This study reviews István Bibó, one of the greatest thinkers in the field of political science in Hungary during the 20th century, and his ideas on self-determination and self-governance. Although Bibó did not use the term “(ethnic) minority autonomy,” he placed it into the perspective of self-governance. The author focuses on three important issues raised by István Bibó: firstly, he analyses the theoretical-historic emergence of the principle of self-governance, then he characterizes the ideas and the problems attached to this principle, and finally, he presents an institutional option linked to the principle of self-governance: political arbitration.

Keywords: Bibó, István; self-governance; constitutional, legal aspects of ethnic conflict; minority autonomy; minority rights/human rights; political arbitration

INTRODUCTION

Historians usually say that it is dangerous to learn history from Bibó but it is compulsory to study his historic approach. We do not have much space here to introduce Bibó’s colorful historic approach; we would like to focus on one of its components. In one of his extensively quoted works, Bibó wrote that – occasionally – history produces “great fluid moments”, when the direction of the given periods could be turned away. “These are the moments – quoted by Bibó – when relatively not much or nothing is necessary, when both everything and its opposite seems to be possible” (Bibó 1990(a): 332). If this change takes place, the following events will be directed into a common direction for a while. We can claim that Bibó was aware of the historic role of “supernatural structures,” but unlike his numerous contemporaries, he was not a bigoted determinist, he did not participate in the choir singing the false song of “irresistible necessity.”
he thought that sometimes history can offer special opportunities, in which the acting option of the actors in history, as well as their responsibility, would grow at a highly increased rate. The realization of these historic, but fleeting moments itself is the function of the “human factor”; the turning of history into a “good” perspective is even more. Bibó did not deny the role of a “human factor” in non-fluid moments of history, on the contrary. Even at the time of darkest dictatorships he considered the acting courageous important, which was verified “action talk” and exemplary of his own course of life.

When we examine Bibó’s statements from the perspective of this historic approach, then we can think of his thoughts on self-governance firsthand. This line of topics can be found in his great work The Paralysis of the International Institutions and the Remedies (hereinafter: Paralysis), written between 1965 and 1974, which was given a subtitle including the conceptual triplet of Self-Governance, Great-power Agreement, Political Arbitration. The source of this, as well as other writings by Bibó, was the one written in 1944, On European Balance and Peace6 (Bibó 1986(a): 295–365). Bibó returned to its problem-raising statements, occasionally to its text variants, in later periods of his intellectual career. Half or actually two-thirds of the Paralysis was published abroad in English during Bibó’s lifetime.7

Reading the mentioned work, we can see that there is no coherent, lengthy text devoted to minority autonomy. However, the chain of ideas in Paralysis8 forming a central element from the perspective of self-governance9 and the issue of minority autonomy10 occurs, this accounts for the topic of my presentation. Such as in his numerous, other writings, Bibó examined the principle of self-governance in a wider perspective in Paralysis, not forgetting the adaptation of this perspective to the institutional reality.

Consequently, our study focuses on three topics:

Firstly, I examine the theoretic-historic occurrence of the self-governance principle, then I analyze the nature and the problem of realization of the principle of self-governance, and finally I intend to introduce political arbitration, an institutional option related to the principle of self-governance.

The occurrence of the principle of self-governance

Turning to the first issue, we start with Bibó’s concept of legitimacy. He distinguished two types: contextual and formal legitimacy. Constitution and international law forms, for the relation between states, the formal type of legitimacy, while the base of contextual legitimacy is provided by the ‘basic organizational principles’ based on natural law.

The principles themselves are not independent of time and space, but change historically. At this point, Bibó turns for help to the already mentioned Italian historian, Guglielmo Ferrero and his famous argument on the different historic types of legitimacy.11 According to Ferrero12 four principles of legitimacy13 prevailed during the course of history: “electoral, hereditary, aristocratic-monarchic, and democratic principles” (Ferrero 2001: 51). These principles were fighting.

