

Department of Economics and Management



Bachelor Thesis

**Comparative Analysis of Czech and American Constitutional
Laws**

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BACHELOR THESIS ASSIGNMENT

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Economics and Management

Thesis title

Comparative Analysis of Czech and American Constitutional Law

Objective of Thesis

This thesis aims to analyse and compare different constitutional laws & government policies between Czechia and United States of America. Analyse how these laws and policies came into practice. This thesis will primary focus on comparison between economic laws and other laws that contribute to the economy directly or otherwise. In total trying to understand how these laws affect the economy and citizen of both countries. Hopefully gain perspective on how it will continue to function in upcoming times.

Methodology

This work is divided in two parts being theoretical and practical. In these parts the constitutional laws of both countries and factors that resulted into those laws will be discussed and analysed. Also, laws concerning economies of both these countries shall be compared. Some of the broad topics in this thesis will be the historical background of constitutional law in both countries, postwar both countries constitutional developments, comparison between executive, legislative, and judicial branches of both countries, amendments of the American constitution, criticism of constitution of both countries, Economic, social and cultural rights etc.

The proposed extent of the thesis

30 – 40 stran

Keywords

Law, Constitution, America, Czech, Economy, Rights

Recommended Information Sources

- BRINKMAN, Patricia; The Constitution. New York: Benchmark Education Company, 2006. ISBN 1410864510
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Declaration

I declare that I have worked on my Bachelor thesis titled "Comparative Analysis of Czech and American Constitutional Law" by myself as well as taken help from my colleague in order to help me to translate something in Czech. I have used only the sources mentioned at the end of the thesis as “reference”. As the author of the thesis, I declare that the thesis does not break copyrights of any work.

In Prague on 15th of March 2020

Saajan Gulia

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Abstract

This bachelor thesis aims to analyse and compare the constitutional laws between Czech Republic and United States of America. Despite being implemented more than 200 years apart, both constitutions have a great deal of similarity. It wishes to analyse circumstances and reasons that led to the similarities, as well as differences of both constitutional laws, the way their 3 branches of government are formed and operate, the amendments required by passage of time and evolution of culture. The analysis is done through document analysis and secondary data gathering.

The thesis is divided into two main parts. The first part is theoretical and contains general characteristics of both constitutional laws and circumstances that led to them: Historical background, effects of world wars and communism, disintegration of Czechoslovakia, comparison between different branches of the countries.

The practical part is a case study of recent elections in both nations and deals with the process of getting elected as the president. The basic requirements to be candidate, different stages of the campaign and ways to progress further, the reasons for public support and winners of the elections are analysed in the practical part.

Keywords:

Constitution, Law, America, Czech, Judicial, Executive, Legislative, Amendment, Rights, President, Election

Abstrakt

Tato bakalářská práce se soustředí na analyzování a porovnání ústavního práva mezi Českou republikou a Spojenými státy americkými. I přes to, že mezi vznikem je 200 let rozdíl, mají obě ústavy velmi společného. Analyzuje okolnosti a důvody vzniku podobností, ale také rozdílů obou ústav a také, jak se formují a fungují tři moci v zemi a zároveň, jaké novely byly potřeba v jiných časech a jiné kultuře. Analýza je zpracována ze studia dokumentů a sběrem dat.

Práce je rozdělena na dvě hlavní části. První část je teoretická a obsahuje obecnou charakteristiku ústav obou zemí a okolnosti jejím sepsáním: historické pozadí, vliv světových válek a komunismu, rozdělení Československa, porovnání různých odvětví obou zemí.

Praktická část je případ studie nedávných voleb v obou zemích a proces volby prezidentů. Hlavní požadavky na kandidáta, různé stupně kampaně a cesty, jak dále postupovat, důvody podpory občanů a vítězové voleb jsou porovnávány v praktické části.

Klíčová slova:

Ústava, Právo, Amerika, Česko, Soudní, Výkonná, Zákonodárná, Novela, Práva, Prezident, Volby

Contents

1. Introduction.....	9
2. Historical Background of Constitutional Laws of Czech Republic	9
2.1 Charter of Fundamental Rights and Basic Freedoms.....	12
3. Historical Background of Constitutional Laws of USA.....	13
4. World Wars and their Respective Constitutions	16
5. Collapse of Communism	19
6. Disintegration of Czechoslovakia.....	20
7. Comparison between the Organs of Government of USA and Czech Republic	21
7.1. Executive Branch.....	21
7.2. Legislative Branch	24
7.3. Judicial Branch	26
8. Amendments to the Constitution of United States of America	29
9. Criticism of both Countries Constitution	32
10. Recent Presidential Election in both Countries.....	34
10.1. Background.....	34
10.2. Primaries.....	36
10.3. Czech Presidential Election of 2018.....	45
11. Conclusion.....	50
12. Bibliography.....	52

1. Introduction

The term “Constitution” is a fundamental and intimate one in the jargon of not only the lawyers but of the laymen also. Every nation has a codified document known as a constitution. This document is generally regarded as the supreme law of the land.¹ Various authors have various perspectives concerning the connotation of a constitution. Norman Redlich defines constitution as a very familiar term, which normally describes the primary rules and has the influence to create and control the administration. In its simplest form, a constitution is a document that embodied the guiding principles for the government.² Scholar Nick Howard states that the constitution is all about power. It gives power to the people and to all those who make our laws, govern and judge us. It also sets limits on what a government can impose on its citizens. These limits are fundamental in the sense that government may never trespass them.³ Nevertheless, each nation has a constitutional law that is primarily the norms associated with the execution of power.⁴ The configuration and the implementation of the very first constitution brought with itself, a new epoch in the history of manhood. Constitutional law is a body of rules and doctrines about how to read, apply, and understand the constitution. It is also a collection of judicial decisions based on application principles set down in the constitution. The current theory regarding the governments is that the people established different form of governments in different geographical areas just for their own sake and only they have the supreme authority to determine its nature and extent of power.⁵ This bachelor thesis attempts to explain and equate the constitutional laws of Czech Republic and United States of America.

2. Historical Background of Constitutional Laws of Czech Republic

“We, the citizens of the Czech Republic in Bohemia, Moravia and Silesia, at this time of the reconstitution of the independent Czech state, true to all the sound traditions of the ancient statehood of the lands of the Czech crown as well as Czechoslovak statehood, resolve to build, protect, and advance the Czech Republic in the spirit of the inalienable

¹ BRINKMAN, Patricia; *The Constitution*. (New York: Benchmark Education Company, 2006, pp. 16-27)

² OLIVER, Dawn; FUSARO, Carlo; *How Constitutions Change: A comparative study*. (Oxford; Bloomsbury Publishing, Aug 2011, pp. 28-29)

³ Nick Howard, *Beginning Constitutional Law* (London, Routledge, 15 July 2016, p. 25)

⁴ Mark Tushnet, Thomas Fleiner, Cheryl Saunde, *Routledge Handbook of Constitutional Laws* (London, Routledge, 2013, pp. 11-12)

⁵ Daniel Raymond, *The Elements of Constitutional Laws* (Harvard University Press, 1845, p. 16)

values of human dignity and freedom as the home of equal and free citizens who are aware of their obligations towards others and of their responsibility to the community... ”⁶

The constitutional history of Czech Republic has its roots in the circumstances that gave birth to the Republic of Czechoslovakia after the division of Austro-Hungarian Empire in 1918. They got their first constitution in 1920. However, it didn't last long, and the World War II fundamentally altered the political scenario of the world, resulting into the adoption of another Czechoslovak constitution in 1948 by the communist government⁷. The constitution of the state was much more influenced by the external factors than the internal ones⁸. The Prague spring protest, though a big failure after the soviet occupation, witnessed the constitutional beginning of the confederation by the implementation of the constitution of 1968. This was the only constitution that remained active for such a long period of time till the end of the Czechoslovak state itself. The state has not had longer peaceful phases to foster its constitutionality. Finally, the cold war ended, and Soviet Union fragmented into several states in 1991. The year 1993 observed the split of Czechoslovakia into Czech and Slovakia. The new constitution of Czech Republic was adopted on 16th December 1992 and ratified on January 1, 1993. The constitution has been amended eight times throughout the years, most recently in year 2013.⁹ It is a parliamentary democracy with the President as the head of the state while Prime minister act as the leader of the government. The Czech Republic has been playing an active role in the international arena. It became the member of NATO in 1999 and joined European Union in 2004. It is also a member of United Nations and World Trade Organization. The declaration of basic rights and fundamental freedoms has also been the basis of the Czech Constitutional Order along with several laws. The Czech Constitution is an amalgamation of a Preamble and eight chapters. It also includes a special charter of fundamental rights and basic freedoms, which further divides into six chapters, that deals with different human, political, economic, social and cultural rights¹⁰

⁶ Preamble, Constitution of Czech Republic, 16th December 1992

⁷ Karel Klíma, Constitutional Law of the Czech Republic, (West Bohemian University, Pilsen, 2008, p. 116)

⁸ The acceptance of idea of federalism, more recently concept of constitutional judiciary etc.

⁹ The most important amendments are Act No. 395/2001 provided the legal framework for the accession to the EU in 2004 and Act No. 71/2011 provided the election of president by popular vote in 2012.

¹⁰ Efstathia Sioras, Czech Republic (Marshall Cavendish, 1998, p. 26)

Chapter I: Fundamental Provisions (Article 1-14)

It deals with the fundamental provisions of the state, the relation between state and the individual, and the significance of international law, autonomy of territorial self-government and judicial protection to fundamental rights and basic freedoms.

Chapter II: Legislative Power (Article 15-53)

It clarifies the legislative powers of the bicameral parliament, the voting right in accordance with universal adult franchise and the eligibility for the elections to the assembly of the deputies.

Chapter III: Executive Power (Article 54-80)

The third chapter is further divided into two parts. The A part deals with the president of the republic whereas the part B deals with the government. It regulates the three executive bodies—the President, the government and the public prosecution office.

Chapter IV: Judicial Power (Article 81-96)

The fourth chapter is dedicated to the judiciary and the court. It further explains the role and duties of the judges. It also includes two parts. The first one (Article 83-84) deals with the constitutional court and the second one (Article 90-96) is related to the courts.

Chapter V: The Supreme Auditing Office (Article 97)

The fifth chapter is one of the smallest chapters of all, along with the sixth chapter. It deals with the supreme auditing office, its role, legal status, power and organizational structure of the office.

Chapter VI: The Czech National Bank (Article 98)

This chapter states that the Czech National Bank shall be the state central bank and its primary purpose shall be to maintain price stability. The Bank's status and power shall be set down in a statute.

Chapter VII: Territorial Self-Government (Article 99-105)

The seventh chapter is about the regional governments. The Czech state is subdivided into municipalities (basic territorial self-governing units) and also into regions (higher territorial self-governing units). The article 103 has been repealed by the state.

Chapter VIII: Transitional and Final Provisions (Article 106-113)

The final chapter eighth (Article 106-113) contains transitional and final provisions. It states that the Czech constitution shall enter into force on the first of January 1993.

2.1 Charter of Fundamental Rights and Basic Freedoms

Chapter 1: General Provisions (Article 1- 4)

The chapter 1 of the charter of fundamental rights and freedoms deals with the basic rights and freedom of an individual. These rights and freedoms are inherent, inalienable and are not subject to repeal. Limitations may be placed on the freedoms and rights but only by the law.¹¹

Chapter 2: Human Rights and Fundamental Freedoms (Article 5-23)

The chapter 2 has two divisions. The division 1 (Article 5-16) deals with the fundamental human rights and freedoms whereas the division 2 (Article 17-23) is associated with the political rights.

Chapter 3: The Rights of National and Ethnic Minorities (Article 24-25)

¹¹ Constitutional Act No. 2/1993 as amended by Constitutional Act No. 162/1998 Coll.

It defines the right and freedoms of the national and ethnic minorities. These groups have the right to education in their own language, to use their native language in professional dealings and to participate in the resolutions of affairs that are linked with such groups.

