committee for non-governmental and not for profit organisations has been elevated to an independent council. “It was our intention to emphasize the extreme importance of developed civil society for the protection and promotion of human rights“ the prime minister has stated.“ (Úrad vlády Slovenskej republiky, 2012).

A retrospective examination of this process shows a clear discontinuity on the part of the government although many promises had been made that this would not happen.

“At the start of the programme period 2007–2013, the expert European public had high hopes in the Slovak strategy on the development of the marginalized Roma communities (so called “complex approach”), that was based on the locally developed strategies of complex approach (known as „LSKxP“). This

integrated territory programme, ... had been in development in its framework form since 2005 by the former Plenipotentiary Klára Orgovánová. However, after Fico's government replaced her in 2007, numerous grave errors appeared in its detailed design as well as in its implementation with the result that the complex approach in Slovakia by the end of its programme period had eventually failed " (Hojsík, 2013, p. 18).

Klára Orgovánová (former Plenipotentiary of the Government of the Slovak Republic for Roma communities 2001 – 2007) herself urged from very beginning for stronger powers for this office. She repeatedly called for more concrete action in order to improve the social and educational exclusion of the Roma community. During her service and also afterwards, she constantly pointed out the inconsistency and actual political hostility to taking effective action which could have improved this situation. "Moreover, certain basic human rights anchored in the international commitments of the Slovak Republic are being denied. For instance the right to shelter is most often denied to Romas. It is difficult to observe rights of minorities if their human rights are being denied" (Pálošová, 2010). Klára Orgovánová also stated that there is no absence of activity to deal with this problem in Slovakia, indeed there have been many attempts to introduce a whole range of initiatives on this matter. However, the constant disruption of this process undermines the solid basis for successful further development. "Some of the proposed solutions, according to her, are only a repetition of what has existed in the government resolutions in Slovakia for the past 15 years" (SITA, 2012).

In this spirit, her statutory successor Peter Pollák is also critical of the governmental support for systematic changes in the human rights agenda especially in the educational and social exclusion of the Roma community in Slovakia. "There were various projects and strategies not achieving any objective. What is needed is a systemic solution to adopt such legislation measures and laws that those who succeed us will not be left to experiment all over again from the start." (TASR/Euractiv.sk, 2013). In spite of the fact that this situation is not new in Slovak society and there have been studies suggesting that this development is not heading in the right direction, the voices of concerned NGOs and international bodies have remained unheard. "Social distance here is meant as mistrust towards other people and certain groups. There has been a significant increase in the antagonistic attitude, which until now has not used nationalistic symbolism (unlike the case of relationships with the

Hungarians or Jews), but which was the most common source of tension in everyday life: antagonising the Roma. This change could be interpreted as a reaction to the opening up of society. Being in a society which is still developing its openness and has no solid normative systems is, for its members, more confrontational than living in a society that is already open” (Krivý, 2001, p. 12).

Despite the arguments presented above about how the progress for the social inclusion of the Roma community is taking the undesirable trajectory of deeper social exclusion between the majority and minority of citizens, the government is declaring that actually there is no need for concern because everything is progressing on course and according to plan. Consequently, the Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality stated in its report from 2012: “Coexistence of the majority and minority in every sphere of life in Slovakia is without any problems. As in most regions of the European Union, in Slovakia one of the most controversial issues is the one of the Roma community“ (The office of the Plenipotentiary of the Slovak Republic for National Minorities, 2013, p. 118).

In everyday reality we can see the discrepancy between the presented facts from the Slovak government and the perspective of the outside observer. In the recommendations from the Council of the European Union in June 2013 we can find this conclusion: “After adopting the Strategy of the Slovak Republic for Integration of Roma up to 2020, no effective action was taken in 2012 and the living conditions of marginalised communities, including Roma, remain difficult. It is important to accelerate efforts to improve educational outcomes of marginalised groups, as well as to ensure provision of targeted active measures for adults.” (Council of the European Union, 2013, p. 7). This is only a small example of the problem which demonstrates how urgently a comprehensive proposal for solving this situation is needed, accompanied by a steady commitment to implement it despite the changes in the political administration with every election. What is also required are structural changes in legislation as well as in value orientations within general society which will provide a long term prospect of successful development of a stable and prosperous democratic country.

