

Visegrad Scholarship at the Vera & Donald Blinken Open Society Archives

Final Report

Research Project:

First Czechoslovak Republic and foreign political systems in the discourse about the Czechoslovak and Czech constitution

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My research proposal for Open Society Archives in Budapest was conceived as a part of my dissertation project entitled “Interest versus Idea: Factors influencing the creation of the Czech constitutional system” which focuses on creation of the political system of Czechoslovakia and the Czech Republic from the transition to democracy till the adoption of the Czech constitution at the end of 1992, especially on the triangle: parliament – government – president. More concretely my dissertation discusses the role of utilitarian interests of actors to be in power, ideas and values, historical tradition and foreign inspirations in the discussions about the Czech constitutional system, as well as how these factors influenced the final form of political system in the Czech Republic.

Objectives of the research

The research conducted in Open Society Archives from mid-February till mid-March 2017 aimed to understand what role has been played by the image of the political system of the first Czechoslovak Republic and the image/s of foreign models in the discourse connected with the preparation of the Czech constitution. Although the constitution of independent Czech Republic was drafted in the second half of the year 1992 when the Czechoslovak political elites opted for the dissolution of Czechoslovakia, the debates about the new constitutional design had begun during the transition to democracy and the works on the new constitutions (federal and both Czech and Slovak constitutions within the federation) had been initiated in the spring of 1990. In Czechoslovakia, the new elite right after the transition to democracy decided to stay with the old communist constitution and change only the most problematic provisions. The new term for parliaments and president as well should have been two years. However, during these two years of common Czechoslovak statehood the elites were not able to agree on the new constitutions and the disputes between the Czech and Slovak part of the federation led to the break-up of common state. Unless the preparations had never been successfully completed, the commissions in 1992 worked with the materials from federal time and some people who worked in the commissions in 1992 worked also in the commissions preparing the federal constitutions. Therefore, I have explored documents from the federal period as well.

I asked three interrelated research questions regarding the role of the First Republic: firstly, what image of the First Republic was created in the debates on the constitution? Secondly, how often and in what context the First Republic appeared in the discussions and argumentations, and finally what

role such an image played in the discourse. Similarly, I asked these three questions about the foreign models.

I consider three types of actors: politicians with real power to influence the form of the constitutional system, mainly the members of committees for the preparation of the constitution, constitutional experts and political figures with large informal influence, such as Václav Havel.

The reasons why I have chosen to examine the image of foreign models and especially the image of First Czechoslovak republic are following. Historical tradition of pre-authoritarian democratic systems and foreign models are often mentioned in the literature as the main inspiration for designing new constitutional and political systems (eg. Elster, Offe, Preuss 1998; Renwick 2010). In case of the Czech Republic, resp. the Czech Constitution of 1993, democratic historical tradition of the First Czechoslovak Republic seems to be prevalent. Firstly, there are strong similarities of constitutional systems of the Czech Republic and the Czechoslovak First Republic: both are parliamentary systems with proportional electoral system, bicameral Parliament and similar position of the president. Secondly, Czech Republic/Czechoslovakia was the only country from the region of Central and Eastern Europe that had an experience with working democracy. Thirdly, references to the inspiration by the First Republic and its constitution from 1920 may be found in a variety of places, for instance in the preamble of the constitution, in a commentary to the constitution, framed by the very authors of the constitution (Hendrych et al. 1997); furthermore, it is frequently quoted by the Czech constitutional lawyers as well as foreign authors capturing the emergence of constitutional systems (e.g. Filip 2002; Jirásková 2010; Mlsna 2010; Kopecký 2001; Elster 1995; Elster, Offe and Preuss et al. 1998). Nevertheless, a deeper and more systematic analysis of the role of inspiration of the First Republic and foreign models in discussions about the Czech constitution has been missing.

Theoretical Background

The project draws on the thesis that the system of the First Czechoslovak Republic as a symbol of democratic tradition was used to ensure the legitimacy of the new Czech constitution. The legitimacy of political institutions is perceived here in accordance with its modern definition based on faith, confidence, or conviction. For example, according to Dogan, institutions are legitimate when people deem them appropriate and morally correct (Dogan: 116). Fallon even argues that the social acceptance of the constitution bears more importance for its legitimacy than the process of its creation and the way of its ratification (Fallon 2005: 1787).

I assume that the Czech state builds its legitimacy on the First Czechoslovak Republic, which is very positively accepted among politicians and ordinary citizens as well. Czech democratic tradition is accentuated as an important part of the political culture (Holý 2010: 20), which can be well documented, for instance, by the fact that both Czech and foreign analysts often point to Czechoslovakia as being the only democratic country in Central Europe in the interwar period. Accordingly, it is necessary to examine how the tradition is being reproduced in social practice and whose interests it embodies and promotes, because although we seemingly invoke such a tradition in order to render sense to the past, we always recall it either to refer to the present or future goals. Tradition is thus reminded to legitimize or replace the current status quo and to mobilize people (Holý 2010: 139).

