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0521479312 - Institutional Design in Post-Communist Societies: Rebuilding the Ship at Sea

Jon Elster, Claus Offe, and Ulrich K. Preuss

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Introduction: agenda, agency, and the aims of Central East European transitions

The breakdown of the European regimes of state socialism and the subsequent efforts to establish a new social order in its former domain are arguably the most consequential, as well as most fascinating, historical events in the authors' adult lifetime. What we want to understand in this comparative study is not so much the breakdown of the old order, but the problematic emergence of the new. To that end, we look at three groups of phenomena and their causal interconnection. These phenomena can be located on a time axis. First, we have the material legacies, constraints, and set of habits and cognitive frames that are inherited from the past regime (as well as the social and cultural conditions preceding it), as well as from the mode of its sudden and unpredicted disintegration. Second, we see a turbulent configuration of new actors and new opportunities for action; they emerge as the old regime loses its repressive grip on society. Third, we see – or rather still partly anticipate – a new consolidated institutional order under which agency is institutionalized and a measure of sustainability (or “consolidation”) of these agency-shaping institutions is achieved. Thus the breakdown, transformation actors, and new and (more or less) consolidated regimes are the three phenomena we encounter along the transformation path. The causal links that connect the (in)stabilities of institutional outcomes to actors, and actors to the constraints, opportunities, and preferences inherited from and inherent in the original conditions of the breakdown of the old regime will together form the focus of this book.

Events along this path, and the demise of the state socialist system in particular, can at best be explained with the benefit of hindsight; they had not been predicted beforehand, other than in the way of idiosyncratic

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guesswork by non-academics, as opposed to robust social or economic theories about the sustainability of the state socialist social order. There is a somewhat ironical symmetry of cognitive failure: while the official doctrine of state socialism *included* a theory about the necessary eventual demise of democratic capitalism which so far has *not* occurred, social science in the West had *no* established theory about the crisis and breakdown of state socialism before it actually *did* occur. Apart from the fact that the social sciences have not been very strong in predicting macro-events (partly because such predictions tend to trigger forces that render them self-destructing, as was arguably the case with Marx' prediction concerning the future of capitalism), there are a number of ways to account for this specific failure of predictive theory (see Lipset and Bence 1994).

First, Western theorists may have been blinded either by their tacit hopes for state socialism being eventually able to sustain itself through learning and reform or, more likely, by the fears of what would happen to the post-World War II world order if state socialism were to crumble. A syndrome of left liberal "anti-anti-communism" may have led a generation of observers who grew up under Cold War conditions to take the permanence of the Soviet empire for granted. Conversely, on the part of those who would have wished the Soviet "kingdom of evil" to disappear from the map the self-censorship mechanism of counter-wishful thinking may have played an inhibiting role.

Second, the fate of state socialism was actually exceedingly hard to predict, given the systemic opacity of this social order, i.e., its inability to monitor itself and provide reliable information about the state of its critical variables not only to Western observers and the mass of East European populations, but even to Eastern elites themselves. State socialism, in other words, is a system that does not generate knowledge, least of all *public* knowledge, about indicators of its own malfunctioning.

Third, accurate prediction may be said to have been impossible, as the events of 1989–91 were essentially triggered by contingent and erratic personal decisions at the top level of the Soviet elite that followed no known rule or pattern whatsoever and in the absence of which the system might well have survived for some undeterminable span of life. Whatever the right explanation is, the lack of prediction and anticipation about what happened *before* it happened, as well as, partly as a result of this lack, lack of plans and guidelines for future action *after* it happened, is a pervasive element of post 1989. That situation is hence replete with surprise, panic, unpatterned turbulence, and disorientation. Note that the failure to predict does not end with the end of the old regime. For who has predicted (and if so, on the basis of which kind of social theory?) the

eruption of ethnic conflicts in many of the post-communist states, the resurgence of communist elites in some of them, or the adoption by the latter of rather liberal (but in some cases also nationalist) policies that were at variance with their electoral promises?

1 The particular character of the Central and East European transitions

The best we can therefore hope to do is to disentangle the drama and make explanatory sense of the subsequent chain of events in an *ex post* perspective, relying on information that the actors could not possibly possess at the point of their action.

