Jiří
Přibáň

The Defence of Constitutionalism

The Czech Question in Post-national Europe

KAROLINUM PRESS VÁCLAV HAVEL SERIES

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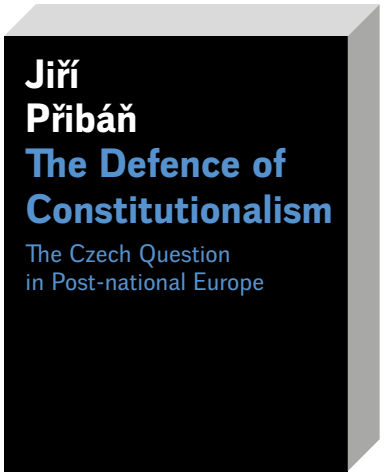

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CONTENTS

JIŘÍ PŘIBÁŇ'S SOCRATIC WARNINGS

A book has entered the Czech market that feels like an ominous harbinger of what is to unfold in and beyond the Czech Republic. Politics, which we thought may have been occasionally inefficient, lame and slow… and yet an irreplaceable pluralist vehicle for the free to settle their differences, is losing its prestige, respectability and credibility far and wide – not only in many places in Europe, but also in the United States – before our very eyes. It is as though the West were losing confidence in itself, as though, in all sorts of areas, it were shedding the belief that the only possible answer to humanity's problems lies in jockeying for power and in its constitutionally guaranteed distribution rather than its concentration. It is not only Přibáň's homeland, but also Central Europe and, indeed, many places in America that harbour a fascination, whether overt or cloaked, with the monolith of power in the authoritarian regimes of Russia and China. Politics as procedurally governed appeasement is turning into a pet hate of populist parties and movements. The Constitution as a fortress in which politics can yield generally viable solutions is perceived as a distasteful inconvenience that needs to be circumvented.

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Přibáň completed his law studies in 1989 and stayed on at the faculty in Prague as a teacher, where his brilliance quickly shone through. This bright light, however, soon began to forge links with Cardiff Law School in Wales. I remember many people in his circle bemoaning the fact that they had found their own charismatic thinker at long last, only to see him immediately slip from their grasp. Přibáň continued to whittle away at his duties in Prague in order to take on a fuller engagement in Cardiff. These days, he is but a frequent guest in the Czech capital.

A while ago, opportunity came knocking for Jiří Přibáň in the form of a constitutional judgeship. If he had wanted the job, it was probably his. However, he is determined to think, lecture and write in the midst of lively discourse among the world's doyens of legal philosophy and sociology of law.

Besides, it is a long time since he last thought solely along the lines of a lawyer. To be sure, jurisprudence – especially the constitutional sort, bare of philosophical reflection and the insights imbibed by sociology of law and political science – is a useful and lucrative craft, but society is not to be understood by paragraphs of written law.

Physically, then, Jiří Přibáň is now just a guest in Prague, but, courtesy of all kinds of networks, he has remained with us in his receptive spirit, one of only a handful of our people across the world to do so. And thus, having worked his way over time to the Socratic position of someone obliged to no one, a rival to nobody, no man's vassal, he is free to speak his mind.

His actions would by no means mark him out as an academic alone: with his prolific journalism, he acts like Socrates walking the streets of Athens as he ropes passers-by into discussion over and over again without letting up. He has a tendency to ask the uncomfortable, provoke thought, warn us. In doing so, he unwittingly betrays that globalisation also has a salubrious side: we can now live far from home, yet maintain a strong relationship of personal responsibility towards it.

What is more, Přibáň safeguards his independence from the world of politics by cultivating personal relationships with a number of figures from the modern Czech art scene. Their work plainly spurs him on towards a peculiar understanding of our time that is moulded by more than just words – newspapers, television and the rhetoric of politicians.

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This "triple-lock" independence – physical remoteness, separation from the world of politics, and a keen relationship with the domain

of shapes and colours – is now bearing extra fruit in the form of essays originally gracing the pages of Czech periodicals.

I am bursting to say: brace yourself, reader, for the pure joy of intelligent, clear and provocative reading awaits you! Such a plethora of precise, brutal, witty observations, what a slew of allusions to startling contexts! As many a lesson as is or ever was elsewhere in the world. Yet joy, sadly, is not the word that best describes the reader's feelings.

