
Victims on Transitional Justice: Lessons from the Reparation of Human Rights Abuses in the Czech Republic

Author(s): Roman David and Susanne Choi Yuk-ping

Source: *Human Rights Quarterly*, Vol. 27, No. 2 (May, 2005), pp. 392-435

Published by: The Johns Hopkins University Press

Stable URL: <http://www.jstor.org/stable/20069793>

Accessed: 28-04-2016 08:44 UTC

REFERENCES

Linked references are available on JSTOR for this article:

http://www.jstor.org/stable/20069793?seq=1&cid=pdf-reference#references_tab_contents

You may need to log in to JSTOR to access the linked references.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at

<http://about.jstor.org/terms>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.



The Johns Hopkins University Press is collaborating with JSTOR to digitize, preserve and extend access to *Human Rights Quarterly*

Victims on Transitional Justice: Lessons from the Reparation of Human Rights Abuses in the Czech Republic

*Roman David** & *Susanne Choi Yuk-ping***

It is a painful history. It is an ulcer that is not cured. . . . If we do not deal with guilt, the curse remains. The nation is cursed twice, if they do not deal with those killed. Schools, courts, judges. We are the last survivors who cry so.

Antonin Huvar¹

* *Roman David* is an NRF post-doctoral research fellow at the School of Law of the University of the Witwatersrand in Johannesburg, South Africa. He completed his Ph.D. in politics at the Masaryk University in Brno, Czech Republic (1997). He lectured at the Masaryk University and the Charles University in Prague. The survey among former political prisoners in the Czech Republic was designed during his academic visit at Nuffield College, Oxford University (1998–1999). He reviewed draft legislation that served as one of the bases for compensation of Czech ex-political prisoners in 2001. Contact address: Law School, Wits University, Pvt. Bag 3, Wits 2050, South Africa; email: politologie@hotmail.com, davidr@law.wits.ac.za.

** *Susanne Choi Yuk-ping* is an Assistant Professor at the Chinese University of Hong Kong. After finishing her Ph.D. in Sociology at Nuffield College, University of Oxford (2001), she was awarded a post-doctoral research fellowship at the School of Public Health, University of the Witwatersrand (2001–2002). She conducts research on violence and public health. Contact details: Department of Sociology, Chinese University of Hong Kong, New Territories, Hong Kong; email: choiyp@cuhk.edu.hk.

Both authors contributed equally in writing this article. The original title of the article was "Violence and Individual Repair." Some quantitative data for the article were presented under title "What Are the Desired Values? The Evaluation of the Rehabilitation Policy towards Former Political Prisoners in the Czech Republic" at the joint annual meeting of the Law & Society Association and the Canadian LSA in Vancouver, 30 May–1 June 2002. Qualitative sections were presented under the title "Money, Truth and Democratization: Lessons from the Reparation of Human Rights Abuses in the Czech Republic" at the Nineteenth IPSA World Congress in Durban, 29 June–4 July 2003. The paper was submitted to this journal on 24 June 2003.

We are thankful to members of the Confederation of Political Prisoners and the Association of Former Political Prisoners in the Czech Republic for their devoted cooperation in conducting this survey and the publisher Nakladatelství Olomouc for the graphic design and printing the questionnaire. Special thanks go to Dr. Stanislav Drobny and Mr. Stanislav Stransky, the heads of both organizations.

1. Interview with Antonin Huvar, Priest, former political prisoner, Velka Bystrice (Nov. 1999).

ABSTRACT

This article examines major theoretical dilemmas underpinning measures of transitional justice in general and the reparation of victims of human rights violations in particular. It assesses the role of financial compensation, justice, truth-telling, forgiveness, democratization, and other factors that are assumed to heal victims of political violence. In order to test their influence, we conducted a survey of former political prisoners in the Czech Republic. Findings from our regression analyses reveal that reparation is a two-dimensional process that incorporates sociopolitical redress and inner healing. These dimensions correlate positively with financial compensation and democratization; and negatively with public truth telling, the lack of reconciliation, and continued stigmatization by neighbors. At the same time, most proxies of retributive desires are not significantly related to the outcomes of reparation. These associations are interpreted in the light of narrative accounts obtained through interviews, letters, and observations. The results indicate that individual reparation, if it is to be successful, must be an organic part of a broader policy of social reconstruction. Based on our findings, we propose a victim-oriented model of social reconstruction for transitional countries.

I. INTRODUCTION

Claims for reparation for historical injustices stretch across different categories of atrocities, including acts of injustice committed during World War II, acts perpetrated by "state terrorism" in authoritarian Latin America, communist Central and Eastern Europe, and apartheid South Africa, and demands arising from European colonialism. This article focuses on reparation that concerns transitional democracies seeking to redress gross violations of human rights caused by predecessor regimes.

Reparation, in common parlance, refers to financial and material compensation. However, many scholars and practitioners in the field of transitional justice use the term more generally to encompass not just a single act or mechanism but a process that "has the purpose of relieving the suffering of and affording justice to victims by removing or redressing to the extent possible the consequences of the wrongful acts and by preventing and deterring violations."² They use reparation as an umbrella concept that

-
2. Theo van Boven, *Study Concerning the Right to Restitution, Compensation and Rehabilitation for Victims of Gross Violations of Human Rights and Fundamental Freedoms*, excerpted in *TRANSITIONAL JUSTICE VOL. I: HOW EMERGING DEMOCRACIES RECKON WITH FORMER REGIMES* 505, 511, 548 (Neil J. Kritz ed., 1995). This article uses the term "victims," which, in sources quoted, is more common than "survivors." The present study only concerns direct victims. It does not cover the immediate family or dependents of victims, as stipulated by van Boven. *Id.* at 514–15.

includes four components: restitution, compensation, rehabilitation, and satisfaction and guarantees of nonrepetition.³ According to them, all four components should be included in a comprehensive program of redress.⁴ Yet this remains an unattainable goal for most countries because of political constraints imposed by the old elite, budgetary limitations, moral opposition to financial compensation, and uncertainties surrounding the purported needs of victims. International acclaim for the South African Truth and Reconciliation Commission (TRC), which emphasizes truth-telling and reconciliation in the process of healing, has further challenged the fundamentals of traditional thinking on reparation. In particular, the utility of financial compensation and criminal trials have been questioned by some scholars.⁵

-
3. *Revised Set of Basic Principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and Humanitarian Law Prepared by Mr. Theo van Boven Pursuant to Sub-Commission Decision 1995/117*, U.N. ESCOR, Sub-Comm'n on Hum. Rts., 48th Sess., E/CN.4/Sub.2/1996/17 (1996); *The Right to Restitution, Compensation and Rehabilitation for Victims of Grave Violations of Human Rights and Fundamental Freedoms*, C.H.R. Res. No. 2003/34, U.N. ESCOR, Comm'n on Hum. Rts., 57th Sess., U.N. Doc. E/CN.4/2000/62 (2003). See also PRISCILLA HAYNER, UNSPEAKABLE TRUTHS: CONFRONTING STATE TERROR AND ATROCITY 171 (2001) (adopting the same definition); Wendy Orr, *Reparation Delayed is Healing Retarded*, in LOOKING BACK, REACHING FORWARD: REFLECTIONS ON THE TRUTH AND RECONCILIATION COMMISSION IN SOUTH AFRICA 239, 241 (Charles Villa-Vicencio & Wilhelm Verword eds., 2000) (Orr, one of the TRC's commissioners, recalls "Our initial working definition of reparation was dubbed 'the five Rs': redress, restitution, rehabilitation, restoration and reassurance of non-recurrence."). Cf. RUTI G. TEITEL, TRANSITIONAL JUSTICE 119 (2000) ("The vocabulary of 'reparatory justice' illustrates its multiple dimensions, comprehending numerous diverse forms: reparations, damages, remedies, redress, restitution, compensation, rehabilitation, tribute.").
 4. According to van Boven's principles, as revised by M. Cherif Bassiouni in van Boven, *Study Concerning the Right to Restitution*, *supra* note 2, restitution should restore the victim to the original situation before the violations of international human rights or humanitarian law occurred, such as restoration of liberty, legal rights, social status, family life and citizenship, restoration of employment and return of property. Compensation should be provided for any economically assessable damage, such as physical or mental harm, and lost opportunities including: education, material damages and loss of earnings and earning potential, harm to reputation or dignity, and costs required for legal assistance and medical, psychological and social services. Rehabilitation should include medical and psychological care as well as legal and social services. Satisfaction and guarantees of nonrepetition should include cessation of continuing violations, verification of the facts and full and public disclosure of the truth, the search for the bodies of those killed or disappeared, an official declaration or a judicial decision restoring the dignity and rights of the victim and of persons closely connected with the victim, apology (including public acknowledgment of the facts and acceptance of responsibility), judicial or administrative sanctions against persons responsible for the violations, commemorations and tributes to the victims, and preventing the recurrence of violations.
 5. MARTHA MINOW, BETWEEN VENGEANCE AND FORGIVENESS: FACING HISTORY AFTER GENOCIDE AND MASS VIOLENCE 103 (1998) ("[M]oney remains incommensurable with what was lost. . . . [R]eparations fall short of repairing victims or social relationships after violence. This inevitable shortfall makes me wonder about the assumption that the most obvious need

Whether the importance of truth-telling and reconciliation surpasses that of criminal trials and financial compensation in achieving the aims of reparation remains an unanswered question. What do victims need in order to heal past wounds? What do justice, truth, and reconciliation mean for them? Despite victims being the direct beneficiaries of reparation programs, and despite the fact that macropolitical decisions of how to deal with the past are often justified by their desires,⁶ there are few studies of the victims.⁷ In part, this reflects the lack of empirical research in the field of transitional justice.⁸

of victims is for compensation.”); See also Laurel E. Fletcher & Harvey M. Weinstein, *Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation*, 24 HUM. RTS. Q. 573, 603 (2002) (“[T]he emphasis on criminal trials as the primary international response to mass violence does not respond to the needs of many for social repair.”).

6. See van Boven, *Study Concerning the Right to Restitution*, *supra* note 2, at 548 (“Reparation should respond to the needs and wishes of victims.”). “Victims’ needs” are sometimes used to justify criminal trials or promote a truth commission. See *infra* notes 49, 55. On the other hand, some warn that victims’ claims, however morally justified, may threaten the transition. See JAIME MALAMUD-GOTI, *GAME WITHOUT END: STATE TERROR AND THE POLITICS OF JUSTICE* 13 (1996) (stating that the claims of the Mothers from Plaza de Mayo to try all perpetrators would lead to “political and logistic disaster.”). Cf. Bert van Roermund, *Rubbing Off and Rubbing On: The Grammar of Reconciliation*, in LETHE’S LAW: JUSTICE, LAW AND ETHICS IN RECONCILIATION 175, 184–86 (Emilios Christodoulidis & Scott Veitch eds., 2001) (van Roermund criticizes the tendency of survivors of oppression to speak on behalf of victims: “‘We want to forgive.’” They tend to “picture themselves as ‘the good people’: the ones who, from now on, will have the absolute right to command because they were absolutely right in the way they suffered.”)
7. In addition to van Boven’s studies, there are a number of victim studies that inspire us. See, e.g., David Becker et al., *Therapy with Victims of Political Repression in Chile: The Challenge of Social Reparation*, 46 J. SOC. ISSUES 133 (1990), excerpted in TRANSITIONAL JUSTICE VOL. 1, *supra* note 2, at 583; Yael Danieli, *Preliminary Reflections from Psychological Perspective*, excerpted in TRANSITIONAL JUSTICE VOL. 1, *supra* note 2, at 572; IVAN GADOUREK & JIRI NEHNEVAJSA, ZALAROVANI, PRONASLEDOVANI A ZNEUZNANI: SVEDECTVI JESTE ZIJICICH OBETI STALINISMU V CESKYCH ZEMICH [INCARCERATED, PERSECUTED, AND FORGOTTEN: A TESTIMONY OF THE STILL LIVING VICTIMS OF STALINISM IN THE CZECH COUNTRIES] (1997) (A survey with historical objectives among political victims in the Czech Rep.). See also Brandon Hamber, *Repairing the Irreparable*, 5 ETHNICITY & HEALTH 215 (2000), available at www.csvt.org.za/papers/paprepbh.htm; SARAH CULLINAN, REDRESS, TORTURE SURVIVORS’ PERCEPTIONS OF REPARATION 9, 49 (2001), available at www.redress.org/publications/TSPR.pdf (based on a review of the literature on reparation and interviews with those who work with victims, she highlights the need for empirical research that would go beyond the psychological level and assess the impact of restoration of dignity, acknowledgment, etc.). The majority of the literature focuses on victims’ perception of their reparation and adopts a psychological approach. The present study adopts sociological methods to assess factors associated with reparation of victims of human rights abuses in the context of transitional justice and democratization.
8. As Neil Kritz lamented

Truth commissions have become almost routine. . . . You have a transition and everybody immediately says we have to have a truth commission without any clear understanding as to why or what they are about. Except for some of the preliminary and good quality work . . . there is a real dearth of any serious empirical research on exactly what impact truth commissions actually have in any place, impact on victims, on perpetrators, on society as a whole. . . .

This article presents results that are based on a survey and in-depth interviews with former Czech political prisoners. The article identifies the major theoretical debates and challenges of reparation policies in transitional democracies, and develops and tests corresponding hypotheses concerning factors that are alleged to affect the outcome of individual reparation: (a) financial compensation; (b) the purported needs of victims for retribution, public truth-telling, and reconciliation; and (c) social acknowledgment, community integration, and democratization. The postcommunist Czech Republic⁹ is a suitable research site as its reparation program encompasses financial compensation, property restitution, judicial rehabilitation, social acknowledgement of the resistance against past political oppression, medical treatment, attempts to prosecute former communist elite, and lustration.¹⁰

The next section briefly reviews reparation policy during the transition in the Czech Republic. Section III discusses the major theoretical debates about reparation in transitional countries. The hypotheses used in the study are based on this review. Parts IV, V, and VI are the main empirical parts of the article. They explain the operationalization of the testing variables, the data collection method, and the results of the regression analysis. Section VII interprets the findings in the light of narrative accounts collected during in-depth interviews. The final section of the article discusses the limitations of the research and its policy implications.

Victoria Baxter, American Association for the Advancement of Science, *Conference Report: Empirical Research Methodologies of Transitional Justice Mechanisms* 1 (18–20 Nov. 2002), available at shr.aas.org/transitionaljustice/mtjm/stellenbosch.pdf. Similarly, Fletcher & Weinstein, *supra* note 5, at 585, noted that “A primary weakness of writings on transitional justice is the paucity of empirical evidence to substantiate claims about how well criminal trials achieve goals ascribed to them.”

