Aftermath: Accounting for the Holocaust in the Czech Republic

Krista Hegburg

Submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy in the Graduate School of Arts and Sciences

COLUMBIA UNIVERSITY
2013
Abstract

Aftermath: Accounting for the Holocaust in the Czech Republic

Krista Hegburg

Reparations are often theorized in the vein of juridical accountability: victims of historical injustices call states to account for their suffering; states, in a gesture that marks a restoration of the rule of law, acknowledge and repair these wrongs via financial compensation. But as reparations projects intersect with a consolidation of liberalism that, in the postsocialist Czech Republic, increasingly hinges on a politics of recognition, reparations concomitantly interpellate minority subjects as such, instantiating their precarious inclusion into the body politic in a way that vexes the both the historical justice and contemporary recognition reparatory projects seek. This dissertation analyzes claims made by Czech Romani Holocaust survivors in reparations programs, the social work apparatus through which they pursued their claims, and the often contradictory demands of the complex legal structures that have governed eligibility for reparations since the immediate aftermath of the war, and argues for an ethnographic examination of the forms of discrepant reciprocity and commensuration that underpin, and often foreclose, attempts to account for the Holocaust in contemporary Europe.
# Table of Contents

- Acknowledgments ii
- Introduction 1
- Chapter 1 Recognitions 18
- Chapter 2 The Veracious Voice: Gypsyology, Historiography, and the Unknown Holocaust 74
- Chapter 3 Reparations Politics, Czech Style: Law, the Camp, Sovereignty 121
- Chapter 4 “The Law is Such as It Is” 176
- Conclusion The Obligation to Receive 198
- Bibliography 202
- Appendix I 221
Acknowledgments

I have acquired many debts over the course of researching and writing this dissertation. My time at Columbia was immeasurably enriched by my friends there, in particular Aparna Balachandran, Ruchi Chaturvedi, Deirdre de la Cruz, Yukiko Koga, Nadia Loan, Maya Nadkarni, Juan Obarrio, Serguei Oushakine, Zoe Reiter, Antina von Schnitzler, Jennifer Sime, Emilio Spadola, Ravindran Sriramachandran, and Arafaat Valiani. Karin Zitzewitz has been an abiding friend and colleague. I thank Jonathan Bach for more favors than I can count. I thank Marcela Rýdlová-Erlich for teaching me Czech with such good cheer. Amanda Murphy Frazier’s hospitality upon my arrival in New York made a huge difference.

My fieldwork was enriched by so many friends and colleagues in (or passing through) the Czech Republic, including Yasar Abu Ghosh, Michal Burian, Sarah Cramsey, Jakub Grygar, Timothy Hall, Petr Kadlec, Karen Kapusta-Pofahl, Alice Lovejoy, Dana Malková, Lisa Peschel, Maria Radová, Sandra Radu, Marsha Rozenblit, Jitka Ryndová, Kimberly Strozewski, Noa Treister, Czesław Walek, Nancy Wingfield, and Tara Zahra. In particular, I thank Kimberly Elman Zarecor for introducing me to the Czech National Archives and to Ostrava; without her intervention, I wouldn’t have had much of a project. I had the great good luck to meet Raymond June in Prague, and have valued him as a friend and intellectual companion since. Osamu Okamura’s infectious enthusiasm for architecture, sushi, art, filmmaking, abandoned prisons, and pretty much anything was a delight during the years I lived in the Czech Republic. I thank Martin Strakoš for sharing his love of Ostrava with me, and Marek Skovajsa finding me a place to live in there. I also thank Jiří Lewy for his assistance with my research in Plzeň, and
for his expansive good will and tremendous sense of humor. Elena Koenig was a great roommate and friend. Saska Gerasimova and Václav Zájiček have been steadfast and valued friends, and I thank them for their continued hospitality. The Samko family took me in and made me feel at home, wherever they found themselves.

My friends and colleagues at the University of Lower Silesia in Wroclaw – Erik Derza, Aleksandra Duda, Agnieszka Dwojak-Matras, Marcin Gołębniak, Dorota Gołębniak, Ula Kłobuszewska, and Agnieszka Zembrzuska – provided a welcoming intellectual community during my many stints there. In particular, working with Hana Červinková was more fun than one is supposed to have.

My writing group at Rutgers kept me going during a two-year teaching stint in New Jersey, and I thank Judith Gerson, Arlene Stein, and Richard Williams for the many stimulating discussions. Also at Rutgers, I appreciated the support of Ginny Caputo, Francesca Mascia-Lees, and Jeffrey Shandler, and the friendship of Karen Sirota and Robert O’Brien. The intellectual curiosity and engagement of my students there deepened my understanding and appreciation of anthropology. Heidi Echternacht kept me sane during this period.

I benefitted enormously from the collegiality of my fellow fellows at the United States Holocaust Memorial Museum’s Center for Advanced Holocaust Studies, especially Ralf Banken, Daniel Brewing, Diana Dumitru, Judith Gerson, Christian Goeschel, Julia von dem Knesebeck, Daniel Magilow, Elissa Mailaender, Jennifer Rodgers, Steven Sage, Johannes Schwartz, Simone Schweber, Matthias Tronqual, Christel Trouvé, James Mace Ward, and Suzanne Wiedemann. Michlean Amir deserves special thanks for her assistance with my research.
Ethel Brooks, Petra Gelbart, Michelle Kelso, Erika Schlager, Andria Timmer, and Shannon Woodcock make Romani studies a collegial and stimulating field, and I thank them for their work, both scholarly and activist.

My colleagues at United States Holocaust Memorial Museum were gracious enough to accommodate the final writing stages of this dissertation, and I thank in particular Robert Ehrenreich and Nicole Frechette for the flexibility, as well as Beverly Goines for getting up early to write with me.

I thank my dissertation committee members E. Valentine Daniel, Christopher Harwood, John Torpey, and Katherine Verdery for their engaged feedback on this project. Rosalind Morris, my advisor, and has been more patient with me and this dissertation than I deserve, for which I thank her. Her intellectual rigor and generosity is an inspiration, and she has pushed my thinking in more ways than I could list. I also thank Marilyn Astwood for her kindness and assistance during my time at Columbia.

For their insightful feedback on various parts of this dissertation, I thank Mireille Abelin, Yasar Abu Ghosh, Hana Červinková, Ryan Chaney, Timothy Hall, Raymond June, Nima Paidipaty, Nathaniel Roberts, Simone Schweber, Vincent Slatt, Tara Zahra, and in particular Karin Zitzewitz. All errors are my own.

The fieldwork and archival research on which this dissertation is based was made possible by a Fulbright-Hays Doctoral Dissertation Research Award, a Charles H. Revson Fellowship for Archival Research from United States Holocaust Memorial Museum’s Center for Advanced Holocaust Studies, a Foreign Language Area Studies Scholarship, as well as additional funding from Columbia University.
Czesław Walek, the director of the Czech government’s Office of Roma Community Affairs, and Lýdia Poláčková, the Romani Advisor in the Ostrava City Hall, were instrumental to my research; I could not have done my fieldwork without their support, and I am deeply grateful to them for their faith in my project. I would also like to gratefully acknowledge the intellectual generosity of the team of social workers who shared with me their Ostrava field sites as well as their reflections on their practice of social work. I also owe a debt of gratitude to Radovan D., for although he does not make an appearance here, he has animated this entire project.

I thank my stalwart friends, Robin Hawley-Brillante, Christine Forte, and Kate and Michael Haley Goldman for their patience with me over the course of this project. For his encouragement and more home-cooked gourmet meals than I can count, I thank Vincent Slatt. To Vanda Rajčan, I say d'akujem. Ruth Ferrero Turrión deserves special mention for so many stimulating conversations, as well as sharing her home with me. My brother Justin Hegburg has kept me grounded over the years with his dry wit.

My parents, Alan and Faye Hegburg, sustained me through the writing of this dissertation with their good humor, intellectual curiosity, patience, and many loads of laundry. This dissertation is dedicated to them, and to the memory of my aunt, Patricia Ann Campbell.
Introduction

"Czech." That’s what Markéta replied to her census taker in 2001 when he arrived at her apartment door in the city of Ostrava and inquired about her nationality. And indeed, Markéta is Czech, a Czech citizen and free to decide the concomitant category of nationality the census also records. She is also Romani, a descendant of Slovak Roma who came to the Czech Lands in the wake of the Holocaust, which decimated the Czech Jewish and Romani minorities, and the expulsions of almost all of the German minority, which opened up the country’s northern borderlands to Czechoslovak settlers from the interior.1 And thus Markéta is also a member of a group that although quite small — numbering 11,000 if the 2001 census is to be believed, though closer to 300,000 in most estimates2 — bears the burden of being the most visible, and most socially excluded, minority in the contemporary Czech Republic.

As Markéta recounted to me several years later, during her office hours for her social work clients in one of the most impoverished districts of the city, her response apparently did not sit well with the census taker, who goaded her by asking, “Are you sure?” Markéta, with her usual inimitable directness, cocked her head to one side and


asked, “Why wouldn’t I be?” And then she took the form and, unbeknownst to her census taker, filled in her nationality as “Romani,” sealed it, and handed it back to him.

When Markéta told me this story, it was the capstone to an argument against a census of Roma proposed in 2004 by the Romani Parliament. The Parliament, a confederation of NGOs, was seeking to supplant the Council of the Government for Roma Community Affairs as the official advisory body on Roma. The Council was created in 1997 to advise the government on “the integration of the Romani community into society,” and was one several such bodies have sought to deal what is sometimes referred to as the “Romani question.” The Parliament argued that as representatives of the Romani community, their Romani social workers were in a particular position to know about it, or indeed, to find out about it: to inquire, determine, and record, in the mode of census takers, data that only they could access.

Markéta and her fellow social worker, Adam, both employed by a Council program to staff municipalities with Romani social workers, disagreed. Adam’s initial argument against the Parliament’s proposed census hinged on the fundamental incoherence of the idea for those who would be among the counted. As a social worker, Adam argued, he would be unable to translate the necessity of a census across the communicative divide that so often seemed to separate Roma from the workings of the state. “How should I explain to them that we need a list of Roma for official purposes?” said Adam, “They would never understand. I couldn’t explain it to them.”

3 As it is phrased in the Council’s official mission in Czech: “integrace romské komunity do společnosti.”
Markéta and Adam’s responses illuminate the inextricable dynamics of recognition and refusal at the contemporary Czech Republic, where the state hires Roma as social workers to ameliorate the social exclusion that has plagued their community since its arrival in the Czech Lands in the late 1940s and early 1950s. Markéta cast her interaction with her census taker as a double triumph: requiring another agent of the state to recognize her as equally Czech combined with a moment of private resistance never to be recorded by its object. What sort of citizen-state relationship was Markéta demarcating, after all, when she demanded the census taker at her doorstep acknowledge the possibility that she might consider herself to be (only and purely) Czech, only to renounce that acknowledgement by, as she alleged, secret ballot?

But Adam’s objection ran deeper; when pressed, he summed up it up in one simple, evocative word: Auschwitz. A census, the two maintained, would be a racist endeavor, a dividing of the social body not in keeping with their mission as agents of the state. This dissertation seeks to account for the relationship between the answers Markéta and Adam offered, and some of the ambivalence that attends contemporary representatives of Czechness inhabitable by a minority who is marked by difference. I take these issues up through an examination of Holocaust reparations in the Czech Republic in the mid-2000s.

In the main, this dissertation is based on fieldwork conducted with Romani social workers such as Markéta and Adam, who ply their trade in an urban landscape plagued by the marginalization of the community they serve, addressing the laundry list of problems faced by individuals and families whose housing, employment, and schooling is wholly inadequate. These social workers acted as scribes for the often illiterate claimants,
generally elderly Roma who survived the Holocaust in Slovakia. Their claims, made in a program offered by the Czech state for Czech citizens who had spent the war in hiding, were based on their flight and concealment from German troops following the invasion of Slovakia in 1944. Most were unsuccessful, for though the program recognized Roma in the abstract as Nazi persecutees, in all of the individual cases I saw unfold, some aspect of the survivor’s claim derailed, and failed to meet the juridified strictures for reparability laid down in law in the 1940s.

Part of a wider efflorescence of reparations programs that some scholars, such as Elazar Barkan, Constantin Goschler, Norbert Frei, and José Brunner, argue has come to constitute one of the most significant hallmarks of the post-Cold War geopolitical order, this reparations program bore some of the traditional features of reparations in the 1990s that their research has delineated. By extending compensation to Roma, these reparations widen the pool of recognized victims, beyond Jews, for example, and they relied on new constellations of organizations, such as NGOs, transnational funds, and the public social workers, to locate victims and distribute funds.

But as Regula Ludi has pointed out, we can hardly understand this reemergence of the issue of reparations without a glance backward in time to when the question of who would be taken as the proper, and reparable, victim of Nazi persecution first emerged

across Europe in the mid-1940s. Though most scholars take the first wave of Holocaust reparations to have taken place in the early 1950s, when West Germany and international organizations representing the Jewish diaspora agreed to programs that sought to indemnify Jews for their persecution in the Holocaust, Ludi argues that the first wave of reparations emerges on the national level as recently liberated camp inmates made their way back to their homes in 1945. Across Europe, governments emerging from the devastation of war faced the question of how these returnees would be rehabilitated, restituted, and indemnified.

And in postwar Czechoslovakia, the question of who would be taken as Nazi persecutee was particularly acute. In the postfascist puzzle of recombinant interwar liberalism, rising anti-German Slavic nationalism, and incipient authoritarian communism, Nazi persecutees were caught up in ratifying the reestablishment of Czechoslovak sovereignty, a process reliant on the expulsions of the country’s German-speaking minority. And the legal order that established the reparability of persecutees, as well as new taxonomies of Czechoslovak citizens in this period, continue to regulate eligibility for Czech-run reparations programs in the postsocialist present.

Thus reparations constitute a nexus of multiple forms of recognition: the recognition of individual persecution, the recognition of the persecution of particularly minorities (such as Roma), and the recognition of the particularity of their minorityhood, something Markéta in her interactions with the census taker simultaneously abjured and embraced. Therefore, this dissertation takes the question of recognition that my social

---

worker informants – Romani and non-Romani – regularly flagged over the course of my fieldwork as its starting point. Their reading, I hold, runs counter to the dominant interpretations of reparations as hinging on an affirmative form of recognition. This notion of recognition dates back to the immediate aftermath of the Holocaust, when the rehabilitation of victims of Nazism was one of the first orders of business for European states emerging from the devastation of war and occupation. As Regula Ludi notes:

Rehabilitation … attained a new significance in restoring Nazi victims as full members of society. It was imagined as a rite of passage that would suspend survivors’ undefined position and sever their bondage to the realm of death. The key concept to promote such a transition was recognition. In the postwar discourse, it implied the acknowledgment that survivors were the victims of wrongs to confirm that they did not deserve what they had suffered. Survivors expected recognition to create moral clarity; only if the evil was labeled as such, it could be averted and the innocence of the victims, as evidence of their respectability, ascertained. And it was essential that the act of recognition be public and official, vested with the power of legitimate authority, as survivors’ frequent insistence on legal procedures suggested.  

Moreover, for specific groups, such as displaced Jews who could no longer return to their country of origin, in the context of web of the postwar humanitarian organizations that intervened to manage the European refugee crisis recognition held out the possibility of forging a new community. As Gerard Daniel Cohen points out:

Recognition entailed symbolic and material entitlements, and eventually rewarded Holocaust survivors with historical, political and territorial vindication. … [A]s opposed to other post-war refugee groups in Europe or the Middle East, Jews were not merely perceived as “war victims” deserving of humanitarian relief but also as unique targets of racial and political persecution warranting historical recognition. Contrary to post-war national environments in which, especially in western and eastern Europe, survivors were diluted into the abstract family of “victims of fascism”, Jewish refugees were acknowledged as paradigmatic victims entitled to specific migratory and “resettlement” claims. Finally, recognition was political: it was as displaced refugees that Jews were ultimately “nationalized” as a people.

---


7 Cohen, Gerard Daniel, “The Politics of Recognition: Jewish Refugees in Relief Policies and
Theorists of reparations, such as Elazar Barkan, draw on such notion of recognition in their work on the topic. Barkan takes reparations to be a hallmark of a post-Cold War geopolitical configuration in which citizens, citizens wronged in the past, acquire a voice that the states that have wronged them must acknowledge. The compensation these states then offer to address these prior wrongs marks a new toleration of the former victims, and a manifestation of that toleration as a new generosity. That is, theories about reparations replay the classic (if much criticized) logic of the liberal polity – citizens empowered in their address of the state, occupying and forging a public sphere of consensual reasoning that drives a non-violent democratic form of governmentality – and relocate this logic in the realm of international affairs.

But as Nandini Sundar points out, the turn to reparations, restitution, and historical tribunals that Barkan heralds requires analysis from the point of view of the victims as well. “If international morality is to mean something more than the self-serving prejudice of powerful states,” she writes, “one needs to ask why and how certain groups succeed in having their demands taken seriously and others do not.” And in the case I examine in this dissertation – reparations offered to Romani citizens of the Czech Republic by that state for the period they spent in hiding, mainly in Slovakia, during the Holocaust – most claimants did not succeed in being taken seriously: When the program wrapped up, approximately 250 of the 6,500 applicants had been deemed eligible

---

claimants. Reparations in its second, intertwined sense of a form of recognition of both the persecution of a minority group, and the particularity (or difference) that putatively must be accounted for in minority recognition, did not align with its more generic corollary.

This dissertation accordingly tacks back and forth between the recent postsocialist past, and the more distant postfascist period following the war, and tells two stories. One is how returning political prisoners were cast, and forged themselves, as reparable victims of Nazi persecution. The other is how, 60 years later, Romani survivors pursued reparations, often in vain, for a very different form of persecution that required them to inhabit – discomfitingly – the categories established in the immediate postwar.

The first chapter examines the evolution of notions of minority recognition in the context of Czechoslovak Gypsy policy, how it sets the stage both for the practice of social work as the marker of a turn to a politics of recognition within the Czech state administration, and also how social workers come to understand the recognition they are meant to be facilitating and embodying. The second chapter turns to the question of Romani Holocaust testimony, and how it has emerged and been sublimated in various contexts, such as Gypsiologist reports of the persecution of Roma or the historiography authored by political prisoners. Here I seek to account for how the Romani Holocaust has become known as unknown in the postsocialist Czech Republic, and the sorts of labors then required in making it known.

---

9 ČTK, “Prezident pobouřil Romy” [President Outraged Roma], Lidové noviny, May 16, 2005. Of the claimants with whom I spoke, many had previously received reparations in other, transnational programs, but none managed to satisfy the qualifications for reparable status under Czech law.
The third chapter takes up the question of how legal order established in the immediate postwar factored into the reparations politics of the 1990s, when the victim pool for reparations widens dramatically, by examining court cases adjudicated by the Constitutional Court in which Czech plaintiffs sought to expand the category of reparable victim. The last chapter and also the conclusion return a more detailed discussion of the program I have referenced above, to questions raised by the social workers and survivors pulled into the processes of repair, and the challenges this case raises for reparatory politics more generally.

Historical contexts

As Barkan, John Torpey, and others point out, the phenomenon of reparations is tied to the sweeping transformations that accompanied anticommunist revolutions in eastern Europe and the end of the Cold War. In Czechoslovakia, as in its neighboring countries, the fall of Communism ushered in a period of transition in which the necessity of settling past accounts, especially those from the Communist period, became critical to the political, social, and economic transition underway.

In the Czech case, the revolution brought together a coalition between two groups: the dissidents and the neoliberal technocrats. The dissidents came from the ranks of Charter 77, an opposition movement that focused its critique of the Communist regime on its human rights abuses and sought to forge what one of its founding members, Václav Benda, called the parallel polis. The neoliberal technocrats were a group of economists

---

who coalesced in the mid-1980s and formed the Institute of Prognostics. They remained largely outside the workings of the party state, but did not have any contact with the dissidents. They became allies in 1989, drawn together by a shared vision of the efficacy of autonomous realms of social action, be they civil society or markets.\textsuperscript{11}

Since 1990, Czech society has undertaken a public settling of accounts, a process known as \textit{vyrovnání se} (literally “equalization,” but also “settlement” or “compensation”), usually invoked as \textit{vyrovnání se s minulosti} – settling accounts with the past.\textsuperscript{12} This is often taken to mean setting the historical record straight by bringing to light, in particular, crimes committed and covered up under Communism. As in Poland and Hungary, the two main ways of settling these accounts became property restitution and lustration, the process by which individuals with hidden links to the Communist-era secret police apparatus are revealed as collaborators in order to limit their access to postsocialist political office.

In comparison with Poland and Hungary, lustration in the Czech Republic was undertaken quite early and quite extensively.\textsuperscript{13} Polish lustration laws only came into effect in the mid-1990s, and applied to only a small slice of high-level public-sector jobs.


\textsuperscript{12} \textit{Vyrovnání se} has a competitor in \textit{smíření}, or reconciliation, a mode of engagement with the past favored by, among others, Václav Klaus, the former prime minister and president, who argues that Czechs must accept their Communist past as integral to their identity. \textit{Vyrovnání se} and \textit{smíření} are often used synonymously, but a distinction can be drawn in their relationship to the act of accusation, which in former produces subsequent claims founded on successful accusations, and in the latter is coupled with an admission of guilt, such that formerly antagonistic parties simultaneously forgo the possibility of further claims.

\textsuperscript{13} Lustration was discontinued in Slovakia after the dissolution of the Czechoslovakia in 1993.
In Hungary, early lustration legislation sought to exclude secret police collaborators, members of the counterinsurgency squads from the 1950s and of the fascist Arrow Cross in the 1940s from a wide range of public-sector positions, but was later curtailed to apply only to high-level positions.

In the Czech Republic, lustration laws exclude anyone who attained a certain rank in the Communist Party, or who collaborated with the secret police from seeking higher office, as well as a host of other positions in state administration and the public sector.\(^{14}\) In Hungary and Poland, Monika Nalepa points out, lustration is an incentive-based affair: the secret-police archives are conceived of as a reservoir of potentially damaging information whose revelation may be anticipated and ameliorated through individual acts in which former collaborators publicly assume, \textit{ex ante}, responsibility for collaboration. Thus in the Hungarian and Polish contexts, former collaborators are expected, in the postsocialist era, to reveal themselves as such, to react to the power that the postsocialist state holds \textit{in potentia} in its control over the archive and thus to reign in their own public political subjectivity. In the Czech context, lustration functions rather differently. Thousands of people seeking public positions – in government, industry, the military, the police, and academe – have had to apply for certificates from the Ministry of the Interior certifying that they do not appear on the secret police informant lists.\(^{15}\) Thus Czech lustration relies instead on the anterior production of archival or testimonial evidence of collaboration to limit access to political power; postsocialist Czech subjects, that is, may


be politically active subjects so long as the state does not take the initiative to deem them otherwise.\footnote{Monika Nalepa, “The Power of Secret Information: Transitional Justice After Communism” (PhD diss., Columbia University, 2005), 31,187. It should be noted that the revelation of archival evidence regarding collaboration is not only the province of the state. Several private citizens, for example, have famously taken it upon themselves to publicize secret police rolls. A former Communist-era political prisoner, Petr Cibulka, for example, published widely available books in the 1990s with lists of collaborators known as the Cibulkovy seznamy (Cibulka’s Lists); these can now be searched on-line at http://www.cibulka.com.}

The other realm in which post-communist governments sought to grapple with historical injustice was property restitution, a wider process of reestablishing property rights that Communism was seen as having violated.\footnote{Appel, “Anti-Communist justice,” 389.} As Barkan points out, restitution was embedded in the process of privatization, which “emphasized creating an efficient mechanism for distribution of state property rather than moral restitution, and the new conservative attitude toward property primarily serves the economic interests of the new middle class.” Moreover, he argues, restitution mapped this middle-class politics onto a nationalist vision of the past by:

recovering Communist expropriations in the name of the “people” rather than at rectifying human rights abuses. The rhetoric of the “people” and the “nation” was particularly pronounced as it informed the restitution policies. These policies privileged a specific ethnic group or rewrote the ‘traditional’ national composition of the region as to reflect the current middle class as liberating the “people” and “returning” the country to its historical pre-Communist status quo ante, its idealized past.\footnote{Barkan, The Guilt of Nations, 118-9.}

Here restitution in the countries of East Central Europe diverged even further, for the pre-Communist pasts of Poland, Hungary, Slovakia, and the Czech Lands represented...
extremely different experiences, particularly between 1938 and 1948, which could not be easily domesticated to the mechanisms of anti-Communist justice. The Czech Lands and Poland came under Nazi occupation and administration, while the Axis-aligned fascist states, Hungary and Slovakia, were active participants in the Nazi project, and came under German occupation only in 1944. In Poland, for example, successive governments have attempted to pass restitution programs, only to be tripped up in part by the complicated in part by the territorial shifts in the wake of World War II that meant that a fair amount of the property expropriated or otherwise lost as a result of the war and the Holocaust lies today outside the borders of the contemporary Polish state.

Also, the moral questions that have arisen around these different pasts were quite different. In Poland, the reigning Holocaust-related question has been about Polish civilian collaboration in the destruction of the Polish Jewry, provoked mainly by the publication of Jan Gross’s *Neighbors*,¹⁹ which examined the case of the murder of the Jews of the town of Jedwabne by their fellow townspeople. In the Czech Republic, discussion of wartime collaboration has been limited (primarily to the Czech participation in the genocide of Roma) because guilt for collaboration in considered either to have been established and punished in the retribution trials, or to have departed with the expulsions of the German Czechoslovaks, who were the primary collaborators with the Protectorate occupation authorities.

The expulsions themselves have, however, generated their own set of controversies that date back to the late 1970s, when Charter 77 dissidents identified the

expulsions as the basis of the illegitimacy of the Communist regime. Chartists argued that the expulsions, in which German-speaking Czechoslovak citizens were stripped of their citizenship, and with a limited exemption for those who could prove their antifascist credentials, spoliated of their property, and deported, primarily to occupied Germany, were at the heart of the illegitimacy of the Communist regime. This radical transformation of the demographics of Czechoslovakia also represented a massive transfer of wealth from the almost three million people – one third of the prewar population – to their fellow citizens, many of whom directly participated in the process in the early, vigilante stage of the expulsion that Benjamin Frommer calls the Wild Transfer. As Gil Eyal points out, Charter 77 argued that:

not only was [the expulsion] unjust, but it also helped to create the moral climate for the communist show trials of the 1950s. Additionally, the looting encouraged by the government undermined the concept of private property, and played into the hands of the communists by creating their constituency in these regions. The treatment of the Germans also served to ruin any respect for individual rights, and can explain why the Czechs have lost their "European values."  

The issue continued to bedevil Czech politics in the postsocialist restitution process, as the question of which historical injustice restitution would address quickly emerged. Impelled by a desire to exclude any claims made by expellees, the Czech Republic thus choose 1948 as the date after which claims for expropriated properties could be made; only after much criticism was the program amended to include Jewish communal

---

20 Staněk, Odsun.


property spoliated by the Nazis. Individuals seeking restitution for properties expropriated before 1948 had to be Czech citizens (a stumbling block for many Czech Jews who had emigrated), and press their claims in the court system. In turn, these efforts to exclude expellee claims provoked big legal battles and endangered Czech prospects to join the European Union.

Representatives of the Sudeten German community (much of the German minority had lived in the area known in Czech as Sudety, and in German as Sudetenland), based in Bavaria, called for the right of return, complete with recognized minority status and the right to German-language schooling. Sudeten Germans, as well as the German state, also lobbied for the Czech Republic to invalidate the executive decrees – the so-called Beneš Decrees, named after President Edvard Beneš – that provided for the expulsions.

In the early 1990s, a Sudeten German petitioned the newly formed Czech Constitutional Court to overturn to the Decree of the President No. 108/1945 Coll., on the Confiscation of Enemy Property and the Funds of National Renewal, on the grounds that it was both illegal and illegitimate in a democratic state. The Court, which ruled against the plaintiff, argued that the expulsions “must be viewed within their historical context and concurred with the decision to inflict collective punishment,” and that the protection of democracy required the expulsions given the Sudeten German support for Nazi rule and for benefitting from occupation.24

---


One of the first significant rulings by the Court, the decision articulates a vision of democracy that requires the exercise of force represented by the expulsions. It takes the case as a challenge "legal order" – the body of laws that reestablished Czechoslovak sovereignty following Nazi occupation – and pits the Beneš Decrees (and the 1920 Czechoslovak Constitutional Charter) against explicit racialization of Nuremberg laws, and as a response specifically to “the fact that the German Reich … exercised governmental power and established a legal order which in essence deviated from the substantive value base of the Czechoslovak legal order.” In response to the petitioner’s claim that the decree exposed a fundamental discrepancy between “the building of a democratic law-based state, and the means employed, in this case the confiscation of enemy property,” the Court responded that they represent instead a “proportionate response to the aggression of Nazi Germany.”  

The decision reads:

For democracy itself is also unable to manage without the use of force, for force provides it with one of its most significant opportunities, that is, the opportunity to combat "evil", infiltration, and the approach of totalitarian elements and makes it possible finally to eliminate them.

In its framing of the violence of expulsion as necessary to the democratic project, the decision marks a definitive shift away from the dissident critique of the expulsions as the basis of an illegitimate form of rule, and instantiates the expulsions as the legitimate basis of the postcommunist return to the rule of law.

25 1995/03/08 - Pl. ÚS 14/94: Beneš Decrees.
http://www.usoud.cz/en/decisions/?tx_ttnews%5Btt_news%5D=610&cHash=b3b17aafa5519be6cb64ddac5b73c737.

26 It also recalls Walter Benjamin’s “Critique of Violence,” in which he theorizes violence as fundamental to law-making:
This logic, I contend, also inhabits Czech reparations projects that rely on categories of Nazi persecutees – and citizens – established as the legal order the Constitutional Court defended coalesced. In order to account for this dynamic, I first turn to the practice of Romani social work in the city of Ostrava.

The function of violence in lawmaking is twofold, in the sense that lawmaking pursues as its end, with violence as its means, what is to be established by law, but at the moment of instatement, does not dismiss violence; rather at this very moment of lawmaking, it specifically established as law not an end unalloyed by violence, but one necessarily and intimately bound to it, under the title of power. Lawmaking is power making, and to that extent, an immediate manifestation of violence. Walter Benjamin, “Critique of Violence,” in Reflections: Essays, Aphorisms, Autobiographical Writings, ed. Peter Demetz (New York: Schocken Books, 1986), 295.
Chapter 1: Recognitions

“You’ll see,” said Věra as she rang the doorbell to the apartment of an Olach Romani client in the Vítkovice ghetto of the Czech city of Ostrava. Věra, a social worker, had muttered her discontent as we made our way to the home on her rounds, convinced it would be a waste of time. Olach Roma wouldn’t talk to her, she was just a “normal Gypsy,” they wouldn’t bother with her, they didn’t make her job as a social worker easy. A man appeared at the second-story window: no, his wife wasn’t home, he called down. She was still in jail, Věra should come back later. She’d be out in maybe a month. Věra offered up a form for him to fill out, but he refused to come downstairs to get it, retreating behind lace curtains. In frustration, she stuffed it into a mailbox as we left, for the home of the next client, the next form, the next manifestation of the marginalization of Roma so prevalent in the contemporary Czech Republic.

I had been warned about the Olach on my first day of social work rounds during my fieldwork on Holocaust reparations for Czech Roma, a process the social workers were facilitating. Jaroslava, a white social worker who I later learned was married to an Olach, described the Romani community in Ostrava as split; a small minority was Olach, the rest were in a category known as Rumungro.27 When I inquired, “What’s the difference?” Jaroslava gave me a dark look. “Olaši steal,” she replied, with a quick swipe of the hand that curled her fingers to her palm. “Normal Gypsies” were often emphatic with me on this point: Olach Roma were different, and in particular, they were different in their relationship to the acquisition of money. As Markéta, another social worker,

27 Students of Romani culture will likely recognize Olach Roma under the term Vlax or Vlach.
explained it to me, the term *Rumungři* (the plural of *Rumungro*), the Olach term for non-Olach Roma in the Czech Republic, referred to the *rumungro* status as poor people who actually had to work for a living. To Markéta, it was a term of disdain; implicit in her explanation, in turn, was an entire Olach moral cosmos of misappropriation and indolence.

As if to confirm this near-conventional wisdom, Jan Lípa, the Olach king, had appeared on television toward the end of my stay in Ostrava, on a news magazine program on the tabloid Nova channel. Cameras and a reporter followed him around the gilded interiors of his villa in Ostrava as he displayed his Louis XIV-style furniture and his twelve-year-old granddaughter’s wardrobe of gowns. Afterward, the king summoned his Mercedes and made the rounds, first to the deputy mayor of Ostrava, then to a *kris* (or court proceedings) with his council. The culmination of the show was a plea, delivered in Czech, to other kings throughout the world for money transfers into his bank account. His funds had been tunneled, Lípa explained, his accounts drained by a mysterious

---

“them,” and other royals willing to assist could deposit money directly into an account number that he read on the air. 29

The Ostrava City Romani Advisor, Lydia Poláčková, who ran the social work program with which I worked, had visited Lípa once to discuss services for his community. Like the deputy mayor, who had expressed concern with the low school attendance rate of Olach youth, Lydia was rebuffed. Outside of spectacle, Lípa had little use for municipal officials, city hall, social workers, and, I assumed, anthropologists. So I was mildly surprised when, discussing the king’s television appearance with Katka, she told me she was the king’s social worker. Katka, it transpired, had helped him file a Holocaust reparations claim, and yes, she thought he would talk to me about it; she’d call him and set up a meeting. I was even more surprised when he agreed.

King, most speakers of Romanes, the Romani language, would probably concur, is something between misnomer and metonym. Lípa is, in Romanes, the angluno rom, the first man, but often translated into Czech as král (king), he assumes an honorific with monarchic overtones that speak more to the expectations of an audience external to his polity than to his status within it. Anglune roma – first men – are to be found in every country, I was later told by one of the king’s assistants, and when he travels abroad, he phones up other Olaši and asks who the first man is in his destination. “But how do you know whom to call in another country?” I asked. “Other Olaši” was the reply, as if the

29 On the Czech practice and discourse of “tunneling,” see David Altschuler, “Tunneling towards capitalism in the Czech Republic.” Ethnography 2, no.1 (2001): 115-138. Theft is often described in Czech as having an anonymous, plural agent, e.g., ukradli mi telefon (they stole the phone from me).
Olach world lay spread out over the nation-state system like an invisible murmuring net of cell phone conversations.

Outside the meeting place Katka has set up, men I recognized from the *kris* held on television were waiting to intercept us, wanting to know where I was from and what foundation I represented. I was, inevitably, a disappointment – an anthropologist with an ethnographic project, with no money to speak of. “But surely some foundation gave you money to come here,” one of them reasoned with me, with which I had to agree and then explain that I had already spent it all. After a short colloquy in Romanes – which focused on whether I still constituted a monetary opportunity – I was allowed into the Chinese restaurant where the king was holding court.

The audience itself was brief. There was no question of recording an interview, no question of taking notes, or even of shaking the king’s hand. As it turned out, there wasn’t even really a question of an interview at all, for even though I had provisionally passed the gauntlet outside, I really had nothing to offer. “Young lady,” as Lípa finally addressed me in Czech after a full minute of actively ignoring my presence, “young lady, I have good information. Very good information.” This was promising; I nodded in a way I hoped conveyed my respect for this information. “And it costs,” he announced, “five hundred dollars for five minutes.” At that moment, after months of listening to people recount their Holocaust experiences, recount the ways they had explained them on their reparations claims forms, recount their expectations for the money they had hoped to receive and yet had never appeared, things had finally come full circle. I found myself on the far side of the logic of reparations where the *nomos* of its economy surfaced in full effect. Circling back toward me as some strange commodity was not the reparations, of
course, but their substitute: “very good information,” knowable only in the register of exchange, and further, to remain forever unknown by me, subject only to my speculation. When I confessed to the king that I was unable to pay, he announced, “I, young lady, cannot speak with you,” which in Czech, can just as easily be heard as, “I, young lady, do not speak with you.”