Reports on the state of Czech and European society are extremely unsettling in Přibáň's interpretation. And by no means just those that concern local politicians, political parties, and the parliamentary life of the country. If the Czech public were healthier, especially "more civil", and were it not so intellectually complacent, some of its elected representatives would not be able to get away with as much as they do. In particular, they could not afford to purge politics, bit by bit, of all content, disputes on priorities, ideas and ideals, or even deny or disown politics per se.

Přibáň's attitude is explicitly "anti-populist" – a populist summarily condemns politicians and politics and agrees with the "people", pure and fair, in everything up front… We find ourselves today in a dangerous situation of "heightened political uncertainty, where everyone shares common concerns but is unable to agree on either specific risks or political threats".

In the absence of politics, i.e. without the Right and the Left, the free competition of political parties, or free will and the ability to distinguish and separate politics from economics, morality, and religion, slowly but surely everything "up there" will henceforth be nothing more than wheeling and dealing between the heads of major economic groupings. This is already the case to some extent, though most are blind to it. In fact, the public has no wish to see any of this! Instead, it rejoices, glad that someone is finally granting it absolution, offering it respite from dirty politics by vindicating its intellectual indolence.

Civil society is starting to be assailed from above (not just in the Czech Republic, where this is exemplified by the president) as parasitic, useless structures sponging effortlessly and mindlessly off the government (some receive subsidies) and above all, it is claimed, scrounging cash "from foreigners" . To wit, from those meddling in the internal affairs of our country. For those that remember, there is incredible resonance here with the language of the regimes collapsing in 1989. This situation is even more advanced in Orbán's Hungary, no doubt directly inspired by Putin's Russia, where NGOs must register themselves or, more accurately, denounce themselves as "agents of a foreign power" in a move tantamount to their muffled extermination.

Přibáň warns: "The civil public has no choice but to bypass the party (and power) apparatus and protest directly in campaigns of civil disobedience or open revolt. This is the only way of reminding parties that their politics also have a non-political plane and importance. Otherwise, the voice of the people soon mutates into the hollow cries of a fanaticised, deaf mass allowing itself to be led anywhere by anyone. And it would appear that there are more than enough candidates to take on the role of such a leader!"

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According to Přibáň, the frontlines in the defence of constitutionalism in his homeland (but also in Orbán's Hungary and Kaczyński's Poland) can be found where the independence of the weakest of the three branches sharing total power in the state is being undermined. As justice (in the loose sense) is the most obscure, it is the judiciary that is the most vulnerable in many countries. For Přibáň, then, the nub is the independence of the courts, prosecutors and the police.

To make sense of this book, it ought to be added that, in Přibáň's opinion, the outposts of this defensive line should now be watching closely the fate of the public prosecutors bill in his

homeland. For several years, it has been hanging like hope, but also perhaps – in another interpretation – as a threat. In my view, the European Union should not leave unchallenged the ominous changes made to the status of the judiciary in the member states of the Visegrad Group (the grouping of countries in the middle of Europe that extricated themselves from the Soviet Bloc and, on Václav Havel's initiative, appointed themselves as custodians maintaining the legacy of the tragic ordeals experienced under two totalitarian regimes). It is a cruel paradox that this legacy is now denied in two of them.

Fresh experience of Trump's America, however, renders the author's concern for the judiciary a universal warning. The courts must be strictly apolitical, but only insofar as they protect the sphere of politics simply as its outer walls. So that the walls are all the stronger for everyone.

Petr Pithart
Dissident, historian, former prime minister
and president of the Senate
(This preface is based on a review of the original Czech edition, published in Lidové noviny on 9 February 2015)

NOTE TO THE READER

There are momentous occasions when we bear witness to the march of history. Sometimes they seem anxious to please – witness the fall of the Berlin Wall, soon followed by the outbreak of the Velvet Revolution in Prague, in 1989. Other times, they trample underfoot everything we dreamt of and thought important. One such occasion occurred in the early hours of Friday 24 June 2016, when the results of the British referendum on whether the United Kingdom should remain in the EU were announced. The dream of a common Europe, politically liberal, built on a market economy and solidarity, and culturally open and tolerant, effectively began to melt away. To all intents and purposes, the immediate response by the European Parliament's president, Martin Schulz, who maintained that Brexit was not a harbinger of European crisis, merely confirmed the growing conviction that Europe today is in the hands of sleepwalkers blind to the gravity and profundity of the current crisis.