Chapter 4: Economic, Social and Cultural rights (Article 26-35)

It describes the freedom in one's own profession, conditions and limitations applied by law, protection of health at work, material security in old age, the establishment of trade unions by state and special protection to pregnant women and children.

Chapter 5: The Right to Judicial and Other Legal Protection (Article 36-40)

This chapter deals with the protection provides to both the parties involved in a case. The right to provide an interpreter to anyone who failed to understand the language used in proceeding, is also included in the chapter. Nevertheless, only the court has the right to determine a person's guilt and designate the punishment for criminal acts.

Chapter 6: General Provisions (Article 41-44)

The chapter six explains the general provisions. It also provides us with the meaning of certain terms i.e. citizen. This charter provides aliens with human rights and freedom otherwise they are only confined to the citizens.

3. Historical Background of Constitutional Laws of USA

“We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America”¹²

¹² Preamble, Constitution of United States of America, March 1789

The colonial past that had been binding the American people to the British terminated with the American Declaration of Independence in 1776. The delegates from the former 13 colonies met in Philadelphia to draft the Declaration of Independence. Finally, in 1787, the American patriots routed the British army to form a sovereign state. The representatives of the newly independent states again met in Philadelphia to draft a constitution.¹³ The convention resulted into the emergence of two plans i.e. Virginia plan and New Jersey plan. The former supported the idea of a national government and made states subordinate to it while the latter proposed retaining many of the elements of the Article of Confederation (1781) with a strong center.¹⁴ Ultimately, they established a government with features of both plans (national government as well as traditional federal government).¹⁵ However, under Articles of Confederation, there was no federal power to tax or regulate economy and no executive or judiciary branch.¹⁶ The constitution of 1789 establishes the three branches of federal government and enumerates their powers. Article I deal with the legislature and establish Senate and House of Representatives. Article II and III deal with executive and judiciary respectively.¹⁷ It was for the first time in the year 1803, after 15 years of being in existence, the judiciary realized its importance while delivering verdict for the case that was known as *Marbury v. Madison*. The fourth Chief Justice John Marshall and his team were destined to change the course of American judicial system. Earlier, the judiciary was not absolutely independent. In many cases, which also include the *Marbury v. Madison* case, it avoids a direct confrontation with the other branches of the government.¹⁸ Nevertheless, it took a firm stand this time and asserted the power of judicial review¹⁹ granted to it by Article III of US Constitution. Initially, the power of judicial review was only provided to the state courts under Articles of Confederation but empirically, they never exercised it. It is believed that the state judges were threatened with impeachment if they exercise judicial review. Even the Federalists papers did not mention about it except for Hamilton's *Federalist No. 78*, which argues in favor of judicial review and constitution over inconsistent statutes.²⁰ Scholar Mountjoy is of the view that this case had actually shifted the balance of power away from the state

¹³ The Declaration of Independence and Constitution of USA, 2002

¹⁴ Michael Les Benedict, Sources in American Constitutional History, (New York, 2007, p. 34)

¹⁵ See James Madison's description in *Federalists No. 39* (document 13)

¹⁶ Barbara Silberdick Feinberg, The Articles of Confederation: The First Constitution of USA (New York, 2002, p. 146)

¹⁷ Constitution of United States of America, 1789

¹⁸ Shane Mountjoy, *Marbury vs. Madison: Establishing Supreme Court Power* (New York, 2009, pp. 55-56)

¹⁹ Judicial review is the power of the Supreme Court to examine the actions of another branch of government and decides whether or not it is constitutional.

²⁰ Alexander Hamilton, John Jay, James Madison, *The Federalists Papers* (New York, 2011, p. 82)

court systems to the federal bench. About 54 years later (1857) the Supreme Court had to deliver its judgment on another absurd federal law, which states that U.S. Constitution does not provide the blacks with citizenship and hence they could never enjoy the same rights and privileges as given to the American citizens. Notwithstanding all this, the Supreme Court did not invalidate this law until it had to deliver judgment on *Dred Scott v. Sanford* Case. Dred Scott was a black slave who sued his owner for freedom in 1846 but to no avail. After years of struggle and proceedings in the lower courts, he appealed to the Supreme Court in December 1854. It took another three years for the court to deliver the verdict. Author Amy Van Zee believes that this delay was incredibly significant as the nation's stance on slavery was shifting. The physical expansion of the United States and the accession of new territories provoked heated argument about slavery and influenced the decision of the case. Chief Justice Roger Taney issued a decision on March 6, 1857 against Dred Scott and stated that he could never establish the "diversity of citizenship" that Article III of the U.S. Constitution requires for a federal court to be able to exercise jurisdiction over a case. Taney further struck down the Missouri Compromise of 1820, which limited the extension of slavery in the northern part with a hope to settle down the slavery controversy. However, the impact was complete opposite and this decision would become one of the key events leading to a long and bloody civil war. The years after the civil war came as a new hope for the slaves. The Reconstruction Amendments were introduced which include Thirteenth, Fourteenth and Fifteenth Amendment. The Thirteenth Amendment in the constitution abolished the slavery in the States in 1865.²¹ Three years later in 1868, another major alteration was seen in the U.S. Constitution. It was the adoption of the Fourteenth Amendment, which fundamentally changes the way black community had been living in the United States of America. Under this new law, all former black slaves were given citizenship rights and not only that, now the states were compelled to impartially govern its citizens and has no rights to deprive any citizen of life, liberty or property without due process of law. The Fifteenth Amendment was adopted in 1870 granted the slaves the right to vote.²² These Reconstruction Amendments changed the history of American political system and also formed the basis of the laws that govern the United States of America today.

²¹ Amy Van Zee, *Dred Scott v. Sanford: Slavery and freedom before the American Civil War* (Minnesota, 2012, p. 114)

²² John Paul Stevens, *Six Amendments: How and Why We Should Change the Constitution* (London, 2014, pp. 48-51)

4. World Wars and their Respective Constitutions

The World War I had affected every nation in one-way or the other. The U.S, even after many attempts of being in isolation from the European conflict, could not resist entering the war. Not only that, it also contributed to the transformation of American constitutional law by expanding the economic regulatory powers of the federal government and also by expanding the freedom of speech, rights of women, racial minorities etc. The war also deeply altered the relation between the federal government and the states. The power got transferred from the Congress to the President. Before the war, the federal and state governments had intense political opposition on the matters associated to the economy but during the war, military exigencies overwhelmed political and constitutional concerns and the federal government gained control over major parts of economy. The constitution makers used very elusive language while making the constitution, so that it can be easily interpreted in accordance with the legal and political scenario. This imprecision assisted the federal government to decide everything from industrial production to distribution of food and fuel. It also passed a conscription law compelling about 2 million men to serve in the army. Notwithstanding all this, the federal government passed the Volstead Act to enforce the Eighteenth Amendment, which prohibits the manufacturing, transporting and sale of alcoholic beverages in the United States. Author William G. Ross believes that the wartime regulations permanently altered the relationship between government and the private industry. Earlier, major part of economy was controlled by the private sector and the federal government avoids any inconsequential indulgence in it. However, the government gained direct control of the economy during the war. The ending of the war also resulted into the termination of the authority of the center over the sources of capital. Although, many federal regulations remained intact in at least modified form. The most significant constitutional development that took place during the war was the expansion of modern civil liberties law. The extensive suppression of German Americans compelled the Supreme Court to take firm stand on the situation and also to act as the guardian of personal liberties.²³ However, the government had different plans to deal with the insurgents. President Wilson and his attorney general threatened the dissidents and even proved their willingness to suppress their civil liberties. Civil liberties are always on stake during wartimes and WWII was no different. Although, the way America entered the war

²³ William G. Ross, *World War I and the American Constitution* (Cambridge, 2017, p. 272)

in 1917 and 1941 was quite different and also it had distinctive impact on the status of civil liberties in the two eras. In WWI, America was not directly attacked, and the President Wilson tried his best to excite American patriotism and bellicosity. Nonetheless, on December 7, 1941, with the Japanese attack on Pearl Harbor, the Americans who had been resisting Roosevelt's efforts to assist the allies suddenly found themselves amidst the war. Unlike WWI, in this case the attack provoked America's nationalism and the sword of suspicion held only on the Japanese Americans not on Germans and Italians inhabitants.²⁴ America's worst fears and prejudices were seen in *Korematsu v. United States* (1944).²⁵ On February 10, 1942, about 10 weeks after the US entry into the war, President Roosevelt signed an Executive Order 9066. This order authorized the military to compel the people of Japanese origin to evacuate the areas that had been declared as war zones. About 120,000 Japanese Americans were sent to the detention camps that were located in the remote areas of the west. Korematsu, who didn't adhere the government's order was arrested and later presented in the court where the court deliver the verdict against him. Apart from the Japanese, Jehovah's Witnesses were the ones frequently targeted for vigilantism mainly because of their opposition to the war and their refusal to salute the flag. According to Geoffrey R. Stone, "the Jehovah's Witnesses were beaten by mobs, tarred and feathered, tortured, castrated or killed in more than forty states".²⁶ These actions were controlled only when the Justice Department's Civil Rights Division intervened and threatened local officials with federal prosecution. In short, America didn't witness limitations on civil liberties as much as it did during the WWI.

The state of Czechoslovakia was the outcome of the conflict that dragged the European powers into the World War. The downfall of Central Powers and the disintegration of Austro-Hungarian Empire resulted into the creation of Czechoslovakia, which was based on President Wilson's dictum of self-determination. The founding fathers of the Czechoslovakian state laid great emphasis on American democratic principles and even signed their declaration of independence in Philadelphia. The U.S. Constitution strongly influenced the Czech Constitution of 1920 as it turned out to be a very democratic document. However, the structure of the government was established on that of the U.S., France and Britain. The newly drafted constitution was a revolutionary one. Its first clause

²⁴ Jacobus Ten Broek, Edward Norton Barnhart, Floyd W. Matson, *Prejudice, War and the Constitution* (California, 1970, pp. 165-173)

²⁵ Karen Alonso, *Korematsu V. United States: Japanese-American Internment Camps* (California, 1998, pp. 104-107)

²⁶ Geoffrey R. Stone, *Perilous Times: Free Speech in Wartime from the Sedition Act of 1798 to the War on Terrorism* (New York, 2005, p. 29)

read, “ The people of the Czechoslovak Republic are the only source of power”. All the titles and privileges of the old days were abolished and everyone in the nation was provided with some fundamental rights, freedoms, equality, liberty and security. Nonetheless, there was no mention of the rights of minorities. There were sharp differences in the lifestyles of Czechs and the Slovaks. The Czechs, who inhabited the western area, were predominantly industrial while the Slovaks, who lived in the eastern part, were agrarians. Despite all the tension created because of the diversity, the Czechoslovakian people succeeded in establishing a more stable government under Tomáš Masaryk, the first president of Czechoslovakia. He was, like Woodrow Wilson, a professor turned president. He gave more importance to the civil servants as compare to the political parties. After his regime, Eduard Beneš became the next president, who had to deal with the rising threat of Nazi Germany. The Germans, who had been revolting since the times of Masaryk, got a new boost with Hitler coming to power. They demanded to have separate administrative agencies, which president Beneš rejected by declaring that the Czechoslovakia is a single nation-state and doesn't recognize the minorities. Beneš revolted as he thought that the allies might assist him against the Germans but contrarily, the allied nations backed off due to the fear of Hitler and gave up the German-speaking part of Czechoslovakia to Germany. The very next year, the nation was invaded by Hitler and was declared a German Protectorate.²⁷ The territories of Bohemia and Moravia were the first non-German territories to be occupied by the Nazi Germany. The Nazi rule fundamentally altered the economy, political practices and even the relations between the Czech and Germans forever. The Czechs were compelled to be legally Germans. It is believed that about 300,000 people had been registered as Nazi citizens. Author Chad Bryant stated that nationality, once something acted out in civil and political society, became something that state officials assigned to individuals. Racism reached its zenith under the Germans.²⁸ In retaliation, the Czech government after regaining their lost authority condemned one of the darkest periods of Czech history i.e. Nazi occupation. In the year 1945, President Eduard Beneš issued decrees, which expelled about 2.4 million Sudetan Germans and Hungarians declaring them as allies of the Nazis and seizing their property without any compensation.