The chain of causation from original conditions to political and economic “transformation actors,” and from actors to a new and more or less consolidated and institutionalized social order comprises the cycle of systemic transition. Rather than studying it on a global level – i.e. all post-communist societies in all aspects of their reorganization – we propose an approach that is more disaggregate and comparative. We thus focus upon four countries – Bulgaria, the Czech Republic, Hungary, and Slovakia – and upon the building of four vital (as well as intensely interacting) institutional components within each of them – constitution-building, the formation of political institutions, the privatization and marketization of the economy, and the new institutional forms that emerge in the field of social security, poor relief, and social services. We hope that this comparative approach brings us closer to an understanding of why actors involved in the transition do what we see them doing, and why they accomplish – or fail to achieve – the desired outcome of a new and sustainable political, social and economic order. Each of these sectoral transition trajectories will be linked to the specifics of the “original position” in which the countries found themselves when the old regime collapsed in 1989.

In contrast to much of the political science literature on transitions to democracy, we explore and emphasize those aspects of the post-communist experience that are *different* from transitions to democracy that took place at other times and places in the course of the twentieth century. The most significant of those post-communist specificities and singularities will be discussed in the present chapter. They are seen (1) in the *non-military* and non-violent nature of the collapse and transition, (2) in the *absence of “revolutionary”* counter-elites, ideologies, and blueprints, as well as in the absence of reasonably unified political agents rooted in socio-economic cleavages and conflicts, (3) in the *simultaneity* with which the tasks of political, economic, and territorial reform and reconstitution

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appear on the rather overcrowded transformation agenda, and (4) in the *revolutionary and universalist* pretenses of the now defunct old regime. In the concluding part of this chapter, we (5) offer a conceptual discussion of the key criterion of a successful transition, namely institutionalized agency within a “consolidated” social and political order.

The object of our study is specified in time and space. As far as time is concerned, the historically unique nature of the transformation that occurred after 1989 in the Central East European countries, as well as subsequently in the former Soviet Union and the former Yugoslav Republic and Albania, becomes evident if we compare its patterns with those waves of transition from authoritarian rule to democracy that took place earlier in the twentieth century. These earlier waves which resulted in the adoption of full and equal adult voting rights, free competition between parties, and representative government within the framework of institutional guarantees of rights were those (a) after World War I (e.g., Germany, Britain), (b) after World War II (Germany, Italy, Austria, Japan), and (c) in the period 1974–85 in the (mostly) “Latin” countries of Southern Europe and South America (Greece, Portugal, Spain; Brazil, Uruguay, Argentina). We are concerned with the specificities of the post-1989 wave.

This book deals with political and economic transformations that occurred in a *subset*, to be located in space, of the countries that underwent the regime change of 1989. This subset is defined by eliminating from the universe of communist countries, as it existed in the 1980s, a number of countries that we are not concerned with here for partly pragmatic, partly systematic reasons. Communist – or synonymously “state socialist” – countries are defined by their monopolistic ruling socialist party and its ideology and by their largely state controlled economies. Our focus is here on former state socialist *transformation* countries in which a sharp rupture of the political and economic regime occurred in the period 1989–91. This leaves a choice among only those (but at the same time all of those) for which the capital is located in Europe (Mongolia being a possible exception), excluding at any rate the People’s Republic of China, Cuba, Vietnam, as well as African varieties of state socialism (where Ethiopia would be a possible exception). Second, we have excluded all cases which were *not* part of the economic (CMEA) and military (Warsaw Pact) *alliances* dominated by the Soviet Union, which eliminates non-aligned Yugoslavia and Albania from our set and leaves all the European CMEA countries in it. A third step is to look at only those states that, while being *dependent participants* in the two alliances (which eliminates the Soviet Union itself), at the same time were *formally sovereign* states throughout the period after World War II, which

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eliminates the Baltic and other newly independent republics, but leaves the Czech Republic and Slovakia in the sample, as these two now independent states together formed a sovereign nation state throughout the communist period. This operation leaves us with six countries (in 1990) which will be called the Central East European (or CEE) countries in this study. These countries are Rumania, Bulgaria, Hungary, Poland, German Democratic Republic (merged with West Germany in 1990), and the Czech and Slovak Socialist Republic. Finally, we concentrate in this study on a *subset* of the CEE countries – our sample countries – which are Bulgaria, the Czech Republic, Hungary, and Slovakia, leaving out of the sample just Rumania, Poland, and the former GDR which became part of the German federal state in 1990.