Besides the war in Ukraine, heralding the resumption of geopolitical strife between Russia and Europe, the first two decades of the new millennium on our continent have been scarred most of all by the wash-out that was the Union's constitutional project and by the global economic crisis, which hit the whole European economy hard and – with certain countries in the eurozone on the brink of national bankruptcy – cast doubt on the point and functioning of the common currency. Parallel to this, we felt the extraordinary force of not only the economic, political, technological and media interconnectedness, but also the general social connectivity, of a world in which Europe, with its EU and the member states thereof, though still a force to be reckoned with, hardly took centre stage.

Moreover, the present European crisis has turned out to be not just economic and political, but also intellectual. The cynicism of experts seesaws with the hollering of the multitudes, while political feebleness simply exacerbates civil outrage. Brexit was one of the

manifestations of this crisis. It was a protest against the elite by the masses condemned to present-day poverty. Yet, paradoxically, those masses were sold a pup by that part of the elite which campaigned for Britain to leave the EU. Though the spotlight was on immigration, more general differences in values, life chances, expectations and hopes loomed large in the background. Old against young, cosmopolitan metropoles against traditional villages, England and Wales against Scotland, students against factory workers, and on and on. In this peculiar referendum, then, the general antithesis between the accelerating transformation of society and the conservative nature of culture came to the fore.

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Unlike the early modern notion of linear history, which does not march so much as barrel at revolutionary speed towards the universal ideals of humanism, today we know that history likes to pause, retrace its steps, and sometimes vanish in the confusion for a moment, to the extent that some may feel it has ended. In such a globally entwined society and integrated yet disintegrating Europe in the early 21st century, how might we formulate the *Czech question*, which for two centuries has defined our political and social development and has always dwelt on the stature of our country and nation in Europe?

In the wake of 1989, this question took on the form of a seemingly simple paradox in which the process of building a constitutionally sovereign and democratic state was also meant to beat a path to the European Union, in which member states voluntarily limit their sovereignty, allowing some of it to be exercised instead by European institutions. Consequently, the possibility of establishing democratic constitutionalism also translated into the opportunity to become a part of a historically unique transnational union of democratic states cooperating and socially integrated on an unprecedented scale.

However, ever since the germination of Czech statehood, Czech society and its political representatives have been split on Europe and, especially, the European Union. One part viewed "Brussels" as just another in a long line of "invaders", while another hoped that the ever-democratic Union would protect Czech citizens from their own political elite, which was corrupt and knew no bounds. This division is emblematic of the right and left wings of our political scene. Some still haughtily argue that "we are Europe" and that we will not let anyone lecture us on anything, whereas others are always worrying that "Europe is drifting away from us" because we have blotted our copybook of EU diligence.

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The Czech question, then, is still routinely couched as an existential question when we should, at long last, be grasping it – in today's global society – as the pragmatic matter of nurturing constitutionalism and a civilly strong democratic society that extends far beyond any opportunity for national distinctiveness. With this in mind, this book is not limited to the defence of constitutionalism and constitutional democracy *per se*, but is also structured around a defence of the pragmatic concept of democratic politics. Closely linked to this is criticism of political existentialism, which steadfastly converts problems of policy-making and constitutionalism into questions of cultural existence and national destiny. As though the main, if not sole, task of building a constitutional state should be national self-determination and the quest for some sort of authentic being, rather than the creation of a representative government limited by civil rights and liberties.

Politics becomes an existential issue only in exceptional situations exposed to the risk of social catastrophe, as witnessed in Camus's *The Plague*. Political existentialism, however, has very little in common with such philosophical and ethical existentialism. It is a particular type of political thought that regards even everyday decision-making

as a series of exceptional situations always concerning the being and non-being of society. This total view of politics is a dangerous political existentialism.

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Tensions between democracy as a form of life and the political system cannot be converted into issues of cultural identity and existence. On the contrary, since politics – as claimed by Masaryk, his peers, and many others after him – is a job, it must inherently combine both the technical exercise of power and the critical question of its meaning.

