

The Fall of Communism in Czechoslovakia

Ján Čarnogurský

As in other Central European countries, Communism collapsed suddenly in Czechoslovakia, but signs that it was weakening were apparent several years in advance of its downfall. This was evident in its reduced ability to repress opponents. Although action was still taken against dissidents in the law courts, lighter sentences were given and the police seemed less willing to initiate criminal proceedings. In short, judges, prosecutors and the police were more or less aware of what was going in the world at large and were not willing to put their heads on the line for a regime that was less and less capable of competing with other political systems.

In Czechoslovakia, more and more people were coming to trials with the regime's opponents and they showed their sympathy with the defendants in various ways. Communication channels, which at the end of the 1980s consisted mainly of long-distance telephone calls, made it possible for broadcasters – such as Radio Free Europe, the Voice of America, the BBC and others – to run reports on the progress of the trials, including the full names of the judges, prosecutors and police officers involved as early as the evening of the first day of the trial. This made those involved very nervous since they could no longer serve the authoritarian regime anonymously. Making the full names of judges, prosecutors, investigators and other lackeys of the regime public was very important.

Responsibility of a Minority

Naturally, only a minority in a society puts up resistance against an authoritarian regime. However, this minority can motivate more and more people to take part in individual events that are part of the process of undermining the dictatorship. In Czechoslovakia during the 1980s, the number of people willing to sign a petition, make a proclamation or protest against a trial was increasing. As was the number of people willing to join a demonstration. The responsibility of the active minority lies in not driving people into protests against the regime that would put them at too great a risk, thus surpassing the current degree of awareness or the level of resistance.

During the final period of the Communist regime in Czechoslovakia, growing numbers of demonstrators with increasingly radical demands were visible: during

the “Candle Demonstration” in Bratislava in March 1988, demonstrations in Prague in October 1988 on the occasion of the anniversary of the establishment of Czechoslovakia, the January 1989 demonstrations on the occasion of the 20th anniversary of Jan Palach’s death and finally the November 1989 demonstrations all over the country. Correct assessments of the form and degree of radicalism of individual protests against the regime are important for suitably intensifying pressure on the regime. If resistance leaders assess the social situation in their country incorrectly and take protests further than the level supported by at least a significantly large group of people, they usually end in failure and such a failure, in the end, tends to strengthen the existing dictatorship.

Protests against the regime have a greater chance of succeeding if they are linked to domestic events or traditions, rather than abstract symbols familiar only to a small group of people, usually the intelligentsia. For example, Charter 77 organized a demonstration in Prague on December 10, 1987, on the occasion of Human Rights Day. Despite Charter 77 appealing to the public through samizdat media and international broadcasters, most people in Czechoslovakia knew nothing about Human Rights Day and very few took part in the demonstration. On the other hand, tens of thousands of people demonstrated in Prague in October 1988 on the occasion of the 70th anniversary of the establishment of Czechoslovakia. When organizing protests, it is also important to leave sufficient space for the spontaneity of the participants. Protest organizers should not try to direct the course of the protests in too much detail.

Isolation of the Minority

Opponents of an authoritarian regime usually operate in relative social isolation. This is understandable, as the pressure of the existing regime and the danger of repression prevent most people from participating in social change. This is all the more evident when most people live in conditions that do not allow them to envisage the existence of any other regime in their county. Social isolation tends to encourage the proponents of active resistance to devise various projects for the future that later prove to be unviable.

Between 1988 and 1989, a group of lawyers in Czechoslovakia drafted a Czechoslovak constitution to be applied after the fall of Communism. It was a constitution that met all the standard requirements of democratic states. However, the future constitution project did not reflect the real political pressures that arose shortly after the collapse of Communism in Czechoslovakia and that any constitution must respect to a lesser or greater degree. As a result, almost nothing from the project of the Czechoslovak constitution as drafted by lawyers associated with Charter 77 was implemented.

From Prison to the Government

My personal experience with resistance against Communism came gradually. In 1981, I was barred from the legal profession after ten years of working as an attorney in Bratislava, because I had defended a dissident on trial. The Communist Party did not approve of the fact that I had tried to defend her dutifully and not only formally. The letter from the Secretariat of the Central Committee of the Communist Party of Czechoslovakia, which instigated my exclusion from the Bar, stated that I was not only defending the person on trial, but also her crimes. Let me note that her crimes were copying texts of Czech and Slovak writers who had been excluded from the Writers Association for supporting Alexander Dubček's policies in 1968. After the exclusion from the Bar, I worked as a driver, manual worker and lawyer, until I ended up unemployed.

At the time of the Velvet Revolution in November 1989, I was in prison in Bratislava. I was released at the end of November 1989. One day after my release, I spoke at the demonstration in Bratislava's main square; three days after my release I became a member of the delegation of dissidents led by Václav Havel that was discussing the takeover of power with Czechoslovakia's Prime Minister in Prague. Two weeks after my release from prison, I took the oath as Czechoslovakia's Deputy Prime Minister at the Prague Castle. I was responsible for legislation, i.e. the formulation of laws regulating the change of a Communist state into a democratic one. During the first three weeks of the new government, until Václav Havel was elected President, I was also partly responsible for the Federal Interior Ministry, including the police force.