Moreover, I draw on the assumption that states enhance their symbolic power by referring to their past, which is viewed as a famous, grand, good. Therefore, the First Republic also functions as a symbol, and symbols are used to move our emotions and become enthusiastic about a political program, to

confirm the legitimacy of power relations and to express identification with a given political line. Symbols, myths and traditions facilitate identification of people as members of a nation and moulding of national consciousness (Holý, 2010: 10-11).

OSA archival materials and its contribution for my research

The materials I found at OSA complemented my previous research I made in the archives in the Czech Republic, especially in the Archive of the Chamber of Deputies of the Parliament of the Czech Republic and the Common Czech-Slovak Digital Parliamentary Library. In the holdings of these Czech institutions I found several important documents from the commissions working on the federal and then on the Czech constitution (documents and records of the debates) but, unfortunately, they are far from being complete. The biggest gap in documentation of the creation of Czech Constitution 1993 is the fact that the governmental commission which was the main one in process of constitution making did not record its meetings at all. There are also no documents from the commission that was working on the Czech constitution within the federation between 1990 and 1991. Because of that I was looking for additional materials which could help me to found more and understand better the debate about the Czechoslovak and Czech constitution and OSA offered this insight to me.

The collections which I identified as most valuable for my research were Records of Constitution and Legal Policy Institute (COLPI) and then Records of the Open Media Research Institute and Records of Radio Free Europe/Radio Liberty Research Institute. I found there various types of documents like COLPI experts' reports, manuscripts from conferences and symposiums, research reports, correspondence, academic articles and chapters, draft constitutions, constitutional court decisions, background material, working materials from commissions, press articles from RFE/RL monitoring of Czechoslovak media.

The documents I collected during my stay at OSA Archives will be compared and contrasted with documents from the Czech archives. Some documents in OSA and Czech archives are overlapping but lot of them are very unique. Thanks to COLPI collections I found out that there were few conferences that addressing the constitutional changes and democratization in Central and Eastern Europe in the beginning of 1990's, where met together experts and politicians from this region with foreign experts. The aim of these conferences was to support the democratization processes in post-soviet region. The transcripts from conferences and experts' and research reports helped me to learn more about the academic debate which influenced the discourse about the Czechoslovak and Czech constitution. Very important for my research is also the fact that some of the participants of the conferences or correspondents of COLPI were Czech or Czechoslovak members of the committees preparing constitutions. The excellent example is Vojtěch Cepl who was one of the authors of the Czech Constitution of 1993 and simultaneously a COLPI correspondent. My research at OSA Archivum included also a comprehensive research into what were these conferences, what were their goals and audience, who were the experts of COLPI and experts from the conferences, where they came from (which country, which university or institution), what were their carriers, in order to contextualise the materials I was working with and to understand better motivations of these experts.

To sum up, during the one-month research period at OSA, one and the essential part of documents I collected were COLPI materials, the second one, articles from Czechoslovak media, especially from the Czech press. The articles from the period of constitution making provided me with a general picture of the public debate about the Czech constitution.

My research stay at OSA Archivum has contributed a lot to my dissertation project by providing relevant documents and opening new insights in the academic and public debate about the constitution.

Now I am starting to use a content and discourse analysis to analyse the materials collected in OSA. I would like to examine the role played by the political system of the First Republic/the Constitution of 1920 and foreign models in the argumentation of actors preparing both constitutions and the context in which the First Republic and foreign models occurred in the texts. I will compare the texts which were oriented towards the public and the texts oriented towards the political community itself, as it is important for the analysis to determine what role the text has played. I will also examine whether the images of these concepts have changed in time. The analysis is based on the belief that the ways how we name things and contextualize them with our concepts determine the human perception of the world. We employ concepts and symbols as tools through which we interpret and create the world we live in (Tonkiss 2004: 247; Holý 2010: 215).

List of documents and publications consulted:

HU OSA 103 Records of Constitutional and Legal Policy Institute

HU OSA 103-0-2 Country Files

Archival boxes: 7, 8, 9, 10, 11

HU OSA 103-0-3 Country Specific Background Material

Archival boxes: 2

HU OSA 103-0-4 Manuscripts by COLPI Fellows

Archival boxes: 1, 2, 3, 4, 8, 10

HU OSA 103-0-5 Additional Manuscripts

Archival boxes: 1, 2, 6, 8, 9, 11

HU OSA 103-0-6 Western Experts Comments on Constitutions and Laws

Archival boxes :2

HU OSA 205 Records of the Open Media Research Institute

HU OSA 205-4-40 Czech Subject Files

Archival boxes: 12, 15

HU OSA 300 Records of Radio Free Europe/Radio Liberty Research Institute

HU OSA 300-8-44 RFE/RL Research Report

Archival boxes: 1, 2, 3

HU OSA 300-30-7 Old Code Subject Files VI

Archival boxes: 649, 652

HU OSA 300-30-8 Czechoslovak Unit: Old Code Subject Card Files

Archival boxes: 56, 57, 58

HU OSA 300-30-22 Czechoslovak Monitoring

Archival boxes: 223, 224, 225, 226, 227

HU OSA 300-30-25 Czechoslovak Press Survey in Czech and Slovak

Archival boxes: 40, 41, 42

HU OSA 300-30-26 Czech and Slovak Press Survey in Czech and Slovak

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