It is disturbing that, despite the Čapekesque literary and intellectual tradition in the Czech cultural landscape, the idea still persists that pragmatism is a hollow, if not downright mean and unfair, sort of thinking and acting. As though pragmatic action were just another way of saying "cunning". Yet political pragmatism also corroborates the sociological observation that politics cannot regulate society in its totality because it is only one of many areas of social reality. Thus it is that the fate of society is never fully in the hands of any politician, and democracy must defend itself in particular against those who would pass themselves off as such leaders hand-picked by fate.

To critique political existentialism is to deal not only with, say, the work of the influential German philosopher of politics and law Carl Schmitt and his Czech epigones, but also with the ideas and concepts underlying modern democratic government, as set out in the works of Jean-Jacques Rousseau in particular. Both names therefore crop up in different contexts in the various essays in this book. In Schmitt's philosophy, the contradictions of modern law and politics are concentrated as in perhaps no other 20th-century work, hence it remains a provocative challenge even for all of his critics. Rousseau's life is the subject of *Intellectuals*, an essay in which this man's philosophy and life story are pitted against the moderate scep-

ticism of David Hume, characterised by the power of honest debate and the public world of politics.

It has been my intention to draw on the contrasting lives of these two thinkers to demonstrate the belief that democracy is primarily a convention and the associated ability to permanently self-correct and to address unexpected turmoil and crisis. Its advantage over every other political regime is the flexibility with which it is able to respond to the challenges of contemporary complex society, whose evolution is not etched in stone, as speculative philosophers thought, but is contingent, as shown, for example, by the German sociologist Niklas Luhmann in the social theory of autopoietic systems, in which, among other things, he expounded on the need for "sociological enlightenment".

According to this theory, modern society is functionally differentiated into various systems, so that neither politics nor science, economics, law or religion has the ability to describe and regulate such a society in its totality. These days, sociological knowledge and techniques are critical for legal, political and economic theory. However, any politician, economist or scientist keen to claim that he has a cure for all social ills is a charlatan and a liar. There is no total politics, just as there is no critical theory that can rid us of social malaise and pathologies and restore peace and tranquillity to our hearts and social existence. Even the biggest of crises is ultimately just a specific social operation, not a total meltdown or social apocalypse. Compared with all sorts of projects of morally and politically critical philosophy and cultural theory, Luhmann's theory of autopoietic systems is a much more radical break with anthropocentric humanism that preserves the critical power of thought.

Sociological enlightenment is not a theoretical panacea of modern society, but rather a sceptical reminder that it is impossible to medicate society with theoretical knowledge. In that context, the Czech question can be rephrased as a critical analysis of how law and politics work in our country, and what relationship this country

has shaped with European and global society. This is a pragmatic question on a specific political culture and on "how to do it" that cannot be framed by strong words about "historical destiny", "national spirit" or "historical mission".

Such an approach requires a radical rethink of the concept of *political culture*. Here, this term is taken not to mean the totality of national culture, from which the specific legal and political culture must have emerged, but only particular political practices and methods used, for instance, to define the relationship between the government and opposition, the workings of party politics or election campaigning. In this culture, there is also constant tension between principled disputes and day-to-day political operations, so we can include here the ability, in this particular time and in post-national politics, to promote and defend in our country the principles of civil liberties and rights, limited government, the constitutional state and representative democracy, the validity and cogency of which has been, is and will be – always and everywhere – at stake.

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This is one of the reasons why, for example, the final part of the book includes essays on Václav Havel and my generation of eighty-niners, as well as a personal hymn to Wales, where I have found a second home. Despite their more personal tone, even in these texts I have concentrated on the general issues and problems of constitutional democracy mentioned above.

Although the book is divided into several logically and substantively uniform parts, certain major topics, such as the role of the nation state in a global society, the purpose of democracy and elections, the importance of constitutionally limited government and fundamental rights, the relationship between Czech politics and the European Union, and the general crisis of society and thinking, permeate all the texts. Likewise, certain names and opinions surface repeatedly.