And thus, without money, without means to convey how much I valued the information on offer, I was dismissed to a corner table and a chat with Kuba, the youngest of the king’s many advisors, who gave me a lengthy and yet equally sketchy discourse on the history of the Olach band of Roma as they migrated out of Romania after their emancipation from slavery in the 19th century through Slovakia, the Czech Lands, and onto Brooklyn and, round about, to Ostrava. My notes of this conversation show arrows tracking these Olach peregrinations, and a chart of linguistic permutations that divide Olach Romanes from the Slovak dialect spoken by most of my informants, jotted down upon Kuba’s explanation of how the words ‘yours’ and ‘mine’ demonstrated the difference I could not hear between the two languages.

Later, one of the social workers, Zdeněk, told me that Katka was “angry like a Rom” (Cz.: naštvaná jako romka) that the king had refused to give me any of his time. I insisted to Zdeněk that that my encounter with the king was felicitous; he and his fellow social workers, however, tended not to agree to with me. I put it to them that being charged five hundred dollars for what, according to the conditions of the Czech reparations program I had been following, should have been another story of flight and concealment in Slovak forests during the Holocaust, was an extrusion of the logic that underpinned the process in the first place. After all, reparations promise money for a
story well told, and the king had laid it all out for me in advance of the telling; he had
framed his story in its proper calculative brackets. He had even established a dollar-
crown exchange rate.

But this was not the real frame at issue, according to my social worker informants.
They were instead preoccupied with the shame (Cz: hanba) of it all: the shame of his
treatment of me, the shame of his televised appeal for money, the shame that Olach
behavior brought on all other Roma. As evidence, they cited the kris Lípa and his
advisers had aired on television, convened over the loss of one unmarried Olach
teenager’s virginity to another. Subtitled into Czech, the king had overseen a settling of
accounts between the children’s fathers, the boy’s father agreeing to pay some 15,000 kč
to compensate the girl’s for whatever difference the event might make for her bride price.
The kris, usually translated as court (soud in Czech), is, I was told, a little-practiced form
today in the Czech Republic; my friends were convinced the entire thing had been staged,
and perhaps even that I had been a little bit taken in.

And indeed it would be easy to read this encounter in the vein so many of its
predecessors – anthropologists, particularly in the guise of Gypsiologists, have been
searching out Roma, and their kings, their consorts, and their courts, for a century and a
half, huddling in corners drafting charts of declensions of possessive adjectives,
delineating dialectical differences, adumbrating modes of exchange, plying a trade of
mystification and revelation. In their writings, Roma appear as the consummate
embodiments of difference, encapsulating a foreignness attributed to Indic origins that
chafes against what Czechs today call the “majority society.” As Gypsies, moreover,
Roma have been called upon to serve as staple figures of the Western literary imagination
dating back to the Enlightenment, necessary antitheses, Katie Trumpener notes, in the
social and political allegories of successive periods:

For neoclassicism they are there to symbolize a primitive democracy; for the late
Enlightenment, an obstruction to the progress of civilization; for romanticism,
resistance and the utopia of autonomy; for realism, a threat that throws the order and
detail of everyday life into relief; for aestheticism and modernism, a primitive energy
still left between the modern that drives art itself; and for socialist and postcolonial
fiction, finally, a reactionary or resistant cultural force that lingers outside of the
welfare state or the imperial order.  

Lípa could likely have not staged a better hybrid of these tropes for postsocialism’s
liberal and European turn: the clannish secretiveness; the pre-modern monarchic political
form; the customary court; the thievery; the (pre-)history of nomadism; all reflecting the
recent desire for a refusal to partake of the manifold dislocations and devolutions state
power and sovereignty since 1989. Perfect, perhaps, for a time when the task at hand was
to become something – “European” – that most every Czech already was.

But white Czechs, it was put to me, would not perceive that. For them, all
distinctions between Olach and ‘normal’ Roma were collapsed into one category all
Roma inhabited in discomfiting proximity. My reading of my encounter with Lípa was
not so different, at least in my conviction that the king’s story could function as a
ciphered version of all of theirs, metonymic to the stories of persecution social workers
had been collecting and the compensation the Czech state held out in return for their
proper narrative framing of Romani suffering. Where I saw money, my Romani
informants saw politics; where I saw the desublimation of an inverted gift economy, they
saw reparations nested in a wider system of misrecognition laid bare.

30 Katie Trumpener, “The Time of the Gypsies: A ‘People without History’ in the Narratives of
Their reading, moreover, runs counter to the dominant interpretations of reparations as hinging on an affirmative form of recognition. Theorists such as Elazar Barkan take reparations to be a hallmark of a post-Cold War geopolitical configuration in which citizens, citizens wronged in the past, acquire a voice that the states that have wronged them must acknowledge. The compensation these states then offer to address these prior wrongs marks a new toleration of the former victims, and a manifestation of that toleration as a new generosity. That is, theories about reparations replay the classic (if much criticized) logic of the liberal polity – citizens empowered in their address of the state, occupying and forging a public sphere of consensual reasoning that drives a non-violent democratic form of governmentality – and relocate this logic in the realm of international affairs.

But the politics of recognition on which reparations hang is always brokered on the ground. As Elizabeth Povinelli points out, for a liberal governmentality forged through recognition to work, minority subjects must hold their suffering up for examination and evaluation by the liberal subject of the majority to recognize and repair, an operation which not only ensures that liberalism can self-correct, but also one that supplements liberal subjectivity with that of the victimized minority. In short, as Povinelli argues, the burden of recognition is always and almost imperceptibly shifted to

the minority subject, who must embrace and perform an otherness that satisfies liberal expectations. Or as Zdeněk, Markéta, and Věra might argue, the recognition they are supposed to facilitate (here of their community’s suffering in the Holocaust) comes at a price (here cast as the shame of association with Olaši), a price that reparations never quite meet.

That politics can be read out of a system of reciprocities – such as reparations – is a fundamental tenet of anthropology, one the discipline traces back to Marcel Mauss’s seminal essay, The Gift. Gifts, Mauss argued, only seem voluntary; they are, in fact, indicators of multiple intertwined obligations. Examining kula rings in the South Pacific Trobriand Islands, Mauss elaborated a system of gift exchange he called “total prestation.” Gifts, he argued, bind societies together by “a condition of perpetual contract [in which] everyone owes everything to all the other members of his clan and to all those of the opposed clan.”  

In kula, bracelets (called mwali) are exchanged for necklaces (called soulava), a seemingly innocuous trade of tokens that Mauss demonstrates to stand at the nexus of myriad societal institutions, to which kula, he writes, “gives concrete expression.” In their highly ceremonial peregrinations across the Trobriand archipelago, mwali and soulava, Mauss writes, “proscribe;” the local rituals that invoke and describe


In the terms Mauss described, reparations are in one sense, the obverse of the gift. They are conceived of a debt owed for a credit never willingly extended, and thus their giving seems hard to read as an act of generosity. And yet on the other hand, Mauss’s system of total prestation is counterposed to a state of hostility, the gift apotropaic of a violence lurking in the heart of social relations. Thus *kula*, or at least Mauss’s reading of it, shares a logical affinity with reparations, which also seek (as Mauss says of gifting) “[to substitute] alliance, gifts, and trade for war, isolation and stagnation.” Or as Marshall Sahlins put it, “all exchanges … must bear in their material design some political burden of reconciliation.”

And thus the story-telling part of reparations is part ritual – an invocation, an enumeration, of hatred and war, of persecution and suffering, of all that must be exorcised for reparations to work their repair. But it is also, of course, something to be traded, like *mwali* or *soulava*, stories are something valuable, and they obligate. This is a point Mauss makes: The ritual display in the act of receiving is all about the appearance of “freedom and autonomous action,” but “all in all, it is mechanisms of obligation, and even of obligation through things, that are called into play.” That, of course, was Lipa’s

---


point in reversing the logic of reparations: he would be obliged to tell, only if I were obliged first to give.

This refusal to enter into the debt transaction can also be read in Mauss’s formulation as the beginning of sovereignty: he writes in The Gift of a “sovereign right to refuse contract.”38 As Rosalind Morris points out, such a sovereignty is “an interruption of sociality,” not its precedent.39 For reparations that seek to repair a breach in the social – and here the program in question offered money by the Czech state to its minority subjects who would, in receiving, have their citizenship reaffirmed – such a declaration of sovereign status counteracts their very premise.

For Jacques Derrida’s reading of Mauss’s text, a king (in his case, Louis XIV, the Sun King) heralds the impossibility of the gift, which cannot be acknowledged – and simultaneously function – as such.40 Lípa, and his invocation of his sovereign status, his refusal to enter into a trade on my terms (paltry as they were) similarly surfaces this other logic that disrupts the gifting, or here, repair. For representatives of reparations-granting organizations, it was not uncommon to remark upon the inadequacy of money to the task at hand – a figuration of impossibility, usually immediately disavowed. But for all the protestations, Lípa points out that stories are worth money, they are of the economy. His

38 Mauss, The Gift, 73.


very assertion of control over the temporal aspects of our interaction suggests this –
making me wait, refusing to speak until he received payment.

His refusal and the shame it provoked among other Roma, moreover, surface
further contradictions in reparations and their attempts to repair: that reparations are
caught up in a politics of recognition that, seen from the receiving end, is an endless
series of misrecognitions reliant on the presumption of the coherence of the category of
Romani. This point has some very practical manifestations arising from the vexed way in
which Roma are implicated in the Czech economy, which is to say their extreme
segregation from the “normal” flows of money. Often almost completely excluded from
the labor market by a combination of discriminatory hiring practices and the structural
dislocations of the post-industrial economy, the access many Roma have to capital often
comes primarily from social benefits from the Czech state and money-lenders from
within the Romani community.\footnote{One might also add pawnshops to this list. As I was leaving the field, I heard reports that the
money-lending business was being taken over by private non-Romani companies.} Thus for many Roma to whom reparations were offered,
there was not much of choice to refuse the exchange. And so when most everyone who
applied for reparations in the program I saw unfold was turned down, the effect
reparations had was to suspend Roma in a position in which the sovereignty of refusal
was disallowed, along with the full entrance into sociality held just ever so slightly out of
reach. As one social worker put it to me after the program had wrapped up, the whole
thing had been a phantasmagoria, as if reparations were a magic lantern that raised
specters of past suffering, as if their appearance as stories could be commodified,
recognized, and exchanged, only to have the promise of money snatched away along with
the optical illusion of inclusion.
Histories of recognition

I contextualize these issues of recognition in the pages that follow, in which I address the history of recognition as it has been extended to, and sought by, Czechoslovak Roma in the postwar period. I review how the issue of minority recognition arose (sometimes in conjunction with a more generic understanding of recognition of a groups’ past suffering often cited in reparations literature), primarily in the Communist period, and how it is reformulated in the 1990s and 2000s. This history sets the stage for the postsocialist period, when Roma became the “imaginative surface” onto which Czech society projected the anxieties and antinomies that adhered to the post-Communist reintroduction of a liberal state form. I examine this history through the lens of two of its defining controversies, the rediscovery of the Protectorate-era concentration camp for Roma, called Lety u Pisku, and the attempts by residents and municipal authorities in the city of Usti nad Labem to build a wall separating several tenements inhabited by Roma from non-Romani inhabitants of the city. Along with the increasing numbers of Roma who sought asylum in western countries in this period, these events brought about a shift in government policy that sought to recognize the unique position of the Romani community in the Czech Republic, and to redress its marginalization. This policy shift produced a systematization of Romani policy within the government, including the introduction of the Council for Romani Community

\[\text{From Saidiya Hartman’s description of the “value of blackness [that] resides in its metaphorical aptitude…as the imaginative surface upon which the master and the nation came to understand themselves.” Saidiya Hartman, }\]

Affairs, the advisory body for coordinating Roman policy. One of the main initiatives the Council introduced was the Field Social Work Program, which trains Roma on the casework model of social work, in which they assist clients on an individual (or family) basis. Their employment – a marker of the state’s turn to recognition within its policy-making bodies – partly reflects an instrumentalization of the culturalist discourses of Romani difference, since their status as Romani is presumed to give them unique access to members of a community perceived as secretive, suspicious, mendacious, and generally inaccessible.

I next turn to my fieldwork with social workers, first in the context of a European Commission-sponsored Peer Review of the social work program of the People in Need Foundation (Člověk v tísni, hereafter PIN), and then back to the Romani social workers with whom I began this chapter. The Peer Review assembled social workers and other experts from a variety of European countries in order to evaluate the PIN program; I attended as a national expert on behalf of the Czech government’s Office of Romani Community Affairs. I read the Peer Review as a window into the sorts of questions about recognition posed by non-Romani social work experts, and they articulate a critique of misrecognition of Romani difference that seeks to de-link Romani poverty from Romani culture. I take this sort of process as an example of what Alice O’Connor calls “poverty knowledge,” social-scientific knowledge production in the realms of policy and politics, and its institutionalization in the research community – through foundations, grant programs, workshops, and conferences – which creates a feedback loop among

I then juxtapose these notions of misrecognition with those articulated by the Romani social workers with whom I worked, whose parables of difference often featured a more complicated, and intersubjective set of interactions. Markéta’s interaction with her census taker, with which I began the introduction, exemplifies this dynamic. I address how the social workers understood their position in the enactment of this process of recognition, and also how they refigure what is assumed to be at stake in recognition.

*Recognition and Gypsy Policy*

In her comparative history of the evolution of the category of “Gypsy” starting with the emergence of modern European nation-states, Jennifer Illuzzi argues that in implementing new juridical orders to regulate national belonging via citizenship, governments faced a choice in their treatment of Romani populations: “either include Gypsies in the juridical order by creating specific anti-Gypsy legislation, or completely exclude them from the *Rechtsstaat* and deal with them on an executive level.” Germany and Italy, she argues, chose to maintain the “the liberal universalist myth of the *Rechtsstaat,*” a decision that pushed Gypsies into a state of exception, “outside the nation-state, [outside of] the juridical relationship of the state to its citizens … [a] choice [that] also had the benefit of allowing the executive authorities flexibility in defining the category and in enforcing their own regulations.” French authorities, on the other hand
“passed specific anti-Gypsy legislation in this period,” a decision that meant “violating [the tenets of] liberal universalism.”

The recognition accorded to Roma in interwar Czechoslovakia followed the French model: neither “Gypsy” nor “Romani” had official nationality status, but the former category was written into law in the anti-Gypsy legislation in 1927 regulating nomadism. The Law on Nomadic Gypsies and Persons Living a Gypsy Way (Law 127/1927), Celia Donert points out, was modeled on similar laws in France and Bavaria from the same period, and required “nomadic Gypsies,” to carry a so-called gypsy passport.

The legal definition of nomadic Gypsies twinned ethnographic and criminological knowledge in a manner that was common in the late nineteenth and early twentieth centuries. The work of Hugo Herz, a legal scholar and consultant to the criminal court in Brno, exemplifies this trend in the Czechoslovakia. His studies of Gypsy criminality in Moravia from 1875 to 1905 drew on the court’s criminal records (trestní spisy) as well as the publications of prominent Gypsiologists. Herz cited a host of Gypsiologists, from the early work of Heinrich Grellmann, whose 18th-century studies of Gypsies first posited their collective identity and Indic origins, to Heinrich von Wisocki, known for placing


the study of Gypsy folklore in the service of the state.\textsuperscript{46} His perceptions of Gypsies mirror the wider stereotypes circulating in contemporaneous Czech- as well as German-language publications. Writing around the same time as Herz for the largest Czech-language encyclopedia, Otto’s Encyclopedia (\textit{Ottův slovník naučný}), the Czech linguist and ethnographer Emanuel Kovář described Gypsies’ “nomadic nature and disdain for the settled life as well and the absence of a sense for the future and duty, religious flightiness, and an inclination toward superstition, tendencies to immorality, thievery, dishonor, and an aversion to work as it is understood in European terms.”\textsuperscript{47}

Law 127/1927, which posited the Gypsy as “the archetypal vagrant and mobile criminal,” allowed individual regions and municipalities to be declared off-limits for Gypsies; in addition to spa towns, Roma were forbidden from entering such regional centers as Opava and Olomouc, as well as the industrial district of Ostrava. Beyond regulating so-called “nomadic Gypsies,” the law de facto gave municipal police the authority to police all Romani populations, which they did with increasingly frequency over the interwar period.\textsuperscript{48} When the National Socialists came to power in neighboring Germany in January of 1933, Roma became the targets of Nazi persecution.\textsuperscript{49} The first

\textsuperscript{46} Wim Willens, \textit{In Search of the True Gypsy: From Enlightenment to Final Solution} (Portland: Frank Cass, 1997), 13, 182; see also Chapter 2 on Grellmann.

\textsuperscript{47} My translation.

\textsuperscript{48} Ctibor Nečas, \textit{Romové na Moravě a ve Slezsku (1740-1945)} [Roma in Moravia and Silesia (1740-1945)] (Brno: Matice Moravská, 2005), 201.

\textsuperscript{49} The Nazi regime intensified Weimar-era anti-Gypsy legislation that required Roma to register with the authorities, and then restricted their movement: In 1933, they enacting the Law for the Prevention of Offspring with Hereditary Effects and the Law against Dangerous Criminals, and in 1935 the Nuremberg Law for the Protection of German Blood and Honor.
Romani group seeking refuge in Czechoslovakia arrived at the border in the summer of 1933; the increasing flow of refugees over the next several years prompting Czechoslovak municipalities to step up their efforts to police Roma. The data they collected, along with the registers from the Austro-Hungarian period on the settlement of Roma in the late 19th century, produced the lists that allowed the police to locate Roma for deportation during the Protectorate period.

Post-war Gypsy policy did not deviate much from the goals of the anti-Gypsy legislation of the interwar period. Communist-era Czechoslovak state Gypsy policy reflected its Stalinist beginnings as a disciplinary civilizing project manifest in the new anti-nomadism laws of the period, which had the practical effect of forcibly urbanizing the Romani population in the Czech Lands. In the mid-1950s, Gypsy policy was spread across regional and national organs of the party state, including the National Committees, the Party’s Central Committee, and various government ministries. Typical of their approach was the 1958 Politburo resolution on “Work with the Gypsy Population in the Czechoslovak Republic” that defined Gypsies as a “socially and culturally backward population,” practitioners of a “backward lifestyle” that could only be

50 Nečas, Romové na Moravě a ve Slezsku, 237-8, 244.

51 Nečas, Romové na Moravě a ve Slezsku, 244; and Donert, “‘The struggle for the soul of the Gypsy,’” 127.

remediated by forcible settlement and labor discipline. Attempts at Romani political self-organization in the late 1950s were rebuffed by the Central Committee.\textsuperscript{53}

The administrative reform that accompanied the adoption of the new Czechoslovak constitution in 1960 dismantled this policy, and in the mid-1960s – a period of increasing political liberalization and the emergence of a reform movement within the ranks of the Czechoslovak Communist Party – a government committee was created to introduce and coordinate Romani policy. Chief among its concerns was the dispersal of “undesirable concentration[s] of Gypsies,” an artifact of the repressive settlement policies of the previous decade. But this effort too failed and the committee was dissolved in 1968.\textsuperscript{54}

The Prague Spring and the democratization of socialism it promised also opened up a space for Roma to organize their own affairs. In 1968, proposals began circulating for the establishment of the Union of Gypsies-Roma (Svaz Cíkánů-Romů). That same year, a Slovak branch was founded, and in 1969, its Czech counterpart came into being, both as members of the National Front. During its five-year existence, the Union asserted its own vision of the cultural uniqueness of the Romani population, one that stood in stark contrast to the regime’s conceptualization of Gypsy backwardness as a primarily social problem to be solved through coercion.

\textsuperscript{53} Sokolová, “A Matter of Speaking.”

In the planning phase, the Union’s leadership, all of whom had lost family in the Holocaust, was galvanized by a desire to achieve “official recognition” of their persecution, including a monument to Romani victims, along with the demand for recognition of national minority status. In a statement condemning the Warsaw Pact invasion of 1968, they framed their opposition in reference to the war years and their fate in concentration camps, yoking their suffering in the Holocaust to an implicit claim to ethnic recognition, via a parallel to the fate of Jews: “We, the citizens of Gypsy ancestry,” it read, “will never forget the years of Hitlerite occupation when we, just as the citizens of Jewish origin, were persecuted; many members of our families were liquidated in the Nazi concentration camps.”

The Union’s demands for recognition of their members’ suffering the Nazi period, though, faced political constraints. When the Union held its first meeting, the issue – an integral part of the internal organizational discussions leading up to the Union’s founding – had disappeared as an official plank in the organization’s program, its only manifestation a moment of silence for Romani victims of Nazi persecution at the beginning of the event. The demand for national minority status, however, strengthened over time, and in 1970 the Union sent a memo to the Central Committee arguing for the recognition of Gypsy nationality and the rights guaranteed therein by the constitution. These demands were rebuffed, and, under Warsaw Pact occupation and the period of Normalization that accompanied it, the autonomy of the Union became a problem for the

---


regime. By 1973, the Union was disbanded on the grounds that it failed to “integrate” its constituent population.

At the same time as the Union was pressing its claims to national status, the Ministry of Labor and Social Affairs (Ministerstvo práce a sociálních věcí) took over the Gypsy policy portfolio within the government, part of a wider shift in Gypsy policy that, as Sokolová points out, represents a transformation of “institutional policy toward the Roma from repressing measures aimed at acquiring physical control over the problematic population to a more tactical form of power exercised through comprehensive social welfare measures and techniques.” The Ministry authored a report that argued the failure of the attempts to disperse and integrate the Romani population were due to a refusal to recognize and “respect the distinctions of this ethnic group.” Meanwhile, a governmental resolution established social work as the one of the vehicles through which Gypsy assimilation would be achieved, and tasked a new commission with the implementation of a systematic field social work program that fostered “traditional Romani culture,” leading to the establishment of the profession of social curator – akin to social worker – in 1972.

Alongside the turn to social work as a form of intervention and the new-found concern for “Romani culture,” scholarship on Roma expanded dramatically in this era. A spate of articles in the early 1970s by the ethnologist Eva Davidová and the


Sanskritologist Milena Hübschmannová (who, though not Romani, had participated in establishing the Union) criticized the regime’s repressive stance toward the Romani population. In their work, the two turned their sights to explanations of Romani difference that relied on anthropological and culturalist analyses of the distinctive origins of Roma. In her writing, Hübschmannová – who later remarked, “I had studied Hindi, but the communist regime made it difficult to travel to India, so instead I discovered India here in Czechoslovakia”⁶⁰ – traced cultural continuities between Roma and Indians, locating a remnant caste system in Romani social structures. In 1976, Hübschmannová framed the question of the marginalization of Roma as one of “communication between the majority society and this minority community with a distinct ethnicity,” which led accusations of reductive scholarship and the end of her ability to publish any critical scholarship until the fall of Communist Party in 1989.

As Sokolová points out, though, this turn to the issue of origins, which was meant to affirm Romani activist claims to a cultural distinctiveness predicate to recognition of Roma as a national minority, opened up a space in which older notions of Roma social pathology could circulate with a new impunity. “The politics of Romani studies,” she writes, “despite its best intentions of trying to champion Romani emancipation in a variety of different ways … also produced a set of knowledge claims that have tended to affirm, rather than reject, the politics of difference in the host society.”⁶¹

---


Moreover, Davidová and Hübschmannová’s work was counterbalanced by a welter of studies focusing on the biological study of Romani difference, and, by extension, their presumed pathologies and deviance. Reports on Romani issues to National Committees in this period mirror this set of concerns, evidencing an increasing preoccupation with the birth rate among Roma and the necessity to control it through contraceptive measures and abortion. The Czechoslovak regime was, at the time, strongly pro-natalist, and concomitantly devoted to improving the “quality” of the population. This biopolitical turn was manifest in the 1972 Sterilization Decree, which outlined strict and limited conditions under which women could be sterilized. Meant to decrease the incidence of the practice in Czechoslovakia, local officials and social curators across the country instead took the law as a mandate to encourage Romani women to undergo sterilization; between 1972 and 1990, hundreds of Romani women were coercively sterilized, often involuntarily and sometimes via the offer of financial rewards not extended to non-Romani Czechoslovaks.

Members of Charter 77, the dissident group that emerged in the mid-1970s, criticized this and other anti-Romani practices in one of their documents criticizing human rights violations by the Czechoslovak regime. The document, which was written

---

62 Sokolová, “A Matter of Speaking,” 229-234. Sokolová chronicles the production of knowledge about Romani features such as skull size, skin color, and hormonal levels, which were asserted as the basis of the alleged early onset of puberty in Romani children.


with the assistance of former Union members and some social curators,\(^{65}\) notes that the sterilization of Romani women was “obtained by … suspicious means” and constituted part of a larger effort of the majority to suppress a minority. In keeping with the organization’s strategy of calling the regime to account according to its own laws,\(^{66}\) the Chartist signatories asserted that the continuation of the practice of sterilization, coupled with high rate of removal of Romani children from their families into state care, would soon open the government to the charge of genocide, and called for an end to “illegal measures taken against Gypsies and their cultural and organizational activities.”

But the legality of the regime’s behavior was not the Chartists only concern. Document 23 is imbued with a sense of pessimism about a social and cultural disintegration among Roma. “Without group rights,” the document reads, “the Gypsies cannot develop any cultural activities which would assist them in preserving their identity, without which any proper social integration is not possible.”\(^{67}\) Although they diagnose a failure on the part of the majority to treat Roma according to the rights guaranteed national minorities, the authors equally cautioned against treating Roma in the same manner as other national minorities “because they represent a developing culture in


the midst of European cultures,” a misrecognition that obtains, according to the authors, in the very naming of the group: “The traditional name ‘Gypsies’ carries with it much vilification, stemming from centuries old prejudices and does not reflect the original name of this ethnic group.”

The end of the Communist regime in 1989, as Gil Eyal notes, brought to power a coalition the dissidents and neoliberal technocrats, united by an affinity for “self-organizing spheres of social action,” whether they be markets or civil society. Though their alliance was short-lived, these two groups produced most of the politicians who would hold high elected office in the postsocialist period. The sweeping transformations that ensued – of state administration, the industrial sector, housing, and academe – dismantled the commission dealing with Romani policy as well as the system of social curators.

Observers often note that the redistribution of property and wealth via privatization in the postsocialist era was the largest in the Czech Lands since the Thirty Years’ War. Coupled with the economic dislocations of postsocialist deindustrialization, most Roma have been systematically and utterly dispossessed in this massive redistribution, left dependent on public authorities at a time of severe retrenchment in state services. These processes, rooted in the coercive urbanization of Roma that began in the 1950s, have fundamentally reconfigured the geography of Czech cities, where Roma

---

68 Václav Havel, a product of Charter 77 and the dissident underground, and Václav Klaus, an economist from the group Eyal calls the monetarists, are the most well-known representatives of these two ends of the mainstream Czech postsocialist political spectrum. Both served as president, the former from 1993 to 2003 and the latter from 2003 through 2013.
predominantly reside, and the intensifying ghettoization of the Czech Romani has become one of the most visible markers of the economic dislocations of postsocialism.

After the dissolution of Czechoslovakia in 1992, the Czech Republic passed an immigration law widely perceived as discriminatory toward the Romani population resident in its territory, most of whom were descendants of Roma who came to the Czech Lands from Slovakia starting in the 1950s. The law assigned citizenship based not on birthplace but on parental origin, rendering many Roma in the Czech half of the country citizens of Slovakia, but often without any documentation proving them to be Slovak citizens. Criticism of the law came from many quarters, including Czech Helsinki Commission, the Organization for Security and Cooperation in Europe, the Council of Europe and the United Nations High Commissioner for Refugees, and the law was amended in 1997. On the heels of this crisis, the so-called Lety affair broke out over accusations that Czechs had collaborated in the destruction of Czech Roma in the Holocaust, followed closely by the controversy over the wall in Usti.

The Lety Affair

In the early 1990s, Paul Polansky, an American genealogist examining records in the archives of the town of Třeboň for a project on Czech immigration to Iowa, stumbled


upon references to the concentration camp for Roma at Lety u Písku. Polansky’s interests were quickly diverted to what he has called the discovery of an “extermination camp” for Protectorate Roma, and he spent half a year tracking down the few remaining survivors to interview them. Their accounts, which Polansky published first in English, and then in Czech translation in a book called *Black Silence: The Lety Survivors Speak*, are rife with scenes reminiscent of other camps in the concentrationary universe. Survivors recount their round-up by the police, their transport to the camp, and, once there, the expropriation of their property, the sadism of the guards, wretched hygienic conditions and unchecked typhus epidemics.

In 1994, the alternative weekly paper *Respekt* picked up the story and ran it under a the headline, “Final Solution the Czech-German Way.” The article chronicled Polansky’s revelations that a concentration camp for Roma functioned near the Czech village of Lety u Písku, and moreover, that it had been guarded by members of the Czech police. It also examined one of the more controversial aspects of the issue, namely, that in 1974, the Communist government built an industrial pig farm where the camp used to stand. *Respekt* points out that not everything Polansky said was, strictly speaking, true, but that he opened a space for public debate that had not previously existed, even given the established Czechoslovak historiography of the camp and the persecution of Roma more generally.

---


Polansky asserts the unmediated primacy of survivors’ stories, the direct access they possess to the reality of the camp: “The survivors’ stories are the real stories of Lety. They saw. They suffered.” The testimonies Polansky collected are not just reflections on their internment in Lety, however. They are also full of anxieties about the postsocialist present, the danger posed by anti-Romani skinhead violence, the failures of Czech politicians to represent minority citizens, and the socio-economic uncertainties of transition. Interviewees critique politicians for neglecting the rise in racially motivated attacks on Roma in the 1990s: as one put it, “It reminds me of the start of Hitler all over again … I would like to personally tell President Havel that he is only for the whites. He is cooperating with too many people who are against us. I think he is a bad person and he is not speaking out against the skinheads.” In a common refrain, the husband of one survivor rails against the government for not adequately compensating survivors:

The government I am sure hopes that all the survivors will die before they have to pay out. No one who works in those offices was ever in a concentration camp … I am sure they gave burned all the important papers … They burned the most important papers and covered over the graves with a pig farm.

The response to Polansky’s books, for the most part, did not directly address the content of the survivors’ accounts, but rather his attempts at historical interpretation of the material – that the Protectorate-era Czech government had run an extermination camp – and his allegation that the postsocialist government sought to cover it up by restricting

---


75 Polansky, *Black Silence*, 130.
his access to its archive. German journalist and activist (and long-time resident of the Czech Republic), Markus Pape followed Polansky’s footsteps to the archive, where he examined first-hand accounts of former prisoners and camp employees in the form of postwar depositions, broadening the range of documents at stake. In a pair of articles and a book, Pape upped the ante, arguing that his research uncovered the complicity, if not the guilt, of the Czech nation in the destruction of the Romani population.

Within a year, a memorial plaque was unveiled on the site of the camp not far from the pig farm, and drew then President Václav Havel, among others, to its dedication ceremony. But instead of fixing the camp firmly in the past, the memorial, and its juxtaposition to the pig farm, became a flashpoint for human-rights and reparations activists as well as survivors and their families, who demanded the farm’s removal. A historical commission, headed by Petr Uhl and including activists as well as historians and archivists was formed to evaluate the issue and make a recommendation on the possibilities for the farm’s removal. Simon Wiesenthal even wrote an open letter to then Prime Minister Miloš Zeman, in which as a self-proclaimed “deputy for the dead,” the Austrian Nazi hunter called for the removal of the pig farm because it “violates all rules

---


77 Abu Ghosh, “Mezi historií a pamětí,” 43.
of good relations of the Czech state toward its national minorities.” The historical commission weighed in on the pig farm controversy after two years of study, arguing that the state should remove it in order to “express historical responsibility for non-punishment of this crime and for the long-standing tabooization of the ‘unknown Holocaust.’”

In the spring of 2005, the European Parliament hosted an exhibit on the Lety concentration camp. One year after Czech accession to the European Union, and the subsequent elections that sent a slate of Czech Members of the European Parliament (MEPs) to European Union headquarters, parliamentarians passing through the lobby of the Parliament in Brussels could learn not only the story of the camp as well as the pig farm. The exhibition’s sponsor, Milan Horáček, a Czech who had gone into exile following the Warsaw Pact invasion of 1968, had become a German parliamentarian from the Green Party. At the same time as they staged the exhibit, Horáček and the German Greens proposed a parliamentary resolution condemning contemporary anti-Romani discrimination and calling for removal of the pig farm that still sits on the outskirts of the Czech town of Lety, for which the camp was named. The Romani Holocaust, the non-binding resolution reads, “deserves full recognition, commensurate with the gravity of Nazi crimes designed to physically eliminate the Roma of Europe.”


79 Quoted in Abu Ghosh as “vyjádřil historickou odpovědnost za nepotrestání tohoto zločinu a za dlouhodobou tabuizaci ‘neznámého holocaustu’” (“Mezi historií a pamětí,” 44).

“Full recognition,” the measure continues, should be constituted by “[removal] of the pig farm from the site of the former concentration camp at Lety u Písku and [creation] of a suitable memorial.” The Greens’ measure passed overwhelmingly, with only 25 dissenting votes, many of them from Czech MEPs from the two main Czech parties represented in the Parliament, the Civic Democratic Party (ODS) and the Communist Party of Bohemia and Moravia (KSCM).

If the Czech presence in the European Parliament represents the country’s “return to Europe,” as European Union accession was widely touted during the domestic campaign leading up to the accession referendum in 2003, the almost immediate resurfacing of the issue of the Lety camp was a reminder of the stumbling blocks along the path back. The demand that the Czech Republic, the only country mentioned in the Parliament’s resolution, recognize Romani suffering invoked ire across the political spectrum. Czech MEP Miloslav Randsorf, a Communist Party representative, waded immediately into the fray, arguing that “as a historian,” he knew that “there was no concentration camp in the real sense in Lety; there were no gas chambers in Lety.” Nor did the claim for parity for Romani victims trouble only the far left; Jan Zahradil, the leader of the rightist Civic Democrat (ODS) block, complained about the resolution’s linkage of past and present:


We consider really misleading efforts to connect the responsibility for the wartime genocide of ethnic minorities during the German occupation of our country (when we ourselves were victims of Hitler's aggression and Nazi terror) with our present reality. It is precisely at the time of the 60th anniversary of the defeat of fascism that such parallels are absolutely unacceptable.\(^8^3\)

Then President Václav Klaus, well known as a center-right Euroskeptic and long suspicious of assertions of anti-Romani discrimination, took similar umbrage, and announced that Lety had not been a “real concentration camp” in the sense that “each of us subconsciously understands the word.” Local issues, he argued, should be solved locally, and the European Parliament’s actions constituted an unacceptable incursion into Czech sovereignty. Uhl, in turn, lodged a criminal complaint against Ransdorf for Holocaust denial. In the face of subsequent criticism, Klaus specified that he did not mean to deny the tragedy of Lety, but rather that its victims were not “what has been understood as a victim of a concentration camp.”\(^8^4\) As if to underline the imbrication of the history of the camp with the fraught status of Roma in the contemporary public sphere, the same week that the Parliament passed its resolution, the Czech CVVM polling group released a survey announcing that three-quarters of white Czechs do not want live next door to Romani Czechs.\(^8^5\)

---


\(^8^4\) ČTK, “Prezident pobouřil Romy.”

\(^8^5\) ČTK National News Wire, “ODS MEPs vote against EP resolution on Romanies.”
If Roma were the imaginative surface of post-socialism’s woes, the northern Bohemian city of Ustí nad Labem is the terrain that threw them into sharp relief. In the late 1990s, Ustí became emblematic far and wide of the deteriorating relations between Roma and whites, as well as between the post-socialist haves and have-nots. On a two-block stretch of a street called Matiční, three family houses, inhabited by whites, stood opposite three tenements housing non-payers of rent, predominantly Romani families. In contemporary European lingo, the area is a neighborhood plagued by “social exclusion.” After a proposal by inhabitants on one side of the street to build an almost two-meter high wall blocking the people who lived in the tenements from the street was embraced by Ustí’s mayor in the late 1990s, Ustí was catapulted to international notoriety for its “European wall of shame” and its “designer ghetto.” The mayor countered criticism with assertions of “indecency,” lack of “hygiene,” and failure to “obey the law” on the part of “rent defaulters,” casting the wall as a “law and order” measure.86

The plan was denounced as racial segregation by then-President Havel and a majority of the Czech Parliament as well as a raft of European Union politicians, and when the wall was finally erected by the town hall, it was then torn down after the central government agreed to pay the city council to relocate the white families from the street.