²⁷ George Athan Billias, *American Constitutionalism Heard Round the World, 1776-1989: A Global Perspective* (New York, 2011, p. 260)

²⁸ Chad Carl Bryant, *Prague in Black: Nazi Rule and Czech Nationalism* (New York, 2007, p. 301)

The Czech parliament enacted these decrees into law in the following year and closing the gates for Sudetan victims to seek justice.²⁹

5. Collapse of Communism

Communism, the dark tyranny that ruled over more than forty nations and was responsible for the deaths of millions of people during the World War II, unexpectedly disintegrated without a shot being fired. The end of the Second World War resulted into the emergence of two superpowers in the international scenario i.e. United States of America and Soviet Union. The world got divided into two blocs, western and eastern alliances. The newly independent nations with a colonial past had left with no other option but to join either of the military bloc and to support their alliance with all the resources they had. Both the nations were capable of inflicting unacceptable destruction to the world, but neither can afford to initiate war. That is why; this ideological conflict between the two superpowers remained “cold” and never turned into a “hot” war.³⁰ However, a dramatic chain of events, from the end of WWII till the disintegration of communist bloc, internally weakened the Soviet Union. The Berlin Wall, which had been the greatest symbol of Cold War, was toppled by the people in 1989 and Germany was unified again. This disintegration of the wall, however, indicated that the communist world would disintegrate soon.³¹ Eastern and Central European region was the main center of this chaos and highly disturbed by the crumbling of the second world. Mikhail Gorbachev, the General secretary of the communist party in 1985, introduced a number of reforms in the system. Nevertheless, the people and the political leaders did not fully-heartedly embrace these reforms. Gorbachev was of the view that this alteration is necessary to keep the Soviet Union abreast of all the information and technology of the west. However, his decisions had consequences, no one could anticipate. The East European people had started to protest against the Soviet forces. Instead of suppressing the revolts this time, Gorbachev’s government didn’t intervene in the matters.³² As a result of which, the communist regime collapsed one after the other. He introduced democratization in the state institutions, which was opposed by the communist leaders. The emergence of Boris Yeltsin in the communist politics, shaken the central

²⁹ Ren ta Uitz, *Constitutions, Courts, and History: Historical Narratives in Constitutional Adjudication* (London, 2005, p. 123)

³⁰ Steve Phillips, *The Cold War: Conflict in Europe and Asia* (London, 2001, p. 51)

³¹ Jeffrey A. Engel, *The Fall of the Berlin Wall: The Revolutionary Legacy of 1989* (New York, 2011, pp. 134-142)

³² Chris Miller, *The Struggle to Save the Soviet Economy: Mikhail Gorbachev and the Collapse of USSR* (London, 2016, pp. 102-104)

control. He appeared as the national hero and won the popular elections. The European states became independent, but the Central Asian nations wanted to remain with the Soviet Union. In December 1991, Russia, Ukraine and Belarus, three main republics of USSR, declared that the Soviet Union was disbanded. The Communist Party was debarred. Capitalism and democracy were adopted in place of socialism and communism. The declaration of disintegration resulted into the formation of Commonwealth of Nations. All the newly liberated nations were the founding members of this institution. Russia became the successor of Soviet Union and secured the permanent seat in the security council of UN. The world order has transformed from bipolar to multi-polar world. Thus, the Superpower Soviet Union was dead and buried.³³

6. Disintegration of Czechoslovakia

The epidemic of the First World War in 1914 marked the end of an era and the beginning of the new one. The world had witnessed one of the disastrous events in the history of mankind. The war drew in all the world's greatest economic powers assembled in two alliances: allied powers (France, Britain, Russia and America) and central powers (Germany, Austria-Hungary and Ottoman Empire). The allied powers came out victorious. The end of the war resulted into the signing of Treaty of Versailles in 1919. The involvement of Austria-Hungary in the war resulted into the different response of its fragments. The Czech and the Slovaks participated with a patriotic fervor. The smoke of the First World War had already cleared the Russian Czars, the Germans and the Austrian Emperors. The Austro-Hungarian Empire was disintegrated after its surrender in the war and a new set of nations emerged on European land. On 28 October 1918, Republic of Czechoslovakia emerged in the European politics under the leadership of Tomáš G. Masaryk. However, this merger was two nations weren't tightly knit. Gradually, it fell to the victim of disintegration like various other communist states. The state of Czechoslovakia dismantled in year 1992. The divorce between the two nations was legal as well as peaceful. The preamble of the Czechoslovakia considered Czech and Slovak both as two completely sovereign states. The federation of Czechoslovakia was based on the principle of consensus between the representatives of Czech Republic and Slovak

³³ Serhii Plokyh, *The Last Empire: The Final Days of the Soviet Union* (Oneworld Publications, 2015, p. 26)

Republic. The Communist Party of Czech Republic strictly controlled the political world. The Parliament had no significance. The voters were only provided with a single list of representatives approved by the leaders of Communist party. The disintegration of Soviet Union questioned the relationship of Czech and Slovak states. In 1989, two different organizations were established i.e. Public Against Violence in Slovak and Civic Forum in Czech lands. The restraining relationship between the two states was first witnessed during the winter and spring of 1990, when president Václav Havel proposed to drop the word “socialist” from its official name. In retaliation, the Slovaks wanted to reintroduce the hyphen in the name so that it would be spelled as Czecho-Slovakia. The Czechs didn’t agree to it and both sides finally compromised on “Czech and Slovak Federative Republic”. In June 1992 elections, the rift became clearer than ever when Václav Klaus won largest number of seats in Czech Republic and Vladimir Mečiar won in Slovakia. These leaders and their respective parties had completely different interpretations of what Czechoslovakia should be like. When they failed to agree on anything, they decided to dissolve the state. Finally, Czech Republic and Slovakia emerged out as completely independent states on 1 January 1993³⁴.

7. Comparison between the Organs of Government of USA and Czech Republic

7.1. Executive Branch

The authority of Executive branch in United States lies in the hands of the president who also conducts the duty of Head of State and Commander in chief of the armed forces. In contrast to United States where the president alone holds the power, the executive power in Czech Republic is possessed by both the president and the government. In Czech Republic, the President is established as head of state whereas the Prime Minister is established as the head of government. The responsibility of the president is to implement and enforce the laws written by the congress.³⁵ To accomplish the tasks and responsibilities the head of federal agencies and the cabinet is appointed by the president. The head of State is obligated to represent the nation at official and ceremonial functions but may not be

³⁴ M. Mark Stolarik, *The Czech and Slovak Republics: Twenty Years of Independence, 1993-2013* (Budapest, 2017, p. 77)

³⁵ U. S. Const. art. II

involved with daily operations of the government. The primary and most vital role of a vice president is to assume the responsibilities of a president in case of an emergency. In US, the various federal agencies participate in the daily operations in order to properly administer and enforce federal laws. Some of the noted federal departments are Social Security Administration, Securities and Exchange commission (SEC), Department of Defense (DOD), Environmental Protection Agency (EPA) and Central Intelligence Agency (CIA). It is estimated that when the armed forces are considered, the number of employees employed by the US executive branch exceeds 4 million. The duty to appoint the heads of more than 50 independent federal commissions, such as Federal Reserve Board and federal judges, ambassadors and other federal offices is also executed by the president.³⁶

The President possesses the authority to either verify a legislation to become a law by signing it or veto bills enacted by Congress, although Congress also have the ability to override the veto with enough votes in both houses. The power to negotiate, conduct diplomacy with other nations which leads to treaties between nations is held by the executive branch, which must be ratified by the senate. The President also possesses unique authorities such as to extend pardons and clemencies for federal crimes, the only instance where president does not wield unlimited power is in case of impeachment³⁷.

The US constitution lists three requirements for an individual to be eligible for the presidency. The individual must be 35 years of age, be a natural born citizen and must have been lived in the country for at least 14 years. The people of the United States vote to elect the members of the Electoral College and then these Electors cast the votes for President. The current number of electors in the Electoral College is 538 members. Prior to the ratification of the 22nd Amendment to constitution in 1951, same individual could become president for unlimited number of times but after the ratification now a president can only serve 2 terms in the office³⁸. The President of Czech Republic was elected indirectly for 5-year terms until 2012, beginning in 2013 a constitutional amendment was passed by the Czech parliament allowing Czech citizens to choose the head of state for their nation in a two-round runoff voting system. The president of Czech Republic must be 40 years of age and can only be elected two consecutive terms to the post. A common

³⁶ Justin P. DePlato, *American presidential power and the war on terror: does the constitution matter?* (New York, 2015, pp. 10-12)

³⁷ Charles O. Jones, *The American Presidency: very short introduction* (New York, 2016, pp. 88-89)

³⁸ Lisa Manheim, Kathryn Watts "The Limits of Presidential Power: A Citizen's Guide to the Law" (Seattle, 2018, p. 56)

misperception is that the limitation is adopted from U.S. Constitution namely Amendment 22 which was ratified in 1951 but the reality of the matter is that the provision was adopted from 1920 Czech constitution which however exempted the first president and founding father of Czechoslovakia named Thomas G. Masaryk. President serves for five years for every term.³⁹ Czech constitution also states that the president shall not be responsible for the performance of his duties.⁴⁰ In Article 62, the duties of a president are cataloged, the president is responsible to appoint and recall the Prime Minister and other government members, dissolves the assembly of deputies, make certain that the outgoing government will continue to work diligently until a new government is appointed. Czech head of state wield similar powers in the matters of criminal wrongdoings. The president grants pardons, commute sentences, is also capable of "ordering that a criminal proceeding is not to be instituted or, if it has been instituted, that it be discontinued, and order that a criminal record be expunged".

The Czech President and Vice-President of Supreme Auditing Office is also appointed by the president. The President wields the authority to return all acts to parliament, save constitutional acts. The President enjoys great deal of immunity, The President may never be charged with criminal laws committed during the time in office and the constitutional court can prosecute the president for high treason, when officially charged by the senate as well. If found guilty, the individual may lose office and become ineligible to hold public office again.⁴¹

In Article 67 of Czech constitutional law, The Government is defined as the "highest body of executive power" although much less space is devoted to it than the president. The Government is beholden to the assembly deputies and must gain the vote of confidence.⁴² The Government takes its decision through major voting, this act has often strained allied governments.

³⁹ Article 57, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

⁴⁰ Article 54, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

⁴¹ Article 66, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

⁴² Article 68, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

7.2. Legislative Branch

The legislative Branch has crucial task of making laws. This branch consists Congress and several government agencies. Congress is made up of House of Representatives and the Senate. House of Representatives are referred to as assembly of deputies in Czech. The Congress alone has the authority to enact legislation and declare war. The Constitutions also enable Congress to accept or reject presidential appointments. Substantial investigative powers are also granted to congress for the sole purpose that an individual might not misuse their power.

The US Congress is able to override even the presidential veto by achieving two-thirds of the votes in both the senate and house of representatives whereas in Czech a bill can override veto from an absolute majority in the assembly of deputies alone.⁴³ The US senate is composed of 100 senators, 2 representing each state whereas the house is made up of 435 members. The members in the house differs between states as the members are based on the proportion of a total state population, meaning states with highest population has highest members in the house. The Czech Assembly of deputies is made up of 200 members, serving for a 4-years term whereas the senate contains 81 members, who are serving for a 6-years term.⁴⁴

The Representatives elect the presiding office of the house, the speaker of the house. The speaker of the house is 3rd in line for succession to become a president. The House possess some exclusive powers, such as power to initiate revenue bills, impeach federal officials, and elect the President in the case of an electoral college tie. Members of the house are elected for 2 years terms and must be of 25 years of age according to the constitution.⁴⁵ Members of the Assembly of Deputies are elected through a proportional representation while the senators are elected with a two-round runoff voting system. To be eligible for election to the Assembly of Deputies, a Czech citizen must be 21 years of age.