Besides Rousseau and Schmitt, I critically revisit the classic ideas in Karl Popper's philosophy, Max Weber's sociology, the sociology of the nation espoused by Benedict Anderson and Ernest Gellner, Loewenstein's concept of militant democracy and its relationship to constitutional rights and freedoms, and Bell and Robertson's theory of globalisation. Readers will also repeatedly encounter Kantorowicz's notion of the symbolic body of the sovereign, Rawls's concept of justice as fairness, Tocqueville's understanding of democracy as a form of life, and Patočka's concept of the *daimonion* as a voice of warning in politics and beyond.

The essayist form of expression makes for short-cut argumentation, but is also a conduit for hyperbole and the cross-over of topical examples from politics and the arts and culture with general ideas and references to classic texts and works. The current situation and events in Czech politics can thus be compared with Bakhtin's carnival theory and characters from Shakespearean tragedies, and just as much with the work of contemporary artist Erika Bornová and the traditional cultural stereotypes of Clever Honza and Schwanda the Bagpiper. In the interview with Jan Rovenský, which was also intended to serve as a reflection on the state of critical theory and leftist thinking and politics, I therefore try to interlink these themes not only in relation to the Czech political situation and developments post-1989, but also to the general theory of society and Luhmann's call for sociological enlightenment, to which I, as a legal philosopher and theorist, have always tried to find my own response in academic work, essays and journalistic activity.

This book was originally published in Czech by Sociologické nakladatelství, to whose editors Jiří Ryba and Alena Miltová I owe a debt of great gratitude for their careful and dedicated work on that publication. I also thank the editors at Karolinum, especially Martin Janeček, for his work in preparing the English edition, and the philosopher Mirek Petříček, a close friend of mine and the first person to come up with the idea of publishing an English translation of this

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Cardiff, 1 September 2016

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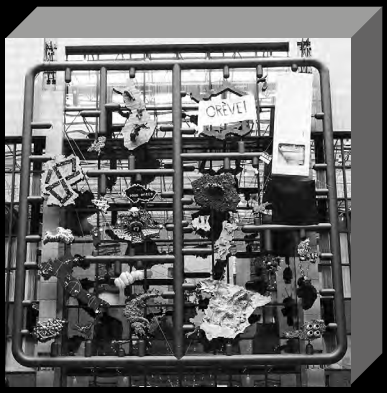
Czechs in Europe



David Černý, Entropy, 2009

THE CZECH QUESTION IN POST-NATIONAL SOCIETY

Hen Wlad Fy Nhadau, the title of the Welsh national anthem, is usually translated as Land of My Fathers. As in Josef Kajetán Tyl's lyrics to the Czech national anthem, *Where is My Home?*, Wales's anthem compares the country's mountains, rivers and valleys to "Paradise on Earth", where famous poets and singers dwell, and no traitors or usurpers will silence the harp of the Promised Land or the language of its people. The most popular Czech playwright of the 19thth century and a key figure of the Czech National Revival movement, Tyl himself was not convinced of the quality of the Czech anthem's sentimental verses, sung in his play *Fidlovačka* by the blind mendicant violinist Mareš, and originally wanted to leave the song out of the play altogether. Although the Welsh anthem also abounds with mighty rivers and patriots who would not hesitate to lay down their lives for the freedom of their beloved country, it is the sentimental sense of communion and harmony with the landscape, the vernacular language and history that clearly prevails in the verses here, too.

Yet who would apply aesthetic standards to national anthems?! Their only measure is their popularity among the people who live in a particular country, speak a common language and tell stories about the past that they call national history, i.e. meaningful history. Not even the nation's darling Bedřich Smetana wanted to test whether he measured up to such popularity, preferring instead to turn down Neruda's suggestion that he compose an official Czech national anthem.

Anthems come into being precisely at those historical moments when individual nations are inventing their own history and, through that history, strengthening the collective identity of their nation's imagined community. While it makes sense that every nation is "invented", this in no way reduces the intensity with which

its members experience this identity. National identities are an expression of and reaction to modern industrialisation which, while uprooting traditional communities, also contributes to the formation of a homogeneous national culture wired in with industry, commerce and state administration. This paradox was once accurately described by Ernest Gellner in his *Nations and Nationalism*. It was also recently aesthetically portrayed with the same accuracy, for example, by the Slovenian band Laibach, which moulded various national anthems into versions combining sentimentally plaintive voices and spirited marching rhythms, where industrial noises stand side by side with darkened declamations full of words about the greatness and glory of the individual countries and nations.