4.2. Human rights plans and strategies

There are many topics which are covered by the term “human rights agenda”. Apart from the problems of the Roma social and educational exclusion mentioned above, there are issues for the educational sector which are crucial for spreading the human rights agenda and introducing these topics to children from the very beginning of their education to civil servants, lawyers, teachers, and other state employees across the whole society throughout their careers and even for the population outside the labor market and in the age of retirement. Since 2005, there have been several attempts to present educational reform such as the “National Plan of Education of Human Rights” in which are stated the essential points for building up a strategy for introducing a human rights program at all levels of Slovak society in order to change the attitude of Slovaks on this issue which is such a vital part of a democratic society (Ministerstvo školstva SR, 2005). Instead of continuing with this Plan and building it into the structure of the Slovak educational system and expanding it to the sphere of civil administration and beyond, the whole project seems to have vanished and been incorporated into the project of National Strategy for the Protection and Promotion of Human Rights in Slovak Republic. This is a sign of how this matter is still not sufficiently appealing to the Slovak officials for otherwise they would have persisted in supporting the plan and vigorously pursuing a separate educational reform. Education is the only way to consistently rectify the missing awareness of the importance of human rights in our society.

In terms of active participants in the civil and political life of Slovakia such as LGBT community, minorities, migrants and other issues, there is a clear struggle for establishing a tolerant environment where they can fulfil their pursuit of a happy and fulfilled life. The rights and freedoms of minorities have been marginalised by both governmental bodies as well as the prejudices of ordinary citizens.

Recently, the rhetoric of some fundamental religious groups has elevated the issues of homosexual marriages, abortions and other very sensitive topics to such an extent that even the presidential elections in 2014 been forced into emotional discussions on these topics (see Chapter 3). If this creates an opportunity for open constructive dialogue, it will be a good sign but instead we are witnessing a very aggressive and uncivilized battle without any sensible or sensitive conduct in these exchanges or even

a sign of willingness to listen to other opinions. Is there a need of any other proof of immaturity of democratic processes in Slovakia? Why are these basic human freedoms being questioned when we declare that they are the only game in town for Slovakia “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status“ as is stated in Declaration of Human Rights?

4.3. Strategy for the Protection and Promotion of Human Rights in the Slovak Republic

If we take into account that Slovakia, after gaining its independence in 1993, with the exception of the first Czechoslovakia Republic (1918 – 1938) does not have a democratic tradition, it is only natural that one of the requirements for building a stable democratic structure in Slovakia was a solid constitution. However, a constitution as a general framework cannot deal adequately with the detail of every important issue in this process. Therefore such a vital matter as human rights need its own framework which should be guiding individual systematic series of actions aimed at implementing changes to encourage the growth and development of a culture of human rights in society, through legislation affecting all areas of life including, in particular, education and the judiciary among many others. The attempt at creating The National Strategy for the Protection and Promotion of Human Rights in the Slovak Republic was exactly responding to this calling. The ambition was to initiate and design the structure to support the further development of individual strategies for education, minorities, LGBT community, Roma community etc. We saw hopeful progress and noted the hard work of NGOs as well as of some governmental bodies to make this happen but the sceptical conclusion so far is that there has been little, if any effect, on behaviour or attitudes in daily life.

In 2010 Radičová’s government took a part in the initiative Open Government Partnership (OGP). “As members of the Open Government Partnership, committed to the principles enshrined in the Universal Declaration of Human Rights, the UN Convention against Corruption, and other applicable international instruments related to human rights and good governance“ (Open Government Partnership, 2011). This was a clear sign of the willingness to begin the needed structural changes but the

dissolution of Radičová's government in October 2011 meant that consequently nothing transpired.