Foreign press coverage routinely invoked parallels to both the Berlin Wall and the Theresienstadt Ghetto, but non-Romani Czechs were more likely to invoke culture to explain these parallels away. “It’s the culture,” said one of the white Czechs living across the street from the tenements to a reporter, “Romany people are different.”

The dynamic of ghettoization Ustí represented was replicated across the Czech Republic, though with less international attention. As ghettoization of Roma intensified throughout the country, the progressive impoverishment of the Romani population became the staging ground for the spectacle of Romani difference. Newspaper images of Romani families, for example, living on the sidewalks of the town of Slaný after their eviction from the Mexiko municipal hostel in 2003 for non-payment of debt evoked a topsy-turvy division between public and private: it looked as if a bedroom had been turned inside out. The photos of the families’ expulsion from private to public sphere remind us that Habermas’s public sphere, that idealized liberal domain in which the citizen is empowered in his address of the state, is in turn anchored in a particular set of private relations, fundamentally bourgeois and not so easily dispossessed as the families of Slaný. When the conflict between the residents of Mexiko and the town hall spilled over onto the street and into the media, it highlighted the breakdown of that tenet. Accusations of indebtedness and payment installments missed, of rebuffed attempts to pay and of neglected property, of lying and of racism, were traded via journalists, as if direct communication between the inhabitants and the municipality had been somehow

---

precluded.\textsuperscript{88} It was, in essence, a battle over the dissolution of a social contract whose original terms no one could even agree upon. And the spectacle in turn, was reinforced, as Roma were further circumscribed from proper participation in the public sphere: to be unpropertied, or unwilling to fulfill the contractual obligation implied by indebtedness, came to appear as culturally Roma, rendering Romani culture irreparably unbourgeois and illiberal. Pathological to the social, fellow to the citizen, traditional to the modern, Roma, in short, became the public sphere’s supplement, a population simultaneously exterior to it and yet, like the Romani families on the streets of Slaný, fundamentally it’s constituent, filling in its lack through a performative opposite.\textsuperscript{89}

\textit{Poverty Knowledge and Social Work}

This state of affairs was accompanied by an efflorescence in what Alice O’Connor calls “poverty knowledge.” Poverty knowledge, in O’Connor’s definition, refers to social-scientific knowledge production in the realms of policy and politics, and its institutionalization in the research community – through foundations, grant programs, workshops, and conferences – which creates a feedback loop among philanthropists, academics and policy-makers that marks a larger reorganization of social knowledge. The


\textsuperscript{89} For an analysis of the function of the supplement, see Jacques Derrida, \textit{Of Grammatology}, trans by Gayatri Chakravorty Spivak (Baltimore: Johns Hopkins University Press, 1974).
object of the gaze of poverty knowledge is the behavior and characteristics of the impoverished person, and that individual becomes the site of intervention.\textsuperscript{90}

The vernacular of poverty knowledge relating to Roma is telling. One social worker has felicitously called it the “chaotic dictionary of terms” (chaotický slovník): “social pathology” (sociální patologie), “socially weak” (sociálně slábi), “socioculturally disadvantaged” (sociokulturně znevýhodňující), “inadaptable” (nepřizpůsobiví), not to mention “majority society” (majoritní společnost) and “fellow citizen” (spoluobčan).\textsuperscript{91} In these formulations, the increasingly coterminous terms of “poor” and “Roma” were relegated to an isolated, ghettoized sphere doubled in the public imagination and on the urban terrain.

The year 1997 was a crucial turning point for state policy toward Roma. Faced with an upswing in the number of Roma seeking asylum in other countries, and complaints from the countries to which they had fled, primarily Great Britain and Canada, the President of the Council for National Minorities, Pavel Bratinka, issued a call for greater coordination across government ministries, and suggested establishing an official body that would deal with Romani affairs. The Bratinka Report, as his policy recommendations came to be known, represent the postsocialist government’s initial foray into the burgeoning field of poverty knowledge. It was, Peter Vermeersch notes, “the first, modest attempt to publicize data on discrimination, unemployment, and

\textsuperscript{90} O’Connor, \textit{Poverty Knowledge}, 4.

\textsuperscript{91} Štěpán Moravec, “Samý známý věci (Nástin problému sociálního vyloučení romských populací)” [All known things (An outline of the problem of the socially excluded Roma population)] (MS, 2005b), 1.
poverty among Roma.” It also echoed the allegations made by Charter 77 regarding Romani policy, suggesting that the minority protection established by law was letting Czech Roma down. The report surveyed social workers, Romani activists, and civil servants, and diagnosed part of the problem as a failure of communication:

Both parties are aware of the deficiencies in communication between them – government officials and representatives of the Roma. The incapacity, unwillingness, inability for whatever cause to agree, the diversity of communicative codes and means leads at best to confusion, at worst conflicts that are primarily seen not as a result of the misinterpretation of statements, attitudes and actions of the partner - the enemy and their causes, but as lack of will to perceive and respect individual and group interests.92

Issued in 1997, the recommendations of the Bratinka report were that same year by the government, and the Interdepartmental Commission for Romani Community Affairs, comprised of a group of Romani activists and representatives of government ministries was founded.93

The first issue that the Commission (which was renamed the Government Council for Romani Community Affairs in 2001) took up was the need for a memorial at the site of the Lety camp. In its first years, observers speculated whether the Commission could exert enough influence to make Romani policy cohere, or whether it would be limited to symbolic interventions such as in the case of Lety. By 1999, the Commission began drafting and disseminating draft policy on Romani issues, focusing on “Romani integration.” As Uhl, who became the first chairman, framed the issue: “the argument that


the Roma problem is merely a social problem is generally the view of people who do not want to admit that the Roma are a national minority, thereby denying them to the right to development. Yet, the social aspect must be solved." 94

The Council established a network of Romani advisors in municipal governments across the country who advise local government and individual Roma on how to interact with one another, also oversee the Field Social Work program. Central to their efforts is one of the main initiatives undertaken to address the “social aspect” Uhl cited: the Support Program for Field Social Workers (Program podpory terénních sociálních právocvniků, or TSP program), which hired and trained Romani field social workers known as tereňáci (roughly, fieldworkers), and secunded them to town halls around the country. Since the late 1990s, cadres of social workers employed in this program have been operating in some of the poorest neighborhoods in the country, focusing their efforts on realigning the communicative relationship between Roma and state administration. Field social workers go to their clients following the case-work model of American social work. The term tereňák – “fieldworker,” plural tereňáci – stressed the centrality of the terén, of the field, to their endeavors. When the TSP program was set up, Matiční Street was one of the first places where its social workers were deployed. Tereňáci spend their working hours locating and approaching potential clients in their neighborhoods and homes and, in turn, accompanying them on their sojourns through the labyrinthine corridors of state bureaucracy. As several of them described it to me, tereňáci function as a “bridge” between Romani households and Czech state bureaucracy, between the burgeoning Romani ghettos and the municipal authorities, traversing the citizen-state axis.

94 Quoted in Verneersch, The Romani Movement, 87.
that underpins the functioning of the liberal public sphere. They are keenly aware that the *savoir-faire* with which they undertake this job is also a *savoir-être*, and that they must embody the very difference they are meant to overcome.

This approach has garnered the Council criticism from other organizations involved in the provision of social services. Most notably, some representatives of the People in Need Foundation, which maintains a large social program targeting Romani communities, hold that social workers should be anyone who does the required schoolwork and passes the test. When then began their program, they too hired Roma to serve as social workers. But over time they came to the view that their program should be staffed by people with expertise in social work, whether or not they are themselves Romani.

Their fieldwork program was the basis of a European Commission-sponsored Peer Review of the field social work program run by PIN, to which I was invited and officially listed on the program as a “host country expert.” Peer Reviews bring together experts from various European countries for discussion, observation and evaluation of a particular program’s best practices, and in turn provide the means for the further dissemination and application of those practices in other locales; host country experts are expected to be able to particularize those issues in the context of their professional engagement, in this case with Czech social work programs. This particular Peer Review, entitled “Field social work programmes in neighbourhoods threatened by social exclusion,” was convened to consider PIN’s field social work programs.

---

95 I attended the peer review on the invitation of the Executive Director of the Office of the Czech Government’s Council on Roma Community Affairs. For more information on the Social Inclusion Peer Reviews conducted under the aegis of the European Commission’s Directorate General for Employment, Social Affairs and Equal Opportunities, see http://www.peer-review-
Within the social work community, debates had broken out over the best way to pursue casework with Roma. PIN, which started their field social work program in 1999, year before the government started theirs, initially hired Roma as social workers. They quickly discovered that this revealed fault lines within those communities that they had not anticipated, as previously existing conflicts among various people and families worked their way into the structure of social work, which some social workers, according to some PIN staff, used to settle scores. PIN thus shifted what they call the “social” approach, which involved hiring only professionally trained social workers, be the Romani or not, which had the effect of shifting the profile of their social work staff to the latter. PIN was critical of the government’s decision to hiring Romani social workers from within the Romani community but without social work training. This they dubbed the “cultural” approach, and argued that it presumed a coherence within a Romani community that, as their anthropologist advisors argued, did not exist as such.

PIN’s program is two-tiered. The first tier comprises an immediate praxis of social work, which, not unlike that of Vera and her colleagues, mediates the relationship of the client to the state welfare apparatus. But the program also includes a second level of intervention in the discursive plane of the public sphere. At stake are the terms of the chaotic dictionary and metonymic obfuscations it effects between Roma and poverty. In a

social-inclusion.net/peer/en/general_information. For a genealogy of how the term “social inclusion” came into use in the context of the European Union in the early 1990s, see Sheila DeCuyper, “Poverty and Professionals: Social Exclusion and the Growth of ‘Regeneration’ as a Field of Expertise in Britain,” (Ph.D. diss, Temple University, 2004).

96 Many of the social workers with whom I conducted my fieldwork were hired through the Office of Roma Community Affairs by the Ostrava Roma Advisor and eventually hired by the individual districts (obvody) that comprise Ostrava.
paper distributed to Peer-Review participants, for example, the program’s director, Štěpán Moravec, explained the mechanisms at work in producing the “Romani problematic.” “The Romani problematic,” he notes, “is half a massive grotesque manifestation of self-fulfilling prophecy.” As an example, Moravec cites the practice of housing people perceived as Roma by bureaucrats in hostels for non-payers of rent, collapsing Roma and non-payers into one category. In turn, by slotting Roma (whether or not they are in fact non-payers) into these hostels, where rent often exceeds the norm as well as the tenant’s ability to pay, this practice produces Roma who become non-payers. It is a downward spiral of culture and debt, in which the perception of cultural difference produces a further difference that is coded as cultural. Furthermore, this process circumscribes Roma even further from proper participation in the public sphere: to be unpropertied, or unwilling to fulfill the contractual obligation implied by indebtedness, comes to appear as culturally Roma, rendering Romani culture irreparably unbourgeois and illiberal. PIN’s strategy, then, is to de-link the categories of “Roma” and “poor” through a process they call de-ethnicization (deetnizace).

The experts at the Peer Review were, in the main, assembled from the governmental, EU, and non-profit sectors. In addition to the representatives of PIN, the Peer Review brought in experts in from the European Commission and a variety of organizations, such as the European Anti-Poverty Network, the European Roma Information Office, and the Anti-Poverty Information Centre, as well as assorted employees of EU and accession governments from Spain to Great Britain to Romania. It attests, however, to the status of a culturalized knowledge of Roma in this forum that I

was not the only anthropologist at the table – Marek Jakoubek, from the University of West Bohemia, also attended as an affiliate of PIN. And perhaps our presence was unremarkable, given that the success of the program is partially staked in bringing the Romani poor out of the discourse of Romani culture and into the lexicon of social exclusion.

The issue that became the most contentious during the course of the Peer Review was, in short, de-ethnicization. And questions of race, ethnicity and culture – and whether and how they should factor in social work – are certainly issues to which the discipline of anthropology is no stranger. But even though our discipline – that veritable arbiter of things cultural – was handmaiden to the arguments participants were putting forth about the grounds on which social workers could, or should, intervene in the Romani community, we two were not much use when displaced from the field into the experts’ realm policy evaluation. On the question of assessing the efficacy of PIN’s program, for example, all the feedback I could offer from my field experience was that social workers would consider a client relationship successful if the client took charge of his or her own affairs. That is to say, as I was noted as saying in the meeting’s minutes, “‘success’ is by definition very difficult to measure.”

“Impossible to measure” was in fact what I meant; the client who could attest to the success of the program is precisely the client no one would ever encounter anew in the program’s setting. Successful clients in essence erase themselves. The other most anthropological intervention registered a similar set of epistemological concerns: the welter of categories at play in the discussion of the...

---

(Romani) subject of social work, Jakoubek noted, belied a fundamental confusion in the very field of intervention of the program that had brought us all to the same table. The notion of community, Jakoubek argued, was particularly fraught; as he has argued elsewhere, the term is not so simple to assert in the Czech context.

Jakoubek’s staked a further claim, though, one with an oblique relationship to the main grist of the Peer Review. He argued that, given that little is known about Roma, PIN’s fieldwork is all the more valuable for it fills in data where it would otherwise be hard to come by. By casting the fieldwork of social work as akin to the fieldwork of ethnography, Jakoubek highlighted the way in which PIN’s program asserts its claims in reference to cultural anthropology.

The Peer Review, as became evident over the course of two days, was a contestation hashing out different idioms of different liberalism. The dominant discourse of social exclusion (which, as DeCuyper notes, is a term that in the context of the European Union has progressively subsumed race and poverty into a rhetoric of citizenship) was disrupted by questions of culture, and whether its ties to social exclusion can ever be completely severed. One of the Western European participants, an Irish expert on poverty and Travellers and representative of the European Anti-Poverty Network, took issue with PIN’s emphasis on de-ethnicizing poverty, noting that thirty years of focusing on the social exclusion of Travellers did not solve any of their problems.

---

99 E.g., Minutes of the Peer Review Meeting.

100 Minutes of the Peer Review Meeting, 26.

101 Minutes of the Peer Review Meeting, 84.
until an “ethnic approach” was adopted. In response, Moravec deployed an anthropological gloss to PIN’s work:

We mention this theoretical model [of the culture of poverty] ... [regarding discussions of] ethnicity [and] community ... simply to say that some of the feature[s] or patterns of behavior ... you can [see] in the poorest Roma neighborhoods are not part of ... traditional Roma culture but [rather] they are part of the adaptation to the situation they face ... to explain to the public and the relevant authorities that not everything they see in the segregated locations is Roma culture.

The cultural terminology – specifically, the “culture of poverty” – is a phraseology that PIN has used elsewhere in their efforts to sunder the association in the public imaginary between Romani culture and Romani poverty. Moravec’s answer was an echo of explanations of the phenomenon of social exclusion his organization uses in other fora. On their webpage, for example, PIN brings the argument into a more clearly anthropological register by citing the American anthropologist and progenitor of the “culture of poverty” argument, Oscar Lewis, to explicate money lending:

[Lewis] asserts that people who have had to adapt to conditions of material poverty in industrial society developed for that purpose a specific system of behavior and values – a culture. From the definition of culture it thus follows that it is a more or less stable system that further reproduces itself in the upbringing of the next generation.

The argument runs as an occasional thread through discussion appended to articles about Roma in the newspaper Lidové noviny, cropping up, for example, a few years ago as an explanatory paradigm complete with citations for Lewis’s work in regard to the evictions

---

102 Minutes, of the Peer Review Meeting, 8.

of Romani families from municipal housing in Slaný. It does protective duty as a sort of bracket. When discussants complain, as they commonly do, that Roma by their very nature do not pay rent or destroy housing, the “culture of poverty” displaces Romani culture from the realm of causality and reframes poverty as the root of the manifold problems encountered in places such as Ustí.

As Michael Stewart notes of the discussion of Romani impoverishment in Hungary, the importation and application of these terms from America to Hungary often glosses over important differences between the phenomena they purport to describe. In its original formulation, he argues, the term “underclass” carried the taint of a “separate and pathological social space with its own rules and regulations.” In this sense, such terms function as what Edward Said called a “strategic formation”: increasingly used

---


107 In Said’s formulation, a strategic formation refers a “relationship between texts and the way in which groups of texts, types of texts, even textual genres, acquire mass, density, and referential
equally among Hungarian rights’ activists and social scientists, the “underclass” has come to frame both the way knowledge of Roma is produced (through, for example, sociological surveys) and in turn the types of demands activists make. By focusing poverty knowledge, as well as social policy designed to alleviate poverty, on that “separate and pathological” sphere the “underclass” implies, anti-poverty measures cannot take into account or include, for example, the complex survival strategies people undertake to alleviate the poverty in which they find themselves.\textsuperscript{108} Stewart argues, in effect, that the circulation of such terms erases the agency of those they are meant to describe.

Stewart is also disturbed by the introduction of the “culture of poverty” concept in relation to Hungarian Roma. The “culture of poverty” thesis, he argues, proposes that life on the edge of mainstream society produces a distinct way of life, a “culture” “which, upon closer inspection, is alleged to be not a ‘real culture’ at all.”\textsuperscript{109} The “culture” of the “culture of poverty” has none of the richness of the “culture of Roma.” But in the Czech context, the “culture of poverty,” as it is cited across a variety of textual genres, is meant to open up the discourse of social pathologization of Roma in the Czech Republic for critical examination. More often than not, it is an argument designed, like PIN’s, to

\begin{flushright}
\textsuperscript{108} Stewart, “Deprivation,” 142.
\end{flushright}

\begin{flushright}
\textsuperscript{109} Stewart, “Deprivation,” 140.
\end{flushright}
bracket a notion of Romani culture off from the commonplace perception of Roma as poor (and in turn of poverty as a Romani phenomenon). Roma are not poor because of Romani culture, in this argument, but because of the “culture of poverty.” Romani culture and the “culture of poverty” in which some Roma live are conceived of as distinct entities, neither of which should be collapsed into the other.

Jakoubek, an anthropologist from the University of Western Bohemia in Plzeň and an advisor to the People in Need Foundation, proposes that both these approaches are wrong-headed. Roma, he holds, are neither a racial type nor a nation whose emancipation has been long denied by the dominant political structures surrounding it. Instead, Romani culture must be situated, through anthropological analysis, in the segregated Romani settlements (osady) of Slovakia where it is practiced, he holds, in its most complete form. Much of his analysis functions as the basis for his reflections on the fraught status of the individual political Rom.

Jakoubek suggests that the root of the problem is a misrecognition of Romani cultural difference. The manifold efforts at the political emancipation of Roma, pursued by Romani activists and Romologists as they stake claims to a Roma difference constituted on national grounds, are misguided, he holds, because they do not recognize that the inhabitants of Slovak Romany settlements, “are unique islands of traditional society which has survived to today and at the same time one of the last enclaves of a people without history in Europe” [emphases original].¹¹⁰ In Jakoubek’s argument, Roma stand outside of history in a domain he demarcates as the traditional; this, in essence, is

what differentiates them from the (Czech) denizens of “modern civil society” (moderní občanská společnost). He holds that kinship is the foundational property of Roma social life, the determinant of all other forms of association and ipso facto the barrier to the formation of a Roma politics in the realm of the public sphere. Where many scholars of Roma see hope for an emancipatory politics arising from their work on Romani origins, Jakoubek is instead pessimistic. A modern Roma politics is precluded, in his argument, because Roma themselves cannot become political in the realm of the public sphere and simultaneously remain Roma. In the framework of Habermas’s axial relationship between private and public in the constitution of the public sphere, Jakoubek holds that the private subjectivity produced by a kinship polity is irreconcilable with the publicly oriented subjectivity that underpins the functioning of the public sphere.

And yet this reading of misrecognition, relying as it does on a particular vision of Romani culture that precludes the practice of Romaniness in the Czech contexts, runs counter to the notion expressed by the Romani social workers deployed by the government, and to whom I now return.

Parables of difference

I had gone to Ostrava in 2004 at the suggestion of Czesław Walek, the director of the Czech government’s Office of Roma Community Affairs, who was troubled by how a Holocaust reparations program the Czech government has set up for Roma was unfolding. Through the Support Program for Field Social Workers (Program podpory terénních sociálních pracovníků, or TSP program), his office hired and trained Romani

---

111 Jakoubek, Romové, 41-3.
field social workers known as *tereňáci* (roughly, fieldworkers), and secunded them to town halls around the country, generally through the office of a municipality’s Romani Advisor if there was one. The Ostrava City Romani Advisor, Lydia, oversaw fourteen Romani field social workers in the TSP program. Ostrava, the third-largest Czech city with likely the highest percentage of Romani population, had one of the largest programs TSP in the country.\footnote{The Council was established in 1997 as the Interdepartmental Commission for Roma Community Affairs, and was renamed in 2001. It advises the Czech government on issues on related to the Romani community, coordinates integration initiatives among ministries and other governing bodies, and produces the draft of official government policy of the integration of the Romani community. The TSP program (Program podpory terénních sociálních pracovníků - terénní sociální práce v sociálně vyloučených lokalitách) was started in Fall of 2000 under the auspices of the Interdepartmental Commission. See http://www.vlada.cz/en/ppov/zalezitosti-romske-komunity/the-council-for-roma-community-affairs--50634/.
}

As the scribes of often-illiterate elderly Romani reparations claimants, social workers were a means to an end for my project, working with them an exigence that would introduce me to the survivors I sought. Along the way, I imagined, I might learn something about how reparations surface in everyday life, but I was not initially overly interested in why social workers were so necessary to the claims process, or for that matter, why Věra, Zdeněk, Markéta and their colleagues took my appearance among their ranks so matter of factly. I had been going on client rounds for three or four days before anyone really inquired what I was interested in.

My Romani informants tended to be very careful about making sure I knew what was going on. From them I learned how to transition between formal and informal models of communication, a Czech-wide phenomenon. When I used "please" and "thank you" in Romani households, I was scolded for being too formal, for Roma generally
assume that the terminology creates social distance among intimate. Moreover, Romani rules of reciprocity and social solidarity meant that a telephone left on the table was available for use by anyone in the vicinity; cigarettes left out could be smoked by anyone and all takers.

Ad hoc language lessons occasioned further reflections from my informants on how Roma constructed different worlds in Romanes. Passing the Vitkovice Ironworks on the tram one day, I asked Jana how she would say the word factory in Romanes. She puzzled for a moment, then decide that she didn't know because while one might say in Czech, "I am going to the factory," in Romanes one would just say "I am going to work" (dzav andro buti).

The dual naming system for which Roma are known also marks the axis between public and private. Many, though not all, of the social workers with whom I worked had both a Romani name (romano nav) and an official "first" name, used for interactions outside of close circles of friends and family. Since my introductions to everyone were done with Romani names, I occasionally discovered this only inadvertently, when someone would caution me to use a different name when visiting her at work, or a non-Romani colleague would correct my usage of a person's name, assuming I had incorrectly derived a nickname.

Furthermore, almost every story I heard structured the category of Romani was a story of similar inextricable dynamics of cultural misrecognition and linguistic refusal, what I came to think of as parables of difference. Katka, for example, related to me a story of trip she took to India as part of delegation of European minorities; when I asked if some of her fellow travelers whom she had identified as Beyashi from Hungary
(usually thought of as group of Romanian-speaking Roma in Hungary) were also Romani, Katka insisted they were not: Beyashi were just, well, Beyashi. Upon arrival, she and her cohort were surprised to discover the efficacy of Romanes in navigating daily life. When a woman approached them for money, they told her to go away in English to no avail; when they ordered her away in Romanes, she left them alone. Later in the trip, in a southern city the name of which Katka has since forgotten, she acquired an admirer who followed her for several days. When they spoke, their common language was English, but one day, she told me, he said to her, “*me kamav tut,*” the Romanes phrase meaning, “I love you.” Katka immediately informed him that she knew exactly what he said. He demanded a translation, she refused, and then demanded one back, which he in turn refused.

Or consider Zdenek’s account of a trip he took to the beach in Yugoslavia in the 1970s, long a popular destination for Czech tourists. He recounted meeting a couple of local Roma, and chatting with them in, he in Czech and they in Serbo-Croatian. In his account, Zdenek recognized instantly that they were Romani, but they did not realize that he was, and with great amusement let them shake their heads in wonderment and surprise at how well he tanned in the sun, for a Czech. Or Ota, a community worker at a community center in Ostrava, had spent several years living in Canada, and related an incident to me in which the police came by his apartment building to ask some questions. When Ota got home that evening, the Pakistani cab drivers downstairs – who, Ota said, “speak Gypsy” – asked him not to speak to them in front of the police, because they did not wish to be mistaken for Gypsies.
Sometimes the stories worked in the opposite direction. Markéta awakened from surgery once to find a bevy people surrounding her bed. One man, in her estimation white, she didn’t know, and groggily asked, “K’oda hin?,” Romanes for “who is that?” Much to her surprise and embarrassent, he replied, in Romanes, that he was the cousin of one of her friends. Another time, Věra went to get a haircut with a Romani friend. Halfway through, she turned to her friend and told her, in Romanes, that her hair stylist clearly did not know what she was doing. Offended, the woman told her, again in Romanes, that if she didn’t like it, she could certainly go elsewhere. When I asked Věra whether she thought the woman spoke Romanes natively, Věra replied that she hadn’t even thought about it. “Who knows?” she said, “Perhaps she just lived among Roma and picked it up.”

Much of the work the social workers undertook, and the training that leads up to it, focuses on acting as a communicative medium between (Romani) clients and (non-Romani) bureaucrats. The brochure on cultural difference published by the Ostrava Roma Advisor’s office illustrates the problem communication poses between these two groups, noting that volume is used by Roma to mark the level of their “involvement” in a given situation, Czechs are exhorted to keep this difference in mind: “What non-Romanies should be aware of is: if a Romany shouts, he does not shout at us, he only tries to show his involvement in the problem. Let him shout and wait!”113

113 Lýdia Poláčková, A Concise Guide for a Romany Advisor to Ostrava, trans. Marie Sanders (Ostrava: City Hall, Social and Health Services Department, 2004), 3.
In a program designed to train non-Romani social workers how to work with Roma, the role-playing exercise captured this dynamic perfectly. Maruška delivered a training module in her most carefully moderated and professional manner. As a follow up, she was asked to role-play a Romani client who had a problem with a utility bill. One of the trainees was designated as the social worker holding office hours. Maruška left the room, then charged back in brandishing a piece of paper, yelling as she entered the room about the injustice of the water bill in her hand, her inability to pay it, and the dire consequences that threatened her if she did not, coming to a stop in front of the trainee with a demand that she fix the problem post-haste. The latter looked up at her new client and responded primly, “We will resolve nothing by yelling” (křičením nic neřešime).

Letting someone shout and wait is not common practice among Czech civil servants (úředníci). To remedy this, Roma social workers spend much of their time leading their clients through bureaucratic provinces. They usually pick up their clients at home, and on the way to government offices, social workers often offer a primer on bureaucratic interaction, instructing their client not to yell, not to be confrontational, to speak softly, to be polite to the bureaucrat. Once in the office, the situation would often triangulate: the social worker would speak to the bureaucrat on behalf of the client, and the bureaucrat would respond to the social worker, who in turn would repeat all the bureaucrat’s questions to the client, who would respond to the social workers and then have her response again repeated to the bureaucrat. It was as if the social worker were engaged in an act of translation that seemingly translated nothing, but rather only moderated, modulated, exerted control over voice so that it might become speech, an assertion of control, moreover, that rested on the bureaucrat’s perception of their
embodied difference, at the same time as they were talking their way out of it. In a more candid moment, Věra, put it to me thusly: “You see, I have to both be a normal Gypsy, and at the same time talk nicely.”

In this formulation, being Romani is itself the very thing that legitimates the role of the Romani social worker. At the same time, “being” Romani, is something immanent and hard to define as a job skill. In Věra’s formulation, her profession is both exegesis and a hermeneutics of culture, a constant mediation of her presumed unmediated access to other Roma. During the time I conducted my fieldwork, I attended several social worker staff meetings at the Roma Advisor’s office that were visited by Czech social scientists. They came in order to solicit the help of the social workers whom they felt had unmediated access to other Roma, a savoir-faire about how to approach their fellow Roma that would allow them to better administer surveys of the Romani population. Although the social workers duly took their forms and agreed on the number of clients they would survey, once the visitors left the room, they immediately derided the validity of the data the researchers hoped to collect. Regarding a survey of money lending in the Romani community, Maruška declared, “I would never talk to white people about that!”

And yet the task they are assigned is a fundamentally communicative one, a bridging of this difference by bringing their fellow Roma into a proper alignment with the state, the public sphere, and Czech society more generally, by making their voices audible and veracious, their claims legitimate, their problems resolvable. Here we can see notions of voice and speech in the Aristotelian sense that Jacques Rancière reminds us still animates European politics:
Speech is something different from voice, which is possessed by other animals also and used by them to express pain or pleasure; for nature does indeed enable them not only to feel pleasure and pain but communicate these feelings to each other. Speech, on the other hand, serves to indicate what is useful and what is harmful, and so also what is just and what is unjust. For the real difference between man and other animals is that humans alone have perception of good and evil, the just and the unjust, etc. It is the sharing of a common view in these matters that makes a household and a state.114

As Rancière glosses it, “the supremely political destiny of man is attested by a sign: the possession of logos, that is, of speech, which expresses, while the voice simply indicates.”115 For reparations programs, this distinction between voice and speech is crucial, for if indications of suffering cannot be converted to expressions of claims, there can be no repair.

And if reparations are, as they are commonly theorized, a form of repair that function in part because they publicly solicit and disseminate narrative accounts of victimization, this distinction must be taken into consideration. Barkan’s understanding of the novelty of the phenomenon of reparations lies in the way its dialogic process – in which individual victim and perpetrator on the state level become important political actors in their negotiations over the proper form of recognition of past wrongs – rest fundamentally on a notion of voice that can function as speech.116 John Torpey’s more pessimistic view – that that reparations represent an attenuation of progressive politics “cut out for an age of diminished political expectations” in which people take not to the


115 Rancière, Disagreement, 2.

streets but to the courtroom – also sees voice functioning as speech, albeit in what he holds to be the narrowed confines of the legal system. But while reparations may solicit voice, they also sort it out from speech, and thus partake of the exclusionary operations that Geoff Eley diagnoses in response to Habermas’s theory of the public sphere. For voices – such as those of Roma – that have been persistently heard, and read, as pure voice, an anterior set of exclusions function in the background that require analysis.

117 Torpey worries that redistribution has been replaced with recognition, and not to the benefit of those who are thus recognized. John Torpey, Making Whole What Has Been Smashed: On Reparations Politics (Cambridge: Harvard University Press, 2005), 4-5.

Chapter 2: The Veracious Voice: Gypsiology, Historiography, and the Unknown Holocaust

During the Holocaust, the secretary of the Gypsy Lore Society, Dora Yates, maintained a correspondence from her home in Liverpool with the Society’s affiliates who were witnesses to the mass murder of Roma across Europe. “The whole Oslavany colony was taken to Oswiecim [Auschwitz],” wrote Czech Rom Antonín Daniel in a letter Yates later excerpted and published, “where they were done to death. Only five survived, among them myself, my sister and my mother. My cousin is playing in Brno’s opera house.”¹¹⁹ In another letter, a witness to some of the massacres of almost all Roma over a large swath of Croatia in the Holocaust lamented, “I have to report with deep distress that their splendid, unique dialect of Romani has now become extinct.”¹²⁰

Gypsiologists were not the only observers to note the decimation of the Romani population in Nazi Europe. Ota Kraus and Erich Kulka, survivors of Auschwitz who became the earliest Czechoslovak historians of that camp, described the internment of Roma and Sinti in the Auschwitz Gypsy Camp in their book, Factory of Death. They portray the liquidation of the camp through the protestations of a Sinto being sent to the gas chambers, the moment in which he makes a claim to German nationality also the


moment of his death: “‘But I am a Reich German!’ But not even that helped them … The established name ‘Gypsy Camp’ was from then on forbidden to pronounce.”  

In this chapter, I examine how the tropes of silencing in these accounts reflect the larger narrative structure that characterizes the testimony that chronicles the Nazi persecution of Roma. In Gypsiologists’ narratives, which comprise the earliest record of Romani testimony, the focus is often on the form their voice takes, its audibility staked on its performative characteristics, at the expense of the content of their speech. Roma also make occasional appearances in the memoirs and historiography written by Czechoslovak political prisoners liberated from concentration camps – a genre known as concentrationary literature – but are there subordinate to the postwar project of accusation that buttressed the reestablishment of Czechoslovak sovereignty in the twinned processes of expulsion and retribution.

In the postsocialist period, the trope of silencing is captured in the now common reference in Czech to the Romani Holocaust as the “unknown Holocaust” (neznámý Holocaust), a peculiar epistemological lacuna that has rendered the event known as unknown. The unknownness of the event is a common theme in Anglophone scholarship as well, and has been attributed over time to a putative Romani forgetting, often at the expense of an examination of the manifold ways the persecution of Roma has been obscured and elided in archival, legal, ethnographic, and historiographic precincts.  


thus the discourse of unknownness of the event is often an index of its eclipse – the
elision, that is, of Romani accounts of their experiences of persecution, often grounded on
a question about veracity of Roma, whose appearance in texts is usually staged by some
other interpretive authority, be it a Gypsiologist, political prisoner, historian, or
ethnographer.

In some accounts, the unknownness is figured as a silencing located in the camp
itself. In his collection of camp testimonies about Roma, The Forgotten Holocaust
(L’Holocauste oublié), Christian Bernadac relates advice given to a new prisoner in
Auschwitz by a member of the Sonderkommando, the team of prisoners who worked in
the gas chambers: “You, you’re young, you’re Aryan, you have the chance to get out
alive … although we have also burned Poles, Russians, French … and gypsies, but of
them, no one speaks…”\textsuperscript{123} In another testimony about a Romani woman transferred to
another camp from Auschwitz, a fellow prisoner recalls her introduction to the barrack by
the block elder: “She’s piece of trash Gypsy. She comes from Auschwitz. It is forbidden
to speak with her. If she speaks to you, she will be hanged. If you speak to her, five blows
and no soup for three days. Understood?”\textsuperscript{124}

\textsuperscript{123} My translation. Christian Bernadac, \textit{L’Holocauste oublié: Le massacre des tsiganes [The
\textit{Sonderkommando} were special prisoner brigades forced to empty the gas chambers and to
cremate the corpses.

\textsuperscript{124} My translation. Bernadac, \textit{L’Holocauste oublié}. 

\begin{flushleft} 
Commemoration: The Mnemonics and Politics of Holocaust Memories among European Roma,”
\textit{Journal of the Royal Anthropological Institute} 10, no. 3 (2004); Alaina Lemon, \textit{Between Two
Fires: Gypsy Performance and Romani Memory from Pushkin to Post-Socialism} (Raleigh-Durham:
\end{flushleft}
In others, the locus of the silencing is refigured and attributed to Roma themselves. In her popular ethnographic portrait of European Romani communities in the 1990s, for example, Isabel Fonseca draws on Gypsiologists’ accounts from the immediate aftermath of the war to argue that Roma possess an “instinct to suppress the past”: “The Gypsies – with their peculiar mixture of fatalism and the spirit, or wit, to seize the day – have made an art of forgetting” the Holocaust, she writes.125 Fonseca’s analysis, in turn, frames other interpretations. The anthropologist Inga Clendinnen, for example, quotes Fonseca to argue that Roma “have chosen not to bother with history at all, because to forget, with a kind of defiant insouciance … is the Gypsy way of enduring.”126 Fonseca’s blunt conclusion: “It is a story that remains unknown – even to many Gypsies who survived it.”127 We know that the Romani Holocaust is unknown, it would seem, because Roma obdurately chose to forget about it.