⁴³ Article 47, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

⁴⁴ Article 16, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

⁴⁵ James Bow "What Is the Legislative Branch? (Your Guide to Government)" (Crabtree Publishing Company, 2013, p. 7)

Nowadays, Senators are elected by popular vote but previously they were elected by the state legislatures. The 17th Amendment's ratification in 1913 saw an end to that. Each senator serves for 6-years term, but the senate is set in a way where one-third of senate is up for election every 2 years. To become a senator a U.S citizen must be of 30 years of age.⁴⁶ Like, the American senate, the Czech senate is also set up in a way where one-third of the senators are up for elections every two years. The mandatory age to become a member of senate is 40 years old for a Czech citizen.⁴⁷

The entire process of a bill from introduction of the bill from a member of the house to the bill becoming the law, the entire process is quite arduous. Before a bill is even presented on the floor of the house, it must go through intense scrutiny from committees and sub-committees though appropriate for the bill. Afterwards, the bill is presented on floor of the house where there is a very structured debate. Following, passing in the house then the bill is presented in the senate. In US, Procedures such as filibuster can also be utilized to delay vote on a bill however filibuster can be broken by a supermajority of 60 senators by invoking cloture.

The Constitution dictates that bill passed in both the house and senate must have exact same wording, which is seldom present in the practical world therefore a Conference committee is constructed to align both versions of the bill. The committee then construct a report, which is regarded as the final version of the bill. Before presenting to the president, the final report now only lacks signature of the speaker of the house and the president of the senate. Congress establishes the annual budget of the government to provide essential services that are responsibility of a functional government.

The office of a deputy or a senator is incompatible with the office of the president and office of a judge, meaning that no legislator shall hold the office of a president or of a judge while being a legislator. The day a legislator assumes the office of the president or a judge, their mandate shall lapse, and they should no longer wield the authority of a legislator.⁴⁸ The constitution defines that senators and deputies are not beholden to anyone's instructions on how to perform their duties, they must perform their duties to

⁴⁶ U. S. Const. art. I

⁴⁷ Article 19, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

⁴⁸ Article 22, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

their utmost capabilities and honoring their office oath disregarding their party affiliations.⁴⁹

In Czech, The Constitution provides substantial immunity to the deputies and the senators, not even on the matters of their performance in office but also regarding criminal actions that might be brought against them. If their respective chambers do not deem that guilty, they shall evade judicial prosecution.⁵⁰ Under certain circumstances, the president of the republic holds the authority to dissolve the Assembly of Deputies. Some instances where the president holds this power are if the house is not able to provide newly appointed government with their confidence. The government whose Prime Minister was proposed to the president from the chairperson of the Assembly of Deputies.⁵¹ Other instance where it's possible is, if the assembly fails to reach a decision on a governmental bill within 3 months. If 120 deputies propose to the president via resolution to dissolve the assembly, the president is empowered to do so.

In case, the Assembly of Deputies is dissolved, the senate should substitute the duties of the assembly. The senate should adopt legislative measures regarding pressing issues and issue which would require adoption of a statute, if not dealt promptly. Senate however has no authority to initiate legislative measures when matters regarding constitution are approached. Matters such as concerning the state budget, an electoral law, or international treaties as other matters outlined in Article 33. As opposed to U.S, the process of changing or amending the Czech constitution is quite facile, all that is required is 120 deputies votes and three fifth of present senators votes.⁵² Treaties that affects the rights or duties of humans, affects alliance or peace, affects economic nature of the nation must have permission from both chambers.⁵³

7.3. Judicial Branch

⁴⁹ Article 26, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

⁵⁰ Article 27, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

⁵¹ Article 35, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

⁵² Article 39, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

⁵³ Article 49, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

In the USA, the people have the power to elect people belonging to the executive and legislative branches whereas the judicial branch is appointed by the president and confirmed by the senate. The legislative branch enjoys a substantial authority when it comes to the establishment of the judicial branch. Congress is empowered to determine the shape and structure of the federal judiciary. The Congress also gets to decide the number of Supreme Court justices. While the current norm is to have 9 Supreme Court justices where 1 is chief justice and other 8 associate justices, there have been times when the nation only had 6 Supreme Court justices. Secondary Courts to the Supreme Court are also established by the legislative branch, and to that purpose district courts and courts of appeals have been established by the Congress.⁵⁴ District courts try federal cases whereas courts of appeals serve the function of reviewing appealed district court cases.

The Founding fathers realized that the judicial branch's primary responsibility is to apply the law with the aim of achieving justice. They also realized that if the judicial branch is elected by the popular vote then the judicial representative might be incentivized to appease the temporary popular attitude instead of the upholding the law and carry out justice as their responsibility. In the aim of untangling that problem, Article III provides judicial branch immunity from popular opinion by making certain that a federal judge can only be dismissed through impeachment in the house of representatives and conviction in the senate. Federal judges and justices hold office until death, retirement or impeachment and conviction in the senate. Similar to USA, Czech judges are also appointed by the president of the republic and approved by the senate with similar reasons to demotivate the judges from taking popular attitude into account and applying justice with their upmost capabilities. Judges are appointed by the president for an unlimited term. It is also stated in the constitution that judges should be impartial, and nobody should affect the impartiality in any manner.⁵⁵ Judges are also provided immunity against their dismissal and transfer to another court against their will. In Czech, in hope of preserving the constitution the constitutional court was established. The president assigns 15 justices to the constitutional court, they serve for a decade however in Czech the tenure is renewable whereas in most of European countries it isn't. The Constitution demand that only a citizen who has impeccable character, possesses a university degree, ten years of active legal work, and is

⁵⁴ U. S. Const. art. III

⁵⁵ Article 82, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

eligible for elections in senate may be appointed as justice of the constitutional court. The Constitutional Court has authority to annul statutes, individual provisions and other legal enactments if they are conflicting the constitution in any manner. The Constitutional Court also have other responsibilities such as assessing the complaints filed by a representative body of a self-governing regions due to illegal trespassing from the state. The ruling of the constitutional court is binding to all individuals and authorities.⁵⁶

Usually, the jurisdiction of the federal courts is concluded by the Congress however under special circumstance, the constitution provides the Supreme Court original jurisdiction which even the Congress cannot restrain. An example of the circumstance where the Supreme courts hold sway is, in case there is a dispute between different states of the nation. Federal courts are responsible for applying the law to individual cases. The secondary courts are bound by the Supreme court's interpretation of the law, meaning that secondary courts must also apply the same interpretation as the Supreme Court's to individual cases. Frequently, cases proceed from district courts to appellate courts and have to possibility to even end up in Supreme Court however the Supreme Court typically reviews comparatively few cases in a year.⁵⁷

The Constitution specifically states that the Supreme court is necessary in the nation whereas other secondary courts are not stated in that manner. Usually, the Supreme Court's entire work is related to appeals and interpretation of the law. A familiar instance is when, 2 different federal courts have contradicting rulings and choose to interpret the law in clashing manner. In that case, Supreme court decides to interpret the law and every other court must follow the precedent as the Supreme Court holds highest authority in the nation on matters of federal law, and the justices are considered to be the most able, diligent, and accomplished legal scholars. The subordinate courts follow the Supreme court's interpretation like the American system, however unlike USA, there is no judgement from the jury in Czech Republic.⁵⁸ The structure of general jurisdiction courts in Czech consists 1 Supreme court, 2 high courts, 8 regional courts and 86 district courts.

⁵⁶ Article 89, Constitutional Act No. 1/1993 as amended by Constitutional Act No. 347/1997 Coll., No. 300/2000 Coll., No. 395/2001 Coll., No. 448/2001 Coll., No. 515/2002 Coll., No. 319/2009 Coll., No 71/2012 Coll. and No 98/2013 Coll.

⁵⁷ Linda Greenhouse "The U.S. Supreme Court: A Very Short Introduction" (Oxford University Press,2012, p. 14)

⁵⁸ Bobek, Michal; "UPDATE: An Introduction to the Czech Legal System and Legal Resources Online" (Online,2018)

The American constitution ensures that any individual accused of a crime has right to an impartial trial in front of a competent judge and jury. There have been amendments to the law concerning rights of a defendant. The 4th, 5th, and 6th amendment provides defendant rights such as the right for legal representation, safeguards that a defendant shall not be tried for the same crime twice, ensure that no defendant will be deprived of life, liberty, or property without due process of the law. The fifth amendment also shield a defendant from self-incrimination as they can plead the fifth and refuse to answer question under oath.

Czech uses administrative courts in special circumstance whereas US deploys special committees. Administrative courts have the responsibility to assess cases relating elections, movements, and registration of political parties etc. The Supreme Administrative court aims to protect individuals rights in sphere of public law. The administrative courts try to provide security against illegal acts and interference by public authority, as well as inaction of those same authorities.

8. Amendments to the Constitution of United States of America

Following the establishment of American constitution, a council of several American states stated that constitution in the current form can be mis-constructed and thereby could generate instances of abuse of power. Keeping that in mind, the council expressed their desire to further introduce declaratory and restrictive clauses, they wished to increase people confidence in the government. Naturally, the Congress concurred with the significance of these changes and ratified these amendments. Initially, 10 changes were added, and these amendments formed what is known as the “Bill of Rights”. These amendments were ratified December 15, 1791. Subsequently, with the passage of time & as deemed fit by the congress, more amendments were ratified. Nowadays, there are a total of 27 amendments.

The first amendment dictates that congress should pass no legislation that respects an establishment of religion, nor pass a legislation that infringe on peoples and press right to free speech thereby allowing citizens to peacefully assemble and petition the government to set right the grievances. The second amendment give people right to keep and bear arms

while prohibiting congress from breaching this right. The founding father deemed the right to bear arms necessary, should the government become tyrannical, the people must have the power to reclaim their nation. The third amendment dictates that during peace time no house owner could be forced by the government to keep a soldier in their house whereas during a war the manner of the stay will be prescribed by the law.

The amendments through 4 to 8 provides defendant rights such as the right for legal representation, safeguards that a defendant shall not be tried for the same crime twice, ensure that no defendant will be deprived of life, liberty, or property without due process of the law. The fifth amendment also shield a defendant from self-incrimination as they can plead the fifth and refuse to answer question under oath.⁵⁹ The protection from excessive bail, fines and cruel punishments is also provided. It is stated that in civil law, if the value in dispute exceed 20\$ then the right to a jury is preserved. The ninth amendment says that certain rights provided by the constitution should not be used in a way to deny other rights retained by people. The tenth amendment dictates that in a case where power is not delegated to the US, nor is it prohibited to the states by the constitution then the power is reserved to the state or the people. Amendment 11 is there to ensure that no individual residing in another state or foreign country can bring a lawsuit against a state, only individual residing in the state which the case is against can bring a lawsuit against that state.⁶⁰

The controversial election of 1800 demonstrated the weakness of electoral system thereby leading to ratification of the 12th amendment which changes the way executives of the nations were elected. Instead of the vice-president being the runner up in presidential election, the 12th amendment mandated that the president and vice president should be elected together. This amendment superseded a portion of Article II, section 1 of the Constitution whereas later the section III of 20th amendment superseded the 12th amendment.

The amendments through 13th to 15th were the most controversial amendments in American history. They were ratified following the American civil war which left

⁵⁹ The Bill of Rights, US Const. amend I-X

⁶⁰ US Const. amend. XII

somewhere between 630,000 to 750,000 Americans dead, more than all the deaths of American soldiers in all the other wars combined.⁶¹ In these amendments, slavery and involuntary servitude was abolished, except for punishment of a crime. Citizenship was defined and other clauses were included to deal with post-civil wars issues. Some clauses were the Privileges or Immunities Clause, the Due Process Clause and the Equal Protection Clause. The African American people were also designated the right to vote. The ratification of these amendments superseded a portion of Article IV, section 2, of the Constitution and modified Article I, section 2, of the Constitution.

The 16th amendment gave Congress the authority to raise taxes without having to allocate it to various states or even without basing it on US census whereas the 17th amendment saw the changes in election procedure for senators, which thereafter were elected by the popular vote. The 18th amendment fueled by temperance movement ratified on January 16, 1919 prohibited the production, sale and transportation of alcoholic beverages, save the ones used for religious purposes. It must be noted that the 18th amendment did not prohibit the consumption of alcohol, just its production, distribution and transportation. The 18th amendment was later repealed by the 21st amendment. 19th amendment made certain that no individual will be denied the right to vote on the basis of their sex. The 20th amendment amended the dates on which the terms of president-elect, vice president-elect, and the member of Congress will commence. The 21st amendment is unique, as it is the first and only amendment to repeal a prior amendment of the United States.⁶² The 18th amendment didn't prove fruitful as previously assumed, as prohibition of alcohol gave surge the illegal business of alcohol distribution which contributed to an increase in organized crime thus the 21st amendment was introduced to repeal the 18th. It also stated that importing alcohol in the states where it is prohibited will be treated as federal crime.

The 22nd amendment ratified following the WWII, limits the number of terms an individual can be elected to the office of president to only 2 terms. President Franklin D. Roosevelt is the only individual that has served more than 2 terms as American president. The 23rd amendment provided District of Columbia electors in electoral college; this amendment was proposed after examining the fact the DC populace is substantially higher than the

⁶¹ "Civil War Facts". American Battlefield Trust. American Battlefield Trust.

⁶² U.S Const. Amend. XXI

least populace state. The 24th amendment terminated the government authority to exclude citizens from voting based on non-payment of poll tax or any other tax. The 25th amendment tackle procedure concerning filling the vacant vice-president's office, adequate way to address president disabilities, and succession of a president. The 26th amendment ensure that every citizen over the age of 18 must not be denied the right to vote on account of their age. The final and 27th amendment says that laws regarding changes in congressional salary must be delayed and come into effect until after the current term of office has expired.

9. Criticism of both Countries Constitution

The American Constitution was ratified on June 21, 1788 and to this day many politicians, not just in America but throughout the world, adulate the Constitution. Numerous nations have followed in American footsteps and used the American constitution as a role model.⁶³ Nevertheless, the parliamentary government system that possess a prime minister is more prominent than presidential government system, which is used in America. In 1985, Juan Luiz, who was a political scientist at Yale tried to analyze the differences between president based and prime-minister based systems and concluded that the president-based democracies possess an inherent weakness. It was established that when a prime minister is unable to gain legislative support, that is resolved by a new election whereas in presidential democracies the opposite parties must reach an accord, the problem being sometimes they are unable to do so as each side uncompromising. A prime example would be Latin American countries. Historically, the congress in US has demonstrated sufficient bipartisanship to not put the government into a freeze whereas recent times have shown on numerous occasions that, deadlocks are a real threat to adequate governing of USA. The president and the congress can also be on the opposite end of ideological spectrum, unwilling to fulfill their responsibilities and there is no provision that compels them to do so. Many scholars agree that the founding fathers wished America to be a republic, where elite member of society gets to decide instead of common people. They point to the procedure of electing the president through indirect means and several other failsafe for

⁶³ Dahl, Robert A., 'How Democratic is the American Constitution?', Second Edition (Yale University Press, 2003, pp. 41-72)

imbalance of power in the three branches and call it undemocratic.⁶⁴ The opponents argue that the indirect election was a way to keep the states empowered in the inception of the nation as, there were mistrust and rivalry between various states. The president's power to veto and to keep the legislative power in check is also called in questioning but the proponents of the constitution argue that the power to veto is actually democratic as it stays a portion of populace to enforce its wishes onto the entire nation. Restrictions placed on the executive branch such as not being able to declare war alone or signing of treaties are also a source of criticism, but the opposite argument is that these balances stops the president from acting recklessly and needing support from various legislators. The filibuster of senate is not written in actual constitution but has become a norm in American congress. The ability to filibuster means that just by having 41 votes in the senate, the minority is able to halt any legislation they so desire. The filibuster was not always part of the senate but was added later and has been amended numerous times since, famously by President Woodrow Wilson for declaring war on central powers in WWI.⁶⁵ Recently, filibuster has been quite useful for unelected party to halt the elected party in their tracks and stopping progress. Many upcoming presidential candidates have proposed the removal of filibuster.

The Constitution of Czech Republic was required in a hurry after the fall of Czechoslovakia in 1992 thereby political analysts suggest that this need for speed has left inaccuracies in the Constitution, which disturb proper governance of the nation. A famous example was illustrated in 2009, where the inability to actualize early election was showcased. Other constitutions have provisions where under appropriate conditions president is given the ability to dissolve parliament and convene early elections or assembly may dissolve the parliament thus giving the decision to president. However, in Czech Constitution there are no such provision which leads dysfunction of the political system. The Czech Constitution is considered much more efficient than US as any opposition conducted by the senate or the president on a legislation can be overridden by absolute majority in the Assembly of Deputies. The authorities provided to the president in Article 62 and 63 are fundamentally distinct as Article 62 doesn't require co-signature of the prime minister of the nation whereas Article 63 does. The misinterpretation between

⁶⁴ Kelly, Alfred and Herman Belz, 'The American Constitution: Its Origins and Development', Volume II. (Norton, 1991, p. 413)

⁶⁵ Gregory Koger "Filibustering: A Political History of Obstruction in the House and Senate" (Chicago, 2010, pp. 4-10)

these rights have led to debates and law being considered invalid. One such example is President Vaclav Klaus's amnesty decisions.

Practical Part

10. Recent Presidential Election in both Countries

10.1. Background

The 2016 presidential election is popular for heated debates and social media exchanges between Hilary Clinton & Donald J. Trump representing the democratic and republic party respectively, however, the general populace is not very well aware that 22 candidates took part in that election, 17 representing the Republican Party also nicknamed “Grand Old Party” whereas 5 representing the Democratic Party. Let us analyze some factors that led to this monumental 22 candidates competing for the office of commander in chief and the head of state.

The two-time outgoing president Barack Obama had finished his time in office and was prohibited by 22nd Amendment to run for office again. Obama who first became president in the midst of 2008 financial crises is often credited for ending the Great Recession through a fiscal stimulus called American Recovery and Reinvestment Act of 2009 and throughout his two terms as American president the economy was in the expansion stage of the business cycle. Obama, whose followers were in awe of his exceptional charisma, was also heavily criticized for a slow recovery of the economy, his foreign policies and financial failure of his key legislation named the Patient Protection and Affordable Care Act, or as it is known by the masses “Obamacare”. The decrease in unemployment level was credited to part time jobs.⁶⁶

⁶⁶ Elaine kamarck, “The fragile legacy of Barack Obama”. 2018.

In 2015, due to these criticisms the Republican Party seemed well positioned for the upcoming election and a general public opinion demonstrated an enthusiasm for turnover of governing party. In fact, the Republican party seemed certain of an election turnout to be in their favor that 17 representatives came forward and expressed their desire to be the next President of the United States. These were accomplished governors and senators who wished to be president, leading to an arduous process of selecting the Republican nominee. Some of the prominent candidates John Kasich, Ted Cruz, Marco Rubio, Ben Carson, Jeb Bush. When Trump announced his candidacy, quite a few of the Republican strategists and party members seemed appalled by it as Trump has previously publicly admitted to making campaign contribution to democratic party to wield influence. The consensus on both sides of the aisle was that he didn't represent the traditional conservative base of the Republican party. Trump quickly became infamous for making outrageous unsubstantiated claims and promises. He ridiculed his opponents in personal comments and made provoking comments to anyone who disagreed with his policies which is a highly frowned upon behavior in political circles.⁶⁷

In comparison, Hilary Clinton was endorsed staunchly by most of the Democratic Party as the prime candidate to the nominee. Then, Hilary had constructed a formidable reputation by serving in President Obama's cabinet as Secretary of State for 4 years. She had sufficient experience in politics, after Obama's last term, some staunch supporters of the party were skeptical of next party nominee to be inspiring. Those supporters found solace in the candidacy of Hilary. The idea of the first woman president of the United States was highly romanticized around her, she became a symbol of women empowerment in the nation. She also had strong support from the wall street and investing titans such as George Soros, Warren Buffet etc. She faced fierce competition from an ambitious opponent, senator Bernie Sanders from Vermont. Bernie considers himself and his ideologies as democratic socialist, the perfect combination of democratic and socialistic ideologies. Bernie's entire campaign was manufactured around issues such as easing student loans, trade agreements, income as well as wealth inequality and against wall street interests. Bernie had significant support from young supporters and pushed Clinton to adapt more progressive ideologies.⁶⁸ There were other less popular and dubbed as second-tier

⁶⁷ Larry Sabato; Kyle Kondik; Geoffrey Skelley, *Trumped: The 2016 Election That Broke All the Rules*. (Rowman & Littlefield, 2017, pp. 102 & 124).

⁶⁸ Trip Gabriel; Patrick Healy, "Challenging Hillary Clinton, Bernie Sanders Gains Momentum in Iowa". (The New York Times, 2015)

candidates from the democratic party. Totally, there were 5 candidates from the democratic party who expressed a desire to become the next president of United States.

10.2. Primaries

When the primary process initiated, Jeff Bush and Hilary Clinton both raised 100 million USD promptly becoming the prime nomination candidates for the Republic and Democratic party respectively.⁶⁹ However, Donald J. Trump rapidly rose in polls and public opinion through his careless and humane demeanor. His bold and reckless way of speaking connected with lower and middle-income voters. The news outlets could not resist broadcasting him due to his sizzling remarks and careless attitude which only led to increasing his popularity further. He constantly ridiculed news outlets and characterized them as dishonest, that resulted in a surge of negative stories and press opposition to him. He campaigned hard against the Muslims immigration and vowed to build a wall on Mexican- American border in an effort to stop and discourage illegal immigration. He famously said “They’re bringing drugs, they’re bringing crime. They’re rapists. And some, I assume, are good people”. All these messages were tremendously popular with the traditional conservative voters, who have witnessed a steep increase in crime from Hispanic communities in the recent years as the illegal drug trade continue to grow in the United States. He made claims that he’ll coerce money from the Mexican government to build the wall between these two countries, when these claims were denied by the Mexican president, Trump candidly said “Mexico will pay for the wall and the wall just got 10 foot higher”. He repeatedly blamed the previous administration for poor economic conditions, unfavorable trade agreements and a terrible foreign affairs policy. He ridiculed the other challengers for Republican nominee by insulting them on personal character traits, accusing Jeff Bush of having “no energy”. The senators Marco Rubio and Ted Cruz from Florida and Texas respectively weren’t spared his attacks either, where Trump called senator Marco Rubio as “Little Marco” and senator Ted Cruz as “Lying Ted”. Media and onlookers were particularly outraged when he uttered a degrading comment about Carly Fiorina’s appearance and demanded an apology, but Trump stood firm on his ground and refused to offer any apology to the former Chief Executive officer of Hewlett-Packard.

⁶⁹ Demetri Sevastopulo, “Jeb Bush and Hillary Clinton languish in Donald Trump’s shadow” (Financial Times, 2015)

Every election year both parties hold election to select delegates to appear in their respective national convention. These electoral contests take place in all 50 states, District of Columbia and 5 U.S territories. In 2016, the number of delegates selected were 2,472 and 4,051 for the Republicans and the Democratic party respectively.

To become the Republican nominee, one of the seventeen candidates required a simple majority of 1,237 votes from the delegates. Ted Cruz won the initial and crucial state of Iowa with 8 delegates and 27% of popular vote whereas Trump was trailing him with 24.3% of popular votes and 7 delegates.⁷⁰ However, Trump won the following New Hampshire state and won essential victories in the south. Down below is the table of popular votes gained in percentage for the prime 5 candidates of Republican party.

Candidates:	Trump	Cruz	Rubio	Kasich	Carson	Bush
Iowa	24.3%	27.6%	23.1%	1.9%	9.3%	2.8%
New Hampshire	35.2%	11.6%	10.5%	15.7%	2.3%	11.0%
South Carolina	32.5%	22.3%	22.5%	7.6%	7.2%	7.8%
Nevada	45.7%	21.3%	23.8%	3.6%	4.8%	N/A
Alabama	43.4%	21.0%	18.7%	4.4%	10.2%	N/A
Alaska	33.6%	36.4%	15.2%	4.0%	10.8%	N/A
Arkansas	32.8%	31.0%	25.0%	4.0%	6.0%	N/A
Georgia	39.0%	24.0%	24.0%	6.0%	6.0%	N/A
Massachusetts	49.0%	10.0%	18.0%	18.0%	3.0%	N/A
Minnesota	21.0%	29.0%	36.0%	6.0%	7.0%	N/A
Oklahoma	28.0%	34.0%	26.0%	4.0%	6.0%	N/A
Tennessee	39.0%	25.0%	21.0%	5.0%	8.0%	N/A
Texas	27.0%	44.0%	18.0%	4.0%	4.0%	N/A
Vermont	33.0%	10.0%	19.0%	30.0%	4.0%	N/A
Virginia	35.0%	17.0%	32.0%	10.0%	6.0%	N/A
Kansas	23.0%	47.0%	17.0%	11.0%	N/A	N/A
Kentucky	36.0%	32.0%	16.0%	14.0%	N/A	N/A
Louisiana	41.0%	38.0%	11.0%	6.0%	N/A	N/A
Maine	33.0%	46.0%	8.0%	12.0%	N/A	N/A
Puerto Rico	13.0%	9.0%	71.0%	1.0%	N/A	N/A
Hawaii	43.0%	32.0%	13.0%	10.0%	N/A	N/A
Idaho	28.0%	45.0%	16.0%	7.0%	N/A	N/A
Michigan	37.0%	25.0%	9.0%	24.0%	N/A	N/A
Mississippi	47.0%	36.0%	5.0%	9.0%	N/A	N/A
Virgin Islands*	6.0%	12.0%	10.0%	–	N/A	N/A
Guam	0.0	1.0	0.0	0.0	N/A	N/A
Washington D.C.	14.0%	12.0%	37.0%	36.0%	N/A	N/A

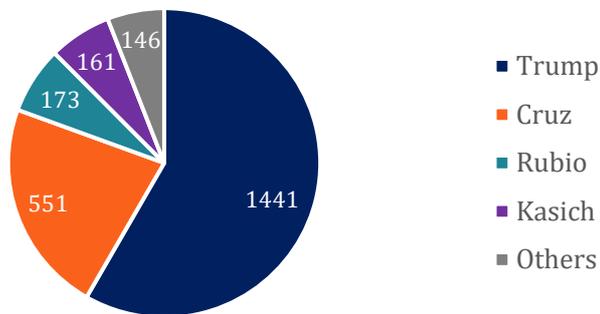
⁷⁰ “2016 Election Center: Iowa” (CNN,2016)

Wyoming	7.2%	66.3%	19.5%	0.0%	N/A	N/A
Florida	46.0%	17.0%	27.0%	7.0%	N/A	N/A
Illinois	39.0%	30.0%	9.0%	20.0%	N/A	N/A
Missouri	40.8%	40.6%	6.0%	10.0%	N/A	N/A
North Carolina	40.0%	36.0%	8.0%	12.0%	N/A	N/A
N. Mariana Islands	73.0%	24.0%	1.0%	2.0%	N/A	N/A
Ohio	36.0%	13.0%	2.0%	47.0%	N/A	N/A
American Samoa*	9.0	0.0	N/A	0.0	N/A	N/A
Arizona	46.0%	28.0%	N/A	11.0%	N/A	N/A
Utah	14.0%	69.0%	N/A	17.0%	N/A	N/A
North Dakota*	17.0	11.0	N/A	0.0	N/A	N/A
Wisconsin	35.0%	48.0%	N/A	14.0%	N/A	N/A
Colorado	1.0	33.0	N/A	0.0	N/A	N/A
New York	59.0%	15.0%	N/A	25.0%	N/A	N/A
Connecticut	58.0%	12.0%	N/A	28.0%	N/A	N/A
Delaware	61.0%	16.0%	N/A	20.0%	N/A	N/A
Maryland	54.0%	19.0%	N/A	23.0%	N/A	N/A
Pennsylvania	57.0%	22.0%	N/A	19.0%	N/A	N/A
Rhode Island	63.0%	10.0%	N/A	24.0%	N/A	N/A
Indiana	53.0%	37.0%	N/A	8.0%	N/A	N/A
Nebraska	61.0%	11.0%	N/A	18.0%	N/A	N/A
West Virginia	77.0%	6.0%	N/A	9.0%	N/A	N/A
Oregon	64.0%	16.0%	N/A	17.0%	N/A	N/A
Washington	75.0%	10.0%	N/A	11.0%	N/A	N/A
California	75.0%	N/A	N/A	N/A	N/A	N/A
Montana	74.0%	N/A	N/A	N/A	N/A	N/A
New Jersey	80.0%	N/A	N/A	N/A	N/A	N/A
New Mexico	71.0%	N/A	N/A	N/A	N/A	N/A
South Dakota	67.0%	N/A	N/A	N/A	N/A	N/A

Source: The Associated Press

States whose popular vote tally has not been released are reported by number of delegates won. Jeff Bush who was biggest spender in the primaries and was considered one of the prime candidates suspended his campaign on 20th February 2016. He did so only after 3 states disappointing results. Ben Carson suspended his campaign on March 4th, 2016 following an unsatisfactory result from super Tuesday which was on 1st of March. The senator Marco Rubio from Florida withdrew his campaign after meeting defeat in his home state and thus only leaving Donald Trump, John Kasich & Ted Cruz in race for acquiring the Republican nomination. After Trump's victory in the state of Indiana on 3rd May 2016, both remaining competitors for the nomination also decided to suspend their campaigns. Trump led the delegates results by more than double the senator Cruz who possessed second place in delegates count.

Republican Party primaries, 2016
(Hard Total Delegate Result)



Source: The Associated Press

After Trump achieved 1441 delegates, 204 more than required to form a simple majority. Every competitor he had subsequently suspended their campaigns and Trump managed to scoop up even more delegates as on the first ballot for contention he acquired the Republican nomination with 1,725 delegates, 488 more than necessary.

As for the Democratic party primaries, Hilary was the favorite choice from the beginning of the process, but she was challenged by some contenders, namely by Vermont Senator Bernie Sanders, former Governor of Rhode Island Lincoln Chafee, former Virginia Senator Jim Webb, and former Governor of Maryland Martin O'Malley. Lincoln Chafee and Jim Webb managed to end their campaigns before even the primary process began whereas O'Malley went ahead and ended his campaign right after Hilary won the Iowa caucus closely trailed by Bernie Sanders.⁷¹ Social Media moments were initiated to encourage Elizabeth Warren and then Vice-President Joe Biden to pursue presidency but refused to endeavor for it. The campaign suspension of former Governor of Maryland left only Hilary Clinton and Bernie Sanders in the contention for Democratic Party's nomination. Clinton won the first state in primaries while Sanders won second, Iowa and New Hampshire respectively. Then Hilary won Nevada, South Carolina, Alabama, Georgia whereas Sanders won Colorado, Indiana, Vermont, Utah etc. The entire results are posted in the table below. The numbers are in percentage of delegates won to each particular candidate cause.

⁷¹ Reston, Laura, "Americans Love an Underdog—Just Not Lincoln Chafee, Jim Webb, or Martin O'Malley". (New Republic,2015)

Date	State	Clinton	Sanders
Feb-01	Iowa	49.80%	49.60%
Feb-09	New Hampshire	38.00%	60.40%
Feb-20	Nevada	52.60%	47.30%
Feb-27	South Carolina	73.50%	26.00%
Mar-01	Alabama	77.80%	19.20%
Mar-01	American Samoa	68.40%	25.70%
Mar-01	Arkansas	66.30%	29.70%
Mar-01	Colorado	40.40%	59.00%
Mar-01	Georgia	71.30%	28.20%
Mar-01	Massachusetts	49.70%	48.30%
Mar-01	Minnesota	38.30%	61.70%
Mar-01	Oklahoma	41.50%	51.90%
Mar-01	Tennessee	66.10%	32.40%
Mar-01	Texas	65.20%	33.20%
Mar-01	Vermont	13.60%	86.10%
Mar-01	Virginia	64.30%	35.20%
Mar-05	Florida	64.40%	33.30%
Mar-05	Illinois	50.50%	48.70%
Mar-05	Kansas	32.30%	67.70%
Mar-05	Louisiana	71.10%	23.20%
Mar-05	Maine	35.50%	64.30%
Mar-05	Missouri	49.60%	49.40%
Mar-05	Nebraska	42.90%	57.10%
Mar-05	North Carolina	54.60%	40.80%
Mar-05	Ohio	56.50%	42.70%
Mar-08	Michigan	48.30%	49.80%
Mar-08	Mississippi	82.60%	16.50%
Mar-12	N. Mariana Islands	54.00%	34.40%
Mar-21	Democrats Abroad	30.90%	68.90%
Mar-22	Arizona	56.50%	41.10%
Mar-22	Idaho	21.20%	78.00%
Mar-22	Utah	20.30%	79.30%
Mar-25	Alaska	18.40%	81.60%
Mar-25	Hawaii	28.40%	71.50%
Mar-25	Washington	27.10%	72.70%
Apr-05	Wisconsin	43.10%	56.60%
Apr-09	Wyoming	44.30%	55.70%
Apr-19	New York	58.00%	42.00%
Apr-26	Connecticut	51.70%	46.50%
Apr-26	Delaware	59.80%	39.20%
Apr-26	Maryland	63.00%	33.30%
Apr-26	Pennsylvania	55.60%	43.60%
Apr-26	Rhode Island	43.30%	55.00%
May-03	Indiana	47.50%	52.50%
May-07	Guam	59.50%	40.50%
May-10	West Virginia	35.80%	51.40%

May-17	Kentucky	46.80%	46.30%
May-17	Oregon	42.50%	55.90%
Jun-04	Virgin Islands	87.10%	12.90%
Jun-05	Puerto Rico	59.40%	37.50%
Jun-07	California	53.10%	46.00%
Jun-07	Montana	44.60%	51.00%
Jun-07	New Jersey	63.30%	36.70%
Jun-07	New Mexico	51.50%	48.50%
Jun-07	North Dakota	25.60%	64.20%
Jun-07	South Dakota	51.00%	49.00%
Jun-14	District of Columbia	78.70%	21.10%

Source: The Associated Press

On June 7th when 6 states held their primaries and Clinton emerged as victorious, she declared that she now has sufficient delegates to form simple majority. Despite Clinton possessing majority of delegates, Sanders refused to back down from the only remaining primary in District of Columbia which Clinton went on to win. Clinton went on to secure 2,842 delegates where Sanders only managed 1,865. Clinton managed to secure to Democratic party's nomination, but Sanders pushed to the edge and made her adopt more progressive leaning throughout the campaign in primaries. Clinton had to adopt policies regarding an increase in minimum wage, free university tuition of middle-class etc.⁷² Clinton's biggest success in securing the nomination came in the form of superdelegates where 15% of the delegates have voting rights but those voting rights are not based on primaries or caucuses. Some prestigious members of Democratic National Committee enjoy votes on basis of being prominent member of the party and majority of superdelegates preferred Clinton over Sanders. 572 superdelegates supported the cause of Hilary whereas only 42 supported the Democratic Socialist cause of Bernie Sanders.⁷³ After Clinton gaining the majority of delegates Bernie Sanders came out and endorsed her to win against Republican nominee Donald J. Trump.⁷⁴ Following, Clinton's nomination as the Democratic party candidate, a huge scandal broke out where thousands of emails from Democratic National Committee were made public on WikiLeaks. In these emails, DNC members discussed in detail on ways to diminish Sanders campaign and have Clinton win the nomination. Crass remarks were made about Bernie Sanders campaign, this scandal lead to resignation of DNC chairwoman and a handful of top aides.⁷⁵ Later, Trump used these emails to frame Clinton as a dishonest and unlawful candidate while Clinton made

⁷² Jim O'Sullivan, "Clinton, Sanders fight over claims to progressive credentials". (Boston Globe, 2016)

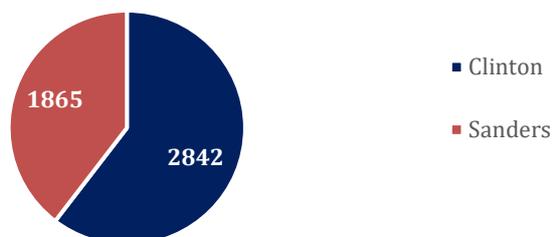
⁷³ Antonio Moore, "How Democratic Superdelegates Decided the 2016 Election". (HuffPost, 2017)

⁷⁴ Evans, Brad; Ledbetter; Stewart, "Sen. Bernie Sanders ends bid, endorses Hillary Clinton for president". (WPTZ, 2016).

⁷⁵ "Here are the latest, most damaging things in the DNC's leaked emails". (The Washington Post, 2016)

allegation that these emails were released by state owned Russian hackers in an effort to derail her campaign because they favor Trump over her.

Democratic Party Primaries, 2016
(Delegates Results)



Trump chose Mike Pence to be his Vice-President while Clinton decided to opt with Tim Kaine. During the convention in July, Trump campaign suffered numerous disappointments as Hilary seemed to be ahead in polls in eleven swing states. Trump former opponents from the primaries were hesitant to endorse him in their home states due to the brashness of his comments against them. Meanwhile, both the Obama's and then Vice-President Joe Biden were campaigning fiercely in support of Hilary Clinton. John Kasich and Ted Cruz were among the few who refused to unite together to support the Republican party. Former President Bill Clinton also campaigned for his wife Hilary during the convention and delivered a well-received speech in Philadelphia. Upcoming months of campaign both candidates found themselves in strenuous situations when Hilary called Trump supporters "deplorable degenerates" and collapsed publicly while departing from a memorial event of 9/11 attacks. Trump himself was ashamed when a video recording from 2005 was made public where he is making disgusting comments about women, they both faced tremendous backlash which resulted in public apologies.⁷⁶ In September, further emails were released on WikiLeaks from Hilary's campaign manager account. There wasn't a substantial blow to Hilary's from these leaks but little irritants which wasted a lot of their time. Emails regarding doubts of Hilary ethics, Biased journalism and Hilary receiving a special treatment from news sources were found on these

⁷⁶ Jane C. Timm, " Trump on Hot Mic: 'When You're a Star ... You Can Do Anything' to Women". (NBC, 2016)

emails. Federal agents were certain at this point that this deliberate meddling of American election is done by Russian authorities.⁷⁷

Trump still lagging in polls decided to switch momentum and started campaigning in the midwestern swing states which were previously won by Obama and advocated change to policies of globalization and job losses. He blamed previous administration for being negligent and having ulterior motives fueled by outside interest in making adequate deals that led to deterioration of job market and economy. Clinton campaign revolved around continuation of Obama's policies such as Obamacare but also being more meticulous around issues such as Climate change. Clinton clearly demonstrated better understanding of issues but still public favored to attempt Trump's debates. Another controversy regarding emails erupted late in the campaign when Clinton use of a private server while being Secretary of State became evident. She had previously admitted and turned over around 31,000 emails but ordered that almost same amount emails to be destroyed. FBI started an investigation that Clinton has been utterly careless with classified information, but a criminal intent was not found hence the investigation was suspended.⁷⁸ In the wake of these scandals, her lead which was previously 6 percent deteriorated to only 3.2 percent.

Election day on November 8th, 2016 showed that 11 hugely contested states preferred change over continuation of current policies. Trump won Iowa, Ohio, Florida, Pennsylvania, North Carolina, Wisconsin and Michigan whereas states highly targeted by Clinton that usually favor Republican candidate choose to remain with GOP.⁷⁹ Exit polls illustrated the fact that Trump won major support from white voters while Hilary was more favored by College graduates. Trump managed to gain 270 electoral voted needed to become the president by flipping these midwestern states where the rates people without a college degree are the highest while Clinton was a strong name in the metropolitan centers, she failed to connect with rural industrial based voters.⁸⁰ Despite gaining more popular votes Hilary lost to Electoral votes as in America each state enjoy a specific number of electoral votes, which are dependent on the numbers of senators and representatives of the house in each state which itself is dependent on the population of the state.⁸¹ California has

⁷⁷ Shane, Scott; Mazzetti, Mark. "Inside a 3-Year Russian Campaign to Influence U.S. Voters". (*The New York Times*, 2018)

⁷⁸ **Mike Levine, "Why Hillary Clinton Deleted 33,000 Emails on Her Private Email Server". (ABC news, 2016)**

⁷⁹ Arkin, Daniel; Siemaszko, Corky. "2016 Election: Donald Trump Wins the White House in Upset". "NBC News, 2016)

⁸⁰ Goldmacher, Shane; Schreckinger, Ben. "Trump Pulls Off Biggest Upset in U.S. History". (Politico, 2016)

⁸¹ Richard Florida, "Mapping how America Metro Areas Voted." (CityLab, 2016)

58 votes due to it being the state with highest population and then it is followed by Texas which 38 votes. Hilary won California while, trump gained 38 votes from Texas. To grasp the reason why trump has less popular votes, but more electoral votes let's look at the state of Florida, Trump barely managed to win in Florida however that meant that all 29 electoral votes will go to Trump. It means that a majority is required for getting the electoral votes of the state so there is no difference between acquiring 1% or 49% of votes in a state. Minority receives no votes whereas majority receives all of them. The electoral college was established to give states more authority but, recently the fairness of this system has been called into question.⁸²

2016 Election Results

	Candidate	Party	Electoral Votes	Popular Votes
✓	Donald J. Trump	Republican	304	62,980,160
	Hillary R. Clinton	Democratic	227	65,845,063

Source: The New York Times

Clinton and her supporters were enraged specially as her presidential campaign spending were \$636 million whereas the winner only spent \$302 million.⁸³ They blamed Russian hacking and meddling of the election Trump's favor and prompted an investigation in the matter. American intelligence agency had a consensus that Russian government had systematically tried to tilt the election in Trump's favor. 17 agencies signed and presented the findings thus the new congress initiated an investigation in this matter. Republican accused the Democrats of making unsubstantiated claims in an effort to undermine President Trump's authority whereas stated that Clinton lost due to shortcomings in her campaign. Special counsel Robert Mueller was appointed to investigate Russian meddling in the election. His report states that there was systematic interference by Russia but whether President Trump was a co-conspirator could not be proved. He still states there was sufficient wrongdoing to justify an impeachment of the president.⁸⁴ The President impeachment appeal was passed in house of representatives but was declined in the senate.

⁸² Presidential Election Process (USAGov)

⁸³ "2016 Presidential Race" Opensecrets.org. Center for Responsive Politics

⁸⁴ Robert S Mueller, III; Rosalind S Helderman; Matt Zapposky; United States. Department of Justice. Special Counsel's Office. "The Mueller Report". (New York, 2019, p. 381)

10.3. Czech Presidential Election of 2018

Miloš Zeman who has been Prime Minister of the Czech nation from 1998-2002 was the first directly elected president of the nation in 2013. Previous to 2013, the president was decided by the Parliament of Czech Republic. In 2012, the nation of Czech Republic amended the way the President of the nation was elected to direct election by popular votes in 2 rounds.⁸⁵ Polls in 2016 indicated that Zeman is a front runner to be elected again in 2018. Zeman received immense confidence boost from these polls and subsequently announced his decision to run for presidency again in the first quarter of 2017.⁸⁶ The Election dates for first were decided to be 12th and 13th January 2018 while second round was to be conducted on 26th and 27th if deemed necessary as few analysts believed that Zeman would be able to win the presidency in the 1st round. There were rumor that Social Democrats (ČSSD) and ANO 2011 will endorse Zeman, but those turned out to be nothing more than rumors.⁸⁷ On numerous occasions leading to the campaign, Zeman health was called into questioning.

In Czech Republic, if a citizen wishes to be an official candidate for presidency and qualify for the ballot then the constitution demands that one of the following conditions be met:

1. Have signed support of 50,000 citizens
2. Have support of 20 deputies
3. Have support of 10 senators

A candidate must put forth their application with one of the conditions met at least 66 days before the election providing interior ministry the time to verify the authenticity of these claims. 19 candidates made claims to the presidency, however, only 9 were able to meet one of the essential requirements for registration and acquire official candidate status.⁸⁸

Mirek Topolánek was one such candidate to announce his presidency. Topolánek is a former prime minister of the Czech nation from 2006-2009. He ran with the support of 10 senators. He was an independent candidate but had support from Civil Democratic party and Freeholder Party of the Czech Republic. Topolánek was a proponent of Czech involment in European Union and NATO while he was a critic of Euro acceptance as a

⁸⁵ ("Prezidentské volby 2018 - E15.cz". Zprávy E15.cz, 2018)

⁸⁶ "Kandidáti na prezidenta České republiky ve volbách 2018". (Zprávy E15.cz, 2016)

⁸⁷ "Miloši, Miloši! Premiér Sobotka to prý zkouší na Zemana, protože se bojí Babiše. Noviny slyšely více". (Parlamentní listy, 2017)

⁸⁸ "O post prezidenta se chce utkat 19 kandidátů, někteří budou nejspíše z boje vyřazeni". (Zprávy E15.cz, 2017)

currency and migration quotas.⁸⁹ The Kroměříž Proclamation initiated by Michael Kocáb in search of a candidate who is capable of defeating incumbent Zeman prompted Michal Horáček to be a candidate, however Horáček refused to run with the help of the movement and choose to run without it as Zeman's spokesperson famously said that Kroměříž Proclamation is "kiss of death" for the campaign of the candidate who choose to run with it. Eventually, Pavel Fischer and Marek Hilšer decided to run with the support of the proclamation.⁹⁰

Michal Horáček managed to accumulate 86,940 signatures from general population and ran as an independent candidate.⁹¹ Michal Horáček being a lyricist, poet, writer, music producer and an entrepreneur had a special appeal to the general populace. He had founded a successful betting company called Fortuna previously. His competency in various fields initially made him a primary rival to Zeman. He even focused his campaign on a slogan that challenged Zeman's performance. The slogan was "we can do better".

Pavel Fischer who was a former ambassador to France was among the candidates. He ran as an independent with the support of 17 senators. Fischer made several comments inciting incumbent president Zeman to face him in open debates but Zeman refused him. Fischer lost support on an occasion when he refused to appoint a homosexual person to the post of a judge in constitutional court.⁹² The final days leading up to the first round of voting Fischer supporter were extremely active on social networking platforms. The candidate from the Realists political party was Jiří Hynek, who is the also the chairman of the Association for Weapons and Defense Industry. 29 deputies confirmed him as an official candidate. Leader of the Party of Common Sense, Petr Hannig was another contender and had support of numerous other parties such as National Democracy (ND), Republican Party of Bohemia Moravia and Silesia (RSCMS), Democratic Party of Greens (DSZ) etc.⁹³ He solicited the support of 26 deputies to be confirmed an official candidate. Former CEO of Škoda Auto, Vratislav Kulhánek was backed by the party Civic Democratic Alliance. The Civic Democratic Alliance possessed no deputies or senators so Kulhánek wished to acquire sufficient signature from public. Failing that, he managed to accumulate the

⁸⁹ "Topolánek odmítl Zemanovu politiku "všech azimutů", euro i migrační kvóty". (iDNES.cz, 2017)

⁹⁰ "Seskupení Peloton nepřišlo s vhodným kandidátem na prezidenta. Jeden z členů označil mluvčího Ověčka za částečného viníka". (*Dobry Prezident*, 2017)

⁹¹ "Do boje o Hrad může jít 9 kandidátů. 11 uchazečů nesplnilo podmínky". (Lidovky.cz, 2017)

⁹² "Homosexuála bych ústavním soudcem nejmenoval, řekl kandidát Fischer. Za výrok se omluvil". (Aktuálně.cz, 2017)

⁹³ "Hudebník Hannig bude kandidovat na prezidenta. Podpořil ho extremistu Adam B. Bartoš". (Parlamentní Listy, 2017)

support of 23 deputies and, hence securing nomination. Kulhánek bid for presidency was welcomed in most circles as the election was missing a right-wing candidate and Kulhánek bid seemed to remedy that.⁹⁴

Miloš Zeman then president was effortlessly able to gather 103,817 with the message of “Zeman Again”. He ran as an independent candidate but was supported by Party of Civic Rights (SPO) of whom is the honorary chairman since the beginning of the decade. With his bid for re-presidency he also declared that he would refrain from participating in his political campaign, attack or debate his opponents. The incumbent president’s campaign was run by first lady Ivana Zemanová. Zeman health was called into question following incidents in China and NATO where he required physical aid to perform his duties.⁹⁵

Marek Hilšer who is a Czech activist and a teacher was the first candidate to declare for presidency. He ran with slogan “Marek to the castle”. Hilšer after not being able to accumulate enough signature from general populace was able to acquire the support of 11 senators and secure a nomination for the presidency of Czech nation. Jiří Drahoš accumulated 141,234 signatures from the public therefore becoming Zeman’s major rival. He nomination was bolstered from the support of KDU-ČSL and STAN. Drahoš who was a pro, European Union and NATO candidate had a strong followers base captivated by his integrity. During the presidency campaign Drahoš numerously urged the government to prepare plans to adopt the Euro as the official currency.⁹⁶

Dominant parties were wary of nominating an official candidate due to an increase in skepticism of populace towards them, resulting that none of the considerable parties such as TOP 09, ODS, ČSSD, and KDU-ČSL made official nomination.⁹⁷ Due to the absence of a nominee from major parties, minor parties such as Suverenita, Pravý blok, DSSS, and SPOZ rose to propose nominees in an effort to become more famed.⁹⁸

After nominations were closed Topolánek, Hannig and Hynek found themselves under scrutiny by constitutional lawyers due to finding that some deputies and senators had voted

⁹⁴ "Exšéf Škodovky Kulhánek bude kandidovat na prezidenta, stojí za ním ODA". (iDNES.cz, 2017)

⁹⁵ "Unavený Zeman míří do Vietnamu. Musí upravit program, apeluje jeho lékař". (Echo24, 2017)

⁹⁶ "Drahoš podpořil přijetí eura. Má 110 tisíc podpisů, pomáhá mu i Drábová". (iDNES.cz, 2017)

⁹⁷ Kopeček, Lubomír. "Czech Republic Country Profile - National Democratic Governance". FreedomHouse.org.

⁹⁸ ČT24. "Politické strany se od prezidentské volby drží dál, doporučení vydaly jen tři"

for multiple candidates, which potentially could be illegal. A lawsuit was filed against these candidates by a disgruntled disqualified nominee Terezie Holovská. Further finding showed that this interpretation and online publication of law that was conducted by Ministry of Internal Affairs had prompted this scenario. Supreme Administrative Court ruled in the favor of each senator and deputies being able to only support one candidate's bid for presidency, but it didn't exclude any candidate from this election as the candidates had no fault in the manner the law was interpreted by the ministry of internal affairs.⁹⁹

Days before the first round held on 12th and 13th January 2018, leaflets were distributed and social media posts were conducted in the city of Ostrava stating that Zeman would automatically progress to the Second round of election in an effort to sabotage Zeman campaign by having fewer of his supporters present on the first round of election days.¹⁰⁰

During first round, A Ukrainian female rights protestor confronted Zeman and repeatedly shouted that "Zeman, Putin's slut" while she had the same words printed on her bare chest. She was arrested and charged with disorderly conduct. Later, other candidates blamed the whole scenario as being perpetrated by Zeman's campaign in an effort to win public sympathy. Zeman and the female protester both denied such claims.¹⁰¹ After the first round of election only Zeman and Jiří Drahoš gained popular votes and both managed to advance to second round while other 7 candidate's campaigns were halted.

Zeman won most of the districts in country while Drahoš won in Prague, Prague-East and Prague-West. In the first round Zeman had 1,985,547 votes out of 5,177,238 which gave him the lead with 38.5% of all votes. Drahoš had 26.6% of all votes making him total votes count to be 1,369,601. They were trailed by Fischer and Horáček which 10.2% and 9.2% of the votes respectively. It must be noted that voter turnout was only 61% in the first round of elections.¹⁰² After the first round, Zeman who has been previously reluctant to participate in debates, openly challenged his only remaining competitor to 4 debates. Drahoš replied that he must focus on his campaign for second round but agreed to do 2 debates. During the first debate held on 23rd of January, Zeman was noted to be far more

⁹⁹ "Soud odmítl žalobu na zpochybnění prezidentských kandidatur". (iDNES.cz, 2017)

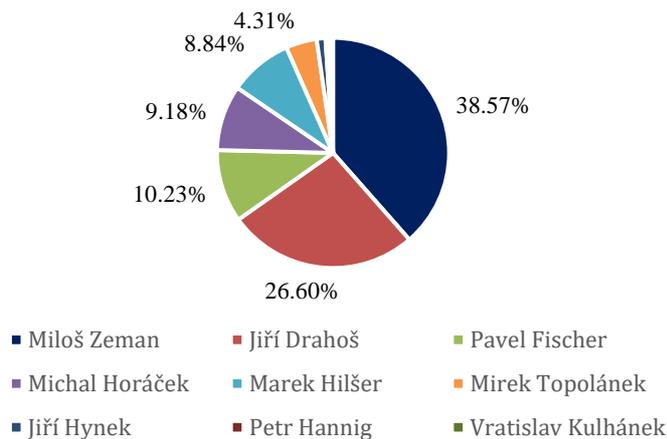
¹⁰⁰ ""Zeman automaticky postupuje do druhého kola." Letáky vyšetřuje ostravská policie jako dezinformace". (Aktualne.cz, 2018)

¹⁰¹ Golis, Ondřej. "Dostala jsem hodně nenávistných zpráv, doporučili mi hned opustit Prahu, říká 'Zemanova sextremistka'". (iRozhlas.cz, 2018)

¹⁰² "Výsledky voleb v České republice". (iDnes, 2018)

energetic while Drahoš appeared timid and nervous. Drahoš performance improved in the second debate and the second debate was considered a tie while Zeman was thought to be the victor of first. Pavel Fischer, Marek Hilšer, Michal Horáček, Vratislav Kulhánek and Mirek Topolánek decided to endorse Drahoš for the second round while Hannig chose to side with Zeman.

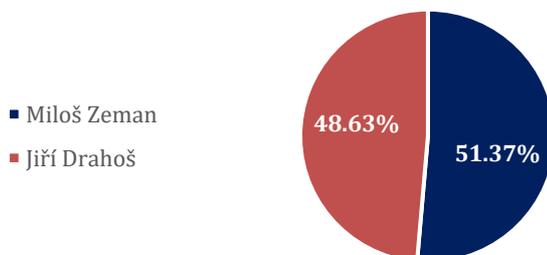
Czech 2018 Presidential Election
First Round



Source: iDNES

Prior to the second round each candidate is only allowed to spend 40 million CZK but after advancing to the second round that cap is raised to 50 million CZK.¹⁰³ Only Drahoš and Horáček had come close to this ceiling in the first round. The cap raises allowed Drahoš to expand his spending by 10 m CZK, which is exactly what happened. In both rounds Drahoš spent 49.9 million CZK followed by Horáček, who spent 39.9 million CZK while president Zeman only spent 22.7 million CZK.¹⁰⁴

Czech 2018 Presidential Election
Second Round



¹⁰³ "U prezidentské kampaně chybí limity pro sponzory. 'Musí tu fungovat veřejná kontrola,' říká politolog". (iROZHLAS, 2018)

¹⁰⁴ "Topolánka stála kandidatura 18 miliónů korun, 7,4 miliónu investoval sám". (Novinky.cz, 2018)

The voter turnout rate was 66% in the second round of elections which was highest in the previous 2 decades. Zeman emerged victorious in second round of voting as well by achieving 2,853,390 votes, which were only slightly higher than 2,701,206 that Drahoš had.¹⁰⁵ Around 70 complaints of irregularity and misconduct were filed following Zeman becoming the president for a second-time but they were all deemed invalid by the Supreme Administrative Court.¹⁰⁶ A poll conducted by median showed that 54% of the Czechs were satisfied with the results of the election while 37% deemed the result as unfair.¹⁰⁷

11. Conclusion

The American and Czech constitutions were drafted under contrasting circumstances. The American constitution was drafted and implemented with sufficient time and patience to make it accommodating for various states to form a coalition by leaving room for interpretation of laws whereas there was a time constraint present while the Czech constitution was being drafted due to sudden disintegration of Czechoslovakia. The 1992 Czech constitution is largely based upon pre-war constitution of Czechoslovakia that was implemented in 1920, which itself was based upon successful democracies of the west namely United Kingdom, United States and France. Bicameralism was introduced in order to maintain stability and balance in both constitutions. The house of representatives or assembly of deputies being one, while the senate being the other source of authority in legislative processes. Certainly, there are differences in the way of governing in both countries such as US being a presidential republic where authority and executive command is established around the president and Czech being a parliamentary republic where president is a ceremonial and non-executive role whereas prime minister being the head of state leads the executive force. Despite the technical differences, the fundamental principles appear to be similar of both nations where sufficient checks and balances are implemented to prevent misuse of power and authority for personal gains. The judiciary power and Central bank are provided autonomy to conduct their duties of ensuring rule of law and implementation of monetary policy for sustainable non-inflationary economic growth respectively. Both constitutions are performing reasonably efficiently. The 1992 Constitution of Czech enacted 3 institutional changes which were establishment of senate,

¹⁰⁵ "Výsledky voleb v České republice". (iDnes, 2018)

¹⁰⁶ "Definitivní tečka za prezidentskými volbami. Ústavní soud zamítl stížnost kvůli registraci uchazečů". (iROZHLAS.cz, 2018)

¹⁰⁷ "Průzkum: Zeman vyhovuje velké části nevoličů. Drahoš byl přijatelný jen pro každého desátého". (Lidovky.cz, 2018)

of the higher territorial self-governing units and the supreme administrative court. All three of the institutions have functioned efficiently recently despite the SAC being inept for the first decade of implementation. Both constitutions have avoided gridlocks in governance by proving to be flexible enough to make required amendments with the passage of times.

The direct process of electing respective presidents is fascinating to behold in both nations. Certainly, the process of being elected president through popular votes from millions of voters is far from effortless. The scale on which both countries conduct elections are extremely unlike since the size of their countries and eligible voters are so unlike. The populace belief in massive parties are also unlike where in US, most people compete to win the nomination of two major parties as the winner of the elections will almost certainly be one of the nominees from those parties whereas due to a surge in distrust of Czech populace towards major parties, contenders avoid nomination from the parties. A significant amount of presidential candidate for 2018 Czech elections were independent. Due to large scale, both elections were full of controversies such as emails leak of DNC, doubts about accuracy of electoral college, invalid candidacy due to double votes from deputies and senator and, accusations of involvement from foreign forces namely Russia. In both instances, the slightly conservative candidate has shown an edge on their liberal counterparts despite having significantly less spending on campaign. Both nations have demonstrated that metropolitan areas favor liberal ideologies whereas rural and suburban heartland prefer conservative ideologies.

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