Only in the last two years, has there been a political mandate for an independent body to write the material for the National Strategy for the Protection and Promotion of Human Rights in Slovak Republic (heretofore just 'Strategy'). This initiative is covered by The Government Council of the Slovak Republic for Human Rights, National Minorities and Gender Equality (GCHR).

“The strategic social objective, that ratification and subsequent measures carried out as a result of the proposed document should be an increase in effectiveness of implementation of the commitments of the Slovak Republic in the area of human rights, their promotion and enforcement with the result of increasing the quality of democracy, rule of law and socially cohesive society“ (Rada vlády SR, 2013, p. 11). The extensive work on the “Strategy” was launched by NGO experts from the areas of human rights, legislative procedures as well governmental experts. If we look into the process of creating this ‘Strategy’ we discover that this process can tell us about the crux of the human rights agenda problems – why it took so long for a relatively stable democratic country to identify the matter, to move towards its formulation and to find the appropriate solution in this case. We can see an example in the case of the Public Defender of Rights office which was established in Slovakia in May 2002, while, in contrast, in the surrounding post-communist countries the same offices were created years earlier: Poland in 1987, Hungary in 1993 and the Czech Republic in 1999. Although the Slovak office has been in operation ever since 2002 it is not a strong independent body, but more or less a servant of the political establishment (see Chapter 2).

Initially, the intention was that each Ministerial department would deal with the application of the Strategy in its own area but this did not happen; because of the spreading of responsibility each department gave insufficient priority to the issue. This weakened its application and its effectiveness. Furthermore, when Radičová's government resigned, it took Fico's new government over a year to re-start the process, due to the vast shifts in the bureaucratic personnel typical after each election. It is quite unusual, for the Slovak practice, that the initiative of the former government, was continued by the new government at all. The further fact that the

Strategy was delayed several times and the method of its creation changed during the process is telling. The lack of consensus on the very basic values of a democratic society has had very serious damaging consequences for Slovak society. The politicization of the controversial issues and emphasising these themes in political debates by the political elites sends problematic signals to the public. Therefore, to have a peaceful considered debate and a rational consensus on these topics like abortion, same sex marriages, adoption of children by same sex couples and similar issues has been made difficult and indeed almost impossible. It is this weakness, present from the beginning of the democratic Slovak government, which is the result of the lacking political culture and the fragmentation of the elites: they have difficulty, or indeed find it impossible, to suppress their prejudices (of religion or social status) for the common good of the majority of society. Instead of political elites looking at the bigger picture and offering leadership, we have been witnessing their poor performance particularly over promoting human rights, which should be one of the pillars of democracy.

CHAPTER 5: Conclusion

Where are all of the implications and criticisms discussed above in this paper leading? There has been a serious tardiness on the part of the previous political leadership in the implementation of human rights into the Slovak public life – both in the political arena as well as into the everyday life of the people. Nevertheless there is hope that we may have learned our lesson from this and that progress towards a stable and truly democratic Slovakia is still possible. What mechanism do we have to employ to move forward to build strong bonds between people of all ethnicities, cultures and backgrounds with their differing and individual dreams, needs and expectations whether they live in Slovakia or outside its borders?

As I mentioned in my hypothesis adequate human rights institutional design needs solid support of governmental bodies and of its leaders. As much as we need to respect the rule of law, this has to be compatible with respect for the traditions and cultures of minorities within our society. This balance, or rather the imbalance in Slovakia's case, is inevitably intertwined with the poor implementation of human rights in the minds of the politicians and the people in everyday life. The law cannot make us believe in human rights principles, it requires more than fulfilment of the technical capacity of legal requirements. We need to feel the urgency of introducing plurality of opinions and diversity of lifestyles as part of our own integrity. It will never come along by itself without ambitious goals at the beginning and then daily routine of practicing these ideals in the everyday life of each person. The work cannot be done by anyone else, only by each individual; there are various qualities or aspects of this process through which we can share in common discussion and which will help each of us to better understand the benefits of such a way of life for everyone.