9 Gábor Kovács examined Bibó’s concept of “self-determination” in the context of “nation” and “nationalism” (Kovács 2004(a): 53–55).
10 In the already cited letter, sent from Bibó to András Révai (Bibó 1990 (b): 244), it turns out that the former was interested in “disputed territorial issues” from his childhood, in which memories related to the fall of the “historic Hungary” played a vital role. (By “historic Hungary” the pre-1918 Hungary was meant, both in the public discourse and Bibó’s use.)
11 Ferrero applies the concept of “legitimacy” in its consensual sense. “All in all, legitimacy principles are the justifications of power, that is the right for control” (Ferrero 2001: 51).
12 Ferrero had a great influence on Bibó, Bibó was even his student in Geneva in 1934–35, then in 1938, they met again at the time of the Munich-accord (Ferenczi 1993: 48–49). Bibó’s “Ferrero-reconstruct” – with legitimacy as a core concept – was reviewed by Gábor Kovács (Kovács 2004(b): 14–15).
13 Ferrero interpreted the category of ‘principles’ in his quoted work. “What are these principles? They are characterized by being transcendence-free, just and rational, though under certain conditions, and may become absurd if these conditions are absent, and they are unable to force themselves to human spirit immediately and irresistibly” (Ferrero 2001: 52).
but mixing as well, with each other. Bibó, modifying Ferrero’s principles, set two principles of legitimacy:

a.) the “old” organizing principle of monarchic-feudal legitimacy, providing a base for the legitimacy of the rule of the monarchs ruling by the grace of God, and

b.) the “new” democratic organizing principle replacing the old one, the principle of self-governance of the nations.14

There should be no doubt which principle Bibó felt sympathy for, but this sympathy did not prevent him from admitting objectively: although the First World War overturned the “old” principle, the peace system of Versailles, “compared to its own principles, was significantly more disharmonic than the old monarchic-feudal system of legitimacy in its heyday” (Bibó 1990(a): 331). The “new” principle turned more disharmonic,15 because it was never applied consistently. Mainly due to this deficiency, unproductive debates/conflicts took place between advocates of the full status quo and of permanent border revision during the interwar-period.

The principle of self-governance was not applied by the political regime based on the “old” – type legitimacy. After a lost battle, a monarch ruling by the grace of God, such as Francis Joseph, handed over/exchanged/ transferred etc. the disputed area with the population living on it, let them be “minorities” or “majorities”. With this act he transferred the loyalty of his ex-subjects to the new ruler. Although this type of legitimacy worked for so long,16 it was valid as long as the residents of the disputed area were “subjects”, not “citizens”. This change in their status took place when the “general democratic idea of liberty” became general, of which the principles of national sovereignty and self-governance can be derived. With the “new” type of legitimacy being general, the system of “transferring areas without asking nations” could not be applied, as this would have contradicted to the forming democratic values.

14 Bibó gives an illustration for the first, “old” type of legitimacy quoting Francis-Joseph’s aphoristic saying that he allegedly said after the lost Solferino battle: “I have lost the battle, I will hand down the province” (Bibó 1990 (a): 314–315).

15 Bibó – on Ferrero’s track – considered the Congress of Vienna the most successful application of monarchic-feudal legitimacy principle in the modern age, as “it applied the conciliatory method of territorial changes and transactions” (Bibó 1990 (a): 318). That was exactly why he regarded the “real” weakness of the Congress of Vienna that there were “some points, where it did not apply its own principle consequently” (Ibid).

16 However, Bibó discussed not only this dual legitimacy, but transitional forms as well, such as “the compromise of monarchic-feudal legitimacy with the national principle” (Bibó 1990 (a): 319–322).

REALIZATION OF THE SELF-GOVERNANCE PRINCIPLE

Turning now to our second issue, we can state that the self-governance principle occurred as a result of the democratization procedure in Modern Age. When it started to be applied during the build-out of the Versailles peace treaty system, it raised serious doubts. As we have seen, Bibó joined the critiques, as he criticized the inconsistent application of the principle. However, there were other counter-arguments, as well. It is worth considering to what extent can the application of the self-governance principle be reconciled with the requirement of creating “higher integrations”. In his opinion, one form of “higher integration” can be the “world state”, while the other can be the federation.

