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Roman David

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Twenty Years of Transitional Justice in the Czech Lands

ROMAN DAVID

Abstract

Nascent democracies usually adopt measures of transitional justice to deal with the legacies of undemocratic regimes. This article examines one of the most comprehensive programmes of transitional justice which has been implemented in the Czech Republic since 1990. Based on a survey conducted in 2010, 10 policies are assessed by means of descriptive statistics, and by examining their effect on the perception of justice, truth and reconciliation. Property restitution is viewed as the most successful policy for dealing with the past; it contributes to the positive perception of both justice and truth but it undermines the perception of reconciliation.

COUNTRIES UNDERGOING TRANSITION FROM authoritarian rule to democracy typically adopt various measures in order to deal with the legacies of the past. When they feel free from the constraints imposed by the powerful forces of the previous regimes, the new political elites attempt to punish the perpetrators of past human rights abuses, purge the remnants of the previous regime from their positions of influence, compensate victims of oppression, and ultimately rewrite the recent histories of their countries. In order to pursue these objectives, the new governments adopt various policies of transitional justice. The spread of transitional justice as a set of policies for dealing with historical legacies in the third-wave democracies may be considered as one of the most fascinating recent developments in social sciences. This development, however, has not been adequately appreciated by empirical research.

Scholarship concerning transitional justice initially focused on legal imperatives and human rights deficiencies (Orentlicher 1991; Roht-Arriaza 1995; Schwartz 1994; Akhavan 1998; Boed 1999; Cassesse 2004), its theoretical dilemmas (Kritz 1995, vol. 1; Minow 1999; Rotberg & Thompson 2000), and explanations of the origin of transitional justice in its different political contexts (Huntington 1991; Zalaquett 1992; Moran 1994; Welsh 1996; Szczerbiak 2002; Williams *et al.* 2005). During the 1990s, the effects of transitional justice received very little attention in empirical studies, although more recent scholarship is closing this gap: for instance, by examining the impacts of international criminal tribunals (Fletcher & Weinstein 2002; Meernik 2005; Barria &

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Roper 2005; Stover 2007), truth commissions (Chapman & Ball 2001; Gibson 2002, 2004; Kelsall 2005), lustrations (Letki 2002; Mayer-Rieckh & de Greiff 2007), and the reparation of victims (David & Choi 2005; de Greiff 2006). Nevertheless, research on transitional justice still suffers from two major problems: first, a lack of empirical studies concerning the effects of less prominent measures of transitional justice, such as the opening of secret police archives, the social acknowledgment of victims and the rewriting of history textbooks; and second, little knowledge about the particular contribution which individual measures of transitional justice have upon the overall policy of dealing with the past.

In order to contribute to this debate, this article examines the effect of various components of transitional justice on the perception of dealing with the past in the Czech Republic. The country is an optimal research site. Between 1990 and 2010, it implemented one of the most comprehensive policies dealing with the past amongst post-socialist countries (David & Choi 2005; Nedelsky 2009). It attempted to prosecute perpetrators of crimes committed in the previous regime, nationalised the property of the Communist Party, implemented a comprehensive reparation and rehabilitation programme for former political prisoners, adopted the first lustration law which discharged the collaborators of the previous regimes from positions of influence, offered unlimited access to the archives of the secret police, and accordingly adopted other measures which contributed to the rewriting of the country's modern history.

In order to examine the utility of the measures of transitional justice, a nationwide representative survey was conducted in the Czech Republic in 2010. The utility of these measures was also assessed by means of descriptive statistics, and by means of multivariate analyses. Popular perceptions matter because reconciliation, truth and justice are objective as well as subjective categories. To paraphrase a