

THE
DEAN'S PAGE



Center for the
Study of
Constitutionalism
in
Eastern Europe

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The two primary articles in this issue of the *Record* concern the activities of the Law School's Center for the Study of Constitutionalism in Eastern Europe, which operates under the auspices of our Program in Law and Government. I would like to take this opportunity to describe some of the ideas that set the Center in motion and what we intend to accomplish.

Soon after the collapse of communism in late 1989, a group of scholars at the University realized that the formation of "new" states in Poland, Czechoslovakia, Hungary, Romania, Bulgaria, Albania, and Yugoslavia offered an unprecedented opportunity for comparative study. Each of these nations had emerged from a period of one-party communist rule, each had a pre-communist constitutional tradition, and each had begun the process of transition from central planning to a market economy. Moreover, these nations are historically intertwined and have a common stock of memories, experiences and animosities, yet each is unique, with its own legal, economic, social and political tradition. They thus presented an ideal opportunity for comparative analysis and for careful study of the process by which a nation defines itself. With the more recent collapse of the Soviet Union, the Center has now added the three Baltic states (Estonia, Latvia, and Lithuania), Ukraine, and Russia to the study, thus further enriching the opportunities for understanding.

The Center brings to its task a

diverse and distinguished group of scholars. Its four University-based directors are Jon Elster, Edward L. Ryerson Distinguished Service Professor in the Departments of Political Science and Philosophy; Stephen Holmes, Professor of Political Science and Law; Cass Sunstein, Karl N. Llewellyn Professor of Jurisprudence in the Law School and the Department of Political Science; and Michael McConnell, Professor of Law and Director of the Law School's Program in Law and Government.

Under the guidance of these directors, the Center will examine the recasting of legal, economic, social, and political institutions in the nations of Eastern Europe with an eye toward understanding the political and economic consequences of specific constitutional arrangements, the essential relationship between economic and personal liberty, and the reasons why particular constitutional structures are adopted in one country but not in another. The Center will focus on ten specific areas for study: constitution-making procedures; legislative/executive relations and presidential powers; ethnic and national conflict; federalism and local government; retribution and restitution; privatization and private property; judicial review; individual rights; election laws and party formation; and political psychology.

The Center's first task was to establish a network of correspondents in Eastern Europe who would collect

documents, gather data and monitor the constitutional process. That network is now largely in place. Our correspondents are a very impressive group. Each is a recognized scholar who is sufficiently well placed to follow the process first hand and to provide thoughtful and original commentary. For example, one of our correspondents in Ukraine, Volodymyr A. Vassylenko, heads the commission that is now writing the Ukrainian Constitution; Vojtech Cepl, one of our Czech correspondents, is the Vice Dean of Charles University School of Law, the most respected law school in Czechoslovakia; Serghei V. Sirotkin, one of our Russian correspondents, is both a member of the Russian constitutional commission and a member of the Russian parliament. He has made available to us for interviews the entire membership of the Russian constitutional commission. One of our correspondents in Hungary, Andras Sajo, is Professor of Comparative and International Business Law at the University of Economic Sciences and Director of the Legal Studies Program at Central European University. In Poland, Wiktor Osiatynski, one of our correspondents, and a director of the Center, is Program Director at the Center for Human Rights in Eastern Europe and advisor to the President of Poland.

Every three months, these correspondents produce reports for the Center that review particular facets of the constitutional process. The correspondents are also responsible for gathering documents and other sources of information that are not otherwise widely available. They conduct interviews with influential participants in the constitutional process, for example, and forward the audio tapes to us. This affords the Center a unique collection of sources that will be available to scholars from throughout the world for generations to come.

The on-going work of the Center is reflected in *The East European Constitutional Review* (our quarterly report), our Working Paper series,

semiannual conferences and codification of the documents collected. The *East European Constitutional Review* summarizes the information the Center has gathered in the last quarter, reviews the papers that were produced during that period, and reports on the status of the constitution-writing process in each of the nations involved in the study. The first two issues of the *East European Constitutional Review* have already been published. If you would like to receive this publication, please let me know and I will put you on our mailing list.

The Center convenes two major conferences each year—one in Eastern Europe and one in Chicago. The first conference, "Constitutional Revolutions in Eastern Europe," took place at the Law School in October, 1991. This gathering of all of our Eastern European correspondents, as well as other European and American scholars, helped sharpen the basic research interests of the Center. The second conference, "Political Justice and Transition to the Rule of Law in East Central Europe," was held in Prague in December, 1991, at Central European University. That conference focused on the issue of retributive justice, that is, how the post-communist governments will confront former Communist Party members who stand accused of crimes committed during the communist period. Our third conference is planned for the fall at the Law School and will examine issues of retribution and restitution. Future conferences will consider electoral laws, fiscal constitutions, constitutional courts, and the structure of governmental powers.

As already noted, the Center's long-term goals include the development of a unique database of materials generated by the efforts of our scholars and correspondents. The codification of these documents is critical. The database contains constitutional drafts, transcripts of parliamentary and roundtable debates, and supporting political and social commentary. Documents come to the Center both in original form and with accompany-

ing translation, and are then catalogued. It is our plan to build within the University's D'Angelo Law Library a one-of-a-kind collection that will enable scholars from throughout the world to pursue their research in comparative constitutionalism years after these constitutions are written. The Center has arranged for a copy of the database to be preserved and catalogued in Prague at Central European University so it will be more readily available to a broad spectrum of European scholars.

The Law School has brought the work of the Center into the classroom. In 1991-92, Wiktor Osiatynski served as a visiting professor and taught a course on Constitutionalism and Individual Rights in Post-Communist Poland; in 1992-93, Andras Sajo will teach a course on Comparative Constitutional Law in Eastern Europe; and in 1993-94, Vojtech Cepl will teach a course on Property Rights in Post-Communist Societies. Moreover, in 1992-93, five students from Eastern Europe will study at the Law School under the auspices of the Center.

This project is obviously very ambitious. The swiftness of political change and the chaotic environment in which the transformation is taking place pose extraordinary challenges, both intellectually and administratively. Because these nations lack a modern infrastructure, the Center must be highly flexible in its operations. This is the most extensive and most comprehensive effort being made anywhere in the world to record and to understand the constitutional and legal implications of the revolutionary events of Eastern Europe. We hope you share our pride in its achievements.



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