That which is invented and has a shared sense should be regarded as real in society, whether it be a belief in unicorns and fairies, or in national exclusiveness and universal scientific progress. Thus it is that the Czechs, the Welsh and other modern present-day nations on the cusp of modernity invent ancient traditions and history intended to confirm the greatness of their nation and the persistence of local and temporal links in a rapidly evolving industrial society. While the Czechs have fraudsters Josef Linda and Václav Hanka inventing medieval manuscripts, the Welsh have Edward Williams, who faked an ancient druidic language and, at the end of the 18th century, invented concocted traditions that are still celebrated at Eisteddfod, the country's largest cultural festival.

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Modern nations devise historical narratives and obvious forgeries, and adopt quite specific melodies and lyrics as anthems and new traditions that, in modern times, consolidate a shared sense of home and homeland. But they are different concepts. Homeland has its origins in the Latin word *patria*, and is therefore automatically associated with the "fatherland" and the authority to which all those living in a country submit. We may all be patriots in the

homeland, but at the same time we bow to the ancient mysticism of patriarchal power. What is more, we immediately associate homeland with the need to defend against internal and external enemies, hence a Freudian stab of fear and hatred is always inherent in love for one's country.

Homeland: a clear-cut boundary between "us" and "them", between the "outside" and "inside" of a society in which there are already sharp contours of power and domination shared and considered legitimate by the nation. Homeland (*vlast*) is close to ownership (*vlastnictví*), prompting a stinging differentiation between those who have "property rights" here and those who don't, be they vagrants, nomads or other "maladjusted" inhabitants of this planet. In a modern state, patriotism often creates the illusion that it is we who own our country, when in fact there are all manner of patriarchs of our *patria* who appropriate a fanciful nation and demand loyalty of it. The homeland also assigns its people a registration number at birth, registers all the important events in their life and organises their education and patriotic nurturing in school.

Homeland is a political concept, something that should be inherent especially in a civic – i.e. political – nation so that it does not degenerate into the supremacy of an ethnic gang. In contrast, home is not a political category, but the general state of mind and mood of a person in a situation where they feel comfortable and safe and where they understand what is happening around and to them. I am at home where they speak my language, the language in which my parents talked to me and in which my classmates and I told jokes.

Take the well-known quip by George Voskovec, for example, in which he starts by citing the American proverb "home is where you hang your hat", before adding that "home is where you hang yourself", thereby accurately capturing the existentially absolute meaning of home. One exile then aptly encapsulated the difference between home and homeland when he bitterly observed that, in fact, "home is where they let you hang your hat". We can make a home

for ourselves even in countries where patriotism is not required of us and where no one is driving us away.

Unlike a homeland, a home does not require loyalty. What is important is whether we feel "at home" and not whether some landlord defines a place as a home for us and, on that basis, rents it to us. This is why, as noted by Sylvie Richterová, for example, literature can be *místo domova*, which translates as both "a place of home" and "in place of home", i.e. it should be read ambiguously, as "a place of home in place of home".

Literature and art in general can be a pathway to home, but only because we know that each such path is ultimately a peculiar form of exile. Not even language can be such a home, as eloquently documented by Věra Linhartová in *Twor*, which she wrote after leaving for France, and which also includes the English sentence: "I have never been home / I can never stay abroad".

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People experience both internal and external exile; there is no opportunity to hang one's hat without politics, yet this is not a fundamental political issue. Modern Europe's political cataclysms stem from confusion between home and homeland. The modern concept of homeland politically came into being in the nation state, which exercises sovereign authority in its territory while keeping the population safe, including from any enemy threats. At the same time, however, the modern state does not want to be just the fatherland, but also a homeland where the first prerequisite of politics is national co-existence and where political issues become existential questions. The instant personal joy of home should turn into an eternal communion of absolutely loyal patriots. Democratic governance becomes the biopolitics of *Lebensraum*, and a democratic nation develops into a community mindful of ethnic or racial purity. The politics of the "return to the fatherland", this imaginary *Vaterland*, is one of the biggest demons of European modernity.