He analyses the peaceful form of the birth of the “world state”, the aspects of his analysis were dual, institutional on the one hand, social stratification on the other. As for the former, Bibó reviewed such institutions that were necessary for the existence of a working “world state”. Among these, he mentioned an “administrative apparatus with single spirit and official sense of vocation” and “an unconditionally loyal, strong and efficient armed force” (Bibó 1990 (a): 376). However, Bibó was skeptic about the birth/operation of the institutions mentioned. “Those who speak so easily and optimistically about a world government and world police force, usually do not think it over how long education and tradition – creation will result in correct, army obeying civilian authorities, and how little time is needed for the corruption of such a sensible instrument. If all these cannot be created beside a world government relatively quickly, then the world-scale central power hardly means more than another center of violence, threatening with the most dangerous conflicts and disorganization, among others” (Ibid). From a stratification perspective, the “world state” would go with “a high level, exclusive, worldwide elite coming to power”, a change Bibó was unable to accept. In his opinion, the birth of the civil society went together with the change “from the rule of the traditional elites, having prestige of birth and wealth, to the society based on materialistic production”, but the program of turning into a “worldwide elite” “will become saturated with a number of power and rule demands, while the real production elite is characterized by the lack of the ruling attitude, as for the objective value of its production, it needs it significantly less than the old ones with privileges” (Bibó 1990(a): 377).17 Accordingly, he considered the “programs of world dictatorships and the elite rule” nothing but a modern edition of the old social organization principles of “monarchism” and “aristocratism”. Therefore,

17 This idea was worked out by Bibó in his earlier works, it can be found in his Elit és szociális érzék in its most graphic form. In this book he even linked the two categories: ”it is the social sense of the leading stratum that is the condition and a proper tool for solving successfully social problems and crises” (Bibó 1986(b): 223).
for Bibó, the birth and operation of a “world state”\(^{18}\) and a “world elite” were problematic not because he considered their realization “utopian”, he considered their realization a mere “administrative technique”, but it was not. One should not put emphasis on “power, rule, their dimensions and outer techniques” that contradicts the “valid form” of legitimacy, based on “popular sovereignty and self-governance” (Bibó 1990 (a): 381).

Although Bibó had a better opinion of the other type of higher integration, that is federation, he did not think of this as a panacea, either. Federation is also “one branch of democratic liberty idea, as the principle of self-governance.” However, Bibó’s opinion in connection with federation was that he considered federation a road leading “towards a bigger, viable, higher integration”, with the effect that different “parts of nations divided by national conflicts” will be offered federation, instead of clearing the disputed issues, or wanting to maintain unviable federations.

A critique of the “Realpolitik” nature was voiced against the principle of self-governance saying that its practical application would be “subversive”, in other words, those intending to secede from a given state could “destabilize” the state borders, they would thereby be in conflict with another important principle, the “inviolability of the territorial integrity of states”. As a response, Bibó stated that the principle of self-governance had a “subversive” and a “justifying/stabilizing” role during the course of history. The “subversive role” means that the self-governance principle’s effect “goes beyond” the pertinent population and it extends to other countries, while its justifying/stabilizing role means that it is capable of “supporting” the “actual conditions” or stabilizing the changes, desirable for it, within a relatively short period of time (Bibó 1990(a): 403). The two functions cannot be separated from each other; their relationship is reflecting a more historic order.

In Bibó’s view, confrontation of both self-governance and the inviolability of the territorial integrity of states is not acceptable, because conflict seems to exist between an organizing principle – self-governance – and an actually existing institutional reality – territorial stability. This conflict, therefore, is apparent, because tension here is between a principle and its practical realization, contextual and formal legitimacy, while the institute itself is not entitled to annul the principle which it is based on.