Although limited in number, this set is still rich in diversity. *Common* features of the three countries include the fact that they are all former components of the Soviet empire (Warsaw Pact, CMEA); this implies their former military, ideological, political as well as trade dependency upon the imperial power. The respective communist regimes were imposed upon all of the countries in non-revolutionary ways as a consequence of World War II. The breakdowns of the old regimes occurred simultaneously in all the (then) three countries within a few weeks at the end of 1989. All of them have, subsequent to the breakdown, officially embarked upon transitions to liberal democracies and market economies based on private property – but with one of them, Hungary, with preparations to this transition adopted semi-officially much earlier. A process of constitutional reform or innovation has been initiated in all of the four countries, with freely elected parliaments functioning as constitutional assemblies. Finally, all of the countries, if to sharply differing degrees, are characterized by inferior economic performance compared to – as well as massive future economic dependency upon – the West European core. All of the countries have applied for EU membership as well as for military integration into the NATO alliance.

Major *differences* between the countries include: two of them, Bulgaria and Slovakia, contain deep ethnic cleavages, the two others do not according to their present ethnic composition. Three of them, Bulgaria, Czech Republic and Slovakia, were among the more harshly repressive communist regimes, whereas Hungary was relatively liberal for a long time. Two, Hungary and the Czech Republic belong to the economically most advanced of the former communist countries, whereas the two other are more backward and with a greater share of their economies agrarian. While Hungary, the Czech Republic and Slovakia have been the scene of spectacular popular uprisings against communist rule in 1956 and 1968, respectively, Bulgaria is the only country within the

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former CMEA system where opposition to the Soviet Union and/or established domestic communist rule has been conspicuously absent, both at the elite and at the mass level. The breakdowns that occurred in all of our countries in 1989 differ: in Hungary they resulted from *internal cleavages* within the communist party elite, in the Czech Republic and Slovakia from sudden *mass mobilization* and popular protest, and in Bulgaria from a small urban *dissident intelligentsia* (of mostly ecologists) who relied upon the strong “amplifier effects” of the international media and organizations – in this country, also repression of the Turkish minority had undermined international and domestic support for the old regime. One of the countries (Hungary) had a small enterprise sector and a sizeable “informal economy” which has been allowed to develop since the seventies, whereas both Czechoslovakia and Bulgaria had a centralized regime of economic planning imposed upon virtually all economic activity. Bulgaria has a religious history of affiliation with the Russian Orthodox Church (as well as a political history of having been part of the Ottoman Empire), while both Slovakia and Hungary, as well as, to a lesser extent, the Czech Republic, are strongly Roman Catholic countries, with the latter two having a sizeable Protestant-Calvinist minority.

2 The role of military force and conflict

2.1 Its conspicuous absence

If we compare the CEE countries, and more generally, the CMEA and other transformation countries with the countries that have been the scene of earlier transition waves, one striking negative feature must be noted that defines the post-communist condition: transitions were peaceful. The negative feature is thus the absence of (“hot”) war and *military* defeat of the old regimes as the trigger of transformation (as in the post-World War I and post-World War II cases, also in Argentina 1983 and Portugal 1974) or democratic victory over a previously ruling *military* regime (Brazil, Greece, to some extent also Spain). The two transformation cases in which military force played some role in the post-communist transitions, namely the death penalty sentenced on part of the old leadership by a military court in Rumania in December 1989 and – outside the CEE universe – the killing of a still contested number of White House occupants in Moscow, October 1993, were highly ephemeral and both of a nature that helped to strengthen (albeit to a very limited extent) the new regime and made its advent more irreversible by abolishing (rather than restoring) remnants of the old regime.

Correspondingly, there is a conspicuous absence in 1989 of the *armed forces as an agent* trying to prevent the breakdown of the old or to obstruct the emergence of the new regimes (as in Spain, Argentina). Again, the attempted coup (executed by a party-military alliance) against Soviet President Michael Gorbachev in August 1991 stands out as the only exception at the level of the universe of post-communist transformation countries, with no exception having occurred at the level of CEE countries.

