



This slogan formulated by the Polish country group expresses concerns about the balance between institutional rights and lived social reality. There is not only a need for rights to exist as something that people can appeal to, but also for a lived solidarity and diversity. This question between formal elements (rights fixed in a constitution) and social reality (lived society and diversity) was one of the main themes of Workshop 2 on *Fundamental Rights, Constitution and Democracy*.

One of the focuses of this workshop was the new constitutions that were drafted and/or passed after the transitions of 1989/90. In this workshop, a lot of historical knowledge was gathered on the constitutional history of Germany, Poland, Russia, and the Czech Republic. The questions that crystallized thereby also emerged in many other discussions at the conference: what is the connection between rights and justice? What does it mean if rights are “fixed” by law, but not filled with life? What does it mean for our trust in a democracy to have laws to appeal to?

In the GDR (DDR), the central roundtable (Zentraler Runder Tisch) formed in 1989 gave itself the task of drafting a new constitution and formed a commission for that purpose. With reunification already under way, the aim of this new GDR constitution was to “describe new social relations and to fix them as rights”. For the civic movements at the round table, it was clear that a new constitution was necessary in order for the GDR to be organised as an independent state under the rule of law that could face the FRG (BRD) as an equal partner in the negotiations for reunification. Unlike the FRG constitution, the draft constitution made no reference to God, and it upheld both the equality of men and women and the protection of the environment, as well as an emphasis on basic social rights. These elements of the draft constitution thus integrated many of the demands of the social movements existing since the 1980s. However, the draft came to be seen as a barrier to reunification and was tabled by the first freely elected parliament of the GDR in April 1990.

Poland’s round table also led to the institution of new rights, which were an expression of the most important themes of the civic movements: “*freedom first, then sovereignty of the state, and then democracy*”, as a participant put it. The results of the round table negotiations included amongst others half-free elections, changes in parliamentary rights, the strengthening of the constitutional court, access to media and the reinstating of Solidarnosc as a union.

A new Polish constitution was passed narrowly in a referendum in 1997; very few people participated. “We missed out on the political euphoria of the early 90s,” someone from Poland put it. Into the new constitution, the Catholic Church, which had played a prominent role in the dissidence movement, was able to introduce its concerns such as the protection of marriage; “Poland was no longer a secular state,” one participant described. The sense was that with the new constitution, the erosion of women’s rights in today’s Poland began—such as the government’s recent attempt to ban abortions, which was successfully fought by thousands of Polish women and their supporters. “*Today’s problems are a result of the failure of the 90s: the Church’s role in the dissident movement; now we pay for it with women’s rights.*” And there was the discussion of what the new constitution failed to fix as rights. In the case of Poland, the lack of social rights was emphasized, and someone connected the rise of the right-wing political parties in Poland to this: “*There are not enough clauses...about social provisions. People were acknowledged for the first time by populists.*”

**"RIGHTS ARE ONLY SOMETHING ON A
PIECE OF PAPER. BUT THEY ALSO NEED TO
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FROM RUSSIA**

In Russia, the question was: we have a constitution, but it isn't filled with life. There are rights, but what meaning do they have? A new constitution was passed in the early 1990s, but the sense was that little was known about the discussions of what should be included in this constitution. The "simple people were not involved," only those higher up. When discussing the status of the constitution and its laws today and its importance for the work of socio-political actors, different voices emerged. One participant stated that "Today, in Russia, people demonstrate for the constitution to be upheld: we have to get back to the constitution." But someone else said: "It doesn't mean anything if something is in the constitution. In practice, in my work, we make as little reference to the constitution as possible." And there was again the question of what the constitution fails to cover: in the case of Russia, for instance, a law against domestic violence does not yet exist and participants talked about a current court case against three sisters that killed their abusive father, which is being watched very closely by Russian activists.

When the discussion on the link between rights, constitution and revolutionary visions turned to the Czech Republic, two themes emerged: that activism initially remained at the level of the civil, with Vaclav Havel's "apolitical politics." And that the giving of laws was postponed and not a priority. As one participant stated, "it was privatize first, and then pass laws," which resulted in the "casino capitalism" of the 1990s. As in Poland, the current constitution lacks social laws, and there is, for instance, a lack of affordable housing: the problem is that "social housing isn't at all solved at the level of the law."

As for the situation today, there was a sense that rights such as freedom of speech and freedom of media, which were fought for in the 1980s and 1990s, were again under threat today and had to be fought for once more—for instance, by appealing to the constitution. Democracy is again something we need to fight for. But there is also the phenomenon of rights being abused by right-conservative and nationalist movements—one example that participants saw here was the problem of "internet trolls" that seek to destabilize activist movements and that rely on both freedom of speech and freedom of media to evade any legal consequences. So with regards to rights, also new questions were asked such as: how far should certain rights go?

New constitutional grounds were laid in 1989, and these continue to exert great influence on systems and institutional orders today. Movements in different countries refer to the constitutions to a different degree. Still, it was an important part of the conference to discuss and gain further knowledge of very basic constitutional elements that shape our political contexts. This encouraged participants to reflect on the basic principles that used to matter to them and continue to do so.