9. In 1990, the Czechoslovak Socialist Republic was renamed the Czech and Slovak Federative Republic, which was divided in 1993 into two independent states: the Czech Republic and the Slovak Republic. This article uses “Czechoslovakia” or “Czech Republic” [depending on which is considered more accurate for the time.]
10. See generally Roman David, *Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989–2001)*, 28 L. & Soc. INQ. 387, 388 (“Lustration law is a special public employment law that regulates the process of examining whether a person holding certain higher public positions worked or collaborated with the repressive apparatus of the Communist regime.”). See also Maria Los, *Lustration and Truth Claims: Unfinished Revolutions in Central Europe*, 20 L. & Soc. INQ. 117 (1995); Natalia Letki, *Lustration and Democratization in East-Central Europe*, 54 EUR.-ASIA STUD. 529 (2002); Aleks Szczerbiak, *Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland*, 54 EUR.-ASIA STUD. 553 (2002); Roman David, *Transitional Injustice? Criteria for Conformity of Lustration to the Right to Political Expression*, 56 EUR.-ASIA STUD. 789 (2004).

II. MAKING AMENDS AFTER COMMUNISM IN CZECHOSLOVAKIA

Mikhail Gorbachev's policy not to use the Soviet military might, the crawling disintegration of communism in Hungary, negotiation between the Polish government and Solidarity, and the fall of the Berlin Wall all left the Communist Party of Czechoslovakia in political isolation. In that context, student strikes and unexpected massive demonstrations across the country were sufficient to cause regime change within a few days in November 1989. Unlike the situation in other Central European countries, the old elite in Czechoslovakia lost control of decision making at the central Government level. This enabled the new government to make greater progress in dealing with the past than its neighbors could.¹¹ It abolished the leading role of the Communist Party, nationalized its property, repealed the repressive provisions of the penal code, and dissolved repressive organs of state.¹² However, the massive scale of repression¹³ and an economy devastated by

-
11. There is consensus among scholars that the distribution of power during regime change crucially affects the policy of dealing with the past. See, e.g., David Pion-Berlin, *To Prosecute or to Pardon? Human Rights Decisions in the Latin American Southern Cone*, 16 *HUM. RTS. Q.* 105 (1994). See also Jose Zalaquett, *Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations*, 43 *HASTINGS L. J.* 1425 (1992); Helga A. Welsh, *Dealing with the communist past: Central and East European experiences after 1990*, 48 *EUR.-ASIA STUD.* 413 (1996); SAMUEL HUNTINGTON, *THE THIRD WAVE: DEMOCRATIZATION IN LATE TWENTIETH CENTURY* (1991), excerpted in *TRANSITIONAL JUSTICE VOL. I*, *supra* note 2, at 65. Using Huntington's classification of regime changes, Czechoslovakia belongs to "replacements," which signify government collapse, rather than "transplacements," which indicate negotiated changes, such as in Poland, or "transformations," signifying changes initiated by the old elite, such as in Hungary. Although some communists were nominated to the 1989–1990 transitional government, they were mostly selected by the Civic Forum (OF), not by the Communist Party (KSC). Shortly after their appointment, they switched their allegiance to the Forum (Komarek, Dlouhy) or their office was (made) redundant and cancelled.
 12. The parliament abrogated the leading role of the Party in November 1989. See Act Changing Const. Act No. 100/1960, The Constitution of the CSSR, Const. Act No. 135/1989 Sb. In 1989–1990, it revoked those provisions of the penal code that criminalized the exercise of human rights. The Party property was confiscated a few months after the first democratic elections. See Act On the Return of Property of the Communist Party of Czechoslovakia to the People of the Czech and Slovak Federative Republic, Const. Act No. 496/1990 Sb.
 13. The number of fatalities under the communist rule in Czechoslovakia was close to that of Chile under Pinochet, while the ratio of political prisoners to the civil population was almost the same as in Uruguay, 1:50. In Czechoslovakia, between 1948 and 1989, about 234 people were judicially executed for political reasons and more than 4,000 political prisoners died under unclear circumstances, for example, as a consequence of torture. Hundreds died while crossing the border and about 262,500 people were jailed for political reasons. See Karel Pacner, *Stovky zmarených lidských životů, statisíce rozbitých rodin* [Hundreds of Lost Lives, Hundreds of Thousands Destroyed Families], *MF DNES*, 25 Feb. 2000. See also Interview with Otto Stehlik, Director of the Archive of the KPV, Prague (18 Jan. 2000). During the 1950s and 1960s, many political prisoners

central planning made it virtually impossible to remedy all human rights violations as postulated by international human rights law.¹⁴ Consequently, the Czech Republic reparation policy concerned only the most serious injustices committed by the communist regime between 1948 and 1989, and relieved victims on a very limited scale. In this section, the authors review the policies relevant to this study, including judicial rehabilitation, financial compensation, sanctions against perpetrators, and truth-revelation.

In an attempt to end victimization, the Act on Judicial Rehabilitation¹⁵ repealed judicial decisions and ensured that disputed cases related to acts

were held not only in prisons but also in eighteen concentration camps, the so called "remedy-labor camps," where they were subjected to an extraordinarily hard regime and gross violations of human rights including torture, slave labor in uranium mines (without any protection from radioactivity), reduction of daily food allotment, and extra punishments. See Interview with Frantisek Zahradka, Director of the Museum of the Third Resistance, Pribram (13 Jan. 2000). About 100,000 victims in the camps of forced labor were not prisoners in the then legal terms but quasi-judicially persecuted "class enemies". About 60,000 men were forced to serve in the so called "Auxiliary Technical Battalions" (PTP) and more than 6,300 monks and nuns were sent to assembly camps in 1950. Thousands of people were evicted from cities, hundreds of thousands lost their jobs in purges that followed the years 1948 and 1968, and private property was almost entirely nationalized. See KAREL KAPLAN, *POLITICAL PERSECUTION IN CZECHOSLOVAKIA 1948–1972*, 11–31 (1983); JIRÍ BÍLEK & KAREL KAPLAN, *POMOCNÉ TECHNICKÉ PRÁPORŮ 1950–1954 & TÁBORY NUCENÉ PRÁCE V ČESKOSLOVENSKU 1948–1954 [AUXILIARY TECHNICAL BATTALIONS 1950–54 & CAMPS OF THE FORCED LABOR IN CZECHOSLOVAKIA 1948–54]* (1992). For a bibliography and filmography on the topic, see KAREL BARTOSEK, *ČESKY VEZEN: SVEDECTVÍ POLITICKÝCH VEZENŮ A VEZNU LET PĚDESATÝCH, SEDESATÝCH A SEDMDESÁTÝCH [A CZECH PRISONER: TESTIMONIES OF POLITICAL PRISONERS OF THE 1950s, 1960s AND 1970s]* 307, 311 (2001).

14. Unlike other undemocratic regimes, socialist Czechoslovakia ratified various international human rights treaties that postulate the right to remedy human rights violations. See, e.g., the International Covenant on Civil and Political Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, arts. 2 and 9, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3 (*entered into force* 3 Jan. 1976). This covenant grants the right to effective remedy and the right to compensation, respectively. The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states "the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible." Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* 10 Dec. 1984, G.A. Res. 39/46, U.N. GAOR, 39th Sess., Supp. No. 51, ¶ 14, U.N. Doc. A/39/51 (1985) (*entered into force* 26 June 1987), *reprinted* in 23 I.L.M. 1027 (1984), *substantive changes noted* in 24 I.L.M. 535 (1985). However, more than these documents, the then Czechoslovak representatives, who sought to distinguish themselves from their predecessors, felt obliged by the Universal Declaration of Human Rights, which postulates the right to an effective remedy. Universal Declaration of Human Rights, *adopted* 10 Dec. 1948, G.A. Res. 217A (III), U.N. GAOR, 3d Sess. (Resolutions, pt. 1), at 71, art. 8, U.N. Doc. A/810 (1948), *reprinted* in 43 Am. J. INT'L L. 127 (Supp. 1949). They also desired to integrate the country into the Western community and anticipated the approval of the European Convention for the Protection of Human Rights and Fundamental Freedoms, *signed* 4 Nov. 1950, art. 5, 213 U.N.T.S. 222 (*entered into force* 3 Sept. 1953), which grants an enforceable right to compensation.
15. Act No. 119/1990 Sb., §§ 1–6. This act was approved on 23 April 1990, a few weeks before the first democratic elections.

contravening the principles of democracy and human rights were reopened.¹⁶ All rehabilitated persons were entitled to make decisions concerning their rehabilitation public. The Act also cancelled decisions that expelled students and dismissed employees for political reasons. Even relatives of deceased victims were entitled to submit formal requests for “reinstatement” of their employment.

Financial compensation was paid to surviving victims or the heirs of those who were executed or died in detention.¹⁷ Each political prisoner received a little compensation for salary losses, health damages, legal fees, and judicial fines, as well as CZK 2,500 (approximately US \$83) for each month of his or her incarceration. Many of these provisions were options that allowed concerned persons to use other legal means to seek redress. The Act also equalized the disadvantages of former political prisoners with regard to pensions. Additional financial compensation was provided by the Act on the Illegitimacy of the Communist Regime and on Resistance Against It, which amounted to CZK 625 for each month of imprisonment.¹⁸ Former political prisoners also enjoyed other material support, including free public transport, organizational subsidies, special medical treatment, and modest spa subsidies.¹⁹ Some political prisoners were critical of the provisions because former secret police had received greater compensation payouts at the time of their forced retirement than many political prisoners received.²⁰

-
16. The judicial rehabilitation concerned at least 257,864 people condemned by the Czechoslovak communist judiciary between 25 February 1948 and 1 January 1990. Of these, 195,642 people were from the territory of the Czech Republic. FRANTISEK KOUDELKA ET AL., *SODNÍ PERZEKUCE POLITICKÉ POVAHY V ČESKOSLOVENSKU 1948–1989: STATISTICKÝ PŘEHLED* [THE JUDICIAL PERSECUTIONS OF A POLITICAL CHARACTER IN CZECHOSLOVAKIA 1948–1989: STATISTIC OVERVIEW] 57–68 (1993). The author of this statistic concludes that the number may increase by 2 percent. However, Stehlík rejected the accuracy of these figures and considered these numbers as partial. In his view, the number could have been about 50,000 higher because many victims had already died and their relatives, if any, did not apply for their rehabilitation. See Interview with Otto Stehlík, Director of the Archive of the KPV, Prague (18 Jan. 2000). The number rehabilitated does not necessarily equal the number imprisoned: some people were condemned for their emigration, others were condemned but their sentence was suspended, while others were jailed more than once.
 17. Act on Judicial Rehabilitation, Act No. 119/1990 Sb., §§ 23–28. In addition, the Act on Extra-Judicial Rehabilitation, Act No. 87/1991 Sb., concerned the restitution of confiscated properties in the possession of the State, municipalities, and cooperatives, to their original owners or their heirs.
 18. Act No. 198/1993 Sb., § 8 [hereinafter Act on the Illegitimacy of the Communist Regime]. The compensation was implemented by a government directive in 1997. Payment of the One-time Compensation to Mitigate Some Injustices Caused by the Communist Regime, Government Directive No. 165/1997 Sb. See also *infra* note 106.
 19. For example, in 1994, the organization received a subsidy of CZK 1,75 million that contributed to 85 percent of such expenses for about 600 of its members. ZPRAVODAJ KPV [Newsletter of the Confederation of Political Prisoners] Vol. 1.4, 1994, at 5.
 20. If a policeman with a salary of CZK 10,000 was dismissed after twenty years of service, he was entitled to a compensation of CZK 80,000 plus CZK 3,800 monthly income paid

Furthermore, while their initial compensation was paid in two installments in 1990 and 1995, allegedly due to state budgetary constraints, all payments to secret police were made in lump sum immediately.

A truth commission was not established in the Czech Republic. The truth about past oppression was revealed mainly by the media and facilitated through access to the secret police files, similar to the German *Stasi* Records Act.²¹ However, the Act on the Access to Files Created through the Activities of the State Security was also a disappointment for those who were detained and tortured under communism because the names of those who informed on them were blotted out from the records. In 1995, the Office for the Documentation and Investigation of Communist Crimes (ODICC) was established to replace its less effective predecessor, which had been established in the early 1990s. Its tasks included investigation, data-collection, and the analysis of activities related to the injustices of the past regime, along with the resistance to it.²² Social acknowledgment of previous oppression was delivered through parliamentary acts and government activities. First, the Act on the Illegitimacy of the Communist Regime acknowledged the illegitimacy of the old regime and honored the resistance.²³ This Act bore enormous symbolic meaning for ex-political prisoners. It became their manifesto and was framed and displayed in their organizations, on public boards, and on their web sites. In addition, some former political prisoners received state honors or were invited by President Havel to Prague Castle to acknowledge their past sacrifices, while others were awarded honorary citizenships by town halls.²⁴

The prosecution of political crimes, for which the perpetrators enjoyed

until his retirement. Jaroslav Spurný, *Odszkodné pro estébáky* [COMPENSATION FOR SPOOKS], *RESPEKT*, 8 June 1992, at 4; Rebeka Krizanová & Martin Bartunek, *Dobre zaplacený civil* [Well Paid Dismissals], *RESPEKT*, 23 Nov. 1992, at 5.

21. See Access to Files Created by Activity of the Former State Security, Act No. 140/1996 Sb., §§ 5–6.
22. See Police of the Czech Republic, Office of the Documentation and the Investigation of the Crimes of Communism, ¶ 1, available at www.mvcr.cz/policie/udv/english/index.html (stating the objectives of the office). The Office of the Documentation and the Investigation of the Crimes of Communism (ODICC) meets some of Hayner's criteria of a truth commission: it focuses on the past, it investigates the patterns of abuses over a period of time rather than a specific event, it is authorized by the state, and it is established as a part of the political transition. However, it is not a temporary body, which would be expected to submit a report (although it regularly publishes memorial volumes and other materials, organizes lectures, and informs about the status of cases under investigation). See HAYNER, *supra* note 3, at 14, 17.
23. Act No. 198/1993 Sb., §§ 3–4.
24. Many of these symbolic measures, however, also generated reverse effects, for example, past political records of other awarded persons were questioned. See David, *supra* note 10, at 420 n. 78. Additionally, many political prisoners could not forgive President Havel for canceling the meeting with them due to an illness caused by an earlier outdoor celebration of an Olympic gold medal with the ice hockey players in 1998.

impunity during communism, is a major failure of the effort to deal with the past. The impact of continuity between old and new criminal law was lessened with the promulgation of the Act on the Illegitimacy of the Communist Regime. It provided for the renewal of the Statute of Limitations to deal with crimes that were not prosecuted for political reasons.²⁵ Justified by the brinkmanship on the edge of legal continuity and value discontinuity, it enabled the new Government to prosecute communist crimes without violating the prohibition against retroactivity.²⁶ Furthermore, the Office for Documentation and Investigation of the Crimes of Communism was set up to support state prosecution. These measures, however, resulted in a dismal number of prosecutions and criminal trials. By June 30, 2000, only eight perpetrators had been found guilty, and among them five received suspended sentences.²⁷ This failure reflects a combination of structural obstacles in legal, institutional, and personnel continuity with the past, postcommunist mentality,²⁸ and ideological constraints stemming from the peaceful nature of the Velvet Revolution. Characterized by the slogan “we are not like them,” the ideology of the Velvet Revolution weakened the political will to prosecute during the initial period of transition.²⁹

The new elite expected those associated with the former regime to leave their posts voluntarily. These expectations were, however, not met and triggered desires for retribution that were intensified by comparison with the

25. Act No. 198/1993 Sb., § 5.

26. See Judgment of the Const. Ct. of the Czech Rep., concerning the petition of 41 deputies seeking the annulment of act No. 198/1993 on the Illegitimacy of the Communist Regime and on the Resistance against It, Pl. ÚS 19/93 (21 Dec. 1993).

27. See Police of the Czech Republic, *supra* note 22, available at www.mvcr.cz/policie/udv/english/pripady/index.html. The number of launched prosecutions has recently risen.

28. This mentality is indicated by political submissiveness and an inability to make independent decisions. See, e.g., Vojtech Cepl & Mark Gillis, *Making Amends after Communism*, 7 J. DEMOCRACY 118, 123 (1996). There are numerous examples of this mentality yet to be researched, such as the case of Grebenicek, whose judge has not been able to bring to justice his alleged torturer for six years. See *Grebenicka u soudu omluvil fax* [Grebenicek Apologizes for his Absence at Court by Fax], iDNES, 12 May 2003.

29. “We are not like them” was a slogan that was initially addressed by the leaders of the democratic opposition to the people who protested against the Communist regime in 1989. Later, however, it became a symbol of the failure to deal with the past. Vaclav Havel, the author of this slogan, later tried to clarify: “the error happened later, in the early months of 1990, when all of us underestimated our former opponents’ extraordinary artfulness and ability to adapt to the new conditions. To remedy this error will probably be a long and difficult process, but remedied it must be—in a cultured, legal and civilized manner. ‘We are not like them,’ I said once on Wenceslas Square, but if we do not want to be like “them,” we must not be blinded by fanaticism, hatred and the desire for bloodthirsty revenge. This does not mean, however, that we can tolerate whatever ‘they’ do, or that we should not prosecute those who committed criminal offenses.” Vaclav Havel, New Year’s Address to the Nation, Prague (1 Jan. 1992).

experience of dealing with Nazism.³⁰ In order to address the problem of personnel continuity and to enhance trust in the emerging democracy, the new elite turned to lustrations. It approved a law that facilitated personnel changes in leading posts of the state and security apparatus.³¹

Political prisoners are, however, critical that the lustration law has not prevented all their former adversaries from holding positions of influence in the new democracy. With the exception of Vaclav Klaus (1992–1997), all post-1989 prime ministers were previously members of the Communist Party. Prisoners often mentioned the example of Prime Minister Marian Calfa, who switched his allegiance after the collapse of Communism, survived the severe defeat of the Communist Party in the first democratic election in 1990, and maintained his post as the prime minister until the second election in 1992.

Political prisoners are also critical of several events, which resonated while conducting the survey. A series of party-financing scandals and an economic recession resulted in the collapse of the center-right coalition led by Vaclav Klaus in 1997. After the unstable interim government of Prime Minister Josef Tosovsky, the social democrats, led by Milos Zeman, won the early elections of 1998. Many ex-prisoners who campaigned against Zeman felt betrayed by Klaus, whose party backed the social democratic government until the elections of 2002.³²

III. THEORIES AND HYPOTHESES

In a study that inspired the formulation of reparation principles, van Boven and his colleagues argued that reparation should include financial and other material compensation, nonmaterial reparation with emphasis on truth revelation and social acknowledgment, prosecution of perpetrators, and preventive measures.³³ The growing popularity of truth commissions and

-
30. The issue of banning the Communist Party was often raised in discussions during the first months of transition. In the interviews conducted for this study, many political prisoners, who continued to advocate the ban, based their arguments on past experiences with Nazi parties and organizations after World War II.
 31. Act 451/1991 Sb., that prescribes certain prerequisites for the exercise of certain positions filled by election, appointment, or assignment in State organs and organizations of CSFR, CR and SR (hereinafter lustration law) For a recent evaluation of the lustration policy in the Czech Republic, see David, *supra* note 10.
 32. For an overview of the democratic development in the country, see Jiri Pehe, Reports on Eastern Europe, available at www.pehe.cz/E.html; E. EUR. CONST. REV. (1992–2002) (quarterly country reports).
 33. Theo van Boven et al., *Seminar on the Right to Restitution, Compensation and Rehabilitation for Victims of Gross Violations of Human Rights and Fundamental Freedoms: Summary and Conclusions, excerpted in* TRANSITIONAL JUSTICE VOL. 1, *supra* note 2, at 500, 502–03.

their theoretical reflections fueled the debate with new questions: Could symbolic measures substitute financial compensation? Would victims be satisfied with the establishment of accountability of perpetrators via truth? This section reviews the major theoretical debates underpinning reparation, focusing on financial compensation, retributive and restorative justice, truth-telling, social acknowledgment, and structural reform.

A. Financial Compensation

Does money matter? Many believe that it does. Indeed, attempts to gain monetary compensation have taken center stage in “reparation politics” globally. The increase in litigation against companies that profited from slave labor in Nazi Germany and apartheid South Africa confirms this trend.³⁴ This explains why reparation is often narrowly defined as financial compensation. Yet monetary compensation has also sparked controversy. Its opponents argue that when survivors accept money it demeans the memory of deceased victims and allows perpetrators to extinguish all moral guilt by claiming that the debt has been repaid. For instance, some Mothers of Plaza de Mayo, whose sons disappeared during Argentinean military rule, refused to accept financial compensation on the ground that it would diminish their claims for truth and justice.³⁵ Such suspicion is likely to intensify when victims “perceive that the government does not represent their interests . . . [and] suspect that the government is trying to buy its way out of its culpability by paying ‘blood money[,]’ . . . [and when the government] does not forcefully investigate human rights claims or fails to impose strong punitive sanctions on those responsible for violations.”³⁶

Those with concerns about the social effect of paying compensation worry that disputes surrounding it could sully the historical message,

34. For a comparative analysis of reparation demands, see Michael L. Bazylar, *The Holocaust Restitution Movement in Comparative Perspective*, 20 *BERKELEY J. INT’L L.* 11 (2002); John Torpey, “*Making Whole What Has Been Smashed*”: *Reflections on Reparations*, 73 *J. MOD. HIST.* 333 (2001).

35. See, e.g., MALAMUD-GOTI, *supra* note 6, at 13.

36. Ellen L. Lutz, *After the Elections: Compensating Victims of Human Rights Abuses*, in *NEW DIRECTIONS IN HUMAN RIGHTS* (Ellen L. Lutz et al. eds., 1989), *excerpted in* *TRANSITIONAL JUSTICE VOL. I*, *supra* note 2, at 551, 553.

A new government faced with severe economic problems may consider an expensive compensation program to be of considerably lower national priority than the revitalization of the economy or the repayment of foreign debt. Where individuals responsible for past violations of human rights . . . retain politically powerful positions, establishing mechanisms for compensating former victims may involve serious political risks. . . . [F]ormer victims may feel stigmatized by their need to seek redress and may fear that the procedures for claiming compensation will be degrading or will require them to relive painful past experiences.

Id. at 552–53.

compromise the truth as being instrumental, and revive old hatred.³⁷ From this perspective, compensation in fact perpetuates the conflict that it is supposed to overcome.³⁸ Many intellectuals, for example, worry that the Holocaust restitution movement may trigger new waves of anti-Semitism.³⁹ Inimical responses of former adversaries within the community, fear about such responses from within the victim's group, and concerns that compensation may provoke envy among "bystanders" may create pressure on victims, aggravating their marginalization.

In the light of these controversies, some commentators are more cautious, giving priority to the symbolic components of redress over financial compensation. For example, Minow asserts that "[s]ocial and religious meanings rather than economic values lie at the heart of reparations."⁴⁰ She also suggests that "[t]he return to a symbolic dimension seems crucial because, in fact, most victims of crime rate their need to know what happened and why more highly than their desires for compensation or restitution."⁴¹ Adding to this ambivalence is the worldwide acclaim of the South African TRC. The Commission's emphasis on the symbolic dimensions of reparation has enhanced the impression that financial compensation is losing favor.⁴²

Defendants of monetary compensation oppose the dichotomy between economic values and social meaning. They argue that monetary compensation is largely a symbolic attempt to acknowledge past injustices and the suffering of victims: "Money symbolizes the irrevocable admission that a crime has been committed. It allows a feeling of closure . . . the acceptance of the giver."⁴³ Based on this logic, not claiming compensation also has the

-
37. See Charles Krauthammer, *Reducing the Holocaust to Mere Dollars and Cents*, L.A. TIMES, 11 Dec. 1998, at 26, quoted in Bazylar, *supra* note 34, at 39.
38. The rest of society may have little sympathy for former victims "either because they are members of racial, religious, or national minorities, or because they hold unpopular beliefs." Lutz, *supra* note 36, at 552.
39. See, e.g., Bazylar, *supra* note 34, at 40–41 (Their worries may not be unwarranted. A critical account of the restitution movement with a "provocative" title, *The Holocaust Industry*, written by Norman Finkelstein, a son of Holocaust survivors, in 2000, became a best-seller in Germany and Switzerland).
40. MINOW, *supra* note 5, at 110.
41. *Id.* at 103.
42. The enormous potential of the TRC as a model that employs the meaning of truth and reconciliation in the reparation process and the initial preference for symbolic reparation among its commissioners have created an image of the TRC as a purely spiritual enterprise. In fact, the TRC has recommended financial compensation followed by other forms of (symbolic) reparations. See Truth & Reconciliation Commission of South Africa, *Truth & Reconciliation Commission of South Africa Report V*, at 175–95, 312–13 (1998). See also Hamber, *supra* note 7.
43. Natan Sznajder, *Money and Justice: Toward a Social Analysis of Reparations*, 3 HUM. RTS. REV. 104, 109 (2002).

symbolic meaning of maintaining victimization⁴⁴ and injustice.⁴⁵ Hypothesis I is formulated to test the asserted importance of financial compensation.

Hypothesis I: Satisfaction with financial compensation enhances reparation.⁴⁶

B. Retribution or Reconciliation?

"Truth v. Justice," "Between Vengeance and Forgiveness," "To Prosecute or to Pardon?"⁴⁷ These titles, written in the field of transitional justice, mirror one of the key dilemmas of emerging democracies: how to overcome past hostilities between victims and perpetrators. Should we punish or reconcile with perpetrators? The debate involves a re-examination of the fundamental principles of retributive and restorative justice.

Retributive justice focuses on the prosecution of perpetrators and the establishment of individual criminal accountability. The Nuremberg trials, international criminal tribunals for Rwanda and former Yugoslavia, and the recent formation of the International Criminal Court are the most prominent examples. Trials are alleged to satisfy the victims' need for justice, reveal the truth, and acknowledge their innocence and suffering.⁴⁸ By so doing, trials

-
44. As Israel Singer, a leader of the World Jewish Congress, explains: "I don't want to enter the next millennium as the victim of history. . . ." *quoted in Bazzyler, supra* note 34, at 41.
 45. *Id.* ("[N]ot seeking financial compensation, in the face of documented proof that financial giants worldwide are sitting on billions of dollars in funds made on the backs of World War II victims . . . amounts to an injustice that cannot be ignored.")
 46. Reparation is defined here and in all other hypotheses, as a process to relieve the suffering of and afford justice to victims by removing or redressing the consequences of past wrongful acts and by preventing future violations. *See, e.g., supra* notes 2–4. It is theorized to incorporate two dimensions, one sociopolitical and one internal. *See infra* section III.
 47. *See TRUTH V. JUSTICE: THE MORALITY OF TRUTH COMMISSIONS* (Robert I. Rotberg & Dennis Thompson eds., 2000); *MINOW, supra* note 5; *Pion-Berlin, supra* note 11. However, David A. Crocker argues that the dilemma must be avoided because "both truth commissions and trials have distinctive and mutually supplementary roles in achieving the multiple goals of transitional justice." David A. Crocker, *Truth Commissions, Transitional Justice, and Civil Society*, in *TRUTH V. JUSTICE, id.* at 99, 105. There are numerous reasons why trials or truth commission may not be feasible or desirable: Do we need to risk consequences of trying the military if victims do not have retributive desires? Do we need to set up a truth commission if public truth-telling does not heal victims?
 48. *See Fletcher & Weinstein, supra* note 5, at 592–95 (a critical overview of the role of trials as a response to the needs of victims). *See also* Naomi Roht-Arriaza, *Punishment, Redress, and Pardon: Theoretical and Psychological Approaches*, in *IMPUNITY AND HUMAN RIGHTS IN INTERNATIONAL LAW AND PRACTICE* 13, 19–21 (Naomi Roht-Arriaza ed., 1995) (finding judicial process and punishment as an answer to the question of what kind of process would lead to redress). Some authors consider victims' needs as one of the several justifications of trials. *See* Jaime Malamud-Goti, *Transitional Governments in the*

release them from being trapped in the past and facilitate closure and individual healing.⁴⁹ Some criticize the use of alternative means, such as truth commissions, in the place of trials. The main concern is whether stability needs to be purchased at the expense of the victims, whose rights to justice are denied.⁵⁰

Supporters of alternative means of redress, such as truth commissions, are skeptical about the ability of trials to satisfy the needs of victims. Trials, they argue, are lengthy, inefficient, and have uncertain outcomes. As a result, peace, which arises from the guarantee of human rights, is put at risk.⁵¹ In addition to learning the truth and receiving social acknowledgment, a truth commission is better suited to satisfy the needs of victims who wish to tell their stories through a process that is considered to be

Breach, 12 HUM. RTS. Q. 1, 13 (1990); HUNTINGTON, *supra* note 11, at 68–69; M. Cherif Bassiouni, *Searching for Peace and Achieving Justice: The Need for Accountability*, 59 LAW & CONTEMP. PROBS. 9, 26 (1996); Neil J. Kritz, *Coming to Terms with Atrocities: A Review of Accountability Mechanisms for Mass Violations of Human Rights* 59 LAW & CONTEMP. PROBS. 127, 128 (1996). On top of satisfying the needs of victims directly, trials are also argued to have important roles in affecting the process of democratic transition, thus having a positive impact on victims. Trials symbolize condemnation of the past regime, the restoration of equality before the law, and the creation of the rule of law, which facilitate normative transformation and help to consolidate a new democratic culture. Finally, trials send anti-impunity signals to society and deter future recurrence of violations. Thus, trials represent one of the means to realize van Boven's principles. See *supra* note 4. For an overview of the role of trials generally, see Diane F. Orentlicher, *Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime*, 100 YALE L.J. 2537, excerpted in TRANSITIONAL JUSTICE VOL. 1, *supra* note 2, at 375, 376–78; TEITEL, *supra* note 2, at 28–30.

49. Based on a review of the psychological literature, Cullinan argues that the absence of sanctions against perpetrators can function as “a second injury,” causing additional anxiety, creating “a life of repetition of the trauma,” and prolonging psychopathological consequences of repression. See CULLINAN, *supra* note 7, at 27.
50. One of the founders of the victim's Khulumani Support Group, South Africa, testifying at the TRC lamented that:

[I]t seems to me that victims have been asked to make sacrifices once again for the greater good of the Nation, that we must give up our expectations of justice, we must give up our rights to civil claims against perpetrators, and we must talk about our grief in this public forum and I'm afraid we're going to be asked to then accept symbolic reparation, or community reparation and I think that this is simply not fair.

Testimony of M. Friedman to the Committee for Human Rights of the TRC (3 May 1996). See also Nkosinathi Biko, *Amnesty and Denial*, in LOOKING BACK, REACHING FORWARD, *supra* note 3, at 193 (explaining the motives of victims' families to challenge the amnesty provisions of the TRC Act at the South African Constitutional Court).

51. See KADER ASMAL ET AL., RECONCILIATION THROUGH TRUTH: A RECKONING OF APARTHEID'S CRIMINAL GOVERNANCE 19 (1997). See also DESMOND M. TUTU, NO FUTURE WITHOUT FORGIVENESS 24–31 (1999) (Explaining why trials were not a viable option for South Africa.). Tutu also referred to some high-profile cases, pragmatically arguing that if the options of trials were available, they would have placed an intolerable burden on the already strained judicial system and much needed resources. *Id.* The argument about the trade off between stability and trials has been widely acknowledged. See, e.g., *supra* note 11.

therapeutic.⁵² It also provides a unique forum where victims and perpetrators can meet to restore their relationships. The truth commission process facilitates reconciliation by allowing perpetrators to acknowledge their responsibility for the suffering of their victims; it assists in restoring the dignity of victims; it enables victims to articulate their feelings in order to overcome hatred; and, finally, it assists in the re-humanization of perpetrators.⁵³ The post-amble of the South African Constitution (1993), which has become a widely quoted symbol of progress towards the principles of restorative justice and human dignity, stressed "a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu* but not for victimization."⁵⁴

In sum, retributive justice and restorative justice emphasize, albeit to differing extents, the need of victims for truth and social acknowledgment. They differ with respect to their treatment of victims' need for retributive justice, truth-telling, and reconciliation. Supporters of trials claim that an unsatisfied desire for retribution undermines reparation. Supporters of truth commissions argue that public truth-telling and reconciliation with perpetrators enhance reparation. At the heart of the debate are the purported needs of victims that must be met before inner healing can take place. Because assumptions about what those needs are have not been empirically tested, this article contributes to this debate by developing and testing the following hypotheses:

Hypothesis IIa: An unsatisfied desire for retributive justice inhibits reparation.

Hypothesis IIb: Public truth-telling enhances reparation.

Hypothesis IIc: Reconciliation with perpetrators facilitates reparation.

-
52. See, e.g., HAYNER, *supra* note 3, at 28, 133–53. (However, she also warns against the danger of retraumatization at the truth commission's hearings.) TUTU, *supra* note 51, at 128. (We "had not been expecting that those who approached the Commission would often find healing and a closure in the process of recounting their often devastating stories."). *Contra* Biko, *supra* note 50, at 197 ("[T]he experience [of testifying at the TRC] was traumatic for many victims, yet few were given adequate access to psychological services.")
53. See, e.g., Elizabeth Kiss, *Moral Ambition Within and Beyond Political Constraints: Reflections on Restorative Justice*, in TRUTH v. JUSTICE, *supra* note 47, at 83 ("To pursue restorative justice in the face of a legacy of oppression and violence means seeking to restore dignity and voice to victims of injustice, holding perpetrators of injustice accountable . . . , and adopting as an overriding goal the creation of conditions in which all are treated with respect."); MINOW, *supra* note 5; *Truth & Reconciliation Commission of South Africa Report I*, at 125–31; Johnny de Lange, *The Historical Contexts, Legal Origins and Philosophical Foundation of the South African TRC*, in LOOKING BACK, REACHING FORWARD, *supra* note 3, at 14; Jodi Halpern & Harvey M. Weinstein, *Rehumanizing the Other: Empathy and Reconciliation*, 26 HUM. RTS. Q. 561 (2004).
54. CONST. REP. S. AFR., ACT. NO. 200 (1993)

C. Social Acknowledgment, Community Acceptance and Democratization

"You need to heal the sociopolitical context for the full healing of the individuals and their families, as you need to heal the individuals to heal the sociopolitical context."⁵⁵ This statement encapsulates the third major challenge of reparation programs, which many believe necessitate interventions at both individual and societal levels. The central question is whether individual reparation is also conditioned on societal acknowledgment and community acceptance. Does the recovery of victims depend on political factors including democratic transition and consolidation, the establishment of the rule of law, and trust in the new state apparatus? Many transitional justice scholars believe so.

Becker and others contend that effective repair must be elaborated beyond the individual level to incorporate social reparation, which is "simultaneously a sociopolitical and a psychological process."⁵⁶ This is because the suffering arose from a political context that not only persecuted individuals but suppressed the need to share their experience with oppression. The chronic fear of continuing victimization forces personal suffering into silence; mourning is confined to the private realm of the very individuals who often blame themselves for their victimization. Repair thus requires establishing the truth of political oppression, and helps victims to reconstruct the link between their personal victimization and structural oppression. Becker and others argue that this can be achieved only when society acknowledges the truth of political oppression. According to Herman, social acknowledgment may help victims to establish their humanity, dignity, and a sense of self, empowering and helping them to reconnect with the outside world.⁵⁷ Based on this argument, the following hypothesis emerges:

Hypothesis IIIa: Social acknowledgment of past oppression facilitates reparation.

Social acknowledgment does not come about automatically. Many post-transitional societies are in denial and, as a result, victims continue to be stigmatized and marginalized. Past wounds cannot be healed if victims continue to be suspected and isolated. The victims suffer a secondary victimization as a result of a "conspiracy of silence."⁵⁸ Community and

55. Danieli, *supra* note 7, at 575.

56. See Becker, *supra* note 7, at 590.

57. JUDITH L. HERMAN, *TRAUMA AND RECOVERY: FROM DOMESTIC ABUSE TO POLITICAL TERROR* 214–17 (Rev. ed. 1997).

58. See Danieli, *supra* note 7, at 573.

social acceptance of victims and acknowledgment of their innocence are, therefore, essential in helping individuals to accomplish reparation:

Hypothesis IIIb: Full integration into the civil society and community acceptance of the innocence of victims facilitates reparation.

In addition to social acknowledgment and integration, many believe that macrostructural changes also determine the success of reparation. Unlike the acts of individual criminals, which are random and unsystematic, human rights violations are institutional and part of suppressive mechanisms that require reform. It is therefore imperative to remove the deep-rooted causes of human rights violations to secure a fully fledged transition and to alleviate the fear of reoccurring violations. Without this, many believe, healing cannot begin: “[A]ll efforts should be made that similar violations will not occur in the future. In this connection it is important to restore confidence in the rule of law and to take measures of structural character.”⁵⁹

Nevertheless, the structural roots of human rights violations, and the fact that reparation requires structural changes, have not always been acknowledged. For example, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power⁶⁰ does not distinguish between treatment for victims of crimes and victims of *political* oppression.⁶¹ An explicit structural dimension of individual reparation is also lacking at the international criminal tribunals for former Yugoslavia and Rwanda. Their rules of procedure and evidence are limited to individual compensation that has to be sought via national courts.⁶² The Rome Statute of the International Criminal Court goes further in postulating that “[t]he Court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation.”⁶³ What is missing is the fourth component of the van Boven-Bassiouni principles, satisfaction and guarantees of nonrepetition, which postulates structural changes at the sociopolitical level.

59. van Boven et al., *Seminar on the Right to Restitution*, *supra* note 33, at 502.

60. *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, G.A. Res. 40/34, adopted 29 Nov. 1985, U.N. GAOR, 40th Sess., Annex, U.N. Doc. A/Res/40/34/Annex (1985).

61. War rape is another example of a political crime that differs from an ordinary crime, an “ordinary” rape: “[W]omen are facing twice as many rapists with twice as many excuses, two layers of men on top of them rather than one, and two layers of impunity serving to justify the rapes.” Catharine A. MacKinnon, *Crimes of War, Crimes of Peace*, 8 *UCLA WOMEN’S L. J.* 59, 65 (1993).

62. International Criminal Tribunal for Rwanda, Rules of Procedure and Evidence, U.N. Doc. ITR/3/REV.1 (1995), entered into force 29 June 1995, Rule 106.

63. Rome Statute of the International Criminal Court, Art. No. 75, U.N. Doc. A/CONF.183/9 (1998) (entered into force 1 July 2002).

Guarantees of nonrepetition are hypothesized to facilitate healing by helping victims to rebuild their trust in society and by eliminating their fear of further victimization. Political transformation is also entwined with the identity of victims, most of whom had been involved in political projects to end the oppressive system. Successful institutional reform and a sustained process of democratization vindicate the value of their conviction and rebuild that part of the self that was destroyed by the repressive regime. The following hypothesis is based on this analysis:

Hypothesis IIIc: Satisfaction with the process of democratization facilitates reparation.

D. Two Dimensions of the Reparation Process

Reparation of human rights abuses is theorized to incorporate two dimensions: one sociopolitical and another internal.⁶⁴ The first relates to structural causes of oppression and its societal consequences for victims. It aims to restore the dignity of victims in the eyes of the public, settle accounts, and reveal the illegitimacy of the past regime, demanding political and judicial interventions, institutional reform, and social acknowledgment. This first dimension is referred to as *sociopolitical redress*⁶⁵ in this article. The second, which is referred to as *inner healing*, is related to overcoming physical and psychological consequences of oppression and imprisonment.⁶⁶ Both dimensions may be addressed by policy interventions aimed at meeting the needs of victims directly, as the subjects of policy, or indirectly, through other measures for dealing with the past and democratization.

IV. INDICATORS

As a consequence of the paucity of empirical studies in the field of transitional justice, there is no ready recourse to which the authors could

64. See Becker, *supra* note 7, at 590. See also CULLINAN, *supra* note 7, at 24 (discussing the goal of reparation, she states that “[t]he end, or aimed-for situation has been variously described as ‘healing’, ‘closure’, ‘rehabilitation’, or ‘mastery’ (terms connected with a therapy ideal), and as ‘(re)integration’ or restoration to the original state (which are connected with more political approach).”).

65. “Redress,” one of the English synonyms for “reparation,” in its earliest usage also underlines this sociopolitical meaning. “The stripping of the Egyptians and the “re-dressing” of the Israelites signifies more than a material settlement, it is a setting straight, a ceremonial re-dressing, a rehabilitation in the public eye.” See TEITEL, *supra* note 3, at 120.

66. For the discussion of the concept of healing, see Orr, *supra* note 3, at 240–41.

turn when operationalizing the key concepts of the hypotheses. Theories, therefore, are the main guidance in this exercise. We also take into account the specific policy background in the Czech Republic. The operationalization incorporates both behavioral and perceptual variables.

A. Dependent Variables

Corresponding to the thesis that reparation incorporates sociopolitical redress and inner healing, there are two dependent variables. The first is derived from a question that asks "Do you feel rehabilitated?", with response categories of "definitely yes," "rather yes," "do not know," "rather no," and "definitely no." In the context of dealing with the past in the Czech Republic, the word rehabilitation (*rehabilitace*) encompasses a variety of different types of *redress*, especially repeal of unjust judicial decisions, reinstatement in the original profession, and sociopolitical prestige. This variable thus captures the sociopolitical aspect of reparation: redress in the eyes of the public. Feeling rehabilitated is treated as a dichotomy, with "definitely yes" and "rather yes" coded as 1, and all other responses coded as 0.

The second dependent variable is derived from an item that assesses whether the respondents have overcome the psychological and physical consequences of their imprisonment, with response categories of "definitely yes," "rather yes," "do not know," "rather no," and "definitely no." Overcoming the consequences of imprisonment is treated as a dichotomy as well, with "definitely yes" and "rather yes" coded as 1, and "definitely no" and "rather no" coded as 0. This variable captures the individual aspect of reparation: *healing* as an inner process. These two dependent variables are correlated (Pearson Chi-square=63.07, $p < 0.001$)⁶⁷, suggesting that they may partially overlap.

B. Predictor Variables

Although the Czech Republic has a program of financial compensation and all but three of the political prisoners interviewed in this survey had received compensation, not everybody was satisfied with it (see section VII). This study measures the level of satisfaction (Hypothesis I) by using an item with response categories of "definitely yes," "rather yes," "do not know,"

67. Both five point scale questions were condensed into a dichotomous variable with two categories: those who replied "definitely yes" and "yes" were coded 1, 0 otherwise.

"rather no," and "definitely no." Satisfaction with financial compensation is treated as a dichotomy, with "definitely yes" and "rather yes" coded as 1, and all other responses coded as 0.

An unsatisfied desire for retributive justice (Hypothesis IIa) is measured using four indicators: (1) at the policy level, whether justice and punishment of perpetrators should be the main focus of dealing with the past policy (DWP); (2) at the individual level, whether punishment should be the only satisfactory outcome of the trials of their perpetrators; (3) at the structural level, whether the organization that sponsored political violence, namely, the Communist Party, should be banned after the transition; (4) and finally a question about support for the death penalty which, arguably, is the most vivid expression of the core principle of retributive justice, *lex talionis* (an eye for an eye, a life for a life). Because criminal trials of perpetrators were almost absent in the Czech Republic, it was expected that the higher the demand for retributive justice, the higher the level of dissatisfaction. Each indicator is used as a separate dichotomous variable, with their respective coding schemes presented at the bottom of Tables 2 and 3 below.

A public forum that provides victims with the opportunity to tell their stories and to meet and restore their relationships with perpetrators, such as the South African TRC, was not established in the Czech Republic. Victims, nevertheless, had other opportunities to tell their stories publicly, e.g., via the media and their associations.⁶⁸ Some met their perpetrators in daily encounters. Public truth-telling (Hypothesis IIb) is measured by combining two items that assess the extent of the respondents' opportunities for sharing their stories publicly. The first item establishes whether the respondent has tried to tell his or her story publicly, and the second item determines whether his or her story was published when he or she had tried to tell his or her story publicly. The variable has three categories: those who did not try to tell their stories publicly, those who tried but their stories were not published, and those whose stories were published, with the first group used for baseline comparison in the regression analysis.

Reconciliation (Hypothesis IIc) is identified by two variables. The first variable combines two items that assess the outcomes of interaction between respondents and their perpetrators. The first item assesses whether the respondent had met perpetrators, and the second item assesses the outcome of the meeting, with response categories of "perpetrators remained

68. In an interview that preceded the survey, one of the former prisoners recalls that "[t]he regional press, during the time when it was fashionable [shortly after 1989] willingly published our letters and articles. Later however, when [the topic] lost its attractiveness, the situation worsened." Interview with former political prisoner, Prostejov (16 Nov. 1999).

arrogant," "they tried to avoid you," "they considered themselves victims of the system," and "they apologized or made a gesture of forgiveness." The variable thus has five categories, with those who have never met perpetrators coded as 0, "perpetrators remained arrogant" coded as 1, "avoided" coded as 2, "considered themselves victims" coded as 3, "apologized" coded as 4, and those who have never met perpetrators serving as the baseline category for comparison. The second variable is derived from an item that assesses whether the respondents had forgiven their perpetrators, with three response categories of "yes," "do not know," and "no."

Social acknowledgment of past oppression (hypothesis IIIa) is identified by an item that assesses the respondents' levels of satisfaction with the knowledge of citizens about the past, with response categories of "definitely yes," "rather yes," "do not know," "rather no," and "definitely no." Satisfaction with social acknowledgment is treated as a dichotomy, with "definitely yes" and "rather yes" coded as 1, and all other responses coded as 0. Social integration and community acceptance (Hypothesis IIIb) is conceptualized to encompass two dimensions: how the victim is regarded by the community and initiatives taken by victims to integrate. The first dimension is indicated by two variables: the first variable is derived from an item that assesses whether the town hall acknowledged the respondents' past by inviting them to their functions, with response categories of "yes" and "no." The second variable is derived from an item that assesses the attitudes of neighbors towards the respondents' victimization, with response categories of "regarded highly," "behave normally as neighbors," "they do not care," "they still think that I did something criminal," and "other." Attitudes of neighbors are treated as a dichotomy, with "still think that I did something criminal" coded as 1, and all other responses coded as 0. The second dimension of social integration is indicated by two variables as well. The first variable is derived from an item that measures the frequency of church attendance by the respondent, with going to church once a week or more coded as 1, and all other responses coded as 0. The second variable is derived from an item that assesses the level of participation in voluntary associations, with "no participation" coded as 0, "members" coded as 1, and "hold leadership positions" coded as 2. The rationale of incorporating two dimensions is that while the lack of community acknowledgment and continued suspicion may accelerate the feelings of loneliness and isolation, thus inhibiting the victims' recovery, the agency of victims, in particular their attempts to take initiatives for integration, may mitigate this process and facilitate healing.

Satisfaction with democratization is measured by a composite scale. For most transitional societies, institutional reform of the state and the establishment of the rule of law are essential components of democratization. The scale therefore consists of seven items measuring the respondents' levels of

trust in the four consecutive prime ministers after the transition,⁶⁹ President Havel, the Constitutional Court, and general courts, with an additional item measuring their level of satisfaction with the general process of democratization. The response categories for the items are “definitely yes,” “rather yes,” “do not know,” “rather no,” and “definitely no.” Higher scores on the scale indicate lower satisfaction. The scale has an acceptable consistency and reliability (Cronbach’s alpha = 0.65).⁷⁰

V. DATA

As part of this study, a cross sectional survey was designed and conducted among former political prisoners associated with the Confederation of Political Prisoners (KPV) and the Association of Former Political Prisoners (SBPV) in the Czech Republic between 1999–2000. These organizations⁷¹ covered about two thirds⁷² of the total number of about 7,800 former political prisoners in the country in January 2000.⁷³ There are no means available by which the remaining one third can be reached because the

69. See *supra* section II.

70. Lee J. Cronbach, *Coefficient Alpha and the Internal Structure of Tests*, 16 *PSYCHOMETRIKA* 297 (1951).

71. The KPV associates the majority of former political prisoners. The SBPV has about 200 members. However, not all ex-prisoners are members of these organizations. The majority of members are victims from the Stalinist period of 1948–1968. There are a few reasons for this. First, political prisoners do not form a homogeneous group. One of the main differences originates in the period of imprisonment. Prisoners in the 1950s–1960s went through much tougher prison/camp conditions than those in the 1970s–1980s. The former call themselves “dissidents”, while the latter call themselves “resistance”. The difference between the two groups was exacerbated when many members of the latter group took public posts after 1989, while most from the former group were left behind. The eldest group perceived numerous political concessions and compromises, made by dissidents, as contravening fundamentals of the former anticommunist opposition. In addition, some former prisoners are not eligible to join. Some dissidents of the 1970s–1980s were former oppressors, ideologists or collaborators with the communist regime in the 1950s–1960s. Interview with Stanislav Stransky, head of the SBPV, Prague (Jan. 2000).

72. The estimation was between 4,500–5,500. The exact number is unknown because of various reasons. First, the organizations, according to their members, “are gradually dying out.” Indeed, in 1968, the predecessor organization K231 associated more than 100,000 former political prisoners. In 1990, the number dropped to about 10,000. In 2000, the membership halved. Second, many of their members are old, suffer from serious diseases that prevent them from participating in activities of the organizations, or attending the annual meeting. Third, those imprisoned for less than one year are not entitled to free public transport, which inhibits their attendance at annual meetings, where the stamps for free transport are distributed. On the other hand, stamps for free transport motivate many others to attend the meeting.

73. Interview with Dr. Stanislav Drobny, head of the KPV, Brno (Jan. 2000) (based on the data from the Ministry of Labor and Social Affairs).

Ministry of Labor and Social Affairs is not allowed to disclose their identities. The cooperation with both organizations enabled a full sampling frame: each member of the organizations was given a self-administered questionnaire, which was distributed by the heads of local branches. This was considered the cheapest and most feasible option because of the effective organizational infrastructure of the KPV and SBPV, and the nearly 100 percent literacy rate in the Czech Republic. The questionnaire was piloted by eighteen political prisoners. In total, 826 (a response rate of 18.35 percent) completed questionnaires were returned. Many respondents enclosed comments on the research, detailed accounts of their personal sufferings, and pictures. This showed their enthusiasm towards the research and their need to share their experiences. Data from the questionnaires were processed using SPSS. Cross-checking of data input was conducted to ensure correct data entry. In addition, fourteen in-depth oral interviews and eighteen correspondence interviews with former political prisoners were conducted. Together with ten letters, twenty four enclosures to the questionnaires, and numerous comments in the questionnaires, these materials contain narrative accounts of what justice and rehabilitation mean to the respondents. Other sources of data include observations at the KPV meetings at district and national levels, informal meetings with prisoners, and reviews of bulletins published by both organizations, namely the "Zpravodaj" [Newsletter] of the KPV and the "Verni zustali" [Faithful We Stayed] of the SBPV.

VI. RESULTS

The subsequent analyses includes only those who gave a definite assessment of the two outcome measures: inner healing and sociopolitical redress. It begins with a comparison of the differences between those who gave a positive assessment of their reparation with those who gave a negative assessment (Table 1).

Table 1 shows that rehabilitated and nonrehabilitated persons differ significantly in nearly all the indicators of the hypotheses, with the exception of demand for retributive justice. Among its four indicators, only one—support for death penalty—manifests significant differences between the two groups. The two groups also show no significant differences with respect to two of the four indicators of social integration: acknowledged by town hall and frequent church going. All in all, most indicators work in the expected directions, with the exceptions of public truth-telling and meeting with perpetrators, which, in contradiction with predictions (Hypotheses IIb and IIc), do not seem to facilitate reparation. A higher percentage of those who do not feel rehabilitated had their stories published (23.4 percent) and

TABLE 1
Comparison of Characteristics Between Former Czech Political Prisoners Who Feel Rehabilitated and Who Do Not Feel Rehabilitated, and Between Those Who Had Overcome Consequences and Those Who Had Not (Column Percentage)

	Assessment of rehabilitation			Overcome consequences		
	Rehabilitated (n=319)	Not rehabilitated (n=389)	P Value*	Yes (n=326)	Not (n=365)	P Value*
% satisfied with financial compensation	33.5	3.6	<0.005	26.7	8.2	<0.005
Demand for retributive justice						
% justice and punishment as the main aim of dealing with the past	40.1	44.7	0.22	42.0	44.4	0.53
% punishment as the only satisfactory outcome of trials	20.7	28.0	0.02	19.6	30.1	<0.005
% support the ban of the Communist Party	58.6	61.7	0.41	55.5	64.9	<0.05
% support death penalty	66.1	75.3	<0.05	68.1	74.8	0.05
% personal story published	18.8	23.4	<0.005	20.9	20.5	0.92
Reconciliation						
% had met perpetrators	44.8	62.7	<0.005	50.6	58.9	0.05
% thought that perpetrators remained arrogant	10.0	23.2	<0.005	15.6	18.2	0.37
% received apology from perpetrators	6.1	1.8	<0.005	5.6	1.9	<0.05
% have forgiven perpetrators	52.0	38.7	<0.005	49.7	40.0	<0.05
Social acknowledgment of the truth of oppression						
% satisfied with the citizen's knowledge of the past	3.8	0.3	<0.005	2.5	1.1	0.17
Social integration						
% received acknowledgement from the town hall	33.0	33.6	0.87	34.7	31.6	0.40
% still suspected by neighbours	1.9	7.3	<0.005	1.5	8.0	<0.005
% go to church once or more than once a week	32.9	30.1	0.42	35.0	27.4	<0.05
% hold leadership in NGOs and political parties	11.0	13.3	<0.05	12.6	11.2	0.59
Mean score of satisfaction with democratization^a	25.66	28.63	<0.005	26.44	27.97	<0.005
Socio-demographic characteristics						
% men	84.2	89.4	<0.05	86.2	87.3	0.66
Mean Age (in years)	74.7	75.3	0.10	74.94	75.10	0.75
% had secondary or higher education	63.9	55.8	<0.05	63.7	55.8	<0.05
Experience when imprisoned						
Mean length of imprisonment (in months)	56.51	70.32	<0.005	61.85	67.21	0.12
% tortured	37.9	59.0	<0.005	40.4	59.0	<0.005
% returned to original profession after being released	27.2	17.1	<0.005	25.5	18.1	<0.05

* Chi-square statistics are used to test the differences in proportions between groups (feel rehabilitated vs. not feel rehabilitated), and overcome vs. not overcome) while t-test is used to test the equality of means between groups.

^a higher score indicates lower satisfaction.

had met their perpetrators (62.7 percent) compared with those of their “feel rehabilitated” counterparts (18.8 percent and 44.8 percent respectively).

Unlike the first outcome measure (feel or do not feel rehabilitated), demand for retributive justice seems to play a more important role in differentiating the second outcome measure (overcome consequences or not). Those who have overcome the consequences of imprisonment differ significantly from those who have not with respect to three of the four indicators of retributive justice. On the other hand, the indicators of reconciliation seem less able to distinguish the two groups.

Table 2 presents the results of logistic regression for the first dependent variable “feel rehabilitated,” which acts as a proxy for the first dimension of reparation: sociopolitical redress. Logistic regression is appropriate when the outcome measures are dichotomous and no observations are censored. For the i th individual, this model can be expressed as: $\text{Log}(q_i/1-q_i) = \beta_0 + \sum \beta_m x_{mi}$, where q_i is the probability of a respondent to “feel rehabilitated,” β_0 is the baseline constant, and x_{mi} is an array of (m) predictive variables with a corresponding vector of unknown regression coefficients β_m . The models estimate how the probability of “feel rehabilitated” varies according to the tested variables. In this analysis, the authors estimate six models corresponding with the named hypotheses, with the addition of a final model that controls for demographic characteristics and the respondents’ experience of imprisonment.

As Model VII in Table 2 shows, satisfaction with financial compensation turns out to be the most powerful predictor of a positive outcome of sociopolitical redress. The odds ratio for the “satisfied with compensation” coefficient is 13.03 with a 95 percent confidence interval of [6.11, 27.76]. This suggests that those who were satisfied with compensation are thirteen times more likely to feel rehabilitated compared with those who were not satisfied with compensation, lending support to Hypothesis I. None of the indicators of demand for retributive justice is significantly associated with feeling rehabilitated, rejecting Hypothesis IIa.

Although public truth-telling is significantly associated with feeling rehabilitated, the direction of the association contradicts Hypothesis IIb, which predicts that public truth-telling will facilitate reparation. Instead, those who had attempted public truth-telling, but whose story was not published, are nearly four times less likely to feel rehabilitated compared with those who never attempted public truth telling. (The odds ratio for the “public truth telling but story not published” coefficient is 0.27, 95 percent confidence interval 0.10, 0.70.) There are two possibilities: public truth-telling led to high expectations of policy intervention that was not delivered and resulted in reduced probability of feeling rehabilitated. Another possible explanation is reverse causation: those who were unsatisfied with dealing with the past policy were more likely to attempt public truth-telling as a

TABLE 2
Factors Associated With 'Feeling Rehabilitated' of Ex-political Prisoners in the Czech Republic:
Coefficients and Standard Errors of Binary Logistic Regression Modelling

	Model I	Model II	Model III	Model IV	Model V	Model VI	Model VII					
	B	se	B	se	B	se	B	se				
Satisfied with compensation*	2.78 ^c	(0.35)	2.75 ^c	(0.35)	2.87 ^c	(0.37)	2.76 ^c	(0.37)	2.68 ^c	(0.38)	2.57 ^c	(0.39)
Justice and punishment as main aim of DWP			0.17	(0.20)	0.23	(0.21)	0.22	(0.21)	0.20	(0.21)	0.21	(0.22)
Punishment as the only satisfactory outcome of trial			-0.22	(0.22)	-0.11	(0.24)	-0.09	(0.24)	-0.09	(0.24)	0.06	(0.25)
Support ban of the Communist Party			-0.03	(0.19)	0.05	(0.20)	0.10	(0.20)	0.07	(0.21)	0.14	(0.21)
Support death penalty			-0.18	(0.22)	-0.08	(0.24)	-0.07	(0.24)	-0.08	(0.24)	0.05	(0.25)
Public truth telling but story not published			-1.38 ^b	(0.45)	-1.45 ^b	(0.46)	-1.43 ^b	(0.47)	-1.29 ^b	(0.48)	-1.31 ^b	(0.49)
Personal story published			-0.37	(0.24)	-0.35	(0.24)	-0.32	(0.25)	-0.33	(0.26)	-0.24	(0.26)
Perpetrators arrogant			-1.24 ^c	(0.31)	-1.23 ^c	(0.31)	-1.23 ^c	(0.31)	-1.18 ^c	(0.31)	-1.10 ^c	(0.32)
Perpetrators avoided respondents			-0.44	(0.26)	-0.41	(0.26)	-0.40	(0.27)	-0.40	(0.27)	-0.49	(0.28)
Perpetrators considered themselves victims			-0.43	(0.28)	-0.41	(0.29)	-0.34	(0.29)	-0.34	(0.29)	-0.38	(0.30)
Perpetrators apologized			1.10 ^b	(0.54)	1.12 ^b	(0.54)	1.10 ^b	(0.55)	1.10 ^b	(0.55)	0.97	(0.56)
Forgave perpetrators			0.37	(0.22)	0.37	(0.22)	0.39	(0.22)	0.31	(0.23)	0.31	(0.23)
Satisfied with the citizen's knowledge of the past					6.27	(10.47)	6.22	(10.42)	5.61	(10.54)	5.53	(10.44)
Still suspected by neighbors							-0.03	(0.21)	-0.17	(0.22)	-0.16	(0.22)
Frequent church goers							-1.28 ^c	(0.62)	-1.33 ^c	(0.62)	-1.13	(0.67)
Association member							-0.02	(0.23)	0.02	(0.23)	-0.03	(0.24)
Association leader							0.14	(0.24)	0.12	(0.24)	0.12	(0.25)
Satisfaction with democratization score							-0.24	(0.34)	-0.27	(0.35)	-0.35	(0.36)
Woman									-0.10 ^c	(0.34)	-0.10 ^c	(0.35)
Age									0.13	(0.33)	0.13	(0.32)
>Secondary education									-0.01	(0.02)	-0.01	(0.02)
Length of imprisonment									0.31	(0.22)	0.31	(0.22)
Tortured									-0.003	(0.003)	-0.003	(0.003)
Returned to original occupation after release									-0.22	(0.22)	-0.22	(0.22)
Degree of Freedom	1		12		13		18		19		25	
Model Chi-square	101.41		107.50		159.26		165.63		186.03		198.40	
Change of Model Chi-square compared to the previous model (df)			2.09	(4)	6.18 ^b	(1)	6.37	(5)	20.41 ^c	(1)	12.36 ^b	(6)

* The following coding scheme was used in the logistic regression analyses: the dependent variable, "feel rehabilitated" (1 if definitely yes or yes, 0 otherwise); predictor variables: satisfied with financial compensation (1 if definitely yes or yes, 0 otherwise); justice and punishment the main aim of dealing with the past policy (1 if yes, 0 otherwise); punishment the only condition to satisfy with trial (1 if prison sentence is the only circumstance to be satisfied with the result of judicial trials with perpetrators, 0 otherwise); support ban of the Communist Party (1 if support the ban, 0 otherwise); support the death penalty (1 if yes, 0 otherwise); public truth telling (2 if perpetrator avoided the respondent when met, 1 if perpetrator remained arrogant when met, 0 when perpetrator apologized when met, 3 if perpetrator considered him/herself a victim when met, 2 if perpetrator acknowledged by the town hall (1 if yes, 0 otherwise); still never met); forgiveness (1 if forgiven, 0 otherwise); satisfaction with citizens' knowledge of the past (1 if definitely yes or yes, 0 otherwise); acknowledged by the town hall (1 if yes, 0 otherwise); still suspected by neighbors (1 if yes, 0 otherwise); frequent church goers (1 if once a week or more, 0 otherwise); association participation (2 if holding leadership, 1 if members, 0 if no participation); satisfaction with democratization (on scale); length of imprisonment (in years); education (1 if secondary or higher, 0 otherwise); tortured (1 if yes, 0 otherwise); returned to original occupation (1 if yes, 0 otherwise).

^a p < 0.05
^b p < 0.01
^c p < 0.001

means to change the situation. Likewise, although the first indicator of reconciliation is significantly associated with the dependent variable, the relationship is far more complicated than a simple prediction of a meeting promoting redress. Those who met their perpetrators but viewed them as remaining arrogant were three times less likely to feel rehabilitated compared with those who had never met their perpetrators (the odds ratio for the “perpetrators arrogant” coefficient is 0.33, with a 95 percent confidence interval of 0.17, 0.62). This suggests that meetings between victims and perpetrators may revive old wounds and inhibit redress, in particular, when the perpetrators show no remorse. At one level, the results lend some support to Hypothesis IIc, which predicts reconciliation to facilitate redress. At another level, it suggests the danger of unmonitored processes of reconciliation, such as informal meetings and chance encounters between victims and perpetrators.

The indicator of social acknowledgment is insignificant, thus rejecting Hypothesis IIIa. Also, all four indicators of social integration are found to be insignificant in the final model, rejecting Hypothesis IIIb. Satisfaction with democratization, as measured by the composite scale, is significantly associated with feeling rehabilitated. The odds ratio for the “satisfaction with democratization score” coefficient is 0.90 with a 95 percent confidence interval of [0.86, 0.95]. This suggests that an increase up the scale by one unit, which indicates lower satisfaction, reduces the likelihood of feeling rehabilitated by 10 percent, lending strong support to Hypothesis IIIc. Finally, a return to one’s previous profession after release also facilitates sociopolitical redress. Those who returned to their previous profession are 1.8 times more likely to feel rehabilitated when compared with those who failed to do so (odds ratio 1.76, 95 percent confidence interval 1.06, 2.94).

In short, the results lend support to Hypothesis I (financial compensation) and Hypothesis IIIc (democratization), show the complicated relationship between public truth-telling (Hypothesis IIb), reconciliation (IIc) and sociopolitical redress, and reject Hypotheses IIa (retributive justice), IIIa (social acknowledgment), and IIIb (social integration).

Table 3 presents the results of logistic regression for our second dependent variable (overcome the physical and psychological consequences of imprisonment), which acts as a proxy for the second dimension of reparation: inner healing.

The models in Table 3 estimate how the probability of overcoming the consequences of imprisonment varies according to the tested variables. As Model VII shows, satisfaction with financial compensation is positively and significantly associated with inner healing. Those who were satisfied with financial compensation were twice as likely as their unsatisfied counterparts to overcome the consequences of imprisonment (odds ratio 2.26, 95 percent confidence interval 1.33, 3.84). This lends support to Hypothesis I.

TABLE 3
Factors Associated With Successfully Overcoming the Consequence of Past Oppression By Ex-political Prisoners in the Czech Republic:
Coefficients and Standard Errors of Binary Logistic Regression Modelling

	Model I	Model II	Model III	Model IV	Model V	Model VI	Model VII					
	B	se	B	se	B	se	B	se				
Satisfied with compensation*	1.17 ^c	(0.24)	1.11 ^c	(0.25)	1.06 ^c	(0.25)	1.05 ^c	(0.26)	1.00 ^c	(0.26)	0.81 ^c	(0.27)
Justice and punishment as main aim of DWP			0.21	(0.19)	0.24	(0.19)	0.24	(0.19)	0.22	(0.19)	0.22	(0.19)
Punishment the only satisfactory outcome of trial			-0.37	(0.21)	-0.31	(0.22)	-0.31	(0.22)	-0.27	(0.22)	-0.25	(0.22)
Support ban of the Communist Party			-0.21	(0.18)	-0.18	(0.18)	-0.17	(0.19)	-0.18	(0.19)	-0.17	(0.19)
Support death penalty			-0.45 ^a	(0.20)	-0.45 ^a	(0.22)	-0.46 ^a	(0.22)	-0.44 ^a	(0.22)	-0.41	(0.22)
Public truth telling but story not published			-0.58	(0.36)	-0.58	(0.36)	-0.58	(0.36)	-0.59	(0.37)	-0.55	(0.37)
Personal story published			0.23	(0.22)	0.24	(0.22)	0.24	(0.22)	0.20	(0.23)	0.20	(0.23)
Perpetrators avoided respondents			-0.33	(0.26)	-0.33	(0.26)	-0.28	(0.26)	-0.28	(0.26)	-0.26	(0.26)
Perpetrators considered themselves victims			-0.29	(0.24)	-0.29	(0.24)	-0.26	(0.25)	-0.26	(0.25)	-0.21	(0.25)
Perpetrators apologized			-0.52	(0.27)	-0.52	(0.27)	-0.47	(0.28)	-0.48	(0.28)	-0.48	(0.28)
Forgave perpetrators			0.88	(0.52)	0.88	(0.52)	0.89	(0.52)	0.86	(0.52)	0.84	(0.53)
Satisfied with the citizen's knowledge of the past			0.16	(0.20)	0.16	(0.20)	0.11	(0.20)	0.11	(0.20)	0.09	(0.20)
Acknowledged by the town hall							0.19	(0.75)	0.18	(0.76)	0.09	(0.76)
Still suspected by neighbors							0.17	(0.20)	0.17	(0.20)	0.14	(0.20)
Frequent church goes							-1.41 ^b	(0.56)	-1.41 ^b	(0.56)	-1.32 ^a	(0.57)
Association member							0.15	(0.21)	0.15	(0.21)	0.16	(0.21)
Association leader							-0.07	(0.22)	-0.07	(0.22)	-0.07	(0.22)
Satisfaction with democratization score							-0.06	(0.30)	-0.06	(0.30)	0.07	(0.30)
Woman											-0.02	(0.02)
Age											-0.23	(0.29)
>Secondary education											-0.004	(0.02)
Length of imprisonment											0.26	(0.20)
Tortured											0.001	(0.002)
Returned to original occupation after release											-0.57 ^b	(0.20)
Degree of Freedom	1	5	12	13	18	18	19	19	19	19	25	25
Model Chi-square	25.11	35.81	51.01	51.08	60.77	60.77	61.82	61.82	61.82	61.82	77.34	77.34
Change of Model Chi-square compared to the previous model (df)			10.71 ^a (4)	0.07 (1)	15.20 ^a (7)	9.69 (5)	1.05 (1)	15.52 ^b (6)				

* The following coding scheme was used in the logistic regression analyses: the dependent variable, "overcome consequences" (1 if definitely yes or yes, 0 otherwise); predictor variables: satisfied with financial compensation (1 if definitely yes or yes, 0 otherwise); justice and punishment the main aim of dealing with the past policy (1 if yes, 0 otherwise); punishment the only condition to satisfy with trial (1 if prison sentence is the only circumstance to be satisfied with the result of judicial trials with perpetrators, 0 otherwise); support ban of the Communist Party (1 if support the ban, 0 otherwise); support the death penalty (1 if yes, 0 otherwise); public truth telling (2 if personal stories published, 1 if attempted truth telling but story not published, 0 when no public truth telling; reconciliation (4 if perpetrator apologized when met, 3 if perpetrator considered him/herself a victim when met, 2 if perpetrator avoided the respondent when met, 1 if perpetrator remained arrogant when met, 0 when never met); forgiveness (1 if forgiven, 0 otherwise); satisfaction with citizens' knowledge of the past (1 if definitely yes or yes, 0 otherwise); acknowledged by the town hall (1 if yes, 0 otherwise); still suspected by neighbors (1 if yes, 0 otherwise); frequent church goes (1 if once a week or more, 0 otherwise); association participation (2 if holding leadership, 1 if members, 0 if no participation); satisfaction with democratization (on scale); age (in years); length of imprisonment (in years); education (1 if secondary or higher, 0 otherwise); tortured (1 if yes, 0 otherwise); returned to original occupation (1 if yes, 0 otherwise).

^a p < 0.05
^b p < 0.01
^c p < 0.001

A return to one's previous profession after release also facilitates healing. Those who returned to their previous profession were 1.7 times more likely to overcome the consequences when compared to their counterparts who could not return to their previous professions (odds ratio 1.65, 95 percent confidence interval 1.04, 2.63).

Although "neighbors being suspicious" (an indicator of continued social stigmatization) is not significantly correlated with sociopolitical redress, it is significantly associated with inner healing. Those who claimed to be suspected by neighbors were nearly four times less likely to have overcome the consequences of imprisonment when compared with other respondents (odds ratio 0.27, 95 percent confidence interval 0.09, 0.82). The result lends some support to Hypothesis IIIb. Likewise, although being tortured plays no significant role in the sociopolitical dimension of redress, it is negatively and significantly associated with inner healing. Those who experienced torture were about 1.8 times less likely to have overcome the consequences of imprisonment in comparison with their counterparts who did not experience it (odds ratio 0.57, 95 percent confidence interval 0.39, 0.83).

These findings confirm that reparation has two dimensions: one sociopolitical and the other individual. Although both dimensions partially overlap, with "satisfaction with financial compensation" and "return to one's previous profession" as their common correlates, they also have distinctive mechanisms. While "satisfaction with democratization," "public truth-telling," and "interaction with perpetrators" are significant correlates of sociopolitical redress, they are not significantly related to inner healing, which is associated more with neighbors' suspicion and being tortured (Figure 1).

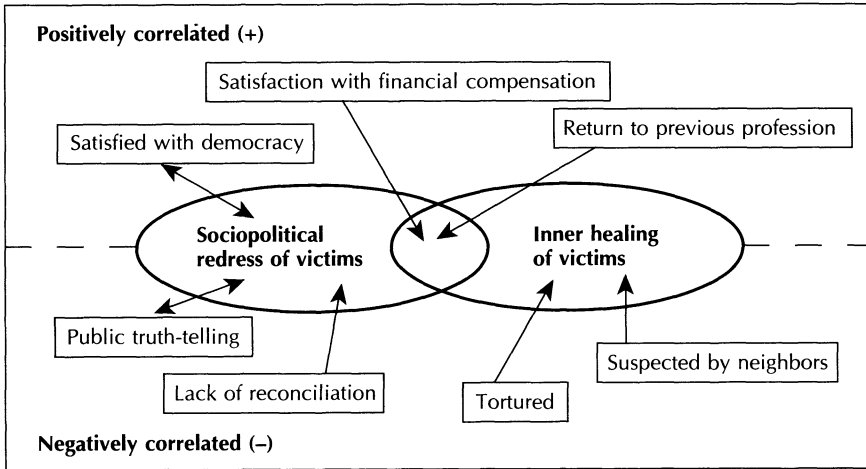
VII. DISCUSSION

In this section, the results of the study are interpreted in light of narrative accounts obtained during follow-up interviews with former political prisoners.

A. Financial Compensation

This study found satisfaction with financial compensation to be the most powerful predictor of positive outcomes of reparation. As discussed below, money facilitates inner healing by providing respondents with medical care and compensating part of their economic loss, thus relieving some physical and psychological consequences of imprisonment. Money also symbolizes social acknowledgment and entails justice, thus enhancing sociopolitical redress.

FIGURE 1
Factors Associated with Individual Reparation



Money helps to solve the pressing problems ex-political prisoners confront on a daily basis, particularly expenses of health care caused by their imprisonment and exacerbated by old age.⁷⁴ This aspect of financial compensation is evidenced by the following responses:

The thing that the government should do is to make the ageing of former political prisoners easier. It mainly concerns health and medicine.⁷⁵

Thanks to [our organization] we have certain advantages (free public transport and subsidies for telephone calls). Thanks for this! [But] all of us came to the age when we think about where and how to spend the rest of our lives. Could we get certain preference in setting the order for the distribution of the pensions and flats with social care?⁷⁶

The above quotations attest to compensation as a means of access to daily necessities. The problem is that, unlike a pension, compensation is not automatically adjusted with inflation. This has led to dissatisfaction, particu-

74. The Czech Republic is a welfare state. According to its constitutional Charter of Fundamental Rights and Basic Freedoms, Constitutional Act No. 2/1993, art. 31: "Everybody has the right to protection of his or her health. Citizens are entitled under public insurance to free medical care and to medical aids under conditions set by the law."

75. Correspondence interview with respondent No. 85 (Feb. 14, 2000) (on file with the authors).

76. Enclosure to the questionnaire, respondent No. 363 (on file with the authors).

larly when compensation was allocated in two installments with a gap of a few years. While waiting for the second installment, all prices dramatically increased because of the progressing liberalization of the price-controlled economy.

Money also compensates for some of the consequences prisoners suffered, which go far beyond slave labor, inhuman treatment, torture, confiscated properties, reduced wages, and the loss of earnings. These experiences are often described by respondents in detail or precisely calculated. They also include severe persecution after release, drastic impact on family, terrible social conditions and the denial of any opportunity to improve them.⁷⁷ However, the reparation policy focuses mainly on the victims without acknowledging the sacrifices of their families, for example, in the form of scholarships for children or free transport for spouses. Further, due to budgetary constraints the policy aims to alleviate only *some* of the injustices committed by the communist regime. For some victims, looking from the perspective of ideal principles, partial justice remains injustice.

Yet political prisoners' assessment of financial compensation depends not so much on its face value, as on its symbolic meaning. For many, the amount of compensation signifies how society values the worth of their sacrifice and past suffering. Financial compensation sends a weighty signal of acknowledgment that mere words of apology or gestures can never achieve:

Money cannot compensate our suffering or the suffering of our families. Yet I think it makes a moral gesture to acknowledge it.⁷⁸

We live in a monetary society where one's social status and dignity is measured above all by money. The government should equalize financial compensation to the level of prisoners of Nazism. This would be a minimum, though, because

-
77. The impacts on family included forced divorces, harassment and discrimination of family members in employment or study, and appalling living conditions:

My wife, who was pregnant at that time [of my arrest] and looking after our 1.5 year-old baby, was dismissed from her employment, broke down, and had to be taken to a hospital. Afterwards she got a very badly paid job, which was not enough to sustain the family. She was constantly harassed by the secret police, including house searching, confiscation of personal property . . . they forced her to divorce me, which she refused.

Correspondence interview with respondent No. 129 (Feb. 11, 2000) (on file with the authors).

After my release, I returned to the destructed family as an alien, my children were scared of [me].

Letter from J.R. to Roman David (Feb. 15, 2000) (on file with the authors).

[After my imprisonment], [my] mother developed a psychological illness and never recovered. My husband had to change his vocation of a priest. . . . Luckily, I did not have children.

Correspondence interview with respondent No. 56 (Feb. 2000) (on file with the authors).

78. Letter from J.K. to Roman David (Feb. 15, 2000) (on file with the authors).

prisoners of communism were imprisoned for twice as long and continued to be harassed by secret police until the fall of communism.⁷⁹

Because financial compensation symbolizes social acknowledgment, inadequate compensation signifies society's lack of concern for the prisoners' welfare. Some even conclude that by not providing them with adequate health care, society is quietly wishing the political prisoners to die faster, thus bringing an end to their effort of remembrance and to be the "consciousness of the nation."⁸⁰ As one respondent stated, "The Government could try to improve . . . our healthcare (e.g., in spas). We think there is an effort to achieve our fast disappearance—quietly pass away from this world."⁸¹

Finally, monetary compensation acts as a proxy for justice. Dissatisfaction with financial compensation is often entwined with comparisons with perpetrators,⁸² who, most victims complained, had received greater compensation for their forced retirement after the fall of communism compared to political prisoners:

Prison wardens who tortured us were dismissed in the beginning of the 1990s but with compensation not less than CZK 100,000 and high pensions, while their victims suffer with their pensions at the life minimum. Do you really think that these diehard communists would come to apologize to anyone? They are laughing in our faces.⁸³

When I see deputies and senators who were members of the Communist Party and now they have employment in which they do not do much but rest, drink . . . where is justice?⁸⁴

79. Letter from H.R. to Roman David (Feb. 14, 2000) (on file with the authors).

80. As an official record of an annual meeting of a local branch of their organization states: "Year 2000 confirmed that we, though old and sick, are an obstacle for many people because we are still eye witnesses of cruelties and crimes committed by communists." *Zapis vyrocni schuze KPV pobočky Semily-Trutnov* [Transcript of the Annual Meeting of the KPV branch Semily-Trutnov], 19 Jan. 2001. The statement "we die out" stems from feelings of isolation and serves as a coping strategy to strengthen togetherness and deal with the aging and passing away of many members of their fellowship. *Id.*

81. Correspondence interview with respondent No. 164 (Feb. 2000) (on file with the authors).

82. In addition to perpetrators, victims also compare themselves with their "rivals": high profile dissidents, Charter 77 signatories, and Prague Spring leaders who, as one interviewee put it, "got fame, return of property, high salaries, and especially power" after 1989. Letter from respondent No. 89 to Roman David (Dec. 19, 1999) (on file with the authors). Occasionally, they refer to members of the formerly communist-sponsored anti-Nazi "Association of Freedom Fighters" (SBS) who received wider social acknowledgment and more generous financial compensation, and to those who were compensated for their slave labor in Nazi Germany. Other reference groups are current politicians who claimed compensation for their defamation and former civil miners in uranium mines.

83. Letter from O.T. to Roman David (Feb. 7, 2000) (on file with the authors).

84. Correspondence interview with respondent No. 105 (Feb. 2000) (on file with the authors).

My wife and I went to a spa two years ago. We paid CZK 16,000 for three weeks. I received CZK 2,000 subsidy as a former political prisoner . . . but former secret policemen had their spa free of charge.⁸⁵

Therefore many political prisoners demanded that their pension and other benefits be equalized with those of perpetrators. For example, when asked what the government should do for political prisoners, a respondent suggested: “[t]ransfer each political prisoner regardless of the length of imprisonment to a first pension category, the one similar to secret police and policemen.”⁸⁶

B. Return to One’s Previous Profession

In addition to satisfaction with financial compensation, return to one’s previous profession after release is another variable that facilitates both dimensions of reparation. Barring a person from reentering into their previous profession indicates the continuation of political persecution while reinstatement symbolizes the end of it, thus enhancing sociopolitical redress. Reinstatement also helps individuals to rebuild their careers and personal lives, thus facilitating inner healing. Before 1989, only a few fortunate individuals were able to resume their previous professions after release, with a few more after a certain period of time or during the relatively liberal period of the Prague Spring. Those who were denied this option consider it the most devastating consequence of their imprisonment. It entails the loss of one’s career, opportunities of self-realization, and earning potential:

I studied at the University (faculty of science—geology). . . . All my future and career was destroyed, I finished my productive age as a miner after 30 years in uranium mines. I do not regret this. . . .⁸⁷

[The most dramatic life change due to imprisonment was] the definitive loss of my profession as a journalist at the age of 28.⁸⁸

After 1989, reinstatement was not always feasible for the aged, for those suffering from illness as a result of imprisonment, or for those whose businesses were not reestablished. In these cases, financial compensation seems to be the only option. Yet the compensation policy primarily targeted the length of imprisonment instead of persecution. This makes the policy

85. Letter from J.R. to Roman David (Feb. 15, 2000) (on file with the authors).

86. Correspondence interview with respondent No. 119 (Feb. 2000) (on file with the authors).

87. Correspondence interview with respondent No. 24 (Feb. 2000) (on file with the authors).

88. Letter from H.R. to Roman David (Feb. 14, 2000) (on file with the authors).

inherently inadequate/unjust for those who were imprisoned for short periods of time but were discriminated against in their employment for the rest of their productive age. Reinstatement can therefore make a significant impact on those who are still in their productive age, as the following case indicates:

I studied at the school of medicine and was expelled just before my graduation. After my release from the prison, I worked as an autopsy helper. After 1989, pursuant to the ordinance of the Minister of Education, I could continue and finish my studies in my fifties and start working as a GP.⁸⁹

C. Lack of Reconciliation, Public Truth-Telling, and Neighbors' Suspicion

The lack of reconciliation with perpetrators, in particular the perception that perpetrators are hostile, inhibits sociopolitical redress. Reconciliation signifies that past political conflicts and divisions have been overcome. On the other hand, the lack of reconciliation suggests the continued influence of the past over the present. Unfortunately, many victims and perpetrators are still afflicted by the past. About half of the respondents had met their perpetrators informally, and a mere 4.5 percent had received an apology. Many reported that perpetrators displayed persistent negative behaviors, such as being verbally offensive, arrogant, and indifferent, and giving excuses for their past acts. Unhealed wounds and the general frustration that perpetrators had not acknowledged their fair share of responsibility have generated resentments that obstruct reparation. This draws attention to the importance of setting up a formal and carefully monitored mechanism to enhance positive outcomes of interactions between perpetrators and victims.

Although many respondents criticize perpetrators for showing no remorse, the majority did not demand retributive justice. Even among those who desired punishment, their unmet demands, resulting from the near absence of criminal trials in the Czech Republic, have not significantly obstructed the process of reparation. While not seeking punishment, many victims insist that the truth be known:

The government should disclose the horror of the communist regime, [the wrongs] it committed on political prisoners and their families.

I described my fate as a co-author of a book *How to Walk in Rope*. . . . The nation should know the truth, although many are not interested in it anymore. This is a tragedy of our time.⁹⁰

89. Enclosure to the questionnaire from respondent No. 148 (on file with the authors).

90. *Id.*

Many attempted public truth-telling facilitated via the media⁹¹ for various reasons. However, the media may not be a suitable forum for truth-telling. Many complained that its limited space prevented them from narrating their stories fully and freely. Some political prisoners, because of their old age, see truth-telling as a means to compensate for their feeling of social marginalization and political isolation in the decision making process. They hope that increased public awareness of the cruelty of the communist regime will make people more vigilant against future threats;⁹² others see truth-telling as their vocation—if those who witnessed and experienced it first hand do not disseminate the message, who will? Some are frustrated by the general lack of interest in the past. The desire that people have to move forward is sometimes expressed in a desire to forget the past. The lack of social acknowledgment further vindicates this sentiment. By telling the truth, some political prisoners hope that they can renew peoples' interest in it.

In sum, attempts at truth-telling are driven by frustration with the current political situation. The victims express their feelings of social and political marginalization and disappointment with the ignorance of society and the incomplete task of dealing with the past. Yet it seems that the process of truth-telling only exacerbates this frustration by raising expectations of greater social acknowledgment that are never met, hence inhibiting sociopolitical redress. This is, however, not an argument against employing truth commissions. No truth commission was established in the Czech Republic that would offer sufficient space for victims to express themselves freely and at the same time provide public acknowledgment, therapy, and psychological assistance. This being said, those who promote truth commissions should also be aware of the danger that they may also generate unrealistic expectations among victims.

While 11 percent of our respondents are highly regarded by neighbors, 5 percent are still regarded with suspicion by their neighbors, which has significantly reduced their chances of inner healing. Some neighbors envied them for their compensation—"They talk about hundreds of thousands in

91. Although the media has revealed the horrific stories of victims' suffering after the fall of communism, many official documents about the secret police and their collaborators remain secret.

92. "I seek to warn . . . from the danger that a new generation faces. As cunning as Satan is, Communists know how to seduce the young and trusting population by their demagogical promises." Letter from P.B. to Roman David (on file with authors). These warnings employ two mechanisms: some warn democrats against making mistakes that might be utilized by communists in regaining power while the most common warning, based on the widespread changes of party affiliations after 1989, is that communists have *de facto* never lost their power.

compensation."⁹³ Others still consider them criminals who "should stay where they were."⁹⁴ Many respondents reported that those who informed on them in the past still live in their neighborhood. We think that the lack of reconciliation, social ignorance about, and disinterest in, the truth may lead to the continued stigmatization of political prisoners by neighbors. This suggests the connection between societal responses to dealing with the past and microlevel interaction between victims and their immediate surroundings—the latter being partly determined by the former.

D. Satisfaction with Democratization

Satisfaction with democratization and trust in the Constitutional Court, general courts, and highest political representatives are significantly associated with a positive assessment of reparation. The association seems natural. Politics is interconnected with the lives of our respondents: they were politically active in the past, were punished for their political beliefs, and became *political* prisoners. They are *zoon politicon*, "political beings," persons having a vital interest in politics. About 92 percent of them voted in the election of the House of Deputies in 1998. Moreover, 36 percent are members of a political party or an association of interest, some of them even holding high posts. Most had high hopes for the transition and felt betrayed when the reality fell short of their expectations. They were particularly upset by the continuing dominance of the old networks in politics and the economy. As a respondent lamented:

[In 1989], I strongly believed that genuine freedom, democracy, order and justice would come. Now I am deeply disappointed because it is not true at all. Instead, . . . gross [economic] crime, corruption, fraud of national property and banks . . . and politicians disinterested in solving the problems of the middle class. . . . I see these everyday on TV and newspapers. I worry that the communists will win the next elections.⁹⁵

The 1998 elections that brought to power the left-wing social democratic government of Milos Zeman also upset many political prisoners, the vast majority of whom voted for center-right parties such as the Civil Democratic Party (ODS) and Christian Democratic Union (KDU). They also felt betrayed by ODS when it formed a tacit coalition with the minority social democrats.

93. Comment to the Questionnaire, Respondent No. 231.

94. Comment to the Questionnaire, Respondent No. 826.

95. Enclosure to the questionnaire No. 84 (on file with authors). The unstable political and economic situation during the time of conducting the survey provided strong reasons for such concerns. On the influence of the past elite, see David, *supra* note 10, at 413–16.

As “political beings,” some political prisoners politicize social and personal issues⁹⁶ or run the risk of conspiracy theories. A respondent, for example, insisted that “Prague Spring leaders and [dissents who signed] Charter 77 were in fact financed by the West via the KGB . . . to destroy the morality of the Czech nation.”⁹⁷

Another difficulty is that the frame of reference of some of our respondents is very rigid. Many hold a dualistic worldview that divides people into two categories: “we” and “they,” “mukls”⁹⁸ and “communists,” “good” and “bad,” those who adhere to these principles and those who do not. This dualism, paradoxically, mirrors dualistic categories held by their totalitarian oppressors who were determined to liquidate class enemies for a “better future.” Such a dualistic mentality runs in direct conflict with democratic mentalities, which emphasize the pluralistic character of the world and which rest on compromises. Politics in pluralist democracy is, in Lord Acton’s words, merely “the art of the possible,” not the means to pursue absolute ideals and principles.⁹⁹ Alas, political compromises are often viewed by political prisoners as a deviation from, or betrayal of, their treasured principles. They are especially critical of political compromises made by the government with respect to dealing with the past, which includes preserving considerable legal continuity with the repressive regime, partial de-Communization, alleviation of past injustices, and hesitation to condemn Communism in the same way as Nazism.

E. Limitations

Before discussing the general policy implications of the findings, two limitations of this research should be noted. First, the study is cross-sectional,

-
96. See GADOUREK & NEHNEVAJSA, *supra* note 7, at 47 (quoting a respondent who blamed the political system for being responsible for the death of a family member: “Nor concentration camps, nor government harmed her daughter who died of leukemia.”). This perception stems from the nature of the totalitarian regime and its excessive intrusion into the private life.
 97. Letter from respondent No. 89 to Roman David (Dec. 19, 1999) (on file with the authors). Conspiracy theories are used to explain the complexity of regime change. They reflect mistrust in cognitive features of political processes and fears that stemmed from the experience of severe persecution, infiltration, and omnipresent reporting during communism.
 98. “Mukl” is an abbreviation of “muz urceny k likvidaci,” a man designated for liquidation. “Mukl” was invented by the ruling Communists to denote political prisoners of the 1950s and 1960s. Paradoxically, this term is very frequently used in the slang of the prisoners group, perhaps to strengthen the group solidarity. Cf. *supra* note 87 and accompanying text.
 99. BERNARD CRICK, *IN DEFENCE OF POLITICS* (1962) (referring to R. Acton Butler’s famous quotation).

meaning that it is difficult to make statements of causation based on associations because of the possibility of reverse causation. In addition to cases already discussed, eventual reverse causations may occur between satisfaction with democratization and assessment of reparation. Instead of satisfaction with democratization facilitating reparation, satisfaction with the redress that one has received may lead to a positive assessment of the government and courts. Second, results may be biased because of the low response rates. It remains unclear whether those who returned the questionnaire had characteristics that differed significantly from those who did not. The respondents may consist of the more outspoken and active segment of the political prisoner population. If this is the case, the sampling and research method used in this study might have inadvertently excluded the most isolated and marginalized segment of the population. On the other hand, many of those imprisoned in 1970s and 1980s are still in their productive age. They often hold administrative positions and are well integrated into society. Few of them are active members of the two organizations for political prisoners and thus might not have been reached by the survey.

VIII. POLICY IMPLICATIONS AND RECOMMENDATIONS

The analyses presented herein confirm that reparation of human rights violations consists of two partially overlapping processes: inner healing and sociopolitical redress. Their outcomes are associated with factors and interventions at various levels. At the individual level, satisfaction with financial compensation and return to the original profession are positively associated with reparation, while the experience of torture is associated negatively. All of the factors at the community level—neighbors' suspicions, attempts at public truth-telling, and hostility of perpetrators—are negatively associated with reparation. The positive association between satisfaction with democratization and sociopolitical redress signifies the connection between the *political* process and the reparation of *political* victims. Hence, reparation of victims is not only a private matter, it is also part of a broader process of rebuilding relationships between victims and the community, society, polity, and perpetrators, as anticipated by van Boven's principles. These results give support, within their reach, to the ecological model of social reconstruction, as theorized by Fletcher and Weinstein.¹⁰⁰

To employ the best possible mechanisms of redressing victims, one must consider changes and interventions beyond the individual level, as an

100. See Fletcher & Weinstein, *supra* note 5, at 621–35.

individual is to return to his community, rejoin society, and reenter the polity. Reparation must be part of a broader process that enables society to come to terms with its past and launch political and structural reforms. The system influences victims and victims desire to change the system. Victims can stimulate the process of sociopolitical transformation and benefit from it, if they are accepted and acknowledged.

An encouraging finding is that retributive measures are not significantly associated with sociopolitical redress. This means that victims' desires are compatible with social reconstruction, a process that may only be feasible in some countries if trials are not pursued.¹⁰¹ Nevertheless, although most political prisoners do not demand punishment, they insist that the truth be known and that perpetrators accept responsibility for their actions, at least by expressing remorse. In the Czech Republic, the lack of responsibility and remorse has generated a new source of bitterness amongst victims and has perpetuated old divisions at the interpersonal level.

The findings further suggest that policy interventions should mix three basic principles: they should occur gradually, at various levels, and with the active participation of victims. The multilevel principle implies that reparation should not only include isolated responses but, given the interconnectedness of the systems' components, should also include responses that connect victims, the community, and perpetrators across the societal, political, and institutional levels. The desire of victims to share their truth publicly, their aspirations to return to their original professions, and their political nature indicates that reparation should not be a one-sided process in which victims are passive recipients. They need to be active elements in the process and join the project of pursuing transition to democracy. Finally, the principle that intervention should occur gradually is guided by a theory about the hierarchy of human needs, pursuant to which the sequence of interventions should start with those that satisfy the primary needs of victims first, pursuing values such as reconciliation last.¹⁰² This theory is congruent with the three stages of victims' recovery, as maintained by Herman: the establishment of safety, remembrance and mourning, and reconnection

101. In the light of the findings, the response of Madres from Plaza de Mayo could reflect the inconsistency between individual reparation and political development. Once the military puts pressure on the government to escape accountability, victims increase their pressure too.

102. ABRAHAM MASLOW, *MOTIVATION AND PERSONALITY* 35–41 (1954), *quoted in* Fletcher & Weinstein, *supra* note 5, at 624–25. The South African TRC was not designed exactly in accordance with the gradualist approach. Its Reparation and Rehabilitation Committee only held mandate to make *recommendations*, effectively sidelining the primary needs of victims by promoting reconciliation with perpetrators. *Cf.* Amnesty International & Human Rights Watch, *Truth and Justice: Unfinished Business in South Africa* (2003), available at web.amnesty.org/library/Index/ENGAFR530012003?open&of=ENG-ZAF.

with others.¹⁰³ Naturally, the cessation of violations, the release of all political prisoners, and the dispersion of fear of continuing terror are preconditions for any interventions. Understanding the needs of victims is an initial step, followed by their empowerment and reconnection with their social environment, and finally with the process of facing perpetrators. Figure 2 summarizes the recommended policy interventions.

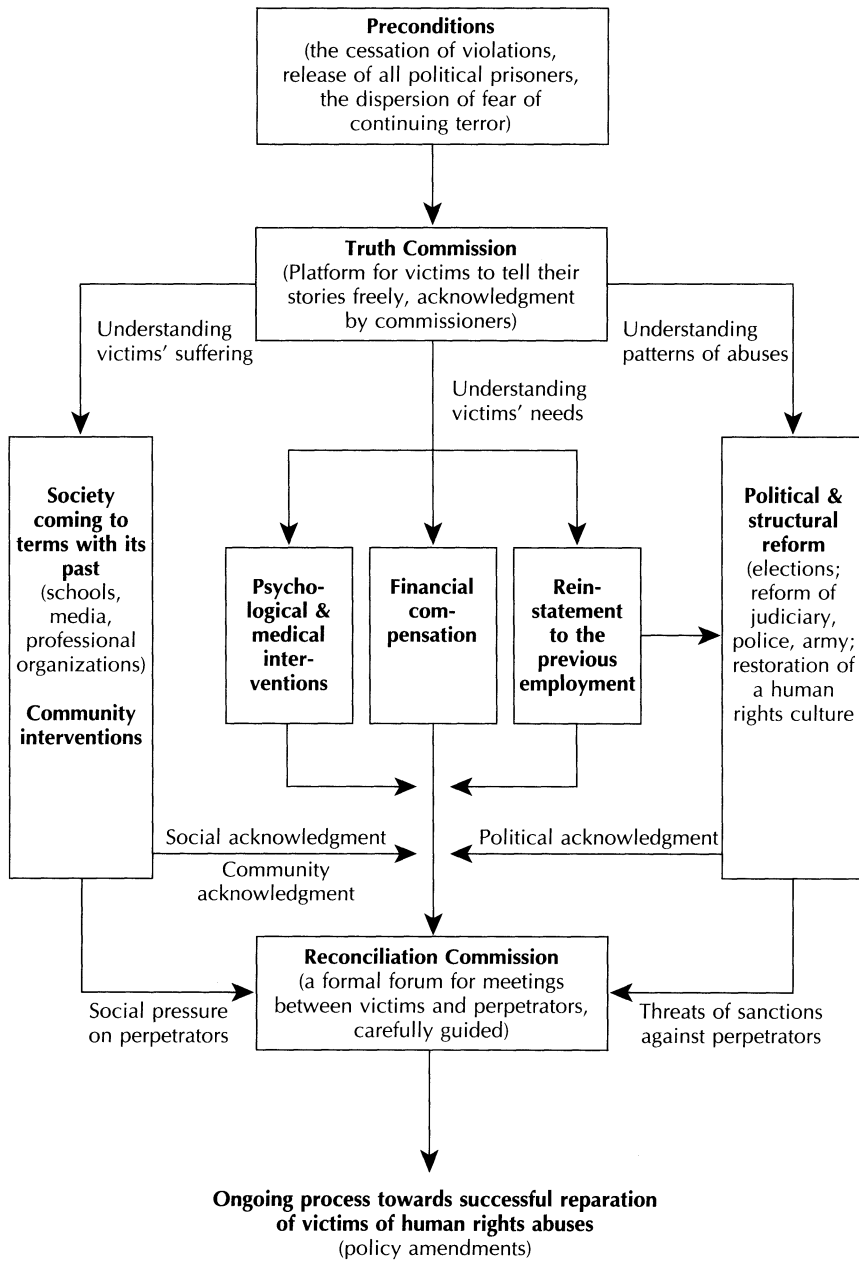
The truth commission has the potential to become a starting point for interventions, and to initiate changes within the whole system. At present, truth-telling only occurs at an informal level in the Czech Republic. The lack of a more formal channel may account for its unsatisfactory results. A truth commission could satisfy the need of victims to share their truth publicly in a forum that offers an atmosphere for recounting their personal narratives freely and provides the first acknowledgment of their suffering. The added advantage of such a commission is that the stories of victims may provide information about their needs, sufferings, and the patterns of abuses.

Understanding the needs of victims is essential to designing the reparation program at the individual level, which should include financial compensation, reinstatement to previous positions, and psychological and medical interventions, including a program designed to address the needs of those who experienced torture. Our analyses show that financial compensation is the most powerful predictor of a positive assessment of both dimensions of reparation, sociopolitical redress, and inner healing for ex-political prisoners in the Czech Republic.¹⁰⁴ Financial compensation not only helps aging political prisoners solve their dire economic needs, it also embodies the value of past suffering and acts as a proxy for justice. For all its practical worth and symbolic meanings, financial compensation should be an essential component of any program of redress. In spite of the difficulty of finding the necessary economic resources and the administrative uncertainty surrounding implementation, transitional countries should not be tempted to circumvent the difficult task by substituting it with purely symbolic measures of redress, such as social acknowledgment, apology, or truth. Real healing can only be achieved in these countries if they do not

103. HERMAN, *supra* note 57, at 155–213.

104. We therefore support the recent move in the Czech Republic, whose Parliament decided to provide victims with further compensation in 2001. See Act Providing the Participants of the National Resistance, Political Prisoners, and Persons Placed to Military Labor Camps due to Racial or Religious Reasons with One-time Financial Amount, Act No. 261/2001 Sb. Those imprisoned for more than three months, but less than one year, were entitled to a compensation of CZK 60,000 (US \$2,000). Those imprisoned for more than one year were entitled to CZK 120,000, with CZK 1,000 for each additional month of imprisonment.

FIGURE 2
Victim-Oriented Model of Social Reconstruction



avoid the rapid implementation of financial compensation. Reinstatement to previous professions is also vital to achieve reparation, particularly for those who are educated and in their productive years. The new democratic regime could facilitate this either through legal means (as in the Czech Republic), by incorporating former political prisoners into appropriate positions in the civil service or government funded NGOs, or by providing opportunities for continued education and training for the preparation of obtaining a job in the labor market.

When victims share their experiences of suffering with the rest of society it can stimulate an understanding of the past and simultaneously provide sympathy and social acknowledgment that may help to dispel stigmatization, such as they may experience at the hands of neighbors. This can promote attitudinal changes within society and communities and increase social pressure on perpetrators. Finally, the testimonies of victims about the patterns of abuses can contribute to the advancement of structural and institutional reforms. Reforms that are enlightened by understanding past abuses may also lead to sanctions against perpetrators, which would in turn facilitate the successful functioning of a reconciliation commission. Such reforms can utilize the expertise of victims by electing or appointing their representatives into positions of influence, thus forging mutually beneficial relationships between victims and the political sphere. On the one hand, the inclusion of victims would enhance the skill and legitimacy of reform, on the other, victims would be pleased to have a voice and a platform of participation.

The last step could include the meetings of victims with perpetrators at a formal venue in order to promote their reconciliation and to spread the reconciliatory message in society. A reconciliation commission, strengthened by the possibility of sanctions against perpetrators, is arguably the best option.¹⁰⁵ Yet even these formal platforms need careful guidance to ensure that victims do not generate overly high expectations and do not need to face hostile and remorseless perpetrators.

Reparation should be an ongoing process, and should not be confined to one-off interventions. Moreover, policy components do not suit the needs of all victims equally. There is a danger that truth-telling and exposure to

105. In contemplating a reconciliation commission, inspiration is drawn from the amnesty committee of the South African TRC. Similarly, the proposal of a truth commission reflects the TRC's human rights violations committee. Individual level interventions, including financial compensation, psychological and medical interventions, and reinstatement to the previous profession may be facilitated by a reparation and rehabilitation committee in case the old networks retain influence over the implementation of reparation programs.

perpetrators may inhibit the process. Due to its uncertain outcomes, each stage of the process must be voluntary and reviewed.¹⁰⁶

While adhering to the principle of the universality of human rights, the fact that reparation for human rights violations poses serious challenges in various cultural settings must be recognized. Different societies may have different understandings of concepts of justice, healing, reconciliation and forgiveness. Victims of other types of human rights abuses, such as slavery, rape, and genocide, and victims who suffered in other contexts, such as civil war and ethnic conflict, may have different needs from those of prisoners of totalitarian regimes. Opinions may differ amongst victims themselves and between victims and their immediate families and dependents. This points out to a pressing need for cross-cultural and comparative research in this field.

106. Cf. Hamber, *supra* note 7 (“[M]aking space for the complaints and opposition of survivors should be seen as an integral component of any reparations programme.”); HERMAN, *supra* note 57, at 133 (Survivor “must be the author and arbiter of her own recovery. Others may offer advice, support, assistance, affection, and care, but not cure.”).