The only case for which this generalization raises apparent difficulties at the CEE level is the Polish case with the introduction of martial law in 1981. This corresponds to another Polish exception (see below), namely the country being the only one in which a sizeable opposition movement (“Solidarnosc”) which effectively challenged the political and economic order of state socialism and its ideology, ever emerged. Yet a martial law regime is different from the actual use of military force (which never occurred in Poland). Poland under martial law in 1981 still differed from a military regime in that after the first days of putting the leaders of the opposition into internment and threatening society by the show of force the tanks were not in the streets, but remained in the barracks. By virtue of this fact, the Polish martial law regime was significantly different from the instances of military intervention that had occurred in 1953, 1956, and 1968 in other CEE countries. Moreover, this regime took office under the premise that foreign military resources (coming from the Soviet Union or the GDR) would not be part of any conceivable course of events. This semi-official assurance of foreign non-intervention, in turn, did a lot to undermine the credibility of the military threat of the Polish generals and their forces, as the preparedness of the Polish Army to take military action against Polish workers could never be seriously counted upon. In the absence of any conceivable “fraternal help” from across the Polish borders, the martial law regime was bound to remain a mere facade of a military regime.

Yugoslavia is included in the universe of transformation countries, but excluded from the CMEA/Warsaw Pact universe. The dramatic extent to which military conflict has in fact accompanied the political (and rather prevented the economic) transformation of this country must be accounted for in terms of exactly its “non-aligned” status, i.e., the absence of a transnational security structure (such as was provided by the Warsaw Pact to the other transformation countries) and the manifest failure of NATO or, for that matter, UN forces to substitute for the absence of the restraining and the disciplinary potential of such a security structure. Several factors are responsible for the glaring “Yugoslav exceptionalism,” as far as the role of military violence is concerned. First, Yugoslavia, on

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account of its 1974 constitution, was hardly a “state,” but an ethnically structured federation characterized by an extreme degree of devolution of powers, with the communist party being the only supposedly unifying force. Second, the defense forces of the country were split into a (nominally) unitary army, the Yugoslav Peoples Army (JNA), and Territorial Defense Forces, with the command structures of the latter (together with the media) being organized at the level of the Republics, a pattern inspired by the heroic model of guerilla warfare in World War II. Third, after the definitive abdication of the communist party as a unitary force, the JNA remained the only federal institution. Without, however, an accountable civilian-political supreme command, as the only agency of common Yugoslav statehood, the party, had effectively “withered away”. At the same time, the Territorial Defense forces were effectively appropriated by separatist forces at the level of the Republics. Taken together, the non-aligned position of the country, its extreme internal divisions which were partly nurtured by the memories of ethnic hostilities during World War II, the lack of clarity as to whom to defend the country against (the imperialist West? the Warsaw Pact? other Republics?), the parallel organization of defense, and the lack of effective federal leadership all contributed to a situation in which the end of the monopoly of the communist party meant the manifest dissolution of the state itself. In all other cases, including those of the CSFR and the GDR, statehood remained sufficiently robust after the demise of the monopolistic party to allow for a civilian and negotiated process of redefining the territory (through “velvet divorce” and “unification,” respectively). Under the Yugoslav exceptional conditions, in contrast, military force, being split, decapitated, and up for grabs to the proponents of ethno-nationalist forces, remained the only resource to be employed for the purpose of territorial reorganization.

Before the regime breakdown, and unless the military itself assumes authoritarian governing powers, the military can either repress the forces of rebellion (PR China) or play an active role in the breakdown itself (Portugal). Once the breakdown has occurred, the military can play a violent role in the consolidation of the new regime and support its elite (Moscow 1993) or try to subvert it (as repeatedly attempted by the *carapintadas* in Argentina after 1985). A striking feature of the CEE transitions is that *none* of these four options was chosen by the armed forces of these countries.¹

¹ The only exceptions to the rule of pre- as well as post-breakdown military inaction (and even of organized civilian violence) are to be found outside the CEE world, namely the Soviet/Russian case (with its ingredients of the Afghanistan defeat, regional nationality conflicts in some of the (former) southern republics, the Chechnya war, and the attempted and failed coup of August 1991). Saying