The first session of the new Government of National Understanding took place on December 10, 1989, which was Human Rights Day. We went to the government building in Prague straight from the Prague Castle where we had taken the constitutional oath. Marián Čalfa, a minister in the last Communist government, had become Prime Minister and the agenda of the government session listed only one item – the approval of a declaration on the occasion of Human Rights Day. It was an unreserved endorsement of human rights protection and the government approved the declaration unanimously, even though nearly half of its members were people appointed by the Communist Party of Czechoslovakia. Valtr Komárek (Che Guevara's former economic advisor) and I had become the first Deputy Prime Ministers. Valtr Komárek had government experience from 1968. For me, participation in the government was something completely new. Until the government session in question, the events in the previous weeks had been incredibly hectic. Only at the government session did I realize that a completely new chapter in my life was beginning and I was assuming part of the responsibility for my country's development. At the end of this government session, Valtr Komárek told me: "Jan, you look a little pale."

Communism in Czechoslovakia ended suddenly and peacefully. The changes in surrounding countries were important prerequisites for the fall of Communism in Czechoslovakia. The wall had fallen in Berlin, Tadeusz Mazowiecki's non-Communist government was in power in Poland and in Hungary the Iron Curtain on its border with Austria had been removed. The peaceful and sudden collapse of Communism in Czechoslovakia meant that legislative changes became important instruments of the subsequent transformation of society.

Changes of the Constitution

The changes began with the removal from the constitution of the article prescribing the leading role of the Communist Party in society. This article was deleted from the constitution by a parliament that had been elected through official Communist elections. Another change of the constitution allowed the replacement of the members of the Federal Assembly of Czechoslovakia and the national parliaments of Slovakia and the Czech Republic, on the basis of agreements brokered by the existing political forces. The aim was for the composition of the parliaments to reflect the existing proportions of political forces in the state. The first democratic elections were supposed to take place in the middle of 1990. From December 1989 to March 1990, more than half of all MPs in all three parliaments were replaced so that non-Communists held a majority.

Before the first elections in June 1990, approximately ten amendments had been made to Czechoslovakia's constitution. The changes were made gradually in line with the adoption of new acts of a democratic, economic and organizational nature. For example, the privatisation of the economy required a constitutional change. Other changes of the constitution were needed for the adoption of acts laying down the democratic rights of citizens and a democratic political system. An important group of constitutional changes included articles stipulating the new constitutional status of the Slovak and Czech republics within Czechoslovakia. When the new Federal Government of Czechoslovakia, in which former dissidents held a majority, took office in December 1989, no one was able to predict the course of future political developments. It was therefore not possible to prepare a comprehensive concept of constitutional changes. Constitutional amendments continued to be implemented until the break-up of Czechoslovakia on January 1, 1993. However, a comprehensive new Czechoslovak constitution had never been adopted.

An Excessively Broad Amnesty

At the end of December 1989, following the election of Václav Havel as President, the government considered his draft resolution on an amnesty for prisoners. The draft had been written by the President's Office. It bore obvious aspects of the legal opinion

that the Communist judiciary had artificially produced criminals and a great many of them should be released. I simply considered the proposed amnesty too broad. I had practical experience as an attorney, had defended criminal cases and I had recent experience from prison. I knew that the vast majority of prisoners were, even before November 1989, real criminals. Now I am referring to the 1980s, not the 1950s.

As the Deputy Prime Minister responsible for legislation, I had reservations regarding the proposed amnesty. Following a long discussion about the proposal, the government decided that I, on behalf of the government, and Alexander Vondra, on behalf of the President's Office, should review the whole proposal once again. Our personal meeting resulted in a compromise. The amended amnesty was not as broad, though not to the extent that I had proposed. The President proclaimed the amnesty at the beginning of January 1990 and thousands of Czechoslovak prisoners were released. However, a great number of them ended up back in prison soon afterwards. They had created problems all over the country and the extent of the amnesty provoked a negative response from the public.

Paradoxically, even such a broad amnesty did not apply to one convict from Poprad. I had shared the cell with his accomplice in a prison in Bratislava. F. B. from Poprad was sentenced in the first half of the 1980s under the charge of terrorism. At the beginning of the 1980s, he had sent a parcel to the Secretary of the District Committee of the Communist Party of Czechoslovakia in Poprad, containing a homemade bomb. The bomb had a light-sensitive trigger, as well as a mechanical one. The mechanical trigger was locked, so the light-sensitive trigger that would activate the bomb following the opening of the parcel did not work. The mechanical switch had not been released and the bomb was only a warning for the Communist functionary who had a very bad reputation in the Poprad district. The amnesty did not apply to F. B. because he was sentenced for an attempted violent crime. I tried to intervene on behalf of F. B. at the President's Office to obtain an individual pardon. I was not successful but F. B. was released on parole a year later, after he had served two thirds of his sentence.