In the Czech Republic, where the discourse of unknownness has acquired a particular valence in the past twenty years in the discussions about the Lety camp, very few Roma returned from the deportations that swept up Oslavany and the other Romani settlements that used to dot the Czech countryside. Of the prewar population of some 5,000 to 7,000 Roma, perhaps 500 returned from the camps, and this fact in part accounts for the absence of Roma in the Czech historiography of the Holocaust. Moreover, the Roma who migrated from Slovakia in the 1940 and ‘50s had had a markedly different

125 Fonseca, Bury Me Standing, 275-6.

126 Clendinnen, Reading the Holocaust, 8. See also, for example, Pogány, The Roma Café.

127 Fonseca, Bury Me Standing, 243.
experience of persecution in the Slovak state and not one that involved deportation to Nazi killing centers such as Auschwitz-Birkenau. But even when the surviving Roma sought to give testimony, doubts about their veracity, its interpretive scaffold, and the persistent exclusion from Roma from the archival and the written produced a dynamic of elision. In this chapter, I examine instances of this external apparatus as it has functioned in moments when Romani testimony partially emerges in view.

Thus as the construct of the unknown Holocaust emerged in the 1990s in the Czech Republic, so too did the contours of a salvage historiography that is key for this veracity – which is the condition of historicity, the historical actuality of an event – that emerges in the 1970s and ‘80s, when Romani testimony begins to be systematically recorded. In this chapter, therefore, I take up several questions. The first is how certain forms of ethnographic knowledge about Roma, under the sign of Gypsiology, played a role in how the persecution of Roma would come to be known. The variety of constellations of the historiography and testimony represented by Gypsiologists from all over Europe (and for which I do not seek to account) are crosscut by the field’s persistent preoccupation with Romani voice, often at the expense of Romani speech.

The second, related, question takes up the issue of the particular constellation of historiography and testimony in which Czech Roma find themselves, and how they begin to appear in this constellation over time. As this occurs, the doubts about the veracity of Roma that attend their attempts to recount what happened to them partake of logics similar to those that inform Gypsiology, and produce in turn a salvage historiography that seeks to compensate for this suspicion by reading Romani testimony in relation to Czech history, particularly that of the immediate postwar. Integral to this story in the Czech case
is the emergence of the Czech camp returnee – called a *pamětník*, often translated as witness but derived from the word for memory (*paměť*) – as historian in the immediate postwar. The witness-historian becomes the privileged storyteller in the 1940s. He (and he is usually male) is also an effect of the accusatory culture of the immediate postwar period, when testimony from witnesses was solicited for the purpose of “cleansing” (*očista*) of the Czech polity.

The third question I address is how these dynamics meet up in the debates about the Lety concentration camp, which have come to define much of what is considered to be the Romani Holocaust in the Czech context, and what it suggests about how Romani voice and speech come to figure in the Czech turn to a politics of recognition. Here I argue that the necessity to establish the veracity of Romani accounts by reading them in relationship to postwar retribution presages a logic of elision that later emerges in reparations claims, as Romani testimony was evaluated for its adherence to categories of persecution forged around the experiences of the witness-historian in the immediate postwar.

*Gypsiology and the Holocaust*

In 1944, and again in 1947, Stuart E. Mann published a series of stories he collected and translated in 1933 in collaboration with Antonín Daniel in the *Journal of the Gypsy Lore Society*.\(^{128}\) Mann was a wayfaring British philologist whose interwar travels took him to Albania and then Czechoslovakia, where he became a lecturer in English at Masaryk University in Brno and an ethnographer of Czech-Romani life;

\(^{128}\) Nečas, *Romové na Moravě a ve Slezsku*, 223.
Daniel was a Czech-Romani student of his at Masaryk’s Philosophy Faculty with whom Mann undertook a Romanes translation of the New Testament book of Acts, a project, Mann writes, “he deserted in the middle for lack of patience.” Authorship of the first story, an account of the origins of the so-called “Gypsy colony” of the town of Oslavany on the outskirts of Brno, was attributed to Daniel, its editorship to Mann. The second, more folkloric installment assembled “The Liberation of the Maidens” and “The Boy with the Hen Wife,” tales of journeys out into the world, encounters with older gadjia women and enchanted creatures, heroic tasks assigned, near-deaths escaped.

Mann annotated all of the stories he published in the *Journal of the Gypsy Lore Society*, carefully parsing the morphological nuances of Daniel’s distinctive Moravian dialect of Romanes, sorting out that language’s etymological traffic with Czech. His notes run almost as long as the stories themselves, scrupulously record Daniel’s vocabulary and its many derivations from other languages, and offer in turn standardized Moravian Romany terms in brackets where Daniel had used Czech-inflected versions: “*Dohromady*, Cz. id. [*jekhethâne*] ‘together,’” “*válka*, Cz. id. [*čingar*] ‘war,’” or “*prosincos*, Cz. prosinec [*o dešudujto čhon*] ‘December.’” When necessary, Mann constructed terms, marking them with an asterisks: “*národos*, Cz. národ [*manuša, *manušïpen*] ‘nation, people,’” or “*záznamos*, Cz. záznam [**navengro lil*] ‘register.’”

Though Daniel “does not distinguish in writing, as he does in speaking, between *p* and *ph, k* and *kh, t* and *th,*” (among other sounds that distinguish Romany from Czech), Mann judged the piece to be “phonologically … a pretty faithful record of his … speech.”

---

129 Daniel and Mann, “On the Gypsies of Oslavany,” 72-3; and Stuart Mann, “Two Moravian Romani Folk-Tales,” *Journal of the Gypsy Lore Society* Third Series, 36 (1947). A few of the terms Mann corrects are borrowings from Slovak, German, and Hungarian.
Mann’s attention to matters of lexicon and semantics was not odd for its time and venue; the *Journal* was the main publishing vehicle for the folktales and linguistic observations that had preoccupied scholars of Gypsiology since it coalesced out of mid-19th century philology and folklore.\(^\text{130}\)

Alaina Lemon has observed that Roma “become part of larger historical narratives only through performance,”\(^\text{131}\) and it was on performative grounds that Mann judged Daniel’s accounts to be an “original” speech act. As a phonologically faithful “written record in Romani of his own people by a Gypsy,” Mann declared the work to be “a unique achievement,” an assessment echoed by Yates, then secretary of the Gypsy Lore Society, who deemed it a “unique performance.” But when Daniel ventured from the folkloric to the historical, asserting the Indic origins of Roma in his text, the hermeneutic of suspicion that privileged the ethnographer’s voice over his informant’s became clear: Mann doubted the veracity of Daniel’s “very unreliable” account, noting that it “seems to have been čórdo (stolen, in Romanes) out of an encyclopedia or a newspaper."

If the origins of the Oslavany colony were in doubt, however, its ends were not. By 1944, the same year Mann published the first set of stories, the majority of the Bohemian and Moravian Romani population had been deported to the killing centers of Auschwitz and Treblinka. The Romani settlements scattered around Brno had been rounded up in March of 1943 by the uniformed police of the Protectorate of Bohemia and


\(^{131}\) Lemon, *Between Two Fires*, 149.
Moravia, and held at in the riding stables of the city’s police headquarters, from which they were dispatched to Auschwitz. Most of the some 150 residents of Oslavany likely arrived there later that month on one of the two mass transports that took two-thirds of the Moravian Romani population to the Auschwitz Gypsy Camp. Following a selection of work-capable inmates who were sent to other camps, the remaining internees of the Gypsy Camp were murdered in the gas chambers in August of 1944.

Daniel was one of the few survivors from Oslavany. In a note appended to her assessment of his work, Yates excerpts a fragment of a letter, written by Daniel to Mann (in Czech), in which the informant informs the ethnographer of this other near-death escape: “the whole Oslavany colony was taken to Oswiecim [Auschwitz],” he wrote, “where they were done to death. Only five survived, among them myself, my sister and my mother. My cousin is playing in Brno’s opera house.” Daniel’s testimony appears in a footnote, subordinate to Yates’s estimation of his story as a “specimen of a rare Gypsy dialect … [meriting] the attention of all tsiganologues.” The trace of Daniel’s voice, as well as a full accounting of its near silencing, remains circumscribed by the discursive complex of Mann’s ethnographic text.

The elements of the story of Oslavany, and the story of the story, offer some clues as to how this has come to be. Note first the frame of the story: the relationship between an ethnographer – a Gypsiologist – and a Rom, who collaborate to produce texts that cross the linguistic and cultural boundaries presumed to hold Roma apart from societies

132 Nečas, Romové na Moravě a ve Slezsku, 294-6, 299.

133 Daniel and Mann, “On the Gypsies of Oslavany.”
in which they reside. One writes, which is unremarkable and unmarked, the other performs, which is both laudable and subject to criticism. Note the type of texts: folklore, traditional tales told in their original language, a language celebrated here as performance, its performer sanctioned when he strays from the authenticity of his language by crossing a boundary into another language.

In representational strategy at play, the Gypsiologist polices the text, controls the phonological, corrects the informant when he strays. Mann intervenes to ensure the essential Romani-ness of the Romanes-language text, the investment in a phonos neatly accorded to the Rom via logos, and thus neatly splitting one from the other, arrogating the latter to the ethnographer, as well as (or especially) its iterability – in the act of making up new words, recalling Katie Trumpener’s formulation of Roma as having been placed “outside of writing and discursivity itself.”

In particular, the ethnographer simultaneously shrouds up his authority by use of the native term that he does not translate (ĉórdo, stolen), and chastises the informant for straying too far from his interpretive remit on the question of Gypsy origins. The question of veracity surface here in the implication of an essential relationship between Roma and theft, so constitutive that it both resists translation and is presumed not to need one. Moreover, Mann’s commentary figures Daniel as purloining writing in his suspect move into history – text itself, perhaps an encyclopedia or a newspaper, as if the performance that may allow the Rom into history rested on a sleight of hand that the ethnographer may call out at any moment by indicating the originary relationship between Roma and stealing, made more originary here than any claim to origins Daniel might try to make.

And we are pointed in a second direction, one that examines the textual complexes in which, and through which, our knowledge of what happened to Roma in the Holocaust emerges. These are both transnational and national; that is, we can see accounts that only come to be known through the transnational network of Gypsiologists who witness and report the decimation of European Roma, and also how this experience surfaces when surviving Roma return home and face particular constellations of testimony and historiography. In the former, we can see the ethnographer’s investment in the immediacy and authenticity of the native subject, the equivocation over the nature of the loss.

Nor are these mutually exclusive strands of knowledge production. Veracity is at stake in both, as is a question of audibility: how to listen, how to hear, and how to transform voice into speech, with all the perquisites that accord to the latter: claims-making, entry into the polity. And so with veracity and audibility come the issue of commensuration; some sort of operation has to occur to banish the specter of unreliability – the thing that Mann calls čórdo – the possibility that account has been borrowed, usurped, appropriated; that it assimilates something not proper to it.

Reports on the persecution of Roma during the Holocaust were sparse. Gypsiologists, who tended to speak Romanes and know Romani communities, were one of the main sources of information about coming out of occupied Europe, and the Journal

---

135 Rancière, Disagreement, 1.
of the Gypsy Lore Society was one of the first venues to publish regularly on the fate of European Roma in the Holocaust.\textsuperscript{136}

In the July-October edition of the journal in 1943, the Society posthumously published an article by R.A. Scott Macfie, the former Secretary of the Gypsy Lore Society and previous editor of its journal. Prior to his death in 1935, Macfie researched the history of anti-Gypsy legislation in Europe from the Middle Ages through the 1800s. In an excerpt of this work, Macfie notes that in Germany, this takes two main types, decrees and police orders.\textsuperscript{137} Like the laws from other places, they give the reader good sense of how Roma came to be understood as an errant, nomadic, and thieving people: a litany of expulsions and gypsy hunts. In his analysis of his exhaustive enumeration, Macfie ponders whether what is normally read as cause – the “depravity” of Gypsies – might also be law’s effect:

That is, … bad laws produced bad Gypsies. … Although, from their arrival (about 1400), Gypsies had been dishonest and thievish, more often by artifice than by force, it was not until the repressive laws were enacted that they became generally dangerous, and only in places where these laws were enforced. The question is, Which came first, laws or serious crime?: it is like the question Which came first, the hen or the egg? – for each is capable of producing the other.\textsuperscript{138}


\textsuperscript{137} Macfie, “Gypsy Persecutions.”

\textsuperscript{138} Macfie, “Gypsy Persecutions,” 77.
Moreover, writing a history of Gypsies from their recorded appearance in the ledgers of the governing authorities, Macfie argues, implies a history of elision:

Records and police orders give a grotesquely false picture of Gypsy life, for they notice only Gypsies who by spectacular or criminal behaviour have made themselves conspicuous. … So it should not be forgotten that for every Gypsy who is pilloried in the records or in the ‘Zigeunerlisten’ for his crimes there were a thousand living a more or less honest, or at least all events unobtrusive, life. From chronicles no account of the normal Gypsy way of life can be extracted: in fact their value is that they show what Gypsies ordinarily did NOT do.

Such an endeavor, Macfie notes drily, would be akin to “bas[ing] a history of England on the Newgate calendar.” 139

Macfie’s article was published as a historicization of the persecution Roma underway at that time in Germany. In his conclusion, he gave examples of the reactions of German writers bothered by the treatment of Roma authorized by law: “Ruediget could not think without shuddering about the ‘old, helpless, perhaps quite innocent’ Gypsy woman who was buried alive, and von Heister asks … : ‘What judge would without judgment and right send a man to be hung who was guilty of no particular crime, but simply because he belonged to an outlawed race?’” 140

The article’s Epilogue – uncredited by likely written by Yates – supplied the answer to the question. “It has been left to the year of grace 1942 to supply the answer!” the author writes, and cites a report from Nazi-occupied Serbia by way of Belgium on the “the [alleged] wholesale massacre of Gypsies in Serbia – a crime far more horrible than

---

139 Macfie, “Gypsy Persecutions,” 78.

any committed in the three centuries of anti-Gypsy legislation.” The report recounts the massacre of “all the Gypsies of Serbia,” a lament inflected with the romanticism of the Gypsiologist: this crime as “far exceeded all others … Gypsies – these last liberals … – are no more. These merchants of poetry … of lies and songs … were hunted along the roads where they fled on the gallop of their nags, their caravans full of cries, of color, and of mystery.”

Other reports published in the journal, usually after the war, also feature the inescapable tropes of Gypsiology. In particular, it is worth examining how the voice of Roma is typically framed in these accounts, before it actually speaks, or gives any testimony to what has happened. The authors often spend a significant amount of time on how Roma speak, as opposed to what they say. Furthermore, when the author skips into historiographical mode, the Romani informant tends to evaporate from the text; history, and its production, are unmarked and unattributed. Writing itself is often figured as outside the grasp of Roma, as is the interpretative act of translation. Veracity, in turn, is figured as established in the domain of writing, while Roma inhabit the domain of performance. Here I will look at several examples, including Frédéric Max’s report on Roma he encountered in the camp system, and Jan Molitor’s and Jerzy Ficowski’s articles on the decimation of Romani communities in Germany and Poland respectively.

Max, a French Gypsiologist, was interned as a political prisoner in a camp in France, and then later transferred to Buchenwald; both provided opportunities to conduct research with Roma. In his account, he describes a fellow prisoner, Paulo, a young Rom who “presents an interesting type of primitive mentality; “his French vocabulary was
very poor [and] ... unfortunately his Romani vocabulary was hardly heard anymore. He rather easily established correspondence between a Romani and a French word, but when it was a question of concrete terms.” Max then chronicles attempts by fellow prisoners to teach Paulo how to write, but although he “retained the form of the letters and drew them perfectly ... he immediately mixed up the sounds among them. Finally he learned to ‘draw’ his name without anyone achieving to inculcate in him the phonetic value of any of the letters that composed it.”

Later in the same piece, Max recounts his internment in Buchenwald, where he met Bohemian Roma who had be transferred to the camp from Auschwitz in 1944, likely part of the small number of Czech Roma transferred out of the Birkenau Gypsy Family camp before its internees were sent to the gas chambers. Max considered these Czechs to be “the most accessible .... the least ‘savage’” of the Roma there, and he uses this access to them to “establish the grammatical paradigms of the two dialects, as well as several songs, documents that would almost all be confiscated from me and destroyed by the SS ... three months later.” The circumstances for these investigations, he remarks, were difficult: “to establish the declination of a dialect, it was necessary to propose to the subject some trick-phrases [phrases-pièges].” At the end of this exposition about his grammatical studies, he notes that it was from this group “that he has the details about the treatment of Gypsies in Auschwitz,” whereupon he launches into an explanation of how the camp functioned as an extermination site for both Jews and Gypsies, “with the difference that the Nazis did not act toward [the latter] with hate.” He then slips into a completely historical narrative, no attributions to individual Roma, describes Auschwitz.

and wonders why the large number of Roma there have not returned form the liberation of the camp.\footnote{Max, “Le sort des tsiganes,” 31.}

Jan Molitor, in turn, describes a German Gypsy encampment after the war, overseen by an old man. Molitor notes that there are three children, and a woman in her 40s. The first words the “old Gypsy” issue are, “This is all that is left of my family ... I should not tell lies. There are still two men left. They have gone across the country on business” (Molitor then remarks, “Well, one knows what Gypsy business is.”). The author inquires about the familial relationships, who is grandfather to whom, and whether the elderly man has had “intercourse with many Gypsies?” to which he replies, “No, that was so once. But most of the Gypsies I know are dead: gassed, burnt, lost.”

And then the dynamic, which we shall encounter again, that banishes the doubts about the veracity of Roma: “Many people will not believe ... that the Antichrist got dominion over the Gypsies ... People think I am telling them a pack of lies in order to do better business with them,” says the Rom, and he “appears much relieved when the visitor confirms his statement, that he has read in the papers that at the Nuremberg trial a Gypsy gave evidence about the murders in the Concentration Camps.” The elderly Rom requests a copy of the paper to show to disbelieving outsiders because he does not “like to be regarded as a liar.”\footnote{Molitor, “The Fate of a German Gypsy,” 49-51.}

One of the most influential texts from this period is an article by Polish ethnographer Jerzy Ficowski, in which we can see many of the dynamics I have
mentioned. At the same time, Ficowski’s text also records the Romani response, both to persecution and to the ethnographer’s interpretive practices. Ficowski opened his article with a graphic description of the horror of the Holocaust for Roma. He points out that Polish Roma were rounded up and ghettoized, in the Warsaw Ghetto, for example; that many died in Germany in the concentration camps of Mauthausen, Ravensbrück, and Buchenwald; that many more were killed in the extermination camps that the Nazis established in occupied Poland – Auschwitz, Chelmno, and Treblinka; that it would be an error not to take note that Gypsies were routinely killed in massacres in the forest, hunted down and shot by German troops and their local collaborators. He cites numbers of Romani victims – and unlike many numbers of victims put forth for various groups in this period, Ficowski’s are relatively accurate. He tells a story that unfolded across occupied Europe in regions where the German authorities, particularly the SS, had free reign to undertake the Final Solution, in Belarus and Ukraine, the Baltics, the Protectorate of Bohemia and Moravia, and Serbia, places where the losses in Romani populations ranged from 50% into the 90s.145

Given all of this, Ficowski – writing in 1950 – is puzzled by the extent to which Roma seem to have forgotten what he describes as “six years of dreadful annihilation, of living in a state of continuous horror.” “With the exception of two songs from Auschwitz, sung very rarely,” he writes, “I have not noticed any trace of the War years in the present life of the Polish Gypsies.”146 Ficowski continues:

---


146 Ficowski, “The Polish Gypsies of To-day,” 94-5.
Polish Gypsies ... rarely mention their martyrdom and do not like to dwell on that subject ... Their way of life has not changed at all. The ovens of extermination camps have been forgotten. Their fertility is very great and the natural increase of population very high. The vitality of the Gypsies has conquered death.\textsuperscript{147}

Roma are figured here as the quintessential “people without history,” their putative lack of historical consciousness secured by their investment in biological reproduction, in their natural “vitality.”\textsuperscript{148}

Yet Ficowski’s account is itself equivocal on this front. He devotes the next few pages of his article to efforts by a Polish-Romani political leader to conduct a nation-wide census of surviving Roma. A few pages later in the same article, Ficowski describes an encounter with a Romani acquaintance in Warsaw. When apprised of his decision to write a book about the “martyrdom of the Gypsies during the 1939-45 years,” his interlocutor grows apprehensive, asking warily why he “would write about [the dead] in the papers?” The experiences he intended to chronicle, Ficowski concluded, have “increased … the excessive suspiciousness and distrust of the Polish Gypsies in relation to non-Gypsies.”\textsuperscript{149} It is unclear, that is, whether Ficowski’s account is a record Romani forgetting so much as it is a document of the ethnographic resistance he encountered among Roma in the wake of their genocide.

And thus Ficowski appends transcriptions and translations of the songs he calls the “trace of the War years” at the end of the article. One of them, \textit{Dri Oświęcim}, In

\footnotesize

\textsuperscript{148} On this point, see Trumpener, “The Time of the Gypsies;” and Lemon, \textit{Between Two Fires}.

\textsuperscript{149} Ficowski, “The Polish Gypsies of To-day,” 99.
Auschwitz, was sung for Ficowski by the nephew of a Birkenau survivor. According to the nephew, the song was a communicative medium for Roma in Auschwitz; during roll call, Roma were not allowed to speak to each other, but were allowed to sing, the survivor’s nephew explained, songs like *Dri Oświęcim* were “improvised on the spot” to take the place of speech. This reflexive moment in Ficowski’s account, in which he throws his status as interpreter into doubt, should give us pause. The epistemological lacuna that frames the Romani Holocaust in so many accounts – that it is known as unknown – indexes the role of the non-Romani interpreter – here Ficowski – who takes up the labor of making known.

**Accusatory Culture**

In contrast to those of Romani survivors, the accounts other Czech persecutees acquired a wide audience in the immediate postwar, particularly in the context of the two main political projects that united the Czechoslovak political elite that constituted the National Front government, and that defined the postfascist period: the deportation to occupied Germany of the German-speaking Czechoslovak citizenry known as the “transfer” (*odsun*), and the trials of Nazi perpetrators and collaborators in a network of People’s Courts and administrative tribunals. The transfer, now often referred to as “expulsion” (*vyhnání*), involved the expropriation and expulsion of the German-speaking Czechoslovak citizenry, and resulted in the deportation, often violent, of the one-third of the population identified as “German,” with profound effects on the social, political, and economic life of the country. The concomitant, and elaborate, system of retributive justice designed to “cleanse” (*očistit*) the “Czech nation” – identified and tried war
criminals and collaborators in so-called which, over the course of four years, adjudicated almost 170,000 cases involving the betrayal of the Czechoslovak state and citizenry, as well as “offenses against national honor.”\(^\text{150}\) In the postwar puzzle of recombinant interwar liberalism, rising anti-German Slavic nationalism, and incipient authoritarian communism, the expulsion and the cleansing partook of and enacted a vision of an emerging postfascist polity purged of the internal threat of Germanized difference and its Slavic affines.

The grounds for this period, Zahra notes, were set by the nationalist competitions of the late-Habsburg and interwar periods. During the occupation, Czechs resisted Nazi attempts to Germanize children, a practice the occupiers gave up in favor of a policy promoting “Reich-loyal Czech nationalism.” As Zahra points out:

Czech nationalists ultimately fought and won a battle with the Nazi occupiers in a shared language of defending ethnic purity – a language that had been fine-tuned through a fifty-year struggle with alleged Germanization and Czechification of children. The Czech nationalist campaign against Germanization under Nazi rule may have succeeded in keeping Czech children Czech, but it also encouraged indifference to those outside a closed ethnic community, including Jews and antifascist Germans, and justified the violence of the postwar expulsions.\(^\text{151}\)

When the survivors of the concentration camps – generally referred to at this time in Czech as the “liberated” (osvobození) – began straggling home to Czechoslovakia, they found themselves caught up in these two projects. Both of the expulsion and the national cleansing relied on a spectacle of atrocity, specifically German atrocity, that returning

\(^{150}\) Frommer, *National Cleansing*.

political prisoners were uniquely able to articulate. “Entry into the [concentration camp],” suggests Agamben, “meant … definitive exclusion from the political community.” Exit from it, though, meant entry into a new political community founded on that exclusion, and productive of new ones.\textsuperscript{152} The Czech president, Edvard Beneš, exhorted liberated political prisoners to put pen to paper:

You should write down and speak out about everything that you went through in your prisons and concentration camps ... Have your facts, notes, and remembrances [vzpomínky] at the ready [pohotově], because nowhere can so much not be forgotten as now in politics,” he continued, citing the necessity “to keep … before our eyes what the world underwent in Auschwitz and Dachau, in Mauthausen and Ravensbrück and in scores of other German torture chambers.\textsuperscript{153}

At the first nationwide meeting of the Union of Liberated Political Prisoners in December 1945, the president entreated its members to “take [their] experiences … of pain and suffering … in camps and prisons … – I beg of you sincerely – into the new political and public life of our state.”\textsuperscript{154}

In response, a new literary genre emerged in the immediate postwar, known alternately as “concentrationary literature” (koncentrační literatura), “prison literature” (vezeňská literatura), and even “bloody literature” (krvavá literatura), hinged in part on the narration of atrocities concentration camps and prisons, the voices of the authors


\textsuperscript{153} “Osvobození, pokračujte v osvobození národa od nebezpečí přehnaných stranických bojů” [Liberated, Continue in the Liberation of the Nation from Dangerous Overblown Party Struggle], \textit{Lidová demokracie}, December 15, 1945, Ministerstvo zahraniční věcí - Výstřižkový archiv, 214, J7 (57), National Archives of the Czech Republic.

\textsuperscript{154} “Osvobození, pokračujte v osvobození národa.”
ratified by their experiences of persecution. Hundreds of accounts of camps were published in the first few years after the war, so many, in fact, that one author announced on jacket of his book that by going into a second edition, it had “triumphed … over the plethora of [other] concentrationary literature.” Concentrationary literature filled a void, as the Communist literary critic Václav Běhounek pointed out: defending the genre in response to complaints that the volume of prison literature was diluting its quality, he noted that it constituted, for families and friends of “unreturned people” (nenavrátivší se lidé), “the first view into this inferno in which people perished in droves.”

Blahoslav Dokoupil and Jiřina Táborská have described concentrationary literature as hewing “the very edge of purely factographic literature,” a genre that, in Czech literary and historiographical tradition, eschews commentary and analysis for an objective rendering of facts. But in the context of the excisionary politics of the time, concentrationary literature was an active process of fashioning political subjectivities and a social order that would endure well beyond the postwar interregnum. As a mode of

---


testimony, it called the liberated inmate to the typewriter, the camp denizen to autobiography, former political prisoners to the antifascist struggle, to fashion themselves as political subjects as they refashioned the nation.

“In all concentrationary literature,” noted a journalist in Právo lidu (People’s Justice), “readers finally come to know some truth, universally valid, not only for an individual, something from humanity should have a larger use than the mere description of various horrors.”159 In a review of selected works in the genre, the editor of Sociologická Revue (Sociology Review), noted that the utility of prison literature to the sociological enterprise. “It would be possible to extract many findings for the social psychology and sociological character of the political prisoner,” remarked the reviewer, calling for “systematic attention” (soustavná pozornost) to concentrationary literature. Sociologická Revue imagined that concentrationary literature could be mined for what it revealed about the larger social transformation effected by Nazi occupation, taking the political prisoner as metaphor for the Czech nation:

The general prison atmosphere in which the entire nation lived at home during the occupation regime and individually in concentration camps and prisons of their unfortunate staff, has certainly acted pervasive altering, or perhaps even deforming influence on the psychology of prisoners and also the entire style of their lives.160

The sociological implications of this “prison atmosphere” were widespread: declines in hygiene, adjustments of social relations to categories including professional,

159 “Psychologie terezínského ghettu” [The Psychology of the Terezin Ghetto], Právo lidu, June 10, 1947, Ministerstvo zahraniční věcí - Výstrížkový archiv, a.j. j7, National Archives of the Czech Republic.

160 Sociologická Revue 52
confessional, and national, moral standards, the growth of egoism, altruism, and the intensity of patriotic sentiment, and the weakening of intellectual interests, among others.

The main value of concentrationary literature lay not in its pedagogical function, however, but in its utility for the larger culture of accusation that underpinned the postwar cleansing. Former political prisoners across the country were solicited to continue their struggle against fascism in the interlinked realms of trial testimony and literary production. The Union of Liberated Political Prisoners organized its members to sit on so-called antifascist councils (antifašistický výbor) to adjudicate exemptions from the expulsion process, they ran a purge commission that amassed evidence from its members for use in hearings and trials of Czech war criminals and collaborators accused of “offenses against the national honor,” and called upon their members to testify in the vast system of People’s Courts and local tribunals that “cleansed the nation” of its “alien elements.”

Former political prisoners were encouraged to contribute to this flourishing genre – the Union’s newspaper, Voice of the Liberated (Hlas osvobozených), solicited manuscripts and published articles on how to write good concentrationary literature. The Union also set up a scholarly commission that collected and promoted the genre of

---

161 For Czechoslovaks identified as German, designation as “antifascist” meant exemption from the set of rules that applied to the German-speaking population. German antifascists could receive the same level of rations as Czechs, did not have to perform forced labor, could keep their citizenship, and were protected from property expropriation and ultimately expulsion. Imprisonment in the Nazi camp system was not enough to establish antifascist credentials for Germans, even initially those who were Jewish; they had to be verified by their fellow Czech inmates as having “actively participated in the struggle for [Czechoslovakia’s] liberation” (aktivně se zúčastnili boje za její osvobození) to be deemed antifascist. Staněk, Odsun, 140-44.

162 Frommer, National Cleansing, 111-12, 2.
concentrationary literature, which shored up the narrative authority over the camp experience Czech former political prisoners had assumed in tribunals, hearings, and trials. In an article entitled “Our prison literature,” one literary critic, praised the genre for fulfilling the need to “know all the basic facts which led us and the Allies to the transfer (odsun) of the Germans.” Critics of the genre’s low quality – much concentrationary literature was written in haste by first-time authors recently returned from camps – constitute an attempt, he warned, “to lull our vigilance to the German danger.”

When a debate broke out over the quality of this literature, and whether it had been overtaken by kitsch and was wallowing in atrocity, historian Ota Kraus, a survivor of Auschwitz, stood up for the genre:

> If a critic already excludes books about the experiences from camps, he is committing a gross error. An editor who writes ‘enough with the camps’ evidently lived well during the war and naturally is disgusted by the horrors of German bestiality. (Perhaps he would like some happier reading?) But this is precisely what we want. One should not forget and the majority of books on concentration camps warn against forgetting.

In response to charges that concentrationary literature had quickly descended to the level of “literary garbage,” the editors of the Voice of the Liberated announced that they would undertake a critical review of the genre. Concentrationary literature, they noted,

---


164 Ota Kraus, “Koncentráky třeba do omrzení” [Concentration camps ad nauseam] Hlas osvobozených, August 28, 1946.

165 For context on the prewar “struggle against literary garbage” [boj proti literárnímu braku], how it is the larger question about kitsch, and how it carried over into postwar literature, see Pavel Janáček, “Němci a němectví, zrada a trest, dnešek a zítřek: Prostor lidové četby v letech mezi Květnem a Únorem”” [Germans and Germanness, betrayal and punishment, today and tomorrow: The space of popular readership between May and February], Kuděj 4, no. 2 (2002).
had “swarmed up … partly [as] memories (vzpomínky), verse, songs and the like, which were directly created in prisons and camps, partly books, dealing with – whether in a form precisely matter-of-fact [and] documentary, or in an artistic form about life in Hitlerite torture chambers.” Henceforth, all material the Union published in the genre would be routed through the readers’ department of the Union’s Central Committee which would work with the publication department of the Ministry of Information to ensure that they would not disseminate works by “unauthorized and unqualified people or even opportunistic (konjunkturální) individuals who would not only discredit our struggle.”

As they progressively standardized the conditions under which testimonial literature was written, collected, evaluated, and disseminated, the Union began sponsoring a series of “memoir competitions” (soutěži vzpomínek), a project that went nation-wide in the early 1950s and ensured that authoring and reading prison literature would remain a fixture in the lives of its members. Through the publishing contracts it offered as prizes, it also staked a claim for experiential knowledge in the production of historical knowledge and supported the labors of the witness-historian. The remembrance competitions also ensured that experiential knowledge of the former political prisoners

166 Concerned with the possibility that concentrationary literature had become a free-for-all, the editors of Hlas osvobozených issue a statement in 1946 announcing their intent to undertake a critical review of the genre, and their decision to route all concentrationary literature through a review by the Union’s Central Committee: “We assert with all determination and consistency that we will not allow profiteering from the suffering and the struggle of brave and honorable people of our nation. We will not allow unauthorized and unqualified people or even opportunistic individuals who would not only discredit our struggle but who would sheltering under our clean shield would mean represent a threat to the ideological and also artistic heights of our Czech production and an unnecessary deadweight on our book market to insert themselves into our culture and literature on the pretext of imprisonment and persecution.” “Provádíme generální kritiku” [We are implementing a general critique], Hlas osvobozených, February 15, 1946. (Translation mine.)
would be accumulated and judged by historians who had themselves been liberated from camps.

Surveying the vast collection of testimonies and manuscripts the Union amassed in these competitions (which continued into the 1990s), its archivists noted that “gather[ing] and preserv[ing] (uchovávat) the remembrances of witnesses (vzpomínky pamětníků) to the national-liberation struggle” was one of the main tasks of the Union. Conjuring an image of the solitary labors of liberated prisoners who, upon return from the camp, “in short order took pen to hand or settled in front of a typewriter,” or assiduously tracking down documents and testimony, they imagined this work as private, corrective, and unmediating, “captur[ing] the memory of what [political prisoners] had lived through.” “Others carefully read through books on the events of World War II and the Hitlerite occupation, making note of everything that they considered important and could supplement on the basis of their own experience.” But this depiction belies the wider web of knowledge production in which the liberated political prisoner was embedded. The memoir competition, especially in the extent to which it is run by and for liberated political prisoners, is an artifact of a broader accusatory culture that framed testimony, and thus historiography, in the immediate postwar period.

167 Miloslav Moulis, Maria Chaloupková, and Jiří Jožák, Odkaz pro budoucnosti: 45 ročníků soutěží vzpomínek a historických prací [Legacy for the Future: 45 Years of Remembrance and Historical Works Competitions] (Prague: Ministry of Defense of the Czech Republic – AVIS, 2000), 3. The booklet was published by the Ministry on behalf of the Union of the Freedom Fighters and the State Central Archives (which has subsequently been renamed the Czech National Archives).
In *Factory of Death*, one of the first Czech-language monographs devoted to Auschwitz, Kraus – the witness-historian who defended concentrationary literature – and Erich Kulka offer one of the earliest postwar descriptions of the Gypsy Family Camp in Birkenau. Kraus and Kulka, both of whom had been interned in Auschwitz and would become the most prolific Czechoslovak witness-historians, note the rampant typhus, the indignation of those German Romani prisoners whose internment was how “they learned for the first time that they were not true members of the German nation,” the liquidation of the camp in the gas chambers on August 6, 1944.\(^{168}\) They carefully delineate the experience of Auschwitz by national group – Poles and Czechs in particular – leaving only the category of Gypsy outside of national demarcation.\(^{169}\) And par for course for political prisoners in the camp system, Kraus and Kulka explain the “racial question” (*rasová otazka*) of the destruction of Jews and Gypsies as a lesson of the larger “antifascist higher education.”\(^{170}\) They describe Roma in Auschwitz as an “independent and closed off group,” whose initial scorn for Jews (born of “false consciousness”) won them “better treatment” from the Nazis. This, however, Kraus and Kulka argue, did not last, and once assembled with “the majority of Gypsies” (i.e., not just German Sinti), they found themselves “destroyed, even sooner than the Jews.”\(^{171}\) They portray the liquidation

\(^{168}\) Kraus and Kulka, *Továrna na smrt*, 199-200.