A stagnating and divided political culture, which is translated into fragmentation of the political elites is a major part of the problem. Lately we have been experiencing extensive political debates between the candidates for presidency which are good examples of this fragmentation. The present Prime Minister Fico is playing the religious card very well by supporting the traditional religious groups in their attempts to discredit any way of life apart from heterosexual marriages. In the short run it could win him victory in his effort to become a president of Slovakia. In the longer term it

will not benefit the society as a whole. As a president he supposed to be a representative of all people living in Slovakia and there are certainly minorities living in this country with very different preferences from his. Can we afford to ostracize these groups of people and to give them the impression that they are not welcomed and respected, if we claim that individual freedom is for us the highest priority? We are not living on an isolated island to be blind to world-wide progress of increasing inclusiveness. The EU, of which Slovakia is a member, is clearly working towards deeper integration and such development is more than desirable for Slovakia.

Finally, politicization of the human rights agenda to some extent is inevitable because the issues involved deal with the very personal feelings and beliefs of people which determine their aspirations in life and their behaviour. Therefore as a democratic society we have the duty to create a friendly environment where people have the freedom of expressing their opinion and feelings without serious threat that their voice will be silenced or unheard. It is necessary that we do it for the sake of justice and it should follow that we do it also because it should be a legal requirement of a modern democratic country. Fundamentally, however, it is for the sake of individual development. There is no need to sacrifice certain personal beliefs or traditions in order to understand others people desires, aspirations or beliefs. In fact without challenging our own beliefs constantly basis we can never become people with strong integrity. If we feel threatened by beliefs of others and their way of living it just demonstrates the insecurity and prejudices of our own opinions and way of life.

The treatise above may appear very desirable yet idealistic and perhaps too academic and formal. But in order to improve the situation and the circumstances of everyday life, there is a need for formal structures particularly in complex modern societies in addition to the informal participation of all individuals in this process. If we believe in enlightenment of reason, the only way to achieve it in a community is through education of the people at all levels of society. As soon as children are capable of comprehending such ideas we can and should give them the space and guidance for developing their own opinions. That is possible only if we give them enough information from the widest perspective of our experience and knowledge. Learning to know each other is a process of a life time so we can never give up the ambition to know each other better for our own sakes as well as for the common good.

RESUMÉ

Prvá kapitola tejto práce sa zameriava na vývoj spoločnosti na Slovensku po r. 1989 a na process demokratizácie, ktorý viedol k členstvu Slovenska v EU. Keďže dodržiavanie ľudských práv je primo úmerné úrovni demokracie v jednotlivých krajinách, v tejto práci sa zaoberám dôsledkami určitých skutočností, ktoré vyplývajú z uplatňovania, resp. nedostatočného uplatňovania, zákonov o ľudských právach na Slovensku. V prvej kapitole sa pokúšam objasniť základné pojmy, s ktorými pracujem a definovať koncepty ako dôstojnosť, ľudské práva, a iné. Postupne predostieram hypotézu, ktorá z hľadiska inštitucionalizmu popisuje konkrétny dopad nedostatočného uplatňovania ľudských práv na úroveň demokracie na Slovensku od r. 1989. Uvádzam súvislosti, ktoré prepájajú demokraciu a dodržiavanie ľudských práv, vývoj agendy ľudských práv a vznik inštitúcií, ktoré majú za úlohu chrániť uplatňovanie ľudských práv a dohliadať na ich dodržiavanie. Taktiež sa zaoberám normatívnym posunom dôrazu z politických a občianskych práv jednotlivca ku aktuálne vyzdvihovanému ideálu obohatenému o práva ekonomické, sociálne a kultúrne. Tiež sa zmieňujem o novom náhľade na koncept štátnej zvrchovanosti, ktorý je nahradený doktrínou Zodpovednosti za ochranu práv občanov iniciovanou Kofim Annanom. Ďalej pokračujem opisom ľudských práv ako merítkom stability demokracie. Jednou z výhod tejto metódy je všeobecná platnosť ľudských práv uznaná vo väčšine civilizovaného sveta.