Bibó further emphasizes that the application of self-governance may lead to the stability of a greater degree, instead of endless conflicts. However, in his opinion, the latter is not valued properly, but it is to be thanked for the fact that the majority of people belong to the states they want to belong to.

In order to “channel” the principle of self-governance, there is a need for an institutional arrangement of peaceful procedures, as the existing “international political dispute settlement procedures” proved to be insufficient. This claim provides an opportunity for reviewing these procedures and institutes that proved to be insufficient.

These procedures still including war have become “absurd”, “international police force” preempting war acted “rarely and with moderate success”; international treaties “role to legitimate territorial changes decreased, recognition of new states was done randomly, a wide range acceptance of the population resettlement would minimize nations’ command of their own land, post-WWII institutions of the international law (UN Security Council, the mediatory role of the General Secretary, UN International Court) were considered insufficient for an effective settlement of the disputes, institution of the unbiased international political court of arbitration he favored had not been settled (Bibó 1990 (a): 419–421).

Actually, Bibó mentions three such institutes that he considers being in accord with the principle of self-governance: uprising (war of independence) and its “weaker” form, civil disobedience, referendum, minority rights and regional self-governments secured internationally.

With respect to the first one he mentions, i.e. that the phenomenon of states becoming independent has evolved over the times, even against such a power that penalizes such movements to the utmost, condemnation by the international community appears, but he sees less chance for the conventional background of the legal background to evolve than for war. The risk of escalating the conflict can result in tragedy in those countries where certain population wants to break off from the motherland by an uprising. Another adequate institution of the principle of self-governance is referendum. Referendum is indisputably a peaceful, democratic institution; therefore there is no doubt that it is in accordance with Bibó’s values. On the other hand, the referendum held at the Saar-region raised serious doubts in him, as it threw a population of 300 000 at the mercy of a “gangster-government” (Bibó 1990(a): 457).

In Bibó’s view, the institution itself was not discredited by this, but he had reservations about it. He considered the “formulation of the question” of key importance, what the aims were. “By the help of questions formulated in bad faith – states Bibó – by leaving out alternatives expressing the wish of the whole or vital part of the population, it can serve directly to impede the will of the people to prevail, and prevents the smooth way of nation building” (Bibó 1990(a): 455).

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\(^{18}\) It can be seen that in Bibó’s quoted argument he discussed such issues that have been part of the discourse on globalization for a while.
Bibó considered the manipulative options of the referendum as well.

He considers the minority statutes and regional self-governments as the third institution in accord with the principle of self-governance, but he has his word of criticism. The shape of the legal procedure, the level (international or national) of the legal regulation meaning a normative solution are all indifferent to him, because as he says, “internal legal regulation is enough on behalf of a serious, responsible state, international commitment on behalf of an irresponsible government does not count much” (Bibó 1990(a): 448). However, for this institution to be capable of working, there is a need for “a very delicate psychological balance as well” (Bibó 1990(a): 449).

“It is necessary – says Bibó – for the majority state power having minorities to refrain voluntarily from forcing the appearance of enthusiastic patriotism, breaking the primary national loyalty of the minority, whether by direct or indirect force, and even in spite of the minority’s shared loyalty, the majority shall provide discrimination-free, even treatment for them, and extra minority rights. On the other hand, the minority population must be aware of their obligation to ‘pay’ for the discrimination-free, even treatment, realistic minority rights and territorial self-government with a certain correct citizen’s loyalty, and this correct attitude must also be demonstrated by the neighboring ‘ethnically identical’ country in question” (ibid).

Accordingly, the “majority state power” has a hope of winning the uncertain loyalty of the minority nation, having a consciousness different from the majority’s national consciousness, in proportion with its courage to provide minority rights or even territorial self-government. One must keep in mind that all these can be followed by either the stabilization of the situation and strengthening of the minority population’s correct citizen loyalty, or the increase of the secession movement. On the other hand, in the proportion of the degree to which it refuses to provide these rights, it will face the threat of turning a minority movement, earlier satisfied with limited minority rights and self-government, into a secession national movement, due to the refusal of these rights, and in the same proportion (Bibó 1990(a): 450).