\(^{169}\) Kraus and Kulka, *Továrna na smrt*, 199-200.


\(^{171}\) Kraus and Kulka, *Továrna na smrt*, 131.
of the camp through the protestations of a Sinto being sent to the gas chambers, the moment of in which he makes a claim to German nationality also the moment of his death: “But I am a Reich German!” But not even that helped them … The established name ‘Gypsy Camp’ was from then on forbidden to pronounce.”

In the lone official history of Roma published in Czechoslovakia in the 1950s, the historian Zdeňka Jamnická-Šmerglová devotes a chapter (“Under the Knout of Fascism”) to the war years and the racial persecution of Roma. Jamnická-Šmerglová’s account, written at a time when the Communist regime was centralizing its response to a reemergent “Gypsy Question,” was intended as an objective, demythologizing response to the question of whether Gypsies will “ever become human.” As such, it rehearses many of the common Czechoslovak stereotypes about Gypsies: their low-caste Indian origins, their joyful embrace of the state of nature, their refusal of the trappings of modernity, their inconstancy, the notion that Roma are capable only of collective action, their “rich and colorful imaginations” and “touching storytelling.” The story of the adaptability of Gypsies to Czechoslovak society here is hinged partly on a narrative about a sociality forged in their mutual persecution at the hands of the Nazis. But in this sociality, Jamnická-Šmerglová places the locus of

---


remembering with the Czechoslovak persecutee, referred to here, in the lexicon of the antifascist struggle, as “fighter” (bojovník).

Jamnická-Šmerglová describes a fraternity between “‘white’ and ‘black’ brothers” forged in hiding in the forests that rendered Gypsies “capable of the most courageous (nejodvážnějších) and heroic (nejhrdinnějších) acts.” In the camps, a similar solidarity obtained in the camps through “the fellow suffering of members of all nations of the world,” which brought out the best in these “flighty birds” (přelétavý ptáky) who became “devoted friends” and “protected their friend and fellow-sufferers.” Even in the “immeasurable joy” of freedom, Jamnická-Šmerglová writes, Gypsies “did not forget the great friendship that was sealed in the cells of prison and concentration camps,” and fighters (bojovníci) and sufferers (trpíti) “gratefully recall” these Gypsies.176

Despite the occasional reference to the annihilation of Roma in histories of the camps, a systematic scholarly examination of their persecution does not get underway until the 1970s. Ctibor Nečas, better known then as an economic historian who wrote about the banking industry, began tracking down and interviewing Romani Holocaust survivors, collecting testimony spoken in what he later referred to as the “authentic voices of suffering” (autentické hlasy utrpení).177 His articles, mostly on the experiences

176 Jamnická-Šmerglová, Dějiny našich Cikánů, 82.

of Slovak Roma, were published in a variety of small Slovak journals, as well as a few journals in the West devoted to Romani studies.\(^{178}\)

By this point, the Union’s memoir competition had evolved into a platform for identifying and publishing historical monographs, and offered publishing contracts as one of the prizes. Nečas’s first foray into the competition – to which in toto he submitted nine times – was a manuscript he co-authored with Vlasta Kladivová. Nečas and Kladivová, a witness-historian who had been interned in Auschwitz, submitted their manuscript, “Final Station Auschwitz-Birkenau,” in the historical category of the 1974 memoir competition, to favorable evaluations by the judges evaluated. Karel Lagus, a survivor and historian of the Theresienstadt Ghetto, noted that the manuscript was “good and expedient (účelná) work” that “filled in a certain gap in [Czechoslovak] historiography.” As a survivor of Auschwitz and Ravensbrück, Kladivová was a historian in the witness-historian tradition. The study described the decimation of the Bohemian and Moravian Romani population, detailing how Czech Roma had been deported to the Gypsy Family Camp in Birkenau, a collection of barracks within the extermination camp for Roma from across Central Europe set apart from other prisoners.\(^{179}\) Disease and starvation were rampant, and the residents of the Gypsy Camp “dwindled,” as one (non-Romani) inmate doctor in the


\(^{179}\) The book was eventually published in 1994 under Kladivová’s name only: Vlasta Kladivová, Konečná stanice Auschwitz-Birkenau [Final Station Auschwitz-Birkenau] (Olomouc: Univerzita Palackého, 1994).
Gypsy Family Camp hospital later put it in his memoirs, “en masse they faded away before our eyes.”\textsuperscript{180} In 1944, a year after the arrival of transports from Lety u Písku and Hodonín u Kunštátu, the Protectorate camps for Roma, work-capable inmates were selected out of the Gypsy Family Camp and transferred to other camps. The rest of the population was sent to the gas chambers and killed in one night. Of the some 5,000 Czech Roma, fewer than 500 returned to Czechoslovakia after liberation.

Alena Hájková, another historian on the memoir competition committee, and also witness-historian, noted that the research work itself was “very difficult” (obtížná) and the “results admirable” (obdivuhodný), especially given that the subjects were Romani. But given that the manuscript mixed archival documentation with testimony from Romani survivors, Hájková sounded a note of concern:

It is important to realize that [these] prisoners who survived internment do not belong among those witnesses (pamětníky) on whose recollections it is possible to rest upon as a veracious (věrohodný) base. It is necessary to screen each memoir far more thoroughly than in other cases.\textsuperscript{181}

Though Lagus deemed it worthy of publication, he also wondered if “this problematic would find ... a sufficient number of readers.” These doubts about audience and the veracity of Romani testimony were apparently enough to knock the manuscript out of the

\textsuperscript{180} Rudolf Vítek, “Nemocnice cikánského tábora” [The Hospital of the Gypsy Camp], manuscript, 5, Auschwitz carton 47, SPB archives, National Archives of the Czech Republic. The SPB fond in which this memoir is found has yet to be organized or catalogued; judging from the quality of the paper, Vítek’s manuscript probably dates from the 1970s.

\textsuperscript{181} Dr. Ctibor Nečas and Dr. Vlasta Kladivová, “Konečná stanice Auschwitz-Birkenau” [Last Station Auschwitz-Birkenau] manuscript, 1974, Fond ÚV SPB Paměti N45, i.č. 2081, National Archives of the Czech Republic.
running for publication, and their work received an honorable mention in the 1975 contest.

Nečas’s next submission, a manuscript entitled “The Resolution of the Slovak Gypsy Question in the Years 1938-1945,” met a similar fate in the 1980 competition. Nečas’s work, which was judged along with several other submissions categorized under the theme of “racial persecution,” addressed how the war years unfolded for Roma in the Axis-aligned independent Slovak state: the ghettoization of Roma via relocation of their villages to isolated locations, the forced labor camps to which many were sent, and the intensification of this persecution to the level of massacres, particularly after the Slovak National Uprising in 1944 was crushed, and Slovak and German troops swept through central Slovakia in reprisal.

 Though Nečas’s analysis was evaluated as “very valuable (cenná) and useful (užitečná),” Vlastislav Kroupa, one of the competition judges, also judged it to be a “narrowly academic” work with a limited audience. “Moreover,” he wrote, “it seems that right now the publication of this sort of problematic is not the most topical work (nejaktuálnějším úkolem) of the day … [and] the prizes should be given to contributions that work on the problematic of the antifascist national liberation struggle.” In the service of this project, Kroupa suggested, Nečas’s manuscript could be “put to use … as a rich

---

example for the elaboration of complex work on the national liberation movement of our nations.”

In the 1980s, Ctibor Nečas teamed up with Dušan Holý, an ethnomusicologist who had befriended Růžena Danielová, a Romani survivor of Auschwitz known as a performer of the Romani song, “Aušvicate hin baro kher,” or “In Auschwitz there is a Big Prison,” Nečas’s 1988 submission to the memoir competition, which he co-authored with Dušan Holý, an ethnomusicologist, examines the song and its singers, particularly Danielová, whom Holý knew well. After years of multiple submissions, Nečas’s manuscript was finally published as part of the series. In their collaboration with Danielová, authored a manuscript they called Accusatory Song. The song itself has assumed relative prominence since the 1990s. It features prominently in Tony Gatlif’s musical documentary, Lactcho Drom, as well as the Czech documentary on the Romani Holocaust, Ř tu kalo čirikloro (Oh You Black Bird), for which it provided the title line. Miloš Štědroň, a non-Romani Czech composer, took it as his inspiration for his award-winning 1970s composition, The Weeping of Růžena Danielová of Hruba Vrbka over her Husband, Dead in Auschwitz, and more recently it has been covered by a Czech noisecore band called Malignant Tumour.

---


184 Dušan Holý and Ctibor Nečas, Žalující píseň [Accusatory Song] (Stražnice: Ústav lidové kultury, 1993).

The book Holý and Nečas published is a singular act of interpretation, an attempt to align historical and ethnomusicological forms of knowledge to illuminate, or actually, to prove, the status of Roma as persecutees of Nazism through painstaking comparison of songs sung by survivors to the documentary record of their persecution. The interpretation the authors offer is designed to expunge the doubt about veracity that Hájková expressed in her commentary on Nečas’s earlier manuscript, as well as establish the immediacy of the Romani experience of the Holocaust. “Aušvicate hin baro kher,” Holý and Nečas argue, functions as a “reflexive bridge” (odrazovým můstkem) leading the scholars back along an intertwined trail of documents and voices to the fate of Roma in Nazi camps. But their work, as an attempt to substantiate the events of the Romani Holocaust through song, is also an act of commensuration that suggests to us how much is inevitably elided when the narratives of the song are read in the register of proof and evidence in an attempt to restore Romani voices to the historical record.

The location of the origins of the song fascinated Holý, who corresponded with Ficowski on the topic in the 1980s. Holý had been collecting similar songs in Czechoslovakia, and in particular wondered about “Aušvicate hin baro kher.” Sung


186 Holý and Nečas, Žalující píseň, 9.

widely among Czechoslovak Roma, the song is strikingly similar to the song, “Dri Oświęcim,” that Ficowski recorded in his article from 1950, and Holý swapped transcriptions of the songs with Ficowski and other ethnomusicologists in an effort to figure out whether verses from it predated the Holocaust.

In the usual ethnomusicological typology of Czechoslovak Romani songs, there are two main groups: neve gilja, new songs, and phurikane gilja, old songs. Mourning songs such “Aušvicate hin baro kher” are usually placed in a subcategory of old songs, though song itself is a bit of a cross-over. The hallmark of neve gilja, of new songs, is their tendency to mix old melodies with new themes or vice versa – but either way, the originality of a nevi gilji is in the unique way the singer combines its elements. Thus “Aušvicate hin baro kher” can be sung in multiple versions by multiple singers each of whom can claim it as their own composition.

Holý and Nečas, however, decided that the song forms the basis of a new genre that they call “accusatory song.” The song’s preoccupation and purpose, they hold, is accusation, and calls its listeners to a labor of commensuration in the service of what they call an “act of historical justice” (akt historické spravedlnosti). Danielová, who was interned in Auschwitz where she lost her five children as well as her husband, does not

---


189 “‘Gypsy’ music,” 615.

190 Holý and Nečas, Žalující píseň, 10.
use the term “accusation” in explanation of why she sang this song. In the introduction she gave before one performance, recorded at a birthday party in the 1950s, she said:

I must tell you, dear guests, why I want to sing this song … so that it will be known to the public in the world. I was locked away (zavřená) in Auschwitz two years, and this song, when I was getting the most blows – my flesh was falling from my knees, from my elbows the same, the small of my back is damaged even today – during these greatest blows I composed this song, which I will sing for you: I am not sure if I can sing it all the way through or if I won’t start to weep. 191

Figuring her voice as released by and through a wound, Danielová’s account of the song is an exemplar of a traumatic narrative, a circuit between the injury of the body and its repetition in the mind. 192 Its circuit is also a temporal circuit through past and present, through a beating whose wound, Danielová notes, is permanent and which continues to threaten her narrative with the interruption of weeping.

Witnessing trauma, though, is not primarily what interests Holý and Nečas. They want the song, which tacks back and forth between different voices in different relation to Auschwitz, to prove her internment. But “Aušvicate hin baro kher” does not lend itself easily to such a task. It relates its story in a combination of tenses that tack between the present and the future, and unfolds in a combination of spaces both inside and out of the camp. The version sung by Danielová that Holý and Nečas feature in their book is intriguing in its multiple figurations of the subjectivity of the singer. Danielová says it is ‘her’ song, released by her time in Auschwitz, but the narrator of the first verse is not in a

191 Holý and Nečas, Žalující píseň, 1.

camp at all. Instead, she is free, anxious about her husband, who, she worries, is forgetting about her.

And yet by the second verse, it is clear that he has not forgotten her, for Danielová shifts into his voice, addressing a bird in order to address his wife. “Oh black bird,” she sings, “Carry my letter / Carry it, carry it to my woman / I am sitting in Auschwitz.” Yet the circuit the narrator calls the bird to undertake remains incomplete – the song never mentions if the bird has brought the letter, if the wife’s anticipation of her husband’s act of forgetting is commensurate to his act of remembering her. But this most potentially hermetic moment in the song also performs a kind of aperture, opening the song up to a wider set of social relations. In addition to being the hinge that allows the voice of narration to shift from wife to husband and from outside Auschwitz into its confines, the communicative motif of the letter also marks the moment that “Aušvicate hin baro kher” enters into the territory of neve gilja, of new song. As Holý and Nečas point out, the second verse predates the Holocaust in slightly altered form, and postdates it as well, as a standard verse used in other songs and types of music. This particular verse fascinates Holý, who combed through archives and, in correspondence with Ficowski, managed to trace the verse back to 1935, and thus, through recourse to that form of history-writing reliant on an archivally verifiable truth, he locates one of the voices of Danielová’s song in a folkloric register, in the realm of tradition, custom, and legend, the realm of prehistory, a realm before fixed dates or verifiable narratives. The open temporality of the second verse, though, gives way in the third to a very specific description of Auschwitz, of the hunger, the lack of food, of the lack even of bread. The narrator is back within the
camp here, and concludes the verse with a line that frames what Holý and Nečas take to be the song’s accusatory function: “The Block Elder is evil.”

This declaration, which also frames the last verse, becomes the basis of the accusatory nature of “Aušvicate hin baro kher,” returning it to the realm of history and the political in Holý and Nečas’s analysis. Danielová ends the song on a vengeful note, singing, “When I go back home / I will kill the Block Elder.” Herein lies the possibility to bring the song into a primary relationship with the archival record. The second verse can be found in the archives as such; it cannot therefore speak to them. But the fourth verse offers the potential for direct address to another form of record, the possibility, that is, of a commensurability with the archive.

Holý and Nečas therefore turn to the archives of postwar Czechoslovak war crimes trials where they found a case in which a former inmate of the Gypsy Camp was tried in the People’s Court in Brno for his cruel behavior as Block Elder. The defendant, who was turned in by fellow survivors in 1946, was accused of a variety of offenses; almost fifty former inmates of the Gypsy Camp gave testimony against him. His crimes, for which he was sentenced to life in prison, included withholding bread from inmates during the distribution of rations, not a small transgression given that the prisoners of the Gypsy Camp were being slowly starved to death. Holý and Nečas quote twenty-five of the testimonies, in which Block Elder’s actions progress from stealing bread rations to beating other inmates, sometimes to death. “The testimonies cited here are unique and nonrepetitive verbal statements,” write the authors, “with which Roma presented

---

193 In some variants of the song, this verse is preceded by others describing, for example, physical violence in Auschwitz; the version that Holý and Nečas use to frame their book contains one such verse, but ends with a verse devoted to the Blockälteste. Holý and Nečas, Žalující píseň, 12-14.
themselves in front of the judge.” In their singularity, they fix what the song, in its iterations, cannot: namely, that what it described truly happened. “Through their testimony,” Holý and Nečas observe, the witnesses performed a proleptic act of verification: “they did not only evidence the crimes of concrete offenders, but also confirmed the veracious speech (pravdivá řeč) of the song”\footnote{Holý and Nečas, Žalující píseň, 74-79.}

Projects such as Holý and Nečas’s manifest some of the dynamics that attend the process of restoring the Romani Holocaust to knownness through a restoration of Romani voices, and Romani suffering, to the historical record. The legal loop into which Holý and Nečas draw Danielová’s voice, for example, requires a certain dilution of her lyric: as her voice is verified by trial testimony, her future-tense and unconsummated proclamation that she “will kill the Block Elder” is attenuated by reference to an act of justice already performed. Veracious Romani speech in this instance, that is, cannot articulate a score never to be settled, a wound never to heal; it can only refer to a concrete, and concretely past, event. In the logic of the song, Danielová has not yet gone back home; in the logic of Holý and Nečas’s interpretation, she must already be there.

But for Danielová’s voice as it sings “Aušvicate hin baro kher” to be heard as true – as “veracious speech” – requires interpretative labor to come into existence. It must parallel speech spoken to a judge, it must be read out of the archives. Moreover, this is a labor predicated on, and in fact productive of, the incommensurability of the folkloric and the historical. And with Roma assigned to the former, to an aestheticized folkloric domain, and the Czech politics of justice to the latter, to the historical domain, it begs the question of whether the unknownness of the Romani Holocaust should be properly
located with Roma, or rather with those who undertake to prove Roma do in fact voice the truth.

The Lety Affair

Many of these dynamics met up in the historiographical debates the Lety affair set off, in particular the privilege accorded both to the archive and to the postwar project of national cleansing. The historians’ response to the Polansky and Pape’s archival forays and dissemination of first-hand survivor accounts unfolded in several ways. Czech historian Jaroslav Valenta launched a defense (explicit and implicit) of archivally based historical work brings to light the way in which the recognition of Romani suffering threatens to disrupt certain narratives about the suffering of Czechs at the hands of the Germans, dating from the war. In *Historians and the Lety Affair*, Valenta disputes claims that the Lety camp was “silenced” (*zamlčováno*) by historians, arguing instead that if Lety was unknown, it is because the news establishment was uninterested in it. Historians and archivists, he notes, have been writing about Lety since the 1970s, and this is, and should remain, the proper vein for its consideration. Thus Valenta offers a spirited defense of, as he puts it, the “classical basis of history as science, which defined it as the attempt to draw up a balance to the extent possible the closest to how it actually was, should be … the first priority.” He does not dispute the content of the testimonies Polansky recorded *per se*, but rather their distortion in the realm of the media, which could allow a “less rational and more emotional description of events … fix itself in
readers’ and watchers’ consciousness and subconscious.” He sees a danger in Polansky’s presentation of testimonies, which Valenta notes, “have apparently been stylistically altered such that it may have lead to a displacement of meaning (posun smyslu).” The terms of the debate in the media have, through an “targeted choice of vocabulary” (záměrnou volbou slovníku), in effect, relocated the proper questions about the camp into a signifying chain of metonymic logics that inappropriately expand the bounds of the issue to Czech-Romani relations.

Valenta’s goal, then, is to disentangle and isolate a properly historical set of questions from the controversy, and restore the meaning that has been displaced. He notes, “every historian … knows that personal recollections … [are] necessary to screen (prověřovat) and confront with other sources.” In the service of this confrontation, the essays in the booklet are appended with a collection of documents reproduced from the archives. But instead of effecting such a confrontation in his text, Valenta instead launches an argument about the representativeness of the Czech “government” (which he places in quotes) of the time. As he points out, the occupation government was a

195 Jaroslav Valenta, “Mediální debata o táboru v Letech očima historika” [The media debate about the camp at Lety through the eyes of a historian], in Historikové a kauza Lety [Historians and the Lety Affair] (Prague: Academia, 1999), 10.

196 Valenta, “Mediální debata,” 13. The alteration was likely beyond “stylistic”: Polansky writes that his interview protocol consisted of typing an English-language version of his informants’ testimony into his computer as his research assistant translated consecutively. Polansky, Black Silence, 21.


collaborationist instrument, and the “proclaimed autonomy of the Protectorate was from
the beginning utterly fictive.” To claim otherwise, and to restore a political agency
reflective of an autonomous Czech collectivity to actions taken by Czechs within the
framework of this collaboration – actions which here specifically include being a camp
commandant or guard at Lety, which a number of Czechs were – would be an equally
fictive assertion.

The trail of documents appending *Historians and the Lety Affair* traces out the
progressive subordination of the Protectorate criminal police (responsible for the round-
up of Lety prisoners) to the occupying authorities, as well as the orders, from Berlin, for
inmates to be sent to Auschwitz. Most of these documents are in German, or at least in
German first, and in Czech only in translation. From the Czech participation in the
administration of the camp, the only document is an order for a prisoner release, and this
is followed by two postwar Czechoslovak documents regarding the trials of the head of
the criminal police and of the camp commandant. Within the frame of the archival
evidence, Czechs only undertake the release of camp prisoners, or indict and convict
(German-speaking) perpetrators, or pardon each other, as the last document, an acquittal
of the camp commandant, shows. Their collective political agency, that is, is properly
restored only in the postwar period as they undertook the trials “cleansing the nation,” a
logic replayed in the narrative Valenta constructs:


200 One could easily construct a trail out of the Lety documents that emphasized Czech
collaboration, presenting documents (such as selections from the camp’s *úřední knihy*, or
administrative books) that were produced only in Czech. See, for example, the postal protocol
files, Lety concentration camp records, RG-04.076M, Files 20-23, Reels 8-10, U.S. Holocaust
Memorial Museum, Washington, D.C.
The first camp commandant, a Czech, was evidently most likely a sadist and moreover stole from prisoners … Various individuals in Lety behaved variously: they are personally responsible, and perhaps even criminally liable for their conduct and behavior. Does the criminal behavior of a few individuals suffice, however, that one should speak of and write of the “complicity of the Czech nation in the genocide of Roma” or of “extermination in the Czech way?” [emphasis original]^{201}

The return of the political, sanctioned by the reimposition of the rule of law in the courtroom by the postwar Czech government, is the end of the narrative Valenta seeks to impose on the issue of Lety. Claims of continuing injustice, calls for recognition of the continuities between periods, of historical parallels (“It reminds me of the start of Hitler all over again,” said one Lety survivor about the present), none of these can be accommodated in the narrative loop that Valenta uses to construct the story of Lety. Instead, his is a story the reaches final conclusion in the postwar trials, a story retrieved as properly historical because it ends in the past, a story unburdened by the accusations of the present. Valenta separated out individual collaborators from the Czech nation, noting the qualities and actions – sadism and thievery – that would eventually be the grounds of their banishment in the trial processes

Valenta notes that his intervention in the Lety debates is a salvo in “the so-called vyrovnání se of the Czech nation with its own past.”^{202} In seeking to entrench the past firmly in the past, Valenta claims the role of “equalizer” (recalling vyrovnání se literal translation as an equalization of past and present) solely for the historian. The provinces of the past are properly visited only in historical narrative, not in the temporal messiness

^{201} Valenta, “Mediální debata,” 14.

^{202} Valenta, “Mediální debata,” 11.
of the survivors’ chronicles. But insofar as the demand, on the far, and present, side of vyrovnání se, is for a recognition of Romani difference – of the difference of their wartime experience, to say nothing of the contemporary challenge their presence poses to Czech liberalism – Valenta’s narrative is markedly constrictive frameworks in which to situate testimony. Romani experiences, and indeed, the very voice Roma give to them are circumscribed and contained in the ostensible defense of professional history and its documentary domain, corralled into meditations on the efficacy of postwar legal order and the pathologies of Czechness it corrected. In offering up their testimonials, Roma are understood to be offering up occasions for meditations on the role of historians, the dangers of amateur meddling in their discipline, and the pastness of the past, all of which challenge the authenticity of the voices such testimony conveys.

**Conclusion**

Holý and Nečas have themselves anticipated a future demand of the “the authentic voice of suffering,” as Nečas calls it. Writing in the late 1980s on the eve of a revolution few saw coming, their “act of historical justice” registering, recognizing and validating the experiences of Růžena Danielová and her fellow Auschwitz survivors, enacts a political logic that would come to permeate the liberal politics of postsocialism. Elizabeth Povinelli suggests that hearing the suffering voice of the minority subject is a hallmark of contemporary liberalism, summing up this process thusly: “Liberals will listen to and evaluate the pain, harm, and torture they might unwittingly be causing minority others. Nonliberals and other minority subjects will present their pained subjectivity to this
listening, evaluating public.”203 As Romani suffering enters into the Czech public sphere under the twin banners of vyrovnání se and the call for a politics of recognition of Roma, projects such as Holý and Nečas’s portend some of the dynamics that attend this process of making audible.

Povinelli argues that the practice of hearing the voice of suffering requires an initial and anterior labor, one in which the voice of the minority subject is brought into an audible register. This labor she understands as a practice of commensuration, in which “situations of radical alterity, linguistic or social,” are made relational. And given the premise of their initial incommensurability, this act of commensuration is necessarily reductive of some quality of the minority subject. The archival loop into which Holý and Nečas draw Danielová’s song, for example, requires a certain dilution of her lyric: as her voice is verified by trial testimony, her future-tense and unconsummated proclamation that she “will kill the Blockälteste” is attenuated by reference to an act of justice already performed.

Furthermore, and perhaps unavoidably, given the nature of the archival record, as the trial certifies the authenticity of the song, the song retroactively secures the justice performed in the trial. In fact, as the song is drawn into reference more generally with Nečas’s historiography, its embeddedness in specific Romani social imaginaries is shifted such that the conventions of those imaginaries are partially obscured. Versifying Danielová’s spoken voice, which the authors do at the very beginning of their book – rendering her explanation of the song as performative as the song itself – is a further act of commensuration, leveling whatever difference Danielová might have imagined

obtained between her interpretive and performative practice. Equally, the creation of a genre constellated around “unique and nonrepetitive” courtroom accusations secures a unitary (not to mention legal) subject from which issues the core voice of the song, one that overwrites the manifold potential subjectivities that complicate the narrative trajectories of “Aušvicate hin baro kher.” If the “unknown Holocaust” is becoming known in the register of an accusation that has already been answered, what, then are the implications for future demands for redress? All these complications and more attend the labor of commensuration as vyrovnání se turns to reparations, and the locus of the labor of making the unknown historically and archivally knowable, as we shall see, shifts away from the historian and on to the subjects seeking repair.
Chapter 3: Reparations Politics, Czech Style: Law, the Camp, Sovereignty

In a letter to the Czech-German Fund for the Future, Hana, a Czech whose Jewish father was murdered by the Nazis, criticized the Fund’s handling of her reparations claim, which they turned down. “It insults me,” she wrote, “that I must now cede to … German [administrative law] the decision whether my measure of suffering [utrpení] is worth recompense.” This suffering, Hana asserted, was clearly incommensurable to the bureaucratic and legal demands of the claims process. Describing in detail the impact her father’s deportation and death had on her as a child, she continues, “This is perhaps not suffering that is possible to insert into German compartments” – and here the word she uses for compartment, škatulka, carries the sense of a pigeonhole, or a little box you check on a form – “it was possible to insert into that compartment, without remainder, all the names of non-Aryan citizens and without remainder to ensure their liquidation, but the measure of their suffering and of those who, to today, still mourn them, for that there are no compartments.”

Recent legal history of the Holocaust has taken up the question of the commensurability of law to the event that Hana raised in her letter. Invoking Hannah Arendt’s formulation of the Holocaust as “unprecedented”204 – and therefore not easily contained in its contemporaneous legal processes – much of this work has focused on trials and courts as arenas in which recognition of victimization has been negotiated. This scholarship conceives of transformations of jurisprudence that take place in war crimes.

---

trials to affect both a shift away from the questions of sovereignty that animated the legal responses of the immediate postwar, and a progressive inclusion of the voices of victims. Over the course of time, according to these analyses, the question of sovereignty tends to disappear, and law becomes a technology that enables the voice of the victims to be heard.

Hana’s experience in the juridified processes of reparations, however, suggests that this is not the whole story. In the previous chapter, I argued that the terms of the veracity at stake in testimony (particularly for Roma) were established partly by testimonial genres that emerged in the 1940s. Here I resituate this question of veracity, reframed as historicity, in the wider context of Holocaust reparations in the Czech Republic in the 1990s and 2000s. Impelled by the issues Hana raised in her descriptions of how she was brought into these processes – with some success in the case of certain of her claims – I examine the recent history of reparations in the Czech Republic and the expansion of victim categories they cover, and read them in light of recent scholarship on reparations. In this case, I argue, sovereignty, and the historically contingent notions of polity, resurface in reparations cases, and law functions in ways that also constrain, and even sublimate (as I argue in the next chapter), the voices of victims whose accounts do not hew closely enough to those of the Nazi persecutees interned in camps.

I then turn to history of reparations in postwar Czechoslovakia and analyze how reparations come into being as a form of redress alongside domestic war crimes trials and expulsions, the two projects that constitute the postwar purification of the polity through the exercise of law that extended its protections and sanctions to some, and placed others beyond its reach. I trace the issues of veracity and historicity – components of political
speech – and the legal bounds of what can be negotiated within reparations programs back to the postwar instauration of the Czechoslovak state in the 1940s. As the Czechoslovak legal order came back into force, it simultaneously cleansed the polity it governed through the production of new categories of citizens and non-citizens.

To address the ways in which the legal order of this period continues to bedevil contemporary attempts to extend reparations to wider circles of potential recipients, I then examine Czech court cases in the postsocialist liberal period that challenged the legal categories of reparability, and thus the bounds of whose accounts of persecution would be accorded historicity and whom the law could recognize as a victim of Nazi persecution. In these cases, the court found itself adjudicating decisions such as the one Hana challenged in her letter over whose suffering is to be admitted into the circles reparations law opens up. These cases, generally filed by claimants who believed themselves to qualify for reparations under new reparations legislation introduced in the 1990s, but who could not meet the legal criteria for eligibility established in the immediate postwar, covered a range of topics from the nature and definition of a concentration camp to what constitutes direct experience of persecution.

Taken together, they demonstrate how the historicity of the injustice in question in reparations programs obtained only within a particular legal matrix, one that imposed specific chronological and conceptual limits on the history in question. This legal matrix, which underpinned the re-establishment of the Czechoslovak state in the wake of Nazi occupation, lurks in contemporary Czech reparations law, and emerges when claimants’ experiences of persecution exceed the temporal and territorial bounds through which postwar Czechoslovak law sought to contain, and expunge, the fascist past. Thus the
possibility that reparations hold out – the revelation and acknowledgement of previously marginalized histories of the Holocaust – found its limit when it approached the legal bulwark of (Czech) sovereignty. As reparations law imbricates contemporary attempts to redress the atrocities perpetrated by the Nazi state with the postfascist period, the specter of a sovereignty anchored in exclusionary logics at odds with the inclusionary redress reparations seek disrupts the efficacy of reparations as a tool make the voices of victims heard and rendered into compensable speech acts.

This chapter is based archival work in the collections of the Union of Liberated Political Prisoners and their Heirs (Svaz osvobozených politických vězňů, hereafter SOPV), the main organization of returning camp internees, and on my reading of court cases about reparations in the 1990s and 2000s, as well as fieldwork among Czech Jews who had been claimants in the domestic and transnational reparations programs in the 1990s. I take as my starting point the letter Hana, one of these informants, received from a reparations agency, and the story she shared with me of how she came to think of herself as implicated in the new categories of victimhood that accompanied the renaissance of reparations in the postsocialist period.

The form letter from the Czech-German Fund for the Future was formally sympathetic. “In no case do we want to belittle the measure of suffering (strádání) of any claimant in the period of the war and occupation,” it read, “but German law and the so-called opening clause relate only to a precise, limited circle of people to whom payment may be admitted (přiznan). For the above-mentioned reasons we were unfortunately not able to insert your claim into this group.” Hana herself had not originally thought of
herself as part of the group’s circle, and initially equivocated about whether her wartime experiences qualified her to make a claim for admission. When the first round of post-socialist Holocaust reparations programs were announced for Jewish victims in the early 1990s, it had not even occurred to her to apply. Walking through a small northern Bohemian town with a friend at the time, they passed the former Jewish quarter, now empty of Jews, prompting her friend to ask whether she planned to file a claim. Hana’s response was immediate: she wasn’t a victim, why would she file?

A child during the war, Hana’s Gentile mother and Jewish father divorced in 1939 hoping to protect her and her older sister, Eva, from persecution. In 1942, her father was deported to Theresienstadt and on to Treblinka, where he was killed. In keeping with Protectorate policy, ten-year-old Hana was forbidden to attend school beyond fifth grade, while sixteen-year-old Eva was conscripted for forced labor. Toward the very end of the war, the sisters were rounded up for deportation, only to be abandoned by their SS guards, who presumably fled the approaching Red Army. And the sum of these experiences, Hana’s friend insisted, constituted her grounds to claim. Hana reconsidered, and in turn filed for the reparations the Czech state was offering through a law passed in 1994 designed to address, as the law’s preamble says, “the inexpiable historical injustice caused to the victims of Nazi persecution.” With the sum she received, she sent her husband on a mountain-climbing trip to Argentina.

---

Hana’s sister Eva had always taken a more active role in the postwar politics of affliction and survivorship: in the aftermath, she joined the Union of Anti-fascist Fighters (Svaz protifašistických bojovníků, or SPB), the organization that coalesced in the immediate postwar period to represent Czechoslovaks returning from concentration camps, and the families of those who did not. The Union, first called the Union for Liberated Political Prisoners and their Heirs (SOPV), was one of the earliest voices calling for reparations for the victims of Nazism in the 1940s, as well as the forum for the solicitation and dissemination of accounts what had happened in camps, and evolved in the Communist period into the standard bearer of the public memory of the camp experience. When the Union approached Eva five years before about claiming reparations from the Czech-German Fund, which was doling out forced and slave labor reparations, they also suggested that Hana do the same. According to the program, though, applicants could only claim on the base of their own “direct damage [přímé poškození] by the Nazi regime,” and persuasive though Hana’s friend had been ten years earlier, Hana did not figure in this particular formulation of victimhood.

Hana is a master of the epistolary form – she once wrote a letter to the editor of one of the major newspapers criticizing the government’s decision to rescind subsidies to parents whose university-bound children decided to study abroad, precipitating a reversal of the policy – and when the Fund turned down her claim, she sent them what she thought was a futile missive to vent her frustration. With no other goal than, as she put it, “to unburden herself,” she wrote back, contrasting her situation to that of ‘forcibly

conscripted citizens": “I think that we are the only group of people who have not received the slightest of reparations from the German side and, no offense, it insults me that I must now cede to the German side the decision whether my measure of suffering [utrpení] is worth recompense.” She goes on to detail her wartime experience as a half-Jewish child whose father disappeared: “what sort of notion do they have of the suffering of a ten-year-old girl … certainly I suffered, I suffered the loss of my father, the suffering of my mother, the deterioration of our living conditions, discrimination … [only bearable] because my sister, mother, and I lived surrounded by decent people … [and it was possible] to convince a child that after the war, everything would be way it had been. This magic spell accompanied me my entire childhood, and for a long time did not allow me to give up the hope that my father would return.”

Hana notes in closing, “This is perhaps not suffering that is possible to insert into German compartments … it was possible to insert into that compartment, without remainder, all the names of non-Aryan citizens and without remainder to ensure their liquidation, but the measure of their suffering and of those who, to today, still mourn them, for that there are no compartments. I am sorry to hear this.” And with a small flourish of politesse, she signs off, “In any case, I thank you and send my greetings.”

The letter as a whole is a deft reworking of the terms of the form letter she had received; in fact, the only keyword she changes from the original wording of the Fund’s letter is “suffering,” from strádání – which comes from the verb strádat and carries the sense of hardship and living in need – to utrpení – from utrpet, to be damaged or afflicted by something. And on the hinge of that difference, she elaborates a suffering that stands outside reparations and outside repair. Hana’s experience and her letter encapsulate much
of what is at stake in reparations for their claimants: suffering and its discrepant measures, the revenant politics of race and hierarchies of citizenship, and what Constantin Goschler calls the “legal surrealism” produced by the mismatched bureaucratic logics of various claims programs, all brought to bear by a new-found emphasis on accountability in transition away from Communism.