Klasické ukazovatele ako HDP (hrubý domáci produkt) a pravidelné voľby už dnes nie sú dostatočnými merítkami relevantných dát, keďže takmer všetky demokratické krajiny spĺňajú tieto kritériá. Ale napriek tomu niektoré krajiny vykazujú vyššiu úroveň demokratických inštitúcií a procesov ako iné. Pre vysvetlenie uvádzam koncept indexu ľudského vývoja Amartya Sena, ktorý zohľadňuje širšie kategórie a ďalšie ukazovatele. Okrem tabuľky krajín zoradených podľa ekonomického rastu, do úvahy sa berie aj komplexnejšie hodnotenie stavu a výhľadu ekonomických, sociálnych a kultúrnych práv v jednotlivých krajinách.

V metodológii sa zameriavam na priamy výskum záväzných ukazovateľov na slovenskej politickej scene s úmyslom vytvoriť potrebnú základňu pre moju hypotézu, ktorá znie: fragmentácia elít je nepriaznivým úkazom v zdravom demokratickom

systeme. Očakávaný uzáver sa môže potvrdiť dôkazmi, ktoré nachádzame v nedostatočnom uplatňovaní ľudských práv zakotvených v slovenskej legislative v každodennom živote občanov. Toto je neodškriepiteľným faktorom, ktorý výrazne poškodzuje úroveň demokracie na Slovensku. Údaje som zhromaždila z rozmanitých primárnych ako aj sekundárnych zdrojov ako sú konkrétne zákony o ľudských právach a ich uplatňovanie v slovenskom politickom rozhodovaní. Vyžaduje si to široký výskum zahraničných ako aj domácich správ o stave dodržiavania ľudských práv ako aj štúdií výskytu týchto tém v slovenskej spoločnosti.

Druhá kapitola sa zaoberá vznikom inštitucionálneho dizajnu ľudských práv a zmlúv z historického ako aj súčasného hľadiska. Popisuje nakoľko je ústavný dizajn na Slovensku v súlade s medzinárodnými dohodami o ľudských právach a vymenúva najdôležitejšie dohody záväzné pre Slovenskú republiku ako člena EU. Inštitucionálny dizajn na Slovensku bol inšpirovaný "Parížskymi princípmi"(OHCHR, 1993). Tieto princípy sú viazané na národnú štruktúru v záujme presadzovania a ochrany agendy ľudských práv v národnej ústave a inštitucionálnom dizajne. V prípade Slovenska je nápadný nedostatok prepojenia normatívneho vývoja legislatívy a každodenného života občanov. Vymenovaním niekoľkých dohôd, na ktorých Slovenská účasť chýba, uvádzam nedostatky slovenského politického rozhodovania. Vyvolaním diskusie o popretí nárokov marginalizovaných skupín občanov, ktorí spĺňali criteria niekoľkých sociálnych programov, v tejto práci dokladujem nedostatok politickej vôle zaoberať sa týmito kľúčovými otázkami zo strachu pred silnou kritikou verejnosti a z obáv, že možná kontroverzia by mohla byť škodlivá pre záujmy vedúcich strán a vlády.

V ďalšej časti sa táto práca zmieňuje o založení niektorých inštitúcií na ochranu ľudských práv na Slovensku, Slovenského národného strediska pre ľudské práva, úradu verejného ochrancu práv (ombudsmana), splnomocnencov pre menšiny, rómske komunity, občiansku spoločnosť, atď.

Tiež sa zmieňujem o procese schválenia antidiskriminačného zákona v r. 2004, ktorý prebehol za dramatických okolností.

Pomenovaním mnohých problémov technického charakteru v legislatívnom ako aj inštitucionálnom dizajne poukazujem na skutočnosť, že inštitúcie vytvárané vládou nemajú dôveru verejnosti, ktorá prináleží takýmto úradom. Tieto problémy sú vždy vytláčané na okraj a niet politickej vôle presadzovať v praxi ideally zakotvené v zákonoch.