Providing minority self-government is not the cause of the secession endeavor, as the representatives of the minority self-government, being afraid of it, tend to think, but the dynamics of the nation-building, of which “the experience of being oppressed” can be an important component (Bibó 1990(a): 451).

In spite of all his regards, Bibó thinks that this institution – even in the case of a successful application – can be considered as a substitute only for the principle of self-governance (ibid).

POLITICAL ARBITRATION

Forming the third thematic unit of our lecture, a question arises: is there such an institution at all that, in Bibó’s view, is capable of settling the disputes related to the realization of the principle of self-governance? In his opinion, there is no such institute in existence yet, but it can be created. This institution is the international political arbitration. This institution which is to be formed is different from normal international jurisdiction in the sense that one is of political, the other of legal nature, but in the sense that one is made up of elected, the other of regular judges, one proceeds according to the regulations of international law, the other would decide upon fairness. In his view, the biggest difference is in the function, political arbitration can be exceptional proceedings, whereas the other is permanent.

Bibó sketched the basic character of this institution and the possible organizational structure:

1./ such an organ must have exceptional powers;
2./ in spite of its exceptional character, it must be institutional in order to develop an undisturbed practice;
3./ it must be impartial and independent;
4./ in spite of its impartiality and independence, it must be of political nature, but in terms of “momentary political practicability”, in terms of judicium, political judgment (Bibó 1990(a): 510–511).

Bibó also dealt with the issue regarding the question among whom could judges be elected. He excluded two “extreme statuses” in advance: lawyers specializing in statutory international law and active politicians. Between the extremes, the range is quite wide, including professional diplomats, as well as political scientists and political journalists (e.g. Bertrand Russel, Salvador de Madariaga, and Walter Lippmann).

What kind of case-types could belong to the power of such an organ?

1./ First and foremost, border disputes;
2./ statements on tests aimed at new “state creation”, from the perspective whether the “planned” new state can be considered as a starting point of a continuous new nation formation;
3./ limitation of rights of individual countries. Bibó here refers to the idea that arose several times during his time, i.e. that “where slaveholder absolutisms, political gangster bands, paranoid individual dictatorships, or frantic ruling trials, based on racial theory or other irrational ideologies, come to power”, there boycotting the state is simply not enough, but limitation/suspension of rights could be a more effective tool (Bibó 1990(a): 513–514).
The issue of the normativity of the arbitration court’s rule, its obligatory force also surfaced. In case of the majority of rules, he considers binding force as a good solution, but he considers justified the opinion forming and the upholding rules, acknowledging the compromise already reached, as well (Bibó 1990(a): 515–516).

A good example of Bibó’s sensitivity towards details and his caution is that he calculated with the political side effects and additional obligations of political arbitration. He mentioned two important points of view. On the one hand, he referred that a state, which had a “benefit” from arbitration, shall be obligated to settle all its potential future debates by this institution. On the other hand, it can happen that the winner of the arbitration will be such a country, which does not respect the principle in its home affairs, upon which the beneficial decision was made. If it does so, not respecting even “the most basic human rights”, then the suspension of the decision or the delaying of the execution can be justified. If there are objectable, but milder cases, then there would be the possibility for determining “smartly selected political conditions”, such as general amnesty, smaller legal concessions (Bibó 1990(a): 518–519).

Reaching the end of our study, we can state that Bibó, in this outstanding work, took seriously his own creed, pertinent to the duty of the intellectuals. It is the intellectuals’ task to work out such social organizational techniques that can support the realization of the liberty program getting more complex, which spans through the whole of European social development. This development does not act by the force of “natural rights”: this issue can be made successful, but - as it happened many times during the 20th century - it can be damaged or brought into a dead end. And we must be on a wrong way, or at least in a dead end, if in the field of ethnic conflicts, long-lasting results could be reached neither by blood and iron, in other words by war, nor by spring water and dough, in other words by peace.

BIBLIOGRAPHY:


