

Book Review

The Judge in a Communist State – A View from Within

Professor Otto Ulc, Ohio University Press, 1972, xiv, 307pp., \$8.75

Reviewed by LELAND L. BULL, JR.

Otto Ulc presents a fascinating account of his experiences as a citizen and judge in Communist Czechoslovakia during the Stalinist era of the 1950s. As a 23-year old law graduate of the Charles University of Prague, Ulc had an unsought judgeship on the civil bench bestowed on him as one of the accidents of the Communist system. His principal qualification for the office when he graduated in 1953 was that he was too young to have formed political attachments to any of the prior governments in the then recently-communized country.

His book recounts in narrative form observations about the role of law during the early years of the Communist state, as seen through the eyes of a person involved in administering it. Bored and disgusted with the system, Judge Ulc “retired” from the bench at the age of 29, and defected to West Berlin. Subsequently immigrating to the United States, Ulc obtained a PhD and is now a member of the political science faculty of the State University of New York at Buffalo.

The book is composed of three major sections: the first sets the judge in his surroundings, and answers the question as to why the author came to defect. Here Professor Ulc offers his assessment of the people and institutions with which he dealt, and the role he played. It is this part which is the most important to the American reader, because it provides a close look at what the author felt was wrong with the position of a judge in a Communist system. Because of its importance, the balance of this review will deal with the first portion of the book.*

*The second part contains an account of criminal justice, Soviet style. In the third, the author addresses himself to the major areas of his own experience on the civil bench: family law, agricultural matters, and the traditional areas of tort, contract and property.

The author's greatest contribution lies in providing an understanding of what the communist law was in its application, not just in theory. More than in most systems, there was a vast gulf between the written law and the law in practice in the Czechoslovakia of the 1950s. The discretion of the authorities was wide because of the deliberate vagueness with which the communists legislation was drafted.

This situation left a great deal of room for the arbitrary and often vengeful role which the Party played in its quest to socialize the country. Yet the law was not totally arbitrary, since like everything else, it was employed as an overt political instrument for promoting the socialist revolution and protecting the interest of classes favored by the régime.

The Soviet judicial system in Czechoslovakia incorporated many of the external forms of the prior civil-law democracy. It does not, at least according to Ulc's view, seem to have incorporated much else. The author's experience in Stalinist Czechoslovakia suggests that the judge in a Communist state loses a great deal of his cherished freedom of decision to the outside pressure of the Party: dictates of class justice, factory-style quotas, and direct interference in individual cases by the Party or its functionaries. The judge, in short, was no longer able to render a decision on what we would regard as the "merits of the case."

Of course, a Communist of the period would argue that he too was deciding a case on its merits. But to him the meaning of the word "merits" included not only the events in controversy, but the politics of the litigants as well, all as part of the effort to further the working class. Class justice, then, was an extension of the revolution to the courts, and even applied to the civil bench. Thus, if two individuals were involved in a suit over the sale of a horse, the judge was admonished to inquire into the social and political backgrounds of the contestants, and to base his decision as much on this information as on the dispute over the sale itself.

The proletarian should be successful; the class enemy punished. But in addition to the obvious difficulty of reconciling this outlook to the facts of the sale, the Party offered no definition of class enemy. The label could be applied wherever convenient. The public did not fail to see the new direction and inevitably, according to the author, lost confidence in their judges to render fair decisions. At the same time, the judge (or at least Ulc himself, and one wonders, perhaps, many of his colleagues as well) felt the loss of much of his integrity and self-esteem. Not being able to adjust himself to the new outlook, the author's estrangement grew to the point of abandoning the system.

The judge was also expected to "produce" while at the same time to involve himself, like every other citizen in countless activities to prove his

political engagement and secure his place in the system. Justice was reduced to production norms and a judge was measured as much by the quantity of his output as by its quality. To meet the norms, required a speed-up in cases decided, with two obvious effects: less time spent on the individual case, and dubious means used to dispose of a case short of reaching a final verdict. Of course a byproduct of norms is the paperwork required to see that they are fulfilled. There was no absence of this in the author's experience; however, the judge sometimes found it necessary to adjust the information he reported in order to prove Party dogma correct.

In the overwhelming bulk of cases there was no overt interference by the Party to force a particular decision on the court. However, the mere fact that the Party *might* intervene in any given case in the "spirit of socialism," was enough to condition a response of following the Party line. The fact that there was no formal assertion of the extent of Party superiority over the judiciary probably tended to increase rather than decrease the judge's insecurity. The impression received by the reader is simply that the Party held total control, in practice, of every aspect of the judiciary, just as it seems to have had in every aspect of the ordinary citizen's life that was possible to regulate.

While the book does not profess to make a contribution to legal science, this reviewer highly recommends Professor Ulc's well-written and perceptive account of his years on the Czech bench. Others might see the system differently, but the author's account gives us an opportunity to look beyond the official law in a country not well known to most of his readers. Although the frustrations over his experiences form a unifying thread, the book is not written as an indictment by a now-converted former believer, but rather from the viewpoint of a reluctant but somewhat detached participant in the system. It praises the progressive, as well as condemns the bad, in a manner which proves the author never lost his sense of proportion.