The rub lies in the fact that, in modern society, a person loses their home and becomes a universal exile. Houses are built, but homes disintegrate. Society – *Gesellschaft* – is growing, but the community – *Gemeinschaft* – is crumbling. The history of modern sociology is the history of the search for life in an authentic community which, for example, the German sociologist Ferdinand Tönnies contrasted directly with a modern rationally organised society in his *Gemeinschaft und Gesellschaft*. His French colleague Émile Durkheim associated modern society with an increase in organic solidarity and voluntary cooperation, while the Marxists also believed in scientific progress and the gradual withering-away of the state, to be replaced by the fraternity of humankind.

The society-community antithesis also explains the contradictions and tensions arising between home and homeland. While a homeland hinges on the state and social power, a home is a community which cannot be mandated, on which no claim can be laid, and which certainly can't be militarily conquered or occupied.

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The nation state engenders constant tension between homeland and home. Is the state just a homeland of chosen people or a political organisation which, while not a home in itself, allows its citizens to seek out and build, literally and figuratively, homes on their own terms? Are we all just homeless people in a contemporary global Cosmopolis, described by the US writer Don DeLillo in his novel of the same name as being an entirely cold and calculable society in which the system devours itself and is reborn from its own devastation? Or, conversely, is this the haemorrhaging of the dark underworld and a Heideggerian yearning for "poetical human dwelling" and a community of land and language destroying us and constantly opposing the rational order of society, which should include the modern state?

Were the topic of homeland to be reduced to the topic of the dangerous and mythical *Vaterland*, politics would be reduced to the

question of whom we allow to hang their hat and become a member of our community. This makes it necessary to be all the more steadfast in defining the homeland and patriotism as an important civic virtue and to divorce the sense of belonging to our polity from our home, which no politician can dictate to us. Politicians must not become landlords telling us what pictures and what furniture we may have in our homes.

According to Immanuel Kant, there is a single cosmopolitan and universal right, namely the right to hospitality – fair and respectful treatment in any political community to which a person comes either as a guest or as a refugee. Hence even in their "own" homeland people share not only responsibility with other citizens – the co-owners of the *patria* – for its fate, but also the obligation to treat fairly those who, for whatever reason, end up in their homeland. In today's European context, then, for example, there is far more talk about the need for European patriotism than about the European nation or national identity. Jürgen Habermas and other philosophers even picture European constitutional patriotism as the main source legitimising the process of European integration.

The originally conservative notion of constitutional patriotism, which in the 19th century was often contrasted with republican nationalism, is thus assuming a paradoxically radical political form and function in a European context.

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Modern politics facilitates both the democratic self-organisation of society and mass imitation of the life of a primal horde. Each way in which an individual nation describes and understands itself becomes all the more important, as do the myths it associates with its own past, from which it derives principles and maxims for its political present and future.

Every nation has a history, but only a nation that has a common history can survive and defend its existence in the modern world of

nationalised states and industrial society. From the very beginning of modern Czech history, then, we have been debating the "Czech question". The first revivalist generations viewed it as a question about the very meaning of national existence. While these generations were asking themselves whether to address the Czech question at all, by the end of the 19th century Masaryk was able to view it as a self-examination of the Czech national revival, the critical and scientific ethos of which was also meant to form a basis for realistic policy. In Masaryk's opinion, the then political crisis was a crisis of the political agenda and the inability to perceive the Czech question as a matter of democratic spirit that is not only national, but forms part of humanity's world struggle.

When the Marxist philosopher Karel Kosík asked himself the "Czech question" 70 years later, he grasped it as general criticism of the bureaucratic governance that had supposedly spawned the crisis of the political system. His argument pits the figure of the politician-thinker, able to scrutinise the import of his own actions, against the pragmatic, who simply keeps the system of governance ticking over. The naïve antithesis of the dehumanised system and human existence, on which the most diverse currents of Frankfurt critical theory, from Adorno to Marcuse, were built, thus found an original interpretation in Czech political and moral philosophy.

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The "Czech question" has always really been a European and global question, not only in political or geographic terms, but also from an intellectually philosophical perspective. It is part of a Romantic desire for an authentic life and freedom, which is so different from the sober objectivity of critical reason, and yet it is unthinkable without this intellect. As noted by Isaiah Berlin, the most important thing in the world for Romantics is devotion to true existence. This revolutionary idea, which the Czech revivalists shared with other Romantics across Europe, actually stretches back to Kant's Enlightenment