New Government and New Laws

The first entirely new laws included acts on the new social and political systems in Czechoslovakia. The adoption of acts on elections, political parties and civil rights followed legislative traditions that to some extent were still preserved from Czechoslovakia between the wars. The Freedom of Assembly Act, the Freedom of Association Act, the Political Parties Act and the Elections to Legislative Bodies Act were approved. The formulation and adoption of these acts did not encounter any particular political problems. A new political structure of the country formed during the first weeks following the fall of Communism. The Civic Forum (*Občanské fórum* – OF) was established in the Czech Republic, initially as a free social movement, which

soon turned into a political party that included the main opponents of Communism. From November 1989 to its disintegration after the elections in 1990, the Civic Forum dominated the Czech political scene.

Two other political parties were revived and became active in the Czech Republic – the Czechoslovak People's Party and the Czechoslovak Socialist Party – which had more or less existed only formally under Communism. The Communist Party of Czechoslovakia also continued to exist. These four parties on the Czech political scene appointed members of parliament, government and other public authorities, based on agreements reflecting the political changes in the country. In Slovakia, the leading political organisations included the Public Against Violence movement, the Christian-Democratic Movement, the renewed Democratic Party and the newly established parties of the Hungarian minority. The Communist Party of Slovakia also lived on. These political parties, through mutual agreements, formed the political system in Slovakia.

In December 1989, the new government was very busy forming new social and economic systems. State-owned companies, which had had big problems even during Communism, simply started to fall apart under the new circumstances. The employees of many state-owned companies called for the removal of the old management, imposed by Communist functionaries, and they elected new managements. On the one hand, such developments were understandable. However, on the other hand, it was obvious that the appointment of company management could not be done through the ballot box, as even from the mid-term point of view, no management would be satisfactory to a majority of the employees. For this reason, it was necessary to amend the act on state-owned companies to allow for quick management change and to stabilize them to prevent the companies' rapid disintegration. Many companies began to go under in the new conditions. The issue of unemployment, which had basically been non-existent under the previous Communist regime – at the cost of other massive drawbacks, however – very quickly started to gain importance in society. It was necessary to rapidly adopt laws on unemployment benefits and adequately couple them to other social acts.

Criminal legislation also had to be changed rapidly. The overall transformation of criminal law legislation turned out to be a long-term task, though initially it was sufficient to drop clauses that had allowed the prosecution of political acts as crimes. Changing the Civil Code turned out to be a far bigger problem. On one hand, the new social and economic conditions in the country required its swift modification. On the other, every amendment of the Civil Code is a complex issue and requires careful preparation. The amendment that resolved the most pressing issues was prepared within one year. An entirely new Civil Code has to this day not been adopted, either in

the Czech Republic or Slovakia. The Civil Code amendments also had implications for changing the Economic Code into the new Commercial Code.

The State Security Service and Courts

As for the state security apparatus, the first change had to focus on the Czechoslovak political police, known as the State Security Service (*Státní bezpečnost* – StB). One section of the StB was dissolved in December 1989. The StB as a whole was disbanded in 1990 – its members had to leave the police forces gradually in Slovakia and the Czech Republic. However, it turned out to be a more complex process than it had initially seemed. Some units of the StB had performed tasks that required high expertise, such as wiretapping and counter-intelligence operations. Even a democratic state cannot give these activities up and the training of new experts requires significant time.

It was also necessary to clean up the judiciary. An act was adopted that shortened the period in office for judges to approximately one year. However, judges continued to perform their duties. Those judges, against whom objections were raised because of their political decisions under Communism, were screened. The judges whose decisions proved to be in conflict with international agreements on human rights were not reappointed at the end of the given year. It should be noted that very few judges were forced to leave office.

As a general statement, the initial transformation of legislation in Czechoslovakia after the fall of Communism proceeded quite smoothly and was based on logical decisions as to the most suitable solutions. As time went on and new political, social and economic problems arose in the country, the adoption of new laws was becoming more difficult and acts of law were increasingly influenced by competition among political parties.

Ján Čarnogurský graduated from the Law Faculty of Charles University in Prague; he worked as a law clerk between 1970 and 1981 and later as an attorney in Bratislava. In 1981, he was excluded from the Bar for political reasons but after that he provided legal consultations to opposition political and religious activists. Between 1982 and 1986, he worked as a driver and later as a company lawyer. He was unemployed between 1987 and 1989; he published the samizdat magazine “Bratislavské listy” and was involved in opposition structures where he represented the Christian Democratic Movement. From December 10, 1989 to April 1990, he was the first Deputy Prime Minister and from April to June 1990, the Deputy Prime Minister of the Czech and Slovak Federal Republic. From February 1990, he was the leader of the Christian Democratic Movement in Slovakia; from June 1990 to April 1991, the first Deputy Prime Minister and from April 1991 to June 1992, the Prime Minister of the Slovak Republic.