2.2 Political implications

What must be considered, moreover, as a decisive element in the causation of the 1989 demise of CEE state socialist regimes is the *anticipatory reliance*, on the part of masses, on the elites' military inaction. Not only did military violence play no role; it was largely expected to play no role. The fact that "fraternal help," as it was administered by Warsaw Pact forces before, was expected to be not forthcoming in 1989 resulted partly from Gorbachev's reassurances, but partly also from the fresh memory of the devastating international response to the military crushing of the Chinese democracy movement on June 4, 1989. This event and its aftermath gave rise to some critical measure of confidence that the military option was spent everywhere, and that "they can't afford to do it again and do it here."²

Whatever the accurate and complete explanation is of the conspicuously limited role of the military in the 1989 breakdown of the CEE regimes, these comparative observations strongly suggest that the distinctively "peaceful" course of the breakdowns and the subsequent transformations are essential determinants of the agenda and the actual course of these regime transformations, and that this peacefulness sets them apart from both the countries involved in earlier waves of transition and from post-communist transformation countries outside the CEE domain. Ironically, it is most conspicuously at the point of their demise that the state socialist regimes, at least at the CEE level (which also has been the scene of the notorious "fraternal help" incidents), seem to have redeemed what they had always enunciated as their supreme value: the preservation of domestic and international peace.

this, we do not mean to rule out the possibility that the actual or perceived economic requirements of the arms race and the Cold War had weakened both the economic effectiveness and political legitimacy of the Warsaw Pact countries beyond any potential recovery.

² As far as the military non-intervention in the GDR is concerned, the following considerations have played a "civilizing" role in the ranks of the leadership: First, fresh evidence of the devastating international repercussions of a "Chinese solution" made military repression, even if successful as such, appear an act of political suicide, particularly given the grim economic realities which the GDR elite could only hope to overcome through Western credits. Second, even military success was far from certain, as (a) the Soviet leadership was clearly committed to non-intervention and as (b) the dissolution of morale and discipline within the armed forces of the GDR had rendered any reliance on this means of last resort illusory. This dissolution, in turn, was strongly inspired by the negative example of the Chinese "June events." (For a detailed analysis of Soviet and East German elite moves between October 7 and November 11, 1989 (see Hertel 1994)).

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Now, the thoroughly peaceful nature of the post-1989 breakdown and transition in the CEE countries is likely to shape a very different, as well as paradoxically more difficult, agenda and course of events. In previous transitions to democracy, the experience of war and military dictatorship has been a powerful catalyst of successful transformative efforts. In the case of the mass transitions to democracy that occurred after the two world wars, war-related parameters such as defeats, thorough elite delegitimation, massive destruction of human lives and material resources, occupation regimes, international control, and the territorial reorganization accomplished through peace treaties were all essential and helpful devices in abolishing the old and defining the new regimes, as well as in constraining the range of conflicts that erupted in the process. Although the peaceful nature of the breakdown in the CEE countries has been welcomed with deep relief and amazement (and the bizarre exception to this rule, the televised Romanian Christmas killings of 1989, watched with horror), it also involves a number of subsequent problems that were unknown in earlier transitions. These include the following distinctive implications of peaceful transitions.

First, in a peaceful regime change, the old elite is not discredited to the same extent that tends to be the case after a military defeat (cf. Germany after 1918 and after 1945), or where defeat is combined with the exposure of military elites having committed (or having been part of) massive human rights violations (cf. again Germany 1945) and, on top of that, having been defeated in war (Argentina). The problem of exchanging elites is more easily solved after wars than after civilian breakdowns.

Second, in peaceful breakdowns, there is no occupation regime of victorious allies or some other transnational agency that could impose by force a new institutional order and control the rise of new military conflict over ethno-territorial issues. The peace treaty with new externally enforced territorial settlements that comes at the end of wars does not have a civilian equivalent in the case of a non-military regime breakdown. On the contrary, the breakdown *without* war provided windows of opportunity for unilateral territorial reorganization (secession). As military control had evaporated with the breakdown of the regime itself, rather than being defeated in war, this vacuum of physical force has encouraged, if only outside the CEE universe, a variety of small-scale military enterprises in the multi-ethnic federal states of former Yugoslavia and the Soviet Union. Hence the inversion of the familiar sequence: world wars did not trigger regime transformations and transitions to democracy, but regime transformations (and subsequent regime decompositions) triggered local wars.

Finally, post-war conditions have often been the historical moment of