Táto práca uvádza mnoho príkladov kritiky zo zahraničia ako aj z domova, ktorá poukazuje na slabé uplatňovanie agendy ľudských práv a veľmi pomalý pokrok k otvorenejšej pluralistickej spoločnosti na Slovensku.

V tretej kapitole sledujem hodnotovú orientáciu v rámci slovenského politického života a hodnoty bežných občanov. Uvádzam ilustrácie vzniku hodnotovej orientácie slovenskej spoločnosti počas jej dejín a základné tendencie od počiatku nezávislosti Slovenskej republiky v r. 1993. Občianska kultúra je kľúčovým predpokladom zdravého vývoja demokratických princípov, ale zdá sa, že do slovenského zmýšľania zatiaľ neprenikla. Prispôbenie potrebnej legislatívy je len jedným z nutných krokov, ale nato, aby sa zmenila spoločnosť, musíme zmeniť spôsob zmýšľania. Vláda nezvládla etnický princíp a Preambula ústavy to hádam vystihuje najlepšie – namiesto zjednotenia všetkých občanov žijúcich na území Slovenska, naopak – vymenúva jednotlivo odlišné etnické skupiny a vyčleňuje ich ako “ostatné”, v dôsledku čoho ich odcudzuje ako niečo nechcené. Slovenský občiansky a politický život je paralyzovaný politicky citlivými otázkami ľudských práv ako napr. potraty, manželstvá rovnakého pohlavia, atď. Je to jednoznačným dôsledkom nečinnosti na strane elít ale aj bežných občanov, ktorí žijú v sústavnom popieraní skutočnosti, že slovenská spoločnosť nie je schopná prijať odlišnosť názorov a otázky o zmysle fundamentálnych presvedčení.

Záverečná časť tretej kapitoly pojednáva o probléme fragmentácie politických elít v otázkach náboženstva, spoločnosti a kultúry už od samého vzniku nezávislej Slovenskej republiky. Táto fragmentácia sa odráža na kvalite elít (ich zloženia a rôznorodosti) a na štruktúre praktického politického života a rozhodovania. Dôležitým výstupom tohto dialógu je, že odhliadnuc od toho ako pevne založená elita môže byť, jej vnútorná fragmentácia vedie k neefektívnemu rozhodovaniu, ba čo viac – k ohrozeniu demokratických princípov.

Štvrtá kapitola pojednáva o konkrétnom pláne stratégie ľudských práv pôvodne zakotvenom v slovenskej ústave, ale ktorý nikdy nebol realizovaný v praxi. Uvádzam niekoľko pokusov o reformy vo vzdelávaní, v riešení otázok menšín, rómskej menšiny, LGBT komunity, čoho výsledkom bol vznik Národnej stratégie pre ochranu a presadzovanie ľudských práv v Slovenskej republike. Toto bola reakcia na čoraz emocionálnejšiu diskusiu v spoločnosti v posledných rokoch a na čoraz viac konfrontačnú rétoriku jej účastníkov. V práci rozoberám nedostatky ako aj výhody tejto Stratégie a prekážky jej zavádzania do každodenného života na Slovensku.

V Závere tejto práce konštatujem, že dialóg založený na lepšom porozumení a presadzovaní ľudských práv je nevyhnutným predpokladom k tomu, aby sa táto agenda prakticky prejavovala aj v dennej realite života na Slovensku. Toto je možné jedine za politickej podpory vedúcich vládnych činiteľov a súčinnosti bežných občanov. Vyžaduje si to aktívnu účasť každej vrstvy spoločnosti. Jedine tak bude možné presadzovať, chrániť a naplňať práva, ktoré patria všetkým ľuďom. Ich porušovanie má škodlivý dopad na celú spoločnosť. Zanedbávanie ľudských práv ako dôležitej súčasti legislatívnej ako aj praktickej reality v slovenskej spoločnosti bude mať za následok rast nedemokratických tendencií a ochromenie základných demokratických princípov.

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