In their work on reparations since 1989, a period they refer to in the lexicon of globalization, José Brunner, Norbert Frei, and Goschler note significant changes in the politics and praxis of repair, many of which we can see refracted in Hana and Eva’s experience. With the collapse of Communism and the end of the Cold War, and the subsequent reunification of Germany and dissolution of the Soviet Union, wrought significant changes in the political constellations in which reparations were embedded, and which they reflected. This shift was accompanied by several others, in different realms, which they delineate organizations, forms of communication, claimants and values, and experts. Organizationally, reparations are now partly privatized, through the involvement of banks, insurance companies, and industry, all of which entered into, and shaped, new transnational networks that negotiate over programs, collect claims, and distribute funds. The mediatization, moreover, of negotiations has had an impact, they contend, partly by disseminating moral claims about reparations more broadly among publics in which the programs take place, and partly by allowing for wide distribution of


information necessary to filing claims, from forms to databases of looted property. The expansion of victim categories is also striking in this period, from previously unacknowledged persecutees to the shift toward paying compensation to heirs of deceased victims. And lastly, as the question of medical experimentation – one of the few forms of persecution for which the Federal Republic of Germany paid reparations to citizens of eastern Europeans in the socialist period – has faded from prominence, giving space previously occupied by medical professionals over to historians, especially those with topical expertise on what was being restituted.

This analysis is consonant with much of the politics around reparations in the Czech Republic in the 1990s and 2000s. At the time, the issue of whose experiences of Nazi persecution should form the basis of redress was hotly contested in multiple arenas, domestic and international. Reparations became almost daily fare in the Czech newspapers in the mid to late 1990s. Long before the terms of programs were set, they were already summoning stories in the press from those who would probably not qualify: stories of deportation to Austria highlighted the injustice reparations for only those who had, by chance, been deported to Germany instead, descendants of recently deceased former forced laborers noted that the protracted length of negotiations had excluded their mother or husband or sister from compensation. But the promise of reparations was also occasion to reflect on the status of money, from its shortcomings in compensating unfree labor to speculations on its social impact invoking the ever-present specter of envy (závist) that accompanied the massive economic dislocations of postsocialism. At the

---

ceremonial announcement of the conclusion of the negotiations that established the Czech-German Fund for the Future, the then German President Johannes Rau echoed the common refrain of reparations negotiators everywhere: “We all know that no amount of money can really compensate the victims of crime,” he said, “I know that for many [survivors] it is not really the money that matters.” But his sentiment had already been undercut in the Czech Republic by survivors such as Vladimir Mazálek, a former forced laborer, who predicted “an enormous outcry from [reparations].” Mazálek, who set up a clearinghouse in his spare bedroom to assist others in gathering the documents required to file claims, pessimistically anticipated social discord as the result of his endeavors. “People will become frightfully envious,” he was quoted as saying, “One will get ten crowns more [than another], and it’ll be awful (už to bude zle). There isn’t any jubilation over this, I know the Czech character.”

While multilateral negotiations took place in Washington, D.C. to establish the criteria for a massive reparations program for forced laborers in wartime Germany, most of whom lived in Eastern Europe, at home in the Czech Republic several reparations laws were on the table. In 1994, the Czech Republic enacted Law 217 – through which Hana originally received reparations for the death of her father – to pay reparations to Jewish victims who had not been able to press claims against Germany. The recently reunified German state had set up a fund to provide reparations to Nazi persecutees in Eastern Europe.

---


Europe, most of whom had never been able to apply for compensation in previous programs. The money was allocated through bilateral accords with governments from each of the countries, with almost a billion dollars earmarked for the remaining victims of Nazism. Since the Czech Lands had been occupied by Nazi Germany in 1939, citizens of the Czech Republic were thus eligible for a share of the compensation. But the Czech government refused to enter into any treaty that recognized the reciprocal right of the Czechoslovak German population expelled from their native country between 1945 and 1948 to make counter claims on the property expropriated from them and subsequently Czechified. Instead, the Czech state paid approximately 700 million crowns to almost 19,000 Czech citizens interned in Nazi camps or the orphans of those killed in camps in lieu of the reparations that would have come from Germany. At the end of the decade, the Czech Parliament passed a law to return property from the holdings of the National Museum in Prague that had been expropriated from Jews by Nazis, as well as a law rendering members of the Czechoslovak Army who fought abroad, eligible for reparations in the amount of 120,000 crowns, thus opening up a category of claimants then estimated at 3,000 people.

The second wave of reparations came with the German Foundation Agreement of 2000, and the announcement in the late 1990s of negotiations over Czech participation in this program was hailed by some as “quiet revolution” in Czech-German relations. The negotiation process was followed carefully in the press: amounts were tallied, categories of victims parsed, the statements of diplomats scrutinized for subtext. Every delay and slight – and the Eastern European negotiating teams were slighted often enough to remind them that their status as Europeans always required geographic prefix –
resounded in the larger frame of the strained relationship between the Czech Republic and Germany, and Czech hopes of joining the European Union. In short, the two-year negotiations, as one commentator remarked, were a “big drama.”

The victim category this program opened up – for forced and slave laborers – was even larger, and the pool of money at stake. The Union of Former Forced Laborers had been organizing those Czech citizens still living of the estimated 640,000 who had been conscripted by the Reich; in the fall of 1999, they had amassed some 50,000 people to stake their claim on the reparations being negotiated in the U.S., while another 30,000 were estimated as yet to be documented. Meanwhile, European insurance companies such as Generali were being taken to task by journalists for outstanding claims filed against insurance policies taken out primarily by Jewish victims before the Holocaust, claims that would eventually produce further reparations programs for surviving heirs. Many of these programs were actuated by court cases undertaken in the United States, bringing American-style tort law to Europe; for a period, Ed Fagan, the American personal injury lawyer famous for his involvement in high-profile Holocaust reparations claims (and infamous for his eventual disbarment for misappropriation of those funds) was a fixture in the Czech press.

212 Luboš Palata, “V česko-německých vztazích nastal zlom” [A Turning Point Has Arrived in Czech-German Relations], Mladá Fronta Dnes, November 1, 2000; and Luboš Palata, “Dohoda o odškodnění byla velké drama” [Accord on Reparations Was Big Drama], Mladá Fronta Dnes, July 18, 2000.

In regard to the new political constellations reparations articulate, Brunner, Frei, and Goschler note that in some places, particularly in eastern Europe, a new tension arose between Holocaust-related claims and those stemming from persecution in the Communist period. But in the Czech case, the constellation at hand brought new tensions to the Czech-German relationship when the Czechoslovak, and then Czech, government refused to recognize the right of German citizens who had been expelled from Czechoslovakia after the war to press claims for compensation. Thus much of the legal surrealism Goschler cites was produced by the imbrication of two transitional periods, that of postsocialism and that of postfascism, when categories of citizens – and their relationship to the reconsolidating state – were up in the air. In the postfascist puzzle of recombinant interwar liberalism, rising anti-German Slavic nationalism, and incipient authoritarian communism, a legal order coalesced as the scaffold for a sovereignty staked on the purification and excision of the Czech polity. In that process, Nazi persecutees returning from concentration camp attained a status partly as the ratifying voice of this legal order, a process intertwined with the establishment of their eligibility for reparations. Thus reparability and sovereignty, law and identity, are twinned in a way that reemerges in the postsocialist period as the legal order that is to reintroduce liberalism reinterpret how the polity will be governed in the wake of Communism.

Legal scholarship and the Holocaust

A series of recent studies by historians and legal theorists in Holocaust studies has traced the evolution of our collective consciousness of the Holocaust to metamorphoses in the domains of law and justice. As perpetrators were called to account in the courtroom
– from the trials of the so-called major war criminals in Nuremberg in the 1940s via the Eichmann trial in 1961 on to the recent conviction of one of their many low-level collaborators, John Demjanjuk – the event in question has been transformed, as one observer notes, from the Final Solution into the Holocaust.\(^{214}\)

The issue of sovereignty was, as Lawrence Douglas points out, front and center in the initial legal response to what we now call the Holocaust.\(^{215}\) In his work on the shift in jurisprudential paradigm from the International Military Tribunal (IMT) at Nuremberg in the immediate aftermath of World War II through the Eichmann trial in 1961 to the various international tribunals set up in the wake of more recent genocides, Douglas notes that the original premise of the prosecution in Nuremberg was the violation of sovereignty.\(^{216}\) The IMT proceedings, he argues, were characterized by an “aggressive war paradigm” designed to address violations of sovereignty, for which the prosecutors had copious documentation from the Nazi state itself. In this paradigm, the charge of genocide was subordinate to the charges of war crimes and crimes against humanity, themselves subordinate to violations of sovereignty, manifest in the charge of crimes

\(^{214}\) Lawrence Douglas, “From IMT to Eichmann: The Emergence of a Jurisprudence of Atrocity” (lecture presented at the “The Eichmann Trial in International Perspective” conference sponsored by the United States Holocaust Memorial Museum and the Topography of Terror Foundation, Berlin, Germany, May 25, 2011).

\(^{215}\) The term Holocaust does not come into widespread use until the late 1970s, whereupon it comes to systematize a series of events that had previously been referred to under a raft of headings, from, among others, the Yiddish term Khurban (destruction), the Hebrew term Shoah (calamity), Nazi persecution, destruction, as well as the Final Solution.

against peace. The genocidal aspect of the war – what we now call the Holocaust – was eclipsed in a jurisprudence struggling to encompass perpetrators of events for which it had had no prior prohibition or deterrent.

The dearth of victims of Nazi genocide in the witness pool in Nuremberg, a reflection of this state of affairs, is often read as a silencing of the Holocaust. As Annette Wieviorka notes, the Yiddish-speaking poet Abraham Sutzkever, the only witness to give testimony specifically on the destruction of the European Jewry at the IMT, is usually taken as the figure of the elision of victims in Nuremberg. His desire to testify in Yiddish – “I want to speak in Yiddish, any other language is out of the question,” he wrote in his diary – was thwarted; no translator was made available, and he gave his account of the mass execution of the Jewish population of Vilnius in halting Russian.

Douglas, “From IMT to Eichmann.”


By contrast, the Jerusalem trial of Adolf Eichmann, the SS officer in charge of coordinating the transportation of European Jews to killing centers, featured almost one hundred former camp internees, as well as the charge of “crimes against the Jewish people.” The trial was foundational in establishing both a discrete narrative of events that we now call the Holocaust, as well as the authority of their eyewitnesses and intended victims in recounting how these events unfolded. Wieviorka argues that the trial, which was widely broadcast on the television and radio, inaugurated an “era of the witness” characterized by an “explosion of testimony” about the Nazi genocide, and the concomitant emergence of the witness as a social figure in Western public spheres.\textsuperscript{221} Douglas, in turn, argues that the Eichmann trial marked a shift from the aggressive war paradigm to a “jurisprudence of atrocity,” focused on genocide, reliant on witness and victim testimony, and still regnant in war crimes prosecutions today. The question of sovereignty, he contends, has become “dead letter.”\textsuperscript{222}

We can discern a similar set of dynamics in reparations, which, previous to World War II, were enacted between nation-states. The shift to reparations for individuals, a novelty conceived of by the German-Jewish jurist Nehemiah Robinson during the Holocaust, mirrors in the shift in war-crimes trials to a victim-centered mode of justice that eschews, at least in part, the traditional concerns of sovereignty.\textsuperscript{223} If the atrocity

\textsuperscript{221} Wieviorka, \textit{The Era of Witness}, 140 and passim.

\textsuperscript{222} Douglas, “From IMT to Eichmann.”

paradigm represents a legal innovation, so too did Holocaust reparations. Yet the Czech case suggests that the subordination of genocide – and thus of a full accounting of victims’ experiences – to the prerequisites of sovereignty endures in the subtle mechanics of reparations.

_Reparations East_

The ways reparations unfolded in East and West Germany, Goschler points out, reparations programs underscored “differing models of justice,” reflecting larger questions of the politics of the past and its (dis)continuities with the present. Goschler reads reparations in the West in the “classic” period that preceded the globalization of _Wiedergutmachung_ (Goschler prefers to use the German term for reparations, _Wiedergutmachung_) as history of commensuration in which the “painful political bargaining process which tried to deal with the critical relation of _Schuld_ and _Schulden_ – i.e., ‘guilt’ and ‘debt’”:

The West German Government expected restitution to come to an end at some point. Since the mid-sixties there have been frequent demands for politics to finally turn to the future, and close the door on the past. Paying the bill, from this perspective, was combined with expectations of clearing guilt. This was not accepted on the Jewish side: Money and morals were not to be confused, since there could be no acceptance of a “clean break”. At the same time, the Claims Conference animated German motivations by repeatedly offering them the sought-for “clean break” in exchange for further improvements in the realm of restitution. In the long run, however, this produced deep disturbances, the German side considering these to be “salami tactics.”

---


In the western case, a “strong bilateralism was established in the field of restitution policy,” which was negotiated principally by the West German Federal Ministry of Finance and the Jewish Conference on Material Claims against Germany (the Claims Conference, for short). In terms of claims procedures, the West German process, which handled millions of claims, was markedly bureaucraticized. (So complex was the process that it spawned a journal dedicated to it, *Rechtsprechung zum Wiedergutmachungsrecht* (Jurisprudence on Reparations Law), published from 1949 to 1981.) By the 1980s in the West, the discourse of the “forgotten victims” had firmly taken hold, and the reparations process became an increasingly multilateral endeavor with the involvement of the various organizations spawned by these movements.

In East Germany, the situation unfolded quite differently. In contrast to notion of reparations as the reinstatement of rights that have been compromised that underpinned the Federal Republic’s reparations programs, the German Democratic Republic enacted a logic of reparation via social security. If what the fulcrum of what Goschler calls “compensation west” was a notion of reparation as the reinstatement of rights that have been compromised, “reparations east” pivoted on the way it drew subjects into “a system of paternalistic care and distribution of privileges [that] was typical for the social system of the GDR.”

As such, the GDR’s reparations programs were strictly a domestic affair, extended only to its citizens and governed by a logic of social welfare that in which the Communist state provided benefits to victims of the Nazis living within its borders. The most influential group of persecutees was the Committee of Antifascist Fighters, which,

226 Goschler, “German Compensation to Jewish Nazi Victims,” 389.
Goschler notes, “acted as a powerful lobby for improvements for Nazi victims in the realm of social policy,” and whose members were also spread throughout governmental bodies and the Party.

Where “compensation West” stressed the restoration of damaged rights, including the liberal principle of the right to property, “reparations East” unfolded in the context of the socialist state’s appropriation of property, a state of affairs in which property restitution made no real sense. Nor was there personal compensation in East Germany to individuals, but rather a “paternalistic model … offering privileges to former communist resistance fighters” modeled on accident insurance, with generous provisions particularly in the fields of health care, housing, and pensions. In this system, the amount that went to recipients was determined by pre-war status, thus establishing a difference between resistance fighters, who often came from working class backgrounds, and other victims, primarily Jews, who were more likely to come from the middle class. In response to lobbying from the resistance fighters, who felt disadvantaged in relation to “victims,” the system was reformed, and in the mid-1960s benefits moved from the sphere of social security into pensions, in which was created a two-tiered system that doled out higher accounts to resistance fighters and lower amounts to “victims.”

The East German claims process also demonstrates one of the key differences between Eastern and Western models of reparations. The Stalinist political purges in the 1950s, which excluded groups not amendable to the regime’s theory of fascism, and high levels of Jewish emigration through the 1950s reduced the size of claimant pools. By 1989, the East German state had had somewhere close to 50,000 beneficiaries, of which

---

about 10,000 were still alive and receiving pensions; West Germany, in contrast, had paid out millions of claims, both in and outside the country, by that time. In the GDR’s system, antifascist fighters played an important role in certifying claims, which meant that the process was much more personal and political claimants were held to political standards that had nothing to do per se with their wartime resistance.\(^{228}\) Moreover, antifascist fighters were expected to play a political role beyond participating in the claims process. They were necessary, Goschler points out, to “stabiliz[ing] the GDR’s self-image as the result of the communist resistance against the Nazi regime.” Thus antifascist fighters were expected to serves as regulars on the circuit of classroom visits and public events, a taxing expectation as this group became elderly in the 1970s.\(^{229}\)

The East German case bears many similarities to Czechoslovakia. Reparations in Czechoslovakia were also structured through the social security system as benefits. There, the privileged category of reparations beneficiary was the “Czechoslovak political prisoner,” a category that morphed into “antifascist fighter” in the late 1940s during the Communist Party’s assumption of power. Similarly to their East German counterparts, antifascist fighters were an influential lobby with members in strategic positions in government. And as the East German antifascists fighters were expected to stabilize a vision of the Communist GDR as representative of persecutees of the Nazi regime (and not the inheritor of its perpetrators), liberated Czechoslovak political prisoners acted as

\(^{228}\) East German Jews, Goschler points out, had an easier time qualifying for benefits than resistance fighters, since the former did not have to maintain political conformity to the regime to be eligible for reparations. “The Politics of Restitution,” 12-13.

the classroom lecturer, the wreath-layer, a pedagogical and ceremonial Greek chorus for postwar political projects of the Czechoslovak state.

But here an important difference emerges. Just as the difference in reparations programs in the two Germanys bears the imprint of the politics of the immediate postwar, so too does the Czech case bear the imprint of a postwar landscape in which the antifascist politics political prisoners were called upon to ratify were not, as in the East German case, the claim to innocence as communists, but rather the wider phenomenon of cleansing the state. As Amir Weiner points out, the inclusionary projects – such as reparations – of Eastern European states was twinned with an exclusionary politics of excision.

The Cleansing State

On May 4, 1945, Czechoslovak legal order was restored by executive decree. Rather, it was decreed on July 27, 1945 to have been restored by an announcement by the Ministry of the Interior that the August 1944 decree by the Czech government in exile regarding the future restoration of legal order was in fact in effect, starting almost three months earlier on May 4.230 The labyrinthine and self-referential circuitry of executive decrees through which the Czechoslovak government ruled in exile in London, and then, as the National Front government back on liberated Czechoslovak territory, and that continued until a Parliament was constituted in October of 1945, formed a body of law

---

which acts to this day a whole, often proleptic, temporal exoskeleton imposing some measure of order on the rather chaotic end of the Nazi occupation of the Czech Lands. This restoration (or renewal) of legal order (obnovení právního pořádku) ended what is referred to in Czech law as the “period of unfreedom” (doba nesvobody), which began with the occupation of the Czech part of Czechoslovakia in 1939, spans the period of occupation in which what is today the Czech Republic was the occupied Protectorate of Bohemia and Moravia, and stretched to the Prague Uprising of May 5, 1945.

The idea of decreeing legal order anticipated and warded off the possibility of a legal chaos mirroring events on the ground, as the Nazi state, and the occupation, began to disintegrate. Allied troops were converging on the Nazi-occupied Protectorate of Bohemia and Moravia, the Americans from the West, the Red Army from the East. Death marches from concentration camps had begun crisscrossing the territory in early 1945, leaving a trail of bodies and graves in their wake and bringing the evidence of the mass death of the concentrationary universe into plain view for the Czech public. 231 Slovakia, which had been a Fascist Axis-aligned state for most of the war, had been occupied by Germany since the Slovak National Uprising in August of 1944, and the Wehrmacht, along with Einsatzgruppe unit H and Slovak Hlinka Guards, had swept through central Slovakia to quell the Uprising, massacring Jews, Roma, and partisans.

Legal order, in this context, brings Czechoslovak sovereignty back into its efficacy over the fragmented territory of prewar Czechoslovakia. Specifically, it brought

---

back the liberal-democratic Czechoslovak state, establishing the continuity of the postwar and interwar states. But this state was to be radically transformed by the failures of the liberal political order over the previous ten years, which included the abandonment of Czechoslovakia by its allies in Munich, the dissolution of the country, and the occupation of Bohemia and Moravia by Nazi Germany.\(^{232}\)

In April of 1945, the National Front met in Slovak Košice under the leadership of Beneš, the head of the wartime London government-in-exile. The National Front, reconstituted in Moscow after being split in exile between that city and London, comprised of the Czech and Slovak Communist Parties, the Social Democratic Party, the liberal-nationalist National Socialist Party, and the Catholic People’s Party. From liberation until October of 1945, it governed through a series of decrees that are today collectively known as the Beneš Decrees, though in fact the decrees were usually signed by several members of the coalition. The decrees covered a wide range of issues, from restitution, war crimes trials, expulsion, and the disposition of property. As historians such as David Gerlach and Benjamin Frommer have noted in their work on the expulsion and retribution trials, local actors acquired a significant level of authority within the processes that ‘renewed’ the legal order.\(^{233}\)

The conventional division of postwar politics into a communist camp that took its orders from Moscow and a democratic camp that stood in opposition is troubled by the willingness with which both embraced the vigilantism that overtook the country.

\(^{232}\) Janáček, “Němci a němectví.”

Although the Front comprised a variety of parties and interests, it was united in the view that the state needed to be cleansed. Calls for retaliation against Czechoslovak Germans came from a range of political quarters, from pre-war statesman and Third-Republic president Edvard Beneš to Communist Party leader Klement Gottwald, who would become president in the Communist assumption of power in 1948.

The government-in-exile in London also called for removal from public functions all “citizens of enemy states and individuals who … collaborated … [or] betrayed the Czechoslovak Republic,” as well as for their detention, but did not further specify who was to be detained, nor how. In the resulting free-for-all, arrest became a mass phenomena undertaking by members of the police, the army, Revolutionary Guards, and other self-appointed authorities. The chaotic situation of the immediate postwar period was further complicated by the decision of the Czech exile government to enact a widespread reform of local administration, devolving decision-making power to národní výbor (national committees), whose members were restricted to “reliable” Slavs.

---

234 Frommer, National Cleansing, 61.

235 Frommer, National Cleansing, 42-3.


237 Frommer, National Cleansing, 45-6.
Legal order also, it becomes clear as the decrees continue, reflects a preoccupation with a new categorical order, with the production of a new taxonomy of citizens and non-citizens of the Czechoslovak state. In the new order, some of those citizens – namely, German-speaking Czechoslovak citizens – were stripped of their citizenship, and with a limited exemption for those who could prove their antifascist credentials, their property was expropriated and over the course of the next few years, they were expelled from the country, deported primarily to occupied Germany. Undertaken on the premise of a collective German guilt, the expulsion (vyhnání) radically transformed the demographics of Czechoslovakia. Almost three million people, one third of the prewar population, were deported to U.S.- and Soviet-occupied Germany. Following on the heels of the murder in the Holocaust of the vast majority of Czech Jews and Roma, the near-complete expulsion of the German minority ensured that the Czech Lands were populated almost exclusively by Czechs.

This event is one of the more contentious events of Czechoslovak history, and even its naming – officially referred to a “transfer” (odsun) or “resettlement” (vysídlení), though many refer to it as “expulsion” (vyhnání) – is the source of considerable dispute, and remains one of the defining political projects of the immediate postwar. In his study of postwar retribution in Czechoslovakia, Frommer names the period immediately following liberation (officially celebrated as May 9, the day the Soviet Red Army troops reached Prague) a time of “wild retribution.” “Wild retribution” invokes both its French counterpart, épuration sauvage (wild purification), and the anarchic and vigilante

238 Staněk, Odsun.
beginnings of the expulsion of the Czechoslovak German-speaking population, the *divoký odsun*, or Wild Transfer.

In the Wild Transfer, more than half a million German-speakers were expelled, often violently, to German and Austrian territory in the first months following liberation; by the end of the year, the process had been centralized by the national government, which undertook the so-called “Organized Transfer.” Over the next two years, almost two and a half million more were deported. By 1948, a “strategic reserve” of 250,000 Germans remained, allowed to stay only long enough to teach the Czechoslovak population how to run the factories and businesses that had been expropriated from them. They were, however, soon expelled, making the Czechoslovak “cleansing” the most complete of all of the Eastern European German expulsions.\(^{239}\)

The concomitant, and elaborate, system of retributive justice designed to “cleanse” (*očistit*) the “Czech nation” – identified and tried war criminals and collaborators in so-called People’s Courts and administrative tribunals, which, over the course of four years, adjudicated almost 170,000 cases involving the betrayal of the Czechoslovak state and citizenry, as well as “offenses against national honor,” and “cleansed the nation” of its “alien elements.” In the legal order that established them, the expulsion and the cleansing partook of and enacted a vision of an emerging postfascist polity purged of the internal threat of Germanized difference and its Slavic affines.

Liberated political prisoners (the same people to whom, as I argued in chapter 2, was arrogated the right, and duty, of narrating the experience of Nazi persecution in the setting of the concentration camp) were pulled into both these projects. Former political

prisoners across the country were solicited to continue their struggle against fascism in a coalescing juridical realm in which the rule of law was reconstituting itself. The newly formed Union of Liberated Political Prisoners organized its members to sit on so-called antifascist councils (antifašistický výbory) to adjudicate exemptions from the expulsion process, they ran a “purge commission” that amassed evidence from its members for use in hearings and trials of Czech war criminals and collaborators accused of “offenses against the national honor,” as well an investigative team in Germany that worked with Allied occupation authorities to have suspected war criminals stand trial in Czechoslovakia, and called upon their members to testify in the vast system of People’s Courts and local tribunals. Thus the complement to the literary production of accusation and atrocity to which camp internees were called was a testimonial production in the legal realm.

Thus the reconsolidating legal order endowed former political prisoners with rights, particularly to play a part in defining who would form part of the polity that this legal order would govern—in essence, who would be recognized as Czechoslovak citizen and who would have that recognition revoked, placed outside the protections the state extended to its citizens. As the expulsions gained momentum, former political prisoners were increasingly involved in determining who would be exempt, who among these Germans possessed “antifascist” credentials, who would be allowed to retain Czechoslovak citizenship. In other words, those designated political prisoners played a

240 Frommer, National Cleansing, 111-12, 2-3.

241 For Czechoslovaks identified as German, designation as “antifascist” meant exemption from the set of rules that applied to the German-speaking population. German antifascists could receive the same level of rations as Czechs, did not have to perform forced labor, could keep their
role in determining whom the law would protect, and whom it would expel: who, in Carl Schmitt’s classic formulation of the practice of sovereign power, would be placed in the state of exception beyond the protections of the legal order. They did so by testifying at administrative tribunals and in court cases for or against their German “fellow citizens,” their version of events accorded facticity thanks to their status as Czechoslovak political prisoners.

The case of Max Wölk, which came to the Extraordinary People’s Court of the Czech town of Liberec in 1945, demonstrates how political prisoners were called upon to give testimony about the activities of fellow prisoners in Nazi camps. Wölk requested “financial support” in compensation for his imprisonment in Sachsenhausen from 1939 to 1942, a camp from which he had some sort of documentation. In the process of trying to expedite his request, he visited the secretariat of the Communist Party, which he himself had been a member in the interwar period. On one of his visits, he ran into fellow liberated prisoners, who recognized him as “Kapo Max” from Auschwitz and had him arrested on the spot. The Police Directorate and the local prosecutor turned to the District Investigative Commission (Okresní vyšetřovací komise) to investigate the case and determine whether it should be taken up by the People’s Court. The Commission, in turn, turned to the National Security Corps (Sbor národní bezpečnosti), which had deposed citizenship, and were protected from property expropriation and ultimately expulsion. Imprisonment in the Nazi camp system was not enough to establish antifascist credentials for Germans, even initially those who were Jewish; they had to be verified by their fellow Czech inmates as having “actively participated in the struggle for [Czechoslovakia’s] liberation” (aktivně se zúčastnili boje za její osvobození) to be deemed antifascist. Staněk, Odsun, 140-44.

witnesses in its district, and the National Council. Wölk was arrested in 1945, and the investigation continued through 1947, particularly because the only evidence was from the witnesses who had turned him in. On October 5, 1948, Wölk was convicted and executed. According to the retribution decree under which he was tried and sentenced, Wölk could have been either executed or sentenced to penal servitude. Witnesses from Auschwitz testified that as Kapo Max, Wölk had participated in a “murderous rampage” and that he was an armed escort on a death march.\footnote{Jiří Kozák, “Činnost Mimořádného soudu v Liberci 1945-1948” [Activity of the Extraordinary Court in Liberec, 1945-1948], in Vývoj práva v Československu v letech 1945-1989 [The Development of law in Czechoslovakia in the years 1945-1989] (Prague: Univerzita Karolova, 2004), 580-2, 593-4.}

Who would be taken as a political prisoner, and what rights and duties this status might imply, was not immediately obvious, and equally caught up in a politics of reparation and the reparative stance the Czechoslovak state would take to certain of its citizens, as it expelled others. The Union of Liberated Political Prisoners and their Heirs (SOPV) became one of the main negotiators in this process. The Union was established in May of 1945, and by May of 1947, counted 70,000 former political prisoners in 620 branches as members.\footnote{František Erban, “Druhý sjezd SOPVP” [The second meeting of the SOPVP], Hlas osvobozených, February 19, 1947, 1; Josef Laštuvka, “Jak jsme začínali” [How we began], Hlas osvobozených, December 13, 1945, 1.} The Union worked closely with the government from the beginning, coordinating social assistance for returnees from camps.

In 1948, following the Communist Party’s February assumption of power, the Union merged with the Union of National Revolution (Svaz národní revoluce) and absorbed several smaller groups such as the Federation of the National Resistance
(Sdružení národního odboje), the Federation of Czech Partisans (Sdružení českých partyzánů), and the Federation of Participants in the Prague Uprising (Sdružení účastníků Pražského povstání) to become the Czechoslovak Union of Antifascist Fighters (Československý svaz protifašistických bojovníků, hereafter ČSSPB), which in turn became a member of the National Front. This consolidation marked the ascension of the Communist Party members, who had been dominant in the Union’s governance from the beginning, but its origins, its officers routinely stressed in the mid-1940s, were politically “impartial,” impelled by the need to provide for the most basic needs of camps returnees.

Czechoslovak citizens returning from concentration camps were processed through the Department of Repatriation at the Ministry of Social Welfare (Repatriační odbor ministerstva sociální péče). The Repatriation Department coordinated return of liberated concentration camp inmates and their immediate needs in the realm of social assistance, as well as their economic reintegration and the recompense of the damages they incurred. The Union set itself up at the interface for the coordination between the Department and the variety of other groups, such as national and regional committees, local repatriation offices and volunteer social and social-health facilities, and wrote the guidelines for assistance work for all the different entities.

In a radio address shortly after her election to the Provisional National Assembly in October 1945, the National Socialist politician and vice chairperson of the SOPV Milada Horáková invoked this social care mission in her description of the Union’s

---

founding. “From all prisons and concentration camps all over Germany from the prisons in our homeland, tens of thousands of liberated brothers and sisters were returning,” recounted Horáková, who had herself returned from imprisonment in the Small Fortress of Theresienstadt in late May, “the majority without proper footwear, starved to death, exhausted, ill.” Providing them with care, she asserted, was the “social labor” (sociální úkoly) foundational to the Union, conjuring the myriad needs to which its members responded:

A friend returned from a camp, dies, and the widow doesn’t have any way to pay for the funeral. The emaciated and unwell were forced to wait in line for hours for a scrap of clothing so that did not have to walk around in convict rags. Where for work, where for treatment, I need a sanatorium, since I have come in for tuberculosis, I need a hospital, what do the rest of you know, what kind of work that was.”

The first type of need that emerged was medical and therapeutic, but soon the question of financial provisions for widows, orphans, and invalids came to the fore, provoking the Union to undertake a count of all the remaining relatives of deceased political prisoners. The Union also advocated for the reintegration of its members into economic life.

---

246 In addition to the time she spent in Theresienstadt, Horáková was also held in several prisons in the Protectorate and in Germany, where she was liberated by the American Army.

247 Milada Horáková, “Sociální úkoly Svazu osvobozených politických vězňů” [The social labor of the Union of Liberated Political Prisoners], Hlas osvobozených, October 25, 1945, 7. (Delivered on the radio on October 19, 1945).

248 Horáková, “Sociální úkoly.”

249 In October of 1945, for example, a reader wrote in to Voice of the Liberated to complain about a portrait of a political prisoner on display on Prague’s Wenceslas Square. The depiction – of a female prisoner in the striped garb of the camp – the reader laments, is “overpainted” and
The problem of the excess of people claiming to be liberated political prisoners arose almost immediately. Persecution at the hands of the Nazis was not enough to qualify people for admission to the Union, as readers’ stories published in the Union’s newspaper, *Voice of the Liberated*, attest. One short piece recounts the attempt, by a man imprisoned for two years for slaughtering two pigs, to apply establish a chapter of the Union, only to be told he should look into starting his own association of pig-killers (*prasečkáři*). “The good man left in a dither,” the author remarks sarcastically, “He could not understand why he could not start a branch [of the Union].”

In another piece, composed as a letter from an applicant (likely a caricature) and entitled “Admit Me Right Away to the Union!,” a branch president ridicules the claims of unworthy potential members. The letter-writer describes how she has been “afflicted” (*postižena*) by the Nazi occupation: denounced for hoarding goods in her shop for Czech customers, her stock was confiscated, which in turn “affected her head.” For this, she requests from the Union “at least partial reparations, machinery and textiles.” The sardonic reply, from a former Dachau inmate, thanks the applicant for her interest in

> “tasteless”: “Behind the woman hovers something winged with crown of thorns, which is about to festoon the sitting woman.” The better tack, she writes, is to help political prisoners reintegrate into society, “help us to get used to one another, let us work wherever we can be best brought to bear (and you will see how we know how to work!), emanate helpfulness at government offices, where so far sometimes we helplessly and powerlessly founder while tending to all the required paperwork, be kind to us, sometimes even indulgent and patient, if we a little bit grate on your nerves.” If pictures must be painted, they should be realistic. Envision the woman in “squalor with rags and buckets in their hand, paint women from all camps as they stood or sat at the writing, sewing, factory machines, as they reported for their places in public administration, as they cultivate themselves and learn, hungry and thirsty for culture, so that they quickly catch up on those 5-6 years, but do not paint us truly ever with a crown of thorns!” “Nedělejte z nás panoptikum” [Do not make a panopticon of us], *Hlas osvobozených*, October 18, 1945, 3.

250 “Střepinky” [Fragments], *Hlas osvobozených*, July 20, 1945, 2.
joining the SOPV and the benefits that might therefore accrue to her, but “I cannot, however, full satisfy your curiosity, since I myself became a member only a few weeks after my return from Dachau. After that period, I became the president of a branch so that for several hours a day I can attend to the issues of our members, and that up to now is the only benefit I have derived.” He then describes the ability to work on behalf of others as the benefit, and chastises the letter-writer to have faith that the government will provide the repair she seeks.  

By the fall of 1945, it was clear that the Department of Repatriation was underfunded for its task of compensating damages, and in Coordination Council of Socialist Parties in Repatriation Affairs (Koordinační výbor socialistických stran ve věcech repatriačních) therefore requested the government to develop legal norms that would codify the process of offering social and financial assistance to Nazi persecutees. In response to the number requests from the heirs of deceased political prisoners and those whose health had been damaged for their provision and welfare, the Union’s social commission advocates for “a decent subsistence provision to all who lost their providers and to those who lost their health through Nazi persecution [and as] the guarantee of these rights, an appropriation in the regular state budget.”

The Union also lobbied for legal codification of the status of political prisoners. The first law to address the benefits they could receive as a result of their persecution was a

---

251 “Přijměte mne honem do Svazu!“ [Accept me quickly into the Union!], *Hlas osvobozených*, September 7, 1945, 4.

presidential decree from 1945 that provided for payments from state funds for people who suffered property damages in the war.\textsuperscript{253} Call for legal definitions of persecutees from various quarters led to the passage of Law 136/1946 on the placement and other provisions for participants in the national struggle for liberation,\textsuperscript{254} which further specified the benefits and the conditions under which the state would provide for Nazi persecutees, including some guaranteed positions in state administration, as well privileges in the redistribution of property and other social benefits.\textsuperscript{255} The original definitions that emerged here to codify eligibility had started with the Ministry of Defense, which gave pride of place to the participants in the “national struggle” (\textit{národní odboj}) to soldiers who joined Allied troops, partisans, and other members of the domestic resistance.\textsuperscript{256}

This law, however, did not address all concerns, and as one Union member noted in the \textit{Voice of the Liberated}, “Our care for victims of Nazi persecution undeniably suffers fractionalism and incoherence.”\textsuperscript{257} The exclusions implied by Law 136/1946 in the definitions of eligibility for reparations – in particular, that of camp internees – thus


\textsuperscript{254} Zákon č. 136 z roku 1946 Sb. o umisťování a jiném zaopatření účastníků národního boje za osvobození.

\textsuperscript{255} Sedlák, “Poté,” 104-5.

\textsuperscript{256} Sedlák, “Poté,” 105.

\textsuperscript{257} František Novohradský, “Naše sociální potřeby” [Our social needs], \textit{Hlas osvobozených}, February 22, 1946, 2.
prompted other groups to enter the fray, including Parliament, several ministries, and the Union. A group comprised of several camp internees in the Parliament, one of whom would later be head of the Union, initiated the amendment of the law that equalized the categories of domestic and foreign participants in the liberation struggle. Negotiating an amendment to Law 136/1946, one parliamentarian and Union member from the National Socialist party pointed out that the shortcomings of the categories became very quickly obvious in practice, and that the exclusion of former political prisoners was an “act of injustice” (aktem nespravedlnosti).  

The Union originally advocated dividing this pool of returnees into three groups, and according them different levels of reparations. The first were to be “those who could demonstrate active resistance or political activities aimed directly the occupiers or their henchmen.” The second category was to be individuals imprisoned for democratic and antifascists opinions, and the third, the racially persecuted. By the summer of 1946, the Union had changed tack and abandoned the idea of differential rights for different categories of persecution.  

The Ministry of Justice, though, objected to any exclusion or derogation of people who had been persecuted for racial reasons. On the one hand, the Ministry felt that the category in Law 136/1946 was too broad, while at the same time arguing that it should


260 Sedlák, “Poté,” 106.
include reference to people persecuted for racial reasons. The Ministry of the Interior concurred, and in a circular from September 13, 1946, clarified its position on who fit into what category, in the context of the expulsions. They noted that Nazism’s “first blow” in Czechoslovakia had been against the “so-called Jews” (proti t.zv. “židům”), the second against Czechs and Slovaks. “The Czech and Slovak nation,” the Ministry continued, “rejects the racial differentiation of these wretched victims of Nazi persecution from other national members (od ostatních národních příslušníků) who survived the horrors of concentration torture chambers and repudiates every discrimination in respect to family origin, religious confession, and maternal language.”

The Ministry of Justice thus proposed Law 255/1946, which contained further specifications for who would qualify in a category the law referred to as “Czechoslovak political prisoner.”

In the parliamentary debates over the law, National-Socialist parliamentarian, Alois Neuman, himself liberated from Buchenwald and a Union member, recounted a trip to Belgium to represent the Parliament’s social-political committee at the meeting of the International Union of Former Political Prisoners. The Czechoslovak conditions for benefits, Neuman noted approvingly, “much more stringent” than the Belgians; where the latter required a 30-day internment, the former required three months. He went on to explain the Belgian criteria for status as a political prisoner, which included the condition

---

261 Several other governmental authorities weighed in, including the Ministry of Engineering and the Ministry of Industry, which were opposed to the expansion of eligibility to include the racially persecuted (Sedlak, “Poté,” 106).

262 My translation. Letter from the Ministry of the Interior to the Union of Liberated Political Prisoners, September 13, 1946, SPB archives, ka/20, Narodní National Archives of the Czech Republic.
that person in question have been considered a “political enemy” by the Nazi occupiers, and that the person behaved “with dignity” (*důstojně*) for the period of occupation.

After a review of the various amounts the Belgian government awarded political prisoners in their reparatory pensions (*odškodňovací důchody*) based on the length of their internment (which started at 1,500 Belgian francs each month per month of internment, with higher benefits for internees who were imprisoned longer than six months, as well as free medical care), Neuman lamented that the state’s financial resources required it to offer a lesser amount than Belgium. He pointed out that a preliminary count of liberated political prisoners in the country (which had been undertaken by the Union) revealed there to be between 80,000 and 90,000, though Neuman thought the number will be lower with the restriction of criteria defining political prisoners.

By the time Law 255/1946 was passed, political prisoners and the racially persecuted had been put on the same footing, all under one heading as “Czechoslovak political prisoner.” The primacy of the concentration camp experience is evident in the parameters the law imposed for political prisoner, defined as a subject of Nazi persecution who had been “restricted in personal freedom (*omezen na osobní svobodě*) through imprisonment, internment, deportation, or otherwise for the antifascist struggle or political activity aimed directly against Nazi or fascist occupiers, their helpers, or traitors to the Czech or Slovak nation.” The reasons for internment could include “political, national, racial, or religious persecution,” as long as “the restriction [of personal freedom] … lasted at least three months,” with exceptions only in the case

---

263 Zákon č. 255 ze dne 19. prosince 1946 Sb. o příslušnících československé armády v zahraničí a o některých jiných účastnících národního boje za osvobození [Law No. 255 on Members of the
that the person in question “suffered damage to health or the body of a serious nature or died as a result of [that] restriction [of personal freedom].” If an applicant for status as a Czech political prisoner could prove his or her experiences fulfilled these conditions during the period of occupation known as “unfreedom” (nesvoboda) – which ended on the date of the Prague Uprising on May 5, 1945 – he or she would receive a certificate known as a 255 from the Ministry of Defense.

Although Neuman enthused that Czechoslovakia was “the first country in Europe where the concept of the liberated political prisoner is delimited in legal form and where misuse of this concept is prosecutable,” Law 255/1946 never fully banished the concerns about people taking advantage of the benefits and rights political prisoner status accorded. In 1947, František Bláha, a parliamentarian who would soon be ascendant in the Communist Party after its assumption of power the following year, complained of “new and new unknown people [who] surface [bringing] bundles of certificates [osvědčení] and … testimonials [svědectví] that these people meant well, that they were “illegally engaged” [illegálně zapojení, meaning in illegal anti-Nazi activity], that they worked “underground” [pod zemí], that they supported the surviving relatives.” One political prisoner (the last member of the Union in his hometown) complained to me that

---


264 Alois Neuman, “Slovo k ustavujícím valným hromadám poboček SOPVP” [A word at the inaugural general assembly of the branches of the SOPVP], Hlas osvobozených, January 11, 1947, 1.

the problem of infiltration of local Union groups – he presumed by the Party – never went away during the Communist period, that new individuals would periodically show up at meetings to join the branch, saying that they had just move to the area, and that they had been in one or another camp. “No one had known them” in the camps, he said, “and their stories didn’t sound right.”

But it did settle the question enough that the Union could turn its focus more solidly to its “ideological labor.” The agenda for the Union’s second nation-wide meeting, held in May of 1947 and attended by representatives of the 70,000 members in its 620 branches, records this shift. Since with Law 164/1946, the Union had “succeeded to satisfactorily resolve the social questions of the surviving relatives, widows and orphans, and also of our members whose suffering in concentration camps decimated their health and through Law No. 255 was delimited the concept of the political prisoner and to abuse this title is [now] criminal,” the Union would now concentrate to the design of its “ideological program,” which “must cement the Union politically in the way that its by-laws cement it organizationally” and overcome the divisiveness that had characterized some branches.266

The description offered by one Union member of what he saw the Union as a vehicle for captures the extent to which liberated political prisoners conceived of their social and ideological labors as points on the same spectrum:

We tend to those who are worse off than we, we investigate the political character of applicants for membership, we cooperate in housing affairs, we try to assert our principles in public life, we seek to sit on people’s courts, so that none of the traitors

evade justice, we have eyes and ears everywhere and we are the guardians of the common interest. 267

This task of acting as the “guardians of the common interest” took many forms beyond testimony in the context of cleansing; the Union’s exhumation commission, for example, in conjunction with local National Councils, excavated all of the mass graves from the death marches that crisscrossed the country during the period of camp evacuations in 1945, organizing autopsies and assigning nationalities to the corpses when possible. 268

The Moravská Ostrava branch of the Union ran a training course for the guards of internment camps for Germans and collaborators who were political prisoners, and the town of České Budějovice had what was described in Voice of Liberated as a “small camp for 700 Germans” lead in part by liberated political prisoners, which, the article noted, was as “it should be … everywhere.” 269

Thus establishing the terms of reparability – in which direct experience of the concentration camp was accorded pride of place – was also an establishment of a taxonomy of citizens critical to the praxis of sovereignty in which the multinational prewar polity would be cleansed, Czechified, and stabilized by liberated political prisoners. In combination with its efforts to promote the genre of concentrationary literature (and its members as the authors thereof), the Union’s strategic involvement in coordinating care for repatriating political prisoners and advocacy around the legal

267 “Přijměte mne honem do Svazu!” 4.

268 Lidová demokracie, 3.IX.1946 MZV-VA 215, aj. J74. By August of 1946, they had exhumed 5,366 bodies from 278 mass graves in 127 communities. Other sources note that the Red Army exhumed close to 4,630 corpses in some 130 mass graves (Třeštík, “Pochody smrti,” 357).

269 “Střepinky,” 2.
codification of the category of political prisoner transformed the figure of Nazi persecutee into someone who has been in a camp or prison, installing the camp experience into law as the “restriction of personal freedom.” Hana’s initial doubts about whether she herself could be considered a victim of Nazism in part reflect this nexus of legal and narrative authority over the experience of the Nazi persecution. As the implicit definition of the experience that allows its pamětníci to arbitrate whom the legal order will treat as citizen, and whom not, the concentration camp thus becomes inextricable from Czech sovereignty.

The importance of Law 255 faded from prominence over time; the expulsions came to a close in the late 1940s, and Eastern European citizens were generally excluded from the waves of reparations programs that began in earnest the 1950s in the West. But following the Velvet Revolution of 1989, and the return to liberal democracy in Czechoslovakia, attempts to extend reparations to new groups of previously marginalized citizens reinstated the importance of the category of political prisoner, as well as the attendant definitions of Nazi persecution – explicit and implicit – that liberated political prisoners had lobbied for in the 1940s.

Reparations in postsocialism

The proliferation of reparations programs since the end of the Cold War has led some observers to theorize them as one of the hallmarks of a post-Cold War geopolitical configuration in which citizens, past victims of “historical injustice,” have acquired a voice that the states that have wronged them must acknowledge and compensate. History, in these formulations, is plural, submerged, mutable, unmoored, and thus subject
to political contestation; it is figured as surplus, as excess, and reparations in turn as the means through which its antinomies reconciled. That is to say, reparations programs generally imply twinned acts of recognition: recognition of claimants’ status as victims and of the historicity of the historical injustice through which they became victims.

The main reparations law passed in the Czech Republic in 1994, Law Number 217 on the Provision of One-Time Financial Sums to Certain Victims of Nazi Persecution,\(^{270}\) recognized the excess of history in its preamble, which stated the impossibility of fully addressing all of the past suffering it was meant to cover. The bill proposing the law observed that the Czech Republic was “one of the last countries whose citizen afflicted by Nazi persecution had not yet been repaired (odškodněni) in the sense of international law,” and recalled the state’s attempts over the years to claim reparations from Germany, which failed even after the normalization of relations between Czechoslovakia and the Federal Republic in 1973. The proposal explicitly leaves open the future payment of reparations “according to valid international legal obligations,” so that its payment of reparations could not be construed as foreclosing the eligibility of Czech citizens in future programs.\(^{271}\)

The law was a reaction to the postponement of the question of reparations in the bilateral agreement on the Czechoslovak-German relationship, called the Treaty on Good

\(^{270}\) Zákon č. 217, Part 67, 2112-2113.

Neighborliness and Friendly Cooperation, was signed in 1992. The negotiations were later described as a battle on both sides with the “ghosts of the past” (strašáky minulosti). The treaty postponed the question of restitution of property expropriated from the expellees, the recognition of which was tied in Germany to question of reparations for the victims of Nazism. Because Czechoslovakia, and then the Czech Republic, refused to recognize the right of the Sudeten Germans to file claims, Czechs in turn were not allowed to apply for the first wave of money that the newly unified Germany offered Holocaust survivors in eastern European countries where German reparations had been largely absent. The Czech state as a result set up its own reparations program, to be paid out of its coffers, to those Czech citizens who would otherwise be able to apply from reparations from Germany.

Representing the government in the parliamentary discussions about the proposed law, the Minister of Justice echoed the concerns of the parliamentarian in 1946 who bemoaned the inability of the state to provide full reparations at levels commensurate with the sacrifice of those they addressed. The government therefore proposed that the category of eligible claimants be primarily restricted in accordance with Law 255, so that the reparations would constitute a “humanitarian gesture toward those citizens who were extraordinarily significantly afflicted by Nazi persecution.”

---


274 “[H]umanitární gesto vůči těm občanům, kteří byli nacistickou perzekucí postiženi mimořádně citelně,” Jiří Novák, Minister of Justice, in Parliament, 24th meeting stenoprotokol, Stenografický
The inability of the law to address what its preamble called “the inexpiable historical injustice caused to the victims of Nazi persecution” was brought most visibly to the fore when applicants for reparations under Law 217 found that they had to establish their eligibility via Law 255. The discrepancies between the benefits Law 217 held out, and the restrictions Law 255 imposed produced a series of court cases pursued by disaffected claimants whose status as victims of Nazism did not quite fit into the parameters laid out in 1946.

Over the next decade and a half, a series of cases filtered up through the court system to the recently re-established Constitutional Court.\footnote{The Czech Constitutional Court came back into being in 1994, following a period of instability in the judicial system in the wake of the Velvet Revolution. A review committee evaluated judges and state prosecutors for their collaboration with the Communist state (Borneman, \textit{Settling Accounts}, 151-2), and eventually 90 per cent of the judges that underwent the process (many left the bench voluntarily for the private sector at this time) were approved to continue in their positions.} One of the first acts of the Court had been to ratify the continuing validity of the Benes Decrees, in the face of considerable pressure from Germany to abolish them. In these cases, the Czech Constitutional Court found itself adjudicating a range of issues, from the definition of concentration camp to how to interpret the intent of the Nazi regime to persecute someone, all within the confines of a question about the definition of a political prisoner. In the opinions, the judges had to reaffirm repeatedly that the idea behind the law was not to settle all claims arising from Nazi persecution, which, it held, remained an open question that could be addressed by international reparations programs. Rather, the law
was meant as a “humanitarian gesture” (*humanitární gesto*), one that did not foreclose future reparatory projects. One common basis for claims was the “inequality” (*nerovnost*) among citizens, forbidden by the Charter of Fundamental Rights and Basic Freedoms (*Listina základních práv a svobod*) from 1991, that the discrepancy in the two laws created. This was adjudicated in one of the earliest cases with the result that the Court declined to rewrite the laws in question, and so the discrepancy continued to generate claims, particularly when the circumstances of the case held out the possibility that they might override the temporal restrictions on political prisoner status.

In the first set of cases, the question at stake was the definition of concentration camp. For although Law 217 accorded reparations to family members of individuals who died in “in custody, prisons, concentration and internment camps” (*ve vyšetřovací vazbě, vězeních, koncentračních a internačních táborech*), it does not define the camp. Rather, Law 217 refers to Law 255’s definition of a political prisoner to set the terms of who qualified as having died in camp. But neither law explicitly defines a camp, which meant that claims were thus dependent on the implicit definition of camp in Law 255. And since that definition was, in turn, dependent on the stories of camps told by returnees in the 1940s, claimants advocated for their right to reparations by arguing that the individual story of their relative’s camp experience fit what was logically the story of the camp.

---

276 The full text of the Charter, enacted as part of the constitutional order (*ústavní pořádek*) of Czechoslovakia (and thus of its successor states), can be found on-line in Czech at http://www.psp.cz/docs/laws/listina.html, and in its official English translation at http://angl.concourt.cz/angl_verze/rights.php. As it stakes its authority on the theory of natural law, the tenets of the Charter are considered inviolable by lawmaking.
One of the first cases, Pl.ÚS 23/96 on the Conditions for reparations for political prisoners and other victims of Nazi persecution, challenged the temporal horizon of Law 255, which M. Š. petitioned the Court to revoke after the Social Security Administration turned down her reparations claim as the surviving widow of A. Š., who reportedly had been shot and killed during a camp evacuation on April 25, 1945, according to the testimony of a woman whose father had been a fellow prisoner. Documentation from the International Red Cross, however, dated his death to May 8, 1945. The Court took the former as definitive, and determined that although A. Š. had been a political prisoner through May 4, 1945, he could not have died as such on the later date, thus rendering his widow ineligible for reparations. In her case, the complainant argued that a liberated concentration camp remains nonetheless a concentration camp, and her husband’s presence there did not, on account of liberation, become voluntary. The only change that came with liberation, she contended, was that “death from the side of [his] captors no longer threatened [her husband] and that he was kindly treated – though this was not sufficient for survival. It is therefore absurd to say that a person who died in a concentration camp after May 5, 1945 did not actually die in a concentration camp.”

Because Law 217 provided reparations for surviving spouses of individuals who died “in custody, prisons, concentration and internment camps” (ve vyšetřovací vazbě, vězeních, koncentračních a internačních táborech), which the court accepted that she was, the denial of her claim, argued M. Š., created an inequality among these survivors that contravened the Charter of Basic Rights and Freedoms.

The clause that refers to the concentration camp does not set the time limits on status as political prisoners; that is established in a separate clause of the law that requires
the internee to fulfill the conditions for status as political prisoner established in Law 255. Law 255, in turn, limits the timeframe in which one can be a political prisoner to a period that ends in May 4, 1945. Law 255, however, does not impose such limits on the existence of concentration camps as such.

The Court requested an opinion from Parliament, which noted in its reply that the law was written with the knowledge that it would not manage to address all worthy cases of Nazi persecution. In this particular case, its opinion was that M. Š. did qualify for reparations, given that her husband had been a political prisoner, and had died in a camp. Given that the law did not define a concentration camp or set a date after which they ceased to exist, the overriding consideration should be whether prisoners could leave the camp freely. Moreover, the Parliament argued, since this consideration could be assessed in each particular case, the law did not need to be rewritten to mitigate this possibility.

The Court, in turn, agreed with the Parliament regarding the question of the camp:

The idea that one would lose his status as an afflicted citizen precisely through the extension of his internment beyond the limit of May 4, 1945 is absurd and contradicts the sense of the law … If the law does not provide for a concept of concentration camp, or for a period of existence of concentration camps, there is no legal basis for an interpretation according to which a concentration camp could no longer exist after May 5, 1945 and the freedom of the prisoner after this date can no longer be restricted.

But the Court also declined to change the law, and called for an “inclination away” (odklon) from strict interpretations that would disqualify claimants such as M. Š. from reparations.²⁷⁷

In a second, similar case, J. Z., filed a suit after her claim for reparations on the basis of her father’s death was turned down. He died on May 12, 1945 in a hospital where he was taken following a more than five-year internment in a concentration camp, as well as a death march following the camp’s evacuation. The claimant disputed her exclusion from the claimant group on the grounds that he had not died in custody, but following his liberation by Allied troops. Law 217, she contended, was not written in consultation with historians, and therefore “could not be optimal.” Furthermore, the legislators who passed it “did not demonstrate any ‘feeling’ for historical reality” (neprojevil "cit" pro historickou realitu).

In the opinion the Court solicited from Parliament, the legislators pointed out that the law was meant to “express compassion for the citizens of the [Czech] state” (vyjádřit soucitění s občany tohoto státu), not to fulfill international legal obligations requiring the constitution of citizens’ claimant group based on wrongs committed by that state (which, though the decision does not note explicitly, were not committed by the Czech state). This, the Parliament goes on to note, is one reason the law leaves open a space for Czech citizens to make claims in other international reparations programs. Ultimately, the Court declined the claimant’s petition.\(^{278}\)

The Court again turned to the definition of a concentration camp in a decision overturning a lower court’s judgment in the case of Z. V., whose reparations claim was turned down because his father, J. V., died on May 12, 1945. J. V. had been qualified by the Ministry of Defense as a Czechoslovak political prisoner in 1948, three years after his

death in one of the U.S. Army's Evacuation Hospitals in the Dachau camp. His son argued that it was not his fault that died in period when Nazis no longer ran the camp, and therefore he should be eligible to claim reparations as the orphan of an individual who died in a concentration camp, according to the sense of the law. Citing its previous decision in PLÚS 23/96, the Constitutional Court held that the lower court should have taken a “more advantageous view” (vhodnější náhled) of the issue, and deemed the view of the lower court, which turned down the claim on the grounds that the camp was not under German administration at the time of J. V.’s death, to be irrelevant.

“The concept of the concentration camp is not possible to naturally understand,” the decision reads, “only the object (building) as such, but the actual situation of the afflicted individual, who cannot for practical reasons leave the concentration camp and dies within it.” It goes on to affirm that concentration camps, and their period of existence, are not defined by law. To make the point, the Court uses itself as a comparison, noting that in everyday language that “court” can refer to “state authority or to the building in which the authority is located.” Such a reference in legal language, by contrast, always has “in mind the authority (the institution, the legal entity), not the building in which the authority is located;” it cannot, therefore, be assumed to refer to the building of the camp itself. Siding with the complainant, the Court vacated the lower court’s decision.279

Other cases, in turn, echoed the debates from the immediate postwar about the nature of the activity or reason for which someone was interned, and whether certain

categories of offenses could qualify as antifascist struggle or anti-Nazi political activity. In one case, a woman argued before the court that she should receive reparations under Law 217 for her father’s imprisonment, for which he had never received reparations because he had been arrested by the Criminal Police for black-market profiteering and deemed a “career criminal.” The complainant held that the charge of profiteering against her father was a pretext for his persecution, which in reality took place because of his resistance activities. The court ruled against her claim, pointing out that the only evidence available concretely pointed to her father’s arrest for overpricing fruit and butter, and black market dealings of bicycles and cigarettes. Absent any countervailing evidence that her father had in fact been involved in resistance activities, she was deemed ineligible for reparations.\footnote{I.ÚS 438/01, Vojen Güttler (Ústavní soud 2001), http://nalus.usoud.cz.}

In another case, a complainant requested reparations for the time she spent in hiding to elude deportation for racial reasons to a concentration camp. Her father, she stated, was Jewish and had been interned in Theresienstadt, where she was to be sent once she reached the age of three. The family with which her parents hid her could not let her out of the house, since she was subject to all the restrictions affecting Jews at the time, and could not get ration coupons for her. She could not see other children. Thus even given the care the family hiding her provided, she argued, she was “hidden in humanly completely undignified conditions.” She also contracted meningitis, which she barely survived and suffers the effects of to the present. In making her claim to the Social Security Administration, she appended proof from the Council of the Prague Jewish
Community that her father had been imprisoned in Theresienstadt as a Jew, as well as a copy of her request to the Ministry of Defense for a 255 certificate.

She was subsequently turned down by the Ministry for a 255 on the grounds that hiding could not be “qualitatively or quantitatively comparable” to the intent of Law 255, which understood the restriction of personal freedom to be caused by the “Nazi persecutory apparatus” through imprisonment or internment. The issue at stake with the 255, the Court agreed, was whether the restriction of personal freedom was result of “fundamental intervention in personal freedom related to the exercise of the Nazi and fascist regime’s despotism.” The claimant countered that her hiding had been actuated by the Nazi persecutory apparatus, and that as the daughter of a Jewish victim, she too would have been interned had she not hidden. Though sympathetic to the claimant, the Court denied her claim, noting that “even if it is tried by the effort to temper the impact of the law on cases that are worthy cases, it cannot exceed the limits fixed by law, without the law conceding such a possibility.”

In the most detailed decision the Court wrote on the question of the limits of the category of political prisoner, the question of the category’s relation to history, and historicity emerges most plainly. The suit, filed by Ladislav Doležal, went to the Constitutional Court in 1999, which ruled against him. Doležal had applied to an earlier reparations program, one that compensated surviving relatives of Nazi victims. He was the son of a man who had been captured by a retreating SS unit on May 5, 1945, shortly before liberation but after the date the Czechoslovak legal order was officially restored.

The elder Doležal was executed when his captors discovered his partisan identity card; his body was found later in a mass grave. But to qualify him for reparations, Doležal’s father had to fit the definition of the Czechoslovak political prisoner laid down in Law 255, and this, he did not – the persecution of the Czechoslovak political prisoner had to have occurred during the legally defined Nazi period, but the elder Doležal had been killed on the first day of the “restored legal order.” The Nazi period had come to an end, and thus Doležal’s father could not legally be a Czechoslovak political prisoner, nor could his son receive a pay-out for his father’s persecution and killing.

The suit Doležal subsequently filed pitted the precepts of the postsocialist rule of law against the governmental decrees that dictated the postwar restoration of legal order. He and his lawyer argued that the time limit should be put aside on the grounds that it generated a conflict with the principles of equality (rovnost) and commensurability (přimeřenost) – akin to the notion of equal protection in the U.S. Constitution – guaranteed by the Charter. Furthermore, Doležal’s suit asserted, “intrinsic historical reality” had given the legislators of the 1946 law no reason for the assignation of the dates in question. The Court’s decision notes that Doležal “emphasized … that though the so-called Third Reich was in its death throes [prožívala svoji agonii] in the beginning days of May 1945, that in the case of murdered victims of Nazism [zavraždených obětí nacizmu] in the days after May 4, 1945 up to liberation, it was not a question of the initiative of some fanatical individual [nejáký fanatický jednotlivec], but rather of the act of an armed component [čin ozbrojené složky] of the Nazi state.”

In making its decision, the Court considered briefs from several interested parties. Some of the arguments emanating from administrative quarters such as the Social
Security Administration were rather prosaic, anticipating a disruptive domino effect through the body of social-welfare law: since political prisoner status conferred particular retirement benefits, for example, the number of pensioners and the amounts of their pension would have to be recalculated. The Ministry of Defense also pointed out that it was “far from prepared” to review and revise the some 300,000 255 certificates they had already issued since 1946, in the event that a court judgment annul part of the original definition used to evaluate eligibility.

But the Ministry was equally concerned with preserving the historico-legal sanctity of Law 255, extending this concern to the intent of its legislators. It pointed out that not everyone who was a victim of Nazi occupation is entitled (má nárok) to certification as a Czechoslovak political prisoner, a “fact” that Law 217 “does not recall” (nepamatuje), and that the 255 certificate was mainly intended for those “citizens who went through Nazi concentration camps and were imprisoned on the grounds of their resistance activities, national, political, racial, or religious persecution.” Opening up the temporal horizons of the law would produce new groups of people who could qualify as political prisoners, and thus for reparations, even though the original law did not have them “in mind” (na mysli). These were not the only problems the Ministry anticipated. The danger in contravening the original intent of the legislators was the disruption it would affect among those who had already been established as political prisoners according to law. Changing the terms of the 255 to produce newly entitled groups of persecutees, the Ministry predicted, would provoke not only “incomprehension” but also “quarrelsomeness” among living Czechoslovak political prisoners.
The Court also consulted Václav Klaus, then president of the parliament, and later president of the country from 2003 to 2013. Klaus argued that Doležal was ineligible for political prisoner status, and staked his case the indefeasibility of the Presidential Decrees. Law 255’s chronological dictate derived, Klaus noted, from the period of “unfreedom” (nesvoboda) established by Presidential decree for the purpose renewing the legal order. This “temporal division of dates” – which begins on the date German troops occupied Bohemia and Moravia on March 15, 1939, and ends the day before the Prague Uprising began – “is a historical fact” (historickou skutečností), wrote Klaus, and as such, he continues, “possesses its own logic and from this perspective is invariable (neměnný).”282 In other words, the legal right to have one’s experience taken as a factual, and reparable, account of history depends, in turn, on a historical fact instituted as such by its inscription in the legal order of the Czechoslovak state. Thus the Court’s argument was two-fold: changing the law would disrupt both a mutually instituting relationship between law and history that obtains in the period of the “renewal of legal order” (and Czechoslovak sovereignty) in the immediate aftermath of the war, and the social and political order that arose in relation to the legal category of the political prisoner.

The implications for Doležal himself were not particularly devastating – he was told that the dates could be waived if he could provide certain documentation of his father’s antifascist activities; a newspaper article on the case ends on an anticlimactic note, with Doležal’s lawyer quoted as saying they had “some sort of documents, so we’ll try again for the reparations pay-out.” Rather, the case is more interesting for the logics

of the arguments put forth: the facticity of history, inextricable from its foundational recording in the body of law that restored order, and the defense of the political prisoner en masse, the need to maintain harmony within its already constituted sociality.

It is interesting to note that within this body of cases, the only claims that received a sympathetic hearing from the Court were those based on narratives of internment in concentration camps. In this set of challenges to Law 255, those are the only cases in which the Court recommends lower courts be lenient in applying the strictures of the law, the only cases in which individual stories of camps might be given more priority than the legal code and the sovereignty it establishes and maintains. As we have seen, this parallels the way in which Law 255 and its definition of the Czechoslovak political prisoner came into being in the first place; the story of the camp is logically prior to it, and underwrites it. The story of the camp, as the Ministry of Defense points out in the Doležal case, it is what Law 255 had “in mind.” And if the sovereignty it established is the limit for – and limitation of – the inclusion of others, particularly minorities, in the pool of people whose accounts of the Holocaust were taken as truthful and reparable, reparations inadvertently reinstantiate the exclusionary logic animating the exercise of postwar sovereign power, locating at the heart of liberal attempts to recognize and tolerate the presence of minorities in the contemporary Czech state.
Chapter 4: “The Law is Such as It Is”

In 1944, following the Slovak National Uprising in August, German troops invaded Slovakia and crushed the partisan movement that had instigated the rebellion. The Wehrmacht cut a swath through central Slovakia – a mountainous, forested region – an Einsatzgruppe unit and Slovak Hlinka Guards trailing in its wake.\textsuperscript{283} As they advanced, partisans, Jews, and Roma scattered. They hid where they could, in the woods in huts or dugouts, foraging for food, conditions deteriorating with the onset of winter. The invaders and their local collaborators “unleashed unprecedented terror,” wrote one eyewitness: they “combed through the woods, meadows, and pastures. If they caught someone suspicious, they often shot him on the spot.”\textsuperscript{284} In these treacherous conditions, soldiers came across a Slovak Romani teenager in hiding. One of them – or perhaps more than one – raped her, and then left her where she had been found.


\textsuperscript{284} Róna, \textit{Osudy z temných časů}, 27.
Sixty years later, along with thousands of others who had lived through this event, the teenager – by then an elderly woman – filed a claim for compensation in a Czech reparations program. The program offered pay-outs (*jednorazovky*) to Roma who had gone into hiding (as the official phraseology translates only awkwardly from Czech) “before the results of the Holocaust” (*před důsledky Holocaustu*).\(^{285}\) And like most of the thousands of other claimants, the woman was turned down, failing at the first step in the program, which required qualifying as a “political prisoner” by terms laid down in 1946 by Law Number 255 on Members of the Czechoslovak Army Abroad and Other Participants in the National Struggle for Liberation.

Over the course of the program, close to 6,500 Roma applied to the office at the Ministry of Defense charged with issuing 255s, as the certificates designating their bearers to be former political prisoners are commonly called. The hurdles in qualifying for a 255 were many: claims forms requested archival documentation, supporting witness testimony, calendrical exactitude on the period of hiding, a retelling of events conforming to a narrative of persecution that lurks in the lapidary terminology of Law 255. Still in force in 2004, Law 255 preserved the original definition of the Czechoslovak political prisoner dating from 1946 as a subject of Nazi persecution who had been “restricted in personal freedom [*omezen na osobní svobodě*] through imprisonment, internment, deportation, or otherwise for the antifascist struggle or political activity aimed directly against Nazi or fascist occupiers, their helpers, or traitors to the Czech or Slovak nation,” on “political, national, racial, or religious” grounds, as long as “the restriction [of

\(^{285}\) The term *před* [before] in Czech has both a temporal and spatial sense.
personal freedom] … lasted at least three months,” with exceptions only in the case that the person in question “suffered damage to health or the body of a serious nature or died as a result of [that] restriction [of personal freedom].” With a 255 in hand, a claimant would be entitled to the pay-out, which would be added to his or her social security benefits. When the process wrapped up about two years later, approximately 250 of the 6,500 applicants had been deemed eligible for the program. In other words, only three percent of the accounts entered into a register the state – which specifically sought to recognize and hear Romani claims – considered audible.

I first heard the story of the rape, the kernel of which never went beyond the sketchy details above, in 2004 in a training session for social workers tasked with assisting Romani survivors of the invasion and occupation of Slovakia who were making reparations claims. As rejections for 255s mounted, Romani field social workers were brought in to assist the often illiterate survivors in filing their paperwork. These social workers had assembled from around the country for this day-long forum at the Ministry of Defense for instruction on the first step in the program – qualifying for Ministry certification as a political prisoner. On paper, the program was oddly generous, given that its target demographic had been persecuted by nationals of other countries: the Czech state was extending reparations to Slovak Roma with Czech citizenship who had gone into hiding after the Uprising. The gesture was initiated by the Czech state not in

---

286 Zákon č. 255, Part 107, 1677-1685.

287 ČTK, “Prezident pobouřil Romy.”
response to any demand lodged by potential recipients but to a demand within the Czech government for strategies to address the so-called Roma Question that has sprung up since the end of Communism.

This turn to a politics of recognition is a marked shift away from state policy following the break-up of Czechoslovakia in the early 1990s, when the vast majority of Roma residing in the Czech Republic found themselves in a legal limbo, deemed by the Czech state to be Slovak citizens, yet unrecognized by the Slovaks as such. Today, as liberalism reconsolidates, the state holds out the promise that Roma – most of whom eventually applied to be and became Czech citizens – can avail themselves of the full range of rights and privileges this status implies. And this reparations program, which promised the assimilation of experiences of Romani suffering at the hands of Slovaks and Germans into a form of Czech political justice, was clearly received among the Roma with whom I worked as a gesture toward this possibility.

The existence of this particular program recognized the generic status of Roma as victims of a historical injustice – they were targets of “the results of the Holocaust” – as well as their contemporary status as Czech citizens, the basis of the state’s invitation to bring their stories into a relationship of reparation. But as is typical in reparations programs, generic status as victim (or citizen) was insufficient to receive the compensation on offer. Status as a claimant required particularity, which here had to fit the definitions laid out in the Czechoslovak legal code by Law 255, and in its execution, the program’s requirements were labyrinthine. To the social workers, the reasons claims were turned down often seemed to be inconsequential and bureaucratic.
In a gesture that replicated the awkward inclusion of Roma into the postsocialist Czech body politic, the lawyer running the training (as well as the reparations program), noted that, “A Rom, like any citizen, can fulfill the conditions of [Law 255].” That most Romani applicants had not, he pointed out, was not personal bias – “I do not,” he insisted, “want to be mean.” But Romani claims were demonstrating “major anomal[ies]” (velká anomálie) of what is known in Czech as papírování – paperwork (literally papering). Requests for 255s were being sent to the wrong address. Some were arriving at the Ministry with requests for money, the distribution of which was actually the responsibility of the Social Security Administration (Správa sociálního zabezpečení). Yet others were arriving with imprecise dates demarcating the period claimants were in hiding, and the law required precision. As the number of requests for 255s mounted, the more mundane anomalies of procedure and address spiraled into questions of narrative and substance, of voice and speech, the very conditions necessary to make a claim.

The social workers’ charge was to rectify these problems, by ensuring uniformity on the level of paperwork, but also by making sure that the narratives survivors appended to their claims fit the 255’s requirements. This task is in keeping with the larger premise of social workers targeted for the Romani community – their goal is to render their clients full citizens by coaxing them into proper communicative alignment with the organs of the state. Many elderly Roma are illiterate, and their social workers are their scribes, specialists in translational transactions meant to render Roma legible to the state (while simultaneously marking difference).

But even if Roma could in theory fulfill the conditions of Law 255, most had not, and the story of the rape, or rather the story of the story’s reception in this program, had
come to exemplify the failures of the program. At the training session, the story of the rape was held up as evidence of the problems Roma had in “fulfilling the conditions” of the law. Its brief arc – hiding, capture, violation – was nested, as analepsis, in a longer account whose culmination prompted no dénouement. The teenager, by then an elderly woman, had recounted her rape in her 255 claim with the assistance of a social worker, and submitted it to the Ministry of Defense. Ministry officials assessed it in relation to the narrative of events that lurks in Law 255 – persecution, restriction, recognition – and found it did not match: the woman, by her own account, had been found. Having been found, her hiding had not lasted a full three months, and, that being the case, she was not eligible for reparations.

Later I would hear the story – the arc by then was an initial interpellation as victim, the excursus of persecution, the almost inevitable refusal – from resigned social workers to buttress their explanations of the futility of making claims at all. In the training session, though, it was inflected by the mounting discontent of the people who noted that, for Roma, the embrace Law 255 offered was one that simultaneously held them at arm’s length. Much of the morning had been given over to a historian’s account of the broad historical sweep of the war and the persecutions that accompanied it. The recitation that followed of the intricacies of Law 255 by the Ministry lawyer who had inherited the job of administering its provisos, though, highlighted the disjunction between the law and the history it was meant to redress. The historian had choked up as he recounted how Roma and Jews were deported to concentration camps. The lawyer, however, had what he described as an “administrative” (uřední) task, and the frustration
level of the social workers rose in inverse proportion to his legalistic explanations of the serpentine provisions of Law 255.

“The law,” declared the Ministry lawyer, “is such as it is” (ten zákon je takový, jaký je), and that, he pointed out, was a mandate for a set of administrative (uřední) decisions regarding the categorization of citizens. What the law did not address, he noted, was suffering (utrpení). Nor did possession of a 255 certificate (itself commonly referred to simply as a 255) make a person a political prisoner. “A person is not [a political prisoner] because he has an official paper, but because he fulfilled the conditions of the law,” explained the lawyer. Nor did the Ministry automatically know who was (or was not) a political prisoner. It could only accord recognition (uznání) to those who had transformed an articulation of suffering into an act that fulfilled legal conditions. This, of course, was the failure of the woman who had detailed her rape as part of her suffering – in the act of telling that story she contravened the conditions of the law.

The social workers petitioned for leeway on behalf of their clients, but in vain: the law’s rules could not be suspended simply because, as was commonly the case, a claimant could not remember the date on which they went into hiding. The heated exchange that ensued – which featured the story of the rape – ended in an exasperated stalemate, the lawyer refusing, except in “extreme cases,” to accept claims with whose periods of hiding could not be calculated to the day. Exact dates were necessary, he remonstrated the social workers in exasperation, “for the accounting department.”

This training was my introduction to the program whose unfolding I was about to witness in the city of Ostrava. Some claimants would take the process in hand, contacting archives and tracking down fellow survivors to give testimony. Others leaned on social
workers to put together their claims, their give-and-take over forms producing a sort of collective authorship. But all grappled to present their experiences within the confines of the offer held out by the Czech state that they too could inhabit a category of privilege, that, like any citizen, their status could elevate them in the social insurance scheme of the welfare state.

In the coda to the allegory of the claim echoes the larger issue of the audibility of Romani claims, and brings us back to the illocutionary domain at stake more generally. The social worker for the claimant refiled her claim, pointing out the exception in Law 255 to the three-month minimum of the restriction of personal freedom if the claimant has suffered damage to her body. Her client, the social worker argued, should qualify on the grounds of the damage to her health as a result of the rape. The response: absent documentation of the rape or of the consequent medical complications, there could be no exception. Thus a paradox surrounds what can be taken as true in this case: the testimony of the claimant could not serve as documentation of a rape – simply saying that it had happened does not make it so. And yet this logic did not extend in reverse; the claimant’s testimony of the rape could serve as documentation of the interruption of hiding, ratifying for the purposes of the law the claimant’s exclusion from the category of political prisoner. A more surreal “legal surrealism,” to return to Constantin Goschler’s commentary on claimants’ experiences with reparations bureaucracies, could likely not be found. As one social worker put it to me after the program had wrapped up, the whole thing had been a phantasmagoria, as if reparations were a magic lantern that raised specters of past suffering, as if their appearance as stories could be commodified,
recognized, and exchanged, only to have the promise of money snatched away along with the optical illusion of inclusion.

On my first day on social work rounds, Jaroslava and I visited a man who had filed a claim, only to receive in the mail another claim form, this one a simplified version that the Ministry had put together after they realized that many of their potential claimants were illiterate. Jaroslava listened to his story, reinterpreted it to match the form, transcribed it and gave him an envelope to send it in. We then visited a house three streets over where the tenant was being evicted by the municipality for non-payment of fines for non-payment of an excessive water bill that had been compounded into her rent. These juxtapositions were typical for Romani social workers, and in fact I came to expect that if we visited an extended family for some or another reason, a grandmother would eventually wander in waving a letter from the Ministry of Defense, asking for advice.

In all, I spent six months in the field with these social workers, accompanying them on their rounds as they helped people file for green cards, or get their children into the school for the deaf, or fight an eviction notice. The great majority of the issues they dealt with traced somehow back to money – to a crushing debt owed either to a landlord or the local moneylender, unpayable in the subsistence economy of state benefits. Roma often seemed to be living suspended between their welfare payment and their debt payment, in, as Czechs say, a “bewitched circle” (začarovaný kruh), in an economy apart. Nor were reparations exempt from this exclusion from the wider economy. As Adam’s wife pointed out to me, one of the major differences between Roma and non-Roma in deciding to pursue reparations claims was that the choice to do so was a luxury not
extended to most Roma. The level of general poverty, she pointed out, was too high to allow for moral reflection about whether they actually wanted to accept such money – they just needed it too badly.

Thus the social workers had dedicated themselves to assisting survivors in filling out the forms. It took a good deal of time during their rounds, since often the claimant was too young to remember much of the event they had to describe. I once watched Adam with a claimant who could not identify the dates she and her family had gone into and came out of hiding, since she had been one or two years old; he patiently explained he could not make up dates for the form for her, but that she needed to tell him what to write down. She pondered this in silence for nearly a half an hour before responding, “Well, I don’t know.” Once it became clear no one would be qualifying for reparations, Lýdia Poláčková, the Romani advisor for the city of Ostrava and the supervisor of the social work program, told me that she had begun to feel that the whole endeavor had become a means of creating social work simply for the sake of work.

The process was a tremendous amount of work for the claimants as well, a point driven home to me by one Zdeněk’s clients, a Mrs. Červeňáková. As I was sitting in the client chair in Zdeněk’s office one day during his office hours, Mrs. Červeňáková swept in, a clutch of papers in hand. Zdeněk had stepped out, and so she sat, with ceremony, in the third chair in the office, where petitioners waited for their turn to consult. We had never met, and with no introduction, she launched into her story. Or rather, she launched into a story about a story, one she had been trying to piece together from fragments from the archives and eyewitness accounts, all to little avail. The past few weeks of her life, she announced, had been consumed by attempts to fill out forms from the Ministry of
Defense, in the hopes of qualifying as a former political prisoner, and a 255 certificate attesting to that status. The forms requested archival documentation supporting her petition, so Mrs. Červeňáková had traveled to the Slovak village where she was born—not a cheap trip, she informed me—and one most of the other Roma also filing for 255s would likely be unable to afford.

When she arrived at the town hall of her hometown, she was told that the village chronicle that might have recorded this event had been lost in a fire in the late 1950s. The staff suggested that she try looking for documentation in the national archives in Bratislava, but she didn’t have the money for that trip, and so she came home to Ostrava and filed anyway. The papers she was brandishing declined her claim—it could not be verified—but, she announced, she would be going to Prague to contest the rejection. “See how nicely I speak?” she demanded, gesturing toward her mouth. When I concurred—my first contribution to the conversation beyond nodding in the five minutes she had been in the office—Mrs. Červeňáková paused, and looked at me as if she were only seeing really for the first time. “And who,” she inquired, “might you be?”

She did speak nicely, at least as far as I could tell, but more telling perhaps was that she immediately took me as someone who could be persuaded on this point, perhaps someone who, by dint of sitting in a social worker’s office, might matter to this process. Someone who could agree that her Czech was unmarked by her Slovak and Gypsy origins, that therein lay its audibility, not just voice but her speech. She even invited me to accompany her to Prague to witness what she hoped would be the defining encounter in which speaking nicely to a Czech bureaucrat would secure reparations for her experiences of persecution as a child.
But most claimants I met did not have as much command over the claims process as Mrs. Červeňáková did. The testimony that form the basis for reparations claims were normally drawn out of the client orally by the social worker, who shaped it to fit the form, retelling the story to the client in terms set down by the Ministry of Defense. Many clients insisted that the social workers record details of their experience that contradicted the official requirements of the reparations program. Others tried to convince the social workers to make up the dates on which they went into hiding for them. The flurry of letters – for claims were constantly sent back multiple times with lengthy explanations of what information they lacked – almost always occasioned another visit with a social worker.

And these visits almost always ended in frustration: if the claimant did not enter the exact dates she went into and came out of hiding, there would be another letter, and if she did fill in a date, there would be another letter explaining that according to archival evidence she had stayed in hiding after her village had been liberated, thus disqualifying her from reparations. Or a letter informing a claimant that, having resubmitted his claim with hiding dates that differed from previous submissions, he was now in danger of a fine for perjury on a sworn statement made to the state. Or a letter would arrive discounting the witness testimony that had been submitted. The social workers became interpretive scribes facilitating what was essentially an epistolary relationship between the Czech state and its Romani citizens.

That this relationship of state to citizen lay at the basis of the program is not strange for the Czech Republic. The first major postsocialist reparations program that took place there – established by Law 217 – came from state coffers, causing one
parliamentarian to lament that the victims would de facto be paying themselves. That is to say, the logic of reparations East, in which social security is the channel for reparations remained partly in place, both in Law 217, and in this program geared for Roma. In this sense, reparations in the Czech Republic do not fit the model that Brunner, Frei, and Goschler propose of a globalization of the western model of repair in which damaged rights are restored. In the Czech Republic, a notion of repair as social welfare – as Goschler puts it in describing reparations in the GDR, as “a system of paternalistic care and distribution of privileges” – and thus of reparations as anchoring a relation between subject and state, endures.

But in remaining in place, this also effected one aspect of reparations that Brunner, Frei, and Goschler identify as key in the “globalization” period, namely, the emergence of new political constellations in reparations projects that draw together different experiences from different periods under the same banner. Though they have in mind claims that persecution by the Nazis and the Soviets must be considered on the same footing (arguments made in various postsocialist countries), this dynamic also takes place the Czech context as reparations law doubles back to the immediate postwar for the criteria that will allow people to make claims.

The mechanism for this – the use of Law 255 to establish the criteria for reparability – is on its face rather innocuous. But the conditions laid out in the law, as I

---

288 Loukota, 24th meeting.

289 “[T]wo contrasting principles of social relations: social security in the East, and restoration of damaged rights in the West.” The latter provided benefits “within the framework of social insurance …[such as] pensions, housing and household goods, medical treatment, and so on.” Goschler, “German Compensation to Jewish Nazi Victims,” 389.
have argued, reflect a wider set of debates over who is reparable and what kinds of claims they can make about Nazi persecution. Goschler points out that reparations East was premised on a different model of justice than Western reparations programs (which he calls Compensation West), and in this case, the difference in the model is not just that of the paternalistic socialist state versus that of the liberal state. Reparations underlined that the Czechoslovak state had supplanted the Nazi state; as became clear in the court cases challenging the strictures of the reparations law, to unwind it too far in the service of expanding the pool of legitimate claimants ran the risk of undoing the legal basis of that act, which existed first in law. This is indeed a different model of justice: it is one that established who would mete out a retributive justice to whom, on whose terms, and on what grounds. The category of Czechoslovak political prisoner enshrined in Law 255 reflects one piece of this, namely, who could provide the grounds for the justice projects of postwar Czechoslovakia.

Had Mrs. Červeňáková taken her trip to Prague, this is the logic she would have encountered – indeed, it was the logic her social workers encountered when they petitioned the Ministry of Defense for leniency in the claims process. When the lawyer running the training session argued that “A person is not [a political prisoner] because he has an official paper, but because he fulfilled the conditions of the law,” he was gesturing toward this larger issue, since fulfilling the conditions of the law at the time it was passed involved taking active part in the cleansing of the state. This was the same logic Ladislav Doležal encountered when he petitioned the courts for a seemingly minor change in the temporal dictates of Law 255 that would allow him to claim reparations for his father’s death at the hands of the SS. Not only would this unwind the legal order (via the effects it
would have had on other laws, particularly the decrees that established Czechoslovak legal order) too far for the stability of the state it scaffolds, said the Constitutional Court but, as the Ministry of Defense argued, it would also disrupt the previously constituted social solidarity of those who had already been recognized as Czechoslovak political prisoners.

It’s worth recalling here that that solidarity was constituted in the cauldron of accusatory culture of the očista, and that the Czechoslovak political prisoner became such in part through participation in the excision of minorities from the polity. This is a very different project than the one the government was pursuing with Roma, which was a project of recognition; the former was its incompatible opposite, the revocation thereof. And this logic would have been very hard to overcome with the act of speaking nicely.

But even without this complication, the program would have been tripped up by its investment in recognition of Romani difference, or rather, a Romani difference that assumes a coherence and general sameness within the category of Romani. Mrs. Nováková’s claim was a case in point. When she came to Zdeněk’s office to tell me about her reparations claim, she had a clandestine air about her, clutching her purse and casting furtive glances over her shoulder. She had declined to have me come to her apartment to talk it over, she explained, because her white husband did not know she was Romani. Nor did their children, and since her children from her first marriage stopped speaking with her once they found out, she had become very careful in the art of self-concealment. And so unlike many of her fellow claimants, who recounted their stories to social workers from the comfort of their living rooms, Mrs. Nováková came to downtown
Ostrava to the Office of the Romani Advisor to tell her story to Zdeněk, who might have been the age of her older son.

Mrs. Nováková was, it turned out, claiming reparations for another act of self-concealment. She was from a nomadic mixed family, and the moment she most clearly remembered as reparations-worthy was the time her German father had to hide her Romani mother under the bed linens in the caravan and hope that the police who had come to call did not wonder too much about his gaggle of children. This incident was the centerpiece of her narrative, which she dictated to Zdeněk, who dutifully appended her account to the bevy of forms he filled out on her behalf and mailed it off to the Czech Ministry of Defense. The Ministry, in turn, evaluated Mrs. Nováková’s claim to see if she were eligible for a 255.

In the end, Mrs. Nováková did not qualify for reparations. There was no other record of this incident, nor of the time later when her mother took her and her siblings and hid in the woods. And although the period they hid, or rather, in the legal lingo of the Czech state, the period when their personal freedom was restricted for reasons of racial persecution may well have lasted the requisite three months, Mrs. Nováková could not give the exact dates she and her family had gone into hiding. Like most of her fellow claimants, she received a letter from the Ministry informing her that her claim had been denied; she was not, in their eyes, a proper Holocaust victim.

Nor, of course, was she properly Romani for the purposes of recognition. A bit like Markéta with her census form, Mrs. Nováková was engaged in an intricate set of interactions with the state around her identity. After we spoke in Zdeněk’s office, and after she had told us that it was impossible to discuss reparations in her home, she
insisted that he and I stop by while on his rounds in her neighborhood. Her husband was home, eating soup in the kitchen, and so we were circumspect and quiet for most of the visit. Mrs. Nováková toured us through the apartment, showing us each piece of china in a display case filled with different patterns (a typical feature in Romani households, Zdeněk’s included), telling us how much each had cost and how much more it was worth today. On the way to the kitchen to meet her husband, she paused to explain a tapestry hanging on the wall depicting the story of the Arabian Nights, another feature that will be familiar to anyone who has spent time in Romani homes. After Mrs. Nováková graciously ushered us out, we stopped on the street to shake our heads; puzzled, Zdeněk asked, “She couldn’t be more Romani, could she?” Later, she dropped by his office to leave me a plastic pink rose as a thank-you gift; all Zdeněk could say was, “typical.”

It did not, however, matter how claimants held up their identities and experiences for the claims process, whether their social worker took the approach of standardizing the clients’ testimony to match the social worker’s perception of what the Ministry of Defense wanted, or whether the social worker conserved the particularity and uniqueness of the story. The more I read of the flurry of letters occasioned by the claims process, the more depressingly similar the content became, for although people were turned down for many reasons, they were almost all turned down.

The letters, from the lawyer who ran the claims process, explained in detailed legalese why the act of hiding in question did not fulfill the criteria for a Ministry-approved act of hiding. The claimant had not submitted exact dates for when he went into and came out of hiding. The claimant’s description of her act of self-concealment was too
general, or if it was too specific, then details in the description suggested the claimant has come out of hiding for a period not in keeping with the law’s definition of hiding, which needed to have lasted three uninterrupted months. Other claimants had not submitted sufficient documentary evidence from the archival body nearest to where the hiding had taken place, or their corroborating witness testimony was not considered credible. Or the claimant claimed to have been in hiding for a period that extended beyond the Red Army’s liberatory sweep through Slovakia; “according to archival sources,” one letter read, “the Slovak village nearest yours was liberated most likely on February 27. Why therefore,” the letter archly inquired, “did you stay in hiding through mid-March?”

That letter crystallized the problems that plagued this reparations program: an overwhelmingly paper-based process aimed at a group of people who can barely read, a demand for a story that has not been told in the official historiography to be verified by that historiography, a requirement that people evidence their attempt to escape being evidenced. One woman called the archives in the Slovak town next to her native village and politely inquired whether anyone there remembered her father, who had always maintained good relations with the local national council. When they said no, she thanked them and hung up, assuming they couldn’t help her, for how could the archive provide archival evidence, she thought, on behalf of someone whose people nobody knew?

What became clear, especially to the social workers, for whom their clients were the age of their parents or grandparents, was that with each letter they were being offered a primer on what constitutes proper citizenship, and the myriad ways they had managed not to practice it. If, as the lawyer pointed out in training, Law 255 was about the categorization of citizens, and, as he said, “A Rom, like any citizen, can fulfill the
conditions of [Law 255],” what might this fulfillment look like today? The category of political prisoner clearly is not constituted only by law, but also by social practice. The Ministry of Defense said as much in its brief for the Doležal case when it warned of “quarrelsome ness” and “incomprehension” that might arise if their ranks were expanded. And in addition to participation in the postwar process of cleansing to which so many political prisoners were called, the continuation of what came to be called their antifascist struggle produced a historiography of Nazi persecution based on their experiences and their testimonial practice. What became clear in the non-fulfillment of the conditions of Law 255 were some of the implicit aspects of the category. Former political prisoners are literate, they have access to the archives, they can produce historiography, and their claims are taken as true.

Requiring this of Roma began to seem less a feature of the inevitable bureaucratization of reparations claims, and more an act of shifting the burden of repair from the grantor of reparations to their putative recipients, for whom the labor of recounting their suffering was increasingly scaffolded by requirements that they perform a labor that commensurates their claims, and their ability to claim, to that of an already constituted figure. As one critic of the program pointed in one of the very few mentions in the press about the process, if the intent was simply to recognize the Romani Holocaust, there are only two conditions that need to be proved: Romani nationality and a date of birth before the end of the war. “A demand to substantiate any other facts (skutečnosti),” she wrote, “is to deny the Romani Holocaust.”

But when I pointed this out to a non-Romani Czech friend, he echoed the suspicion that has long accompanied Romani accounts of the Holocaust: “Yes, but did they really suffer?” To have suffered in a way that is recognizable (and thus compensable) requires this anterior labor of commensuration, of matching oneself to the criteria of Law 255 and the social world they represent. As I have argued, this is a dynamic that Holý and Nečas anticipate in their interpretation of the song “Aušvicate hin baro kher,” which instantiates Romani voice as veracious, and thus transforms it into speech.

In that case, as here, the commensuration comes through making Romani claims relational to the Czech postwar political justice and the accusatory culture that underpinned it. This is labor that they would be hard pressed to do, however, beyond the practical constraints of limited access to archives. If Holý and Nečas’s reading of portends this dynamic, it also points us to a further elision. For “Aušvicate hin baro kher” is a song about the experience of Czech Roma in concentration camps, an experience that was processed through Czech courts in the cleansing period. Though, as Povinelli points out, such acts of commensuration within the dynamics of liberalism are reductive of some aspect of the suffering the minority subject is required to hold up for examination, the operation is still possible. For Roma who primary experience of the Holocaust is not the camp but hiding from killing squads, the possibility of bringing ones experience into the loop are greatly diminished by the fact that they have never been there in the first place.

In a postscript to the program, a dissatisfied Romani claimant from Ostrava, I. P., filed a suit against the Social Security Administration for turning down her reparations
The claimant had originally filed a claim for the time she and her family went into hiding after her father joined a partisan unit early in the war, but was turned down for reparations. She then refiled her claim for the period her family hid on the grounds that being Romani endangered them. In doing so, she gave multiple dates for the period of hiding for which she was claiming, all of which started on dates prior to the presence of German troops in Slovakia, and thus, what the law took to be the period of the Holocaust there. Although the court recognized “the general fact that Roma were persecuted in the Second World War,” it argued that this in and itself was not reason enough to give the claimant reparations without further documentation proving her family had been in hiding. And in evaluating the documentation the claimant submitted, the Court deemed the submission of multiple dates to contribute to the “implausibility of her claim” (nevěrohodnost jejich tvrzení). Nor, they noted, had she submitted convincing documentation regarding the period she had been in hiding; the witness testimony she submitted contradicted the dates she had given in her claims, and the testimony, which asserted that the family hid near a particular village and went there at night to beg, did not establish that the claimant had been hiding uninterruptedly for three full months as required by Law 255.

I.P.’s claim was hampered on many grounds. From a legal standpoint, challenged to Law 255 generally only produced leniency around the strictures of the law when based on narratives of an experience within the concentration camp system. In the attempt to extend the interpretation of “restriction of personal freedom” in the law to hiding, witness

testimony by Roma about going into hiding did not generally succeed in unsettling Law 255’s requirements in the way the cases based on concentration camps did. Nor was simply being Romani grounds for reparation, even though the court and the state recognized it as such: the claimant’s assertion that she had been in hiding before the date of the invasion, in fact, suggested to the Court that there was not, in fact, a racial reason for going into hiding. And here was have come full circle to the same paradoxical set of problems excluding Roma from these reparations: the claim has veracity only in its exclusion from the law, from the narrative of Nazi persecution it was meant to expand, and, finally from the polity that cannot quite overcome the exclusionary terms of its founding in the wake of the war. As if the difference Roma are asked to embody by marking themselves as such in the act of articulating claims can only ever include them by excluding them, as if the “results of the Holocaust,” acknowledged in its general form, will go unrecognized in its particularities.
Conclusion: The Obligation to Receive

In 2004, the International Organization on Migration’s (IOM) Humanitarian and Social Programmes division ran a reparations program for Roma and other under-recognized victims of the Holocaust. The program, which came to Ostrava in the summer of that year, was, unlike the Czech Government program from which many elderly Roma were then waiting for notification on the status of their claims, noticeably free of paperwork. Free of forms, free of letters, free of guidelines, more generally, free of the papírování – literally, the “papering” – that had the social workers at wits’ end.

The IOM had contracted out the program in various countries with local NGOs in the field of humanitarian assistance, and the aid workers from a Czech Catholic charity organization with experience in disaster relief in turn contacted the office of the Romani advisor in Ostrava to request help with the program. The money for the program, run by the IOM’s office of Humanitarian and Social Programmes, came from the German government and the US Courts, and the reparations were meant as an acknowledgement that Roma had somehow not gotten their fair share. The aid workers needed help identifying recipients, and hoped that Romani social workers, including Katka, Vera, Zdenek, and Jaroslava, could gather lists of names of qualifying individuals within the Romani community. These individuals were not claimants, but recipients, for the program dispensed with the usual story-telling aspect of reparations transaction: “[Humanitarian and Social Programmes] assistance,” as the IOM put it, is “based on a person’s membership in a particular victim group rather than on individual proof of persecution,” and was dispensed “in recognition of the suffering endured by all group
members." It was, in fact, the form of recognition that some had sought for the Czech program: if you Romani and old enough, you were a Holocaust survivor and therefore qualified to receive reparations.

When the aid workers arrived to discuss the program, it became clear that the IOM had also dispensed with the other usual side of the reparations trade: instead of money as compensation, recipients would receive two banana crates full of foodstuffs and household items. What they needed to know from the social workers and from Lydia Polackova, the Romani Advisor, was not just whom to recognize, but how. What exactly would Roma want in the boxes? The answer was that Roma would want money, but it was clear that money was not on the table: what if they took it and gambled it away? So Lydia suggested that what elderly Roma want is what many people on the Czech Republic want: cigarettes and alcohol. But these were also deemed impossible because not healthy. So Lydia suggested vouchers to buy medicine. This idea had already been rejected, on the grounds that they too money-like; they could be exchanged for items specifically excluded from the packages, or even sold. Implicit here is the entrenched perception that Roma cannot handle money, that they disperse it into excessive and aneconomic expenditure (gambling, smoking, and drinking), or the contradictory reverse anxiety, that they will become hypercapitalists, establishing a secondary market in which vouchers would be converted into money.

Thus there were limits to the recognition of suffering the IOM was offering, and the real question for the aid workers was, basically, what do Roma eat? Pasta? Lydia had to concede that she couldn’t imagine her Romani grandparents eating pasta. And this is
what the discussion of the terms of recognition boiled down to: a discussion of dried beans, preserved sausages, and Nutella.

Putting together the lists was tricky. There wasn’t enough money to put together packages for all Romani survivors, so the IOM established a cut-off birth date in mid-1939 for eligibility, which occasionally meant that in a married couple, one spouse might get reparations while the other, slightly younger one, would not. Debates broke out over whether certain people, known as money lenders and thus considered to be responsible for a fair amount of financial hardship in their communities, should be on the list, since the contents of the boxes would like be sold, and the money put into the pool used for their extortionate practices. Moreover, the social workers who put together the lists were mostly “normal” Roma. They didn’t know many Olasi, and the ones they did know, they often did not approve of. Once a complete list was compiled, one of them noticed that there was not a single Olach on it, even though there were plenty of elderly Olasi. Finally, they decided that the Ruzicka family of Olasi Roma were generally “decent” people, and their elders added as token Olasi.

Social workers also did not tell clients that they were going to receive reparations, for fear a mass of petitioners would overwhelm their offices. So when aid workers delivered the banana boxes, they arrived unannounced and unanticipated on the doorsteps of the recipients, who were often a little confused. Most had outstanding applications filed in the other reparations program, and wanted to know where the money was. It would be as if you’ve dispatched mwali, you’re expecting soulava, and someone shows up with Nutella. Aid workers insisted that these were separate programs, nothing to do with one another, and they knew nothing about the money. That is, the aid workers
insisted that reparations were not in some general economy of total prestation, in which
reciprocity is constant and obligates all. Here, the only people obligated were those who
had to receive.

The humanitarian aid workers imagined that they were respecting Romani
tradition, Romani social identity, and simultaneously protecting them from their
concomitant, but no less authentic, baser instincts, from their inability to properly
navigate the waters of the contemporary capitalist economy – this is what they recognize
in the act of recognizing Romani suffering in the frame of giving reparations. Jan Lípa
saw things a bit differently – reparations have placed a value on stories, we have
irreparably monetized stories – and that is what he was demanding I recognize. If we
want to enter into this transaction, this exorcism of “all that must be put aside … in order
to be able to trade between friends,” we have to recognize the opposite of what the aid
workers were recognizing: Lípa as calculative, Lípa as the only person in our interaction
who had figured out and asserted the economic logic that attends repair.

It almost goes without saying that we also have to recognize Lípa as
representative of a political division in a community normally taken as whole. In short, I
would take Lípa’s demand for $500 as a demand to shift that burden that recognition
places on the (presumed) minority subject back on to us, as a challenge to our liberality, a
challenge to the liberalism reparations purport to herald. To not acknowledge this
obligation he imposes installs into politics the misrecognitions that lurk in the heart of
social relations.
Bibliography


“Abraham Sutzkever, Yiddish writer & partisan, & Polish underground members testify at Nuremberg Trial,” US Army Signal Corps, Nuremberg, Germany, 02/27/1946, Story RG-60.2842, Tape 2351 U.S. Holocaust Memorial Museum Steven Spielberg Film and Video Archive,


“Bojovníci proti fašismu budou odškodněni” [Fighters against fascism will be repaired], Mladá fronta dnes, October 22, 1999.


Connolly, Kate. “Concrete and Steel to Wall in Gypsies; Czech Elite is Surprised by Brussels Anger at Street Ghetto.” The Guardian. October 16, 1999.


Dekret prezidenta republiky číslo 82/1945 Sb. ze dne 28. září 1945 o zálohách na náhradu za některé válečné škody majetkové [Presidential Decree No. 82/1945 Coll. of 28


Gabal Analysis and Consulting. *Analýza sociálně vyloučených romských lokalit a komunit v České republice a absorpční kapacity subjektů působících v této oblasti* [Analysis of the localities and communities marked by Romani social exclusion in the Czech Republic and of the absorption capacity of actors operating in this field]. Prague: 2006.


Grohová, Johanna. “Náhrada za ukrašené pojistky je v nedohlednu” [Compensation for stolen insurance is nowhere in sight], Mladá fronta dnes, October 4, 1999.


Horáková, Milada. “Sociální úkoly Svazu osvobozených politických vězňů” [The social labor of the Union of Liberated Political Prisoners]. *Hlas osvobozených*, October 25, 1945.


“Konečně řešení na česko-německý způsob [Final Solution the Czech-German way].” *Respekt* 40 (1994).


Kraus, Ota. “Koncentráky třeba do omrzení” [Concentration camps ad nauseam]. Hlas osvobozených, August 28, 1946.


Laštuvka, Josef. “Jak jsme začínali” [How we started]. Hlas osvobozených, December 13, 1945.


Letter from the Ministry of the Interior to the Union of Liberated Political Prisoners, September 13, 1946, SPB archives, ka/20, National Archives of the Czech Republic.


Libor. “Re: Tak aby bylo jasno [Re: So That It’s Clear].” Lidové noviny [on-line], (Diskusní fórum - texty příspěvků ke článku “Vystěhování Romové mají platit za život na chodníku” [Discussion Forum – Texts of Contributions to the Article


Loukota, Milan. 24th meeting (stenoprotokol), Stenografický zápis 24. schůze, November 2, 1994.


“Majetek Židů bude vrácen zákonem” [Property of Jews will be returned by law], Mladá fronta dnes, October 12, 1999.


_____.


_____.


“Řešení otázky slovenských cikánů v letech 1938 – 1945” [The solution to the Slovak Gypsy problem in the years 1938 – 1945], manuscript, and letter, PhDr. Kroupa, Vlastislav. February 25, 1980, Fond ÚV SPB Paměti N45, i.č. 2608, National Archives of the Czech Republic.


“Nedělejte z nás panoptikum” [Do not make a panopticon out of us]. Hlas osvobozených, October 18, 1945.


“Osvobození, pokračujte v osvobození národa od nebezpečí přehnaných stranických bojů” [Liberated, continue in the liberation of the nation from dangerous overblown party struggle]. Lidová demokracie, December 15, 1945, MZV-VA, 214, J7 (57), National Archives of the Czech Republic.

“Otevírací doloţka” [Opening Clauses], agreement between the Czech-German Fund for the Future and the Foundation Remembrance, Responsibility, and Future (Stiftung

_____. “Dohoda o odškodnění byla velké drama [Accord on reparations was big drama],” Mladá Fronta Dnes, July 18, 2000.


“Přijměte mne honem do Svazu!” [Accept me quickly into the Union!]. _Hlas osvobozených_, September 7, 1945.


“Provádíme generální kritiku” [We are implementing a general critique]. _Hlas osvobozených_, February 15, 1946.

“Psychologie terezínského ghetta” [The psychology of the Terezin Ghetto]. _Právo lidu_ June 10, 1947. Ministerstvo zahraniční věcí - Výštřížkový archiv, a.j. j7, National Archives of the Czech Republic.


Sutherland, Anne. “Gypsies, the Hidden Americans.” Society 12, no. 2 (1975): 27-33.


“Totálně nasazení jsou znechucení spory advokátů” [Conscripted laborers are disgusted by lawyers’ dispute]. Lidové noviny, October 8, 1999.


“Vyhláška o platnosti ústavního dekretu prezidenta republiky ze dne 3. srpna 1944, č. 11 Úř. věstníku čs., o obnovení právního pořádku” [Decree on the constitutional validity of the Presidential Decree of 3 August 1944, Official Journal of Czechoslovakia 11, on the restoration of the rule of law], and “Nařízení, jímž se stanoví konec doby nesvobody pro obor předpisů o obnovení právního pořádku” [Regulation that established the end of the period of unfreedom for the regulatory field on the restoration of legal order]. In Sbírka zákonů a nařízení republiky Československé [Collection of laws and regulations of the Czechoslovak


Zákon č. 40/1993, 40/1993 Sb. o nabývání a pozbývání státního občanství České republiky [Law no. 40/1993 on the acquisition and loss of citizenship of the Czech Republic].


Zákon č. 255 ze dne 19. prosince 1946 Sb. o příslušnících československé armády v zahraničí a o některých jiných účastnících národního boje za osvobození [Law No. 255 on Members of the Czechoslovak Army Abroad and Other Participants in
the National Struggle for Liberation]. In Sbírka zákonů a nařízení republiky Československé, 1946, part 107, pp. 1677-1685.

Zákon č. 217 ze dne 2. listopadu 1994 o poskytnutí jednorázové peněžní částky některým obětem nacistické perzekuce [Law no. 217 from November 2, 1994 on the provision of lump-sum payments to certain victims of victims of Nazi persecution]. In Sbírka zákonů České republiky [Collection of laws and regulations of the Czechoslovak Republic], 1994, Part 67, 2112-2113.


_____.”‘The Volk Must Become Father and Mother’: Nationalism, Children, and the Welfare State in the Bohemian Lands, 1900-1918.” MS, 2005.


Archives

Národní archiv České republiky [Czech National Archives]
- Ministerstvo zahraniční věcí - Výstřižkový archiv (MINISTERSTVO ZAHRANIČNÍ VĚCÍ - VÝSTŘIŽKOVÝ ARCHIV ) [Ministry of Foreign Affairs – Clippings Archive]
- Svaz protifašistických bojovníků - ústřední výbor, Praha (1951-1969) [Union of Anti-fascist Fighters – Central Committee, Prague]
- Ústřední výbor Svaz protifašistických bojovníků Paměti N45 [Central Committee of the Union of Anti-fascist Fighters Memoirs N45]

United States Holocaust Memorial Museum
- Alexsander Kulisiewicz collection, RG-55.003
- Lety concentration camp records, RG-04.076M
- Steven Spielberg Film and Video Archive
- Oral History Archives
Appendix 1

Lyrics to “Aušvicate hin baro kher” ("In Auschwitz there is a big prison")
As sung by Margita Makulová in Tony Gatlif’s Latcho Drom

Aušvicate hin baro kher
De odoj bešel mro pirano
Bešel, bešel, gondolinel
Joj pre mande pobisterel

Aušvicate bare bokha
Nane amen nane so chal
De an oda koter maro
Joj o blokaris bibachtalo

Aušvicate hin baro kher
In Auschwitz there is a big prison
De odoj bešel mro pirano
Where my man sits
Bešel, bešel, gondolinel
He sits and sits and thinks
Joj pre mande pobisterel
Oh he is forgetting me

Jaj oda kalo čirikloro
Lidža mange mro liloro
Lidža, lidža mra romňake
Joj o me bešel Aušvicate

Jaj sar me jekhvar khere džava
Le blokaris murdarava
Sar me jekhvar khere džava
Le blokaris murdarava

O black bird
Carry my letter
Carry it, carry it to my woman
I am sitting in Auschwitz

In Auschwitz there is a lot of hunger
There isn’t for us there isn’t anything to eat
Not even a piece of bread
The Blockälteste is evil

Once I go home
I will kill the Blockälteste
When I go home
I will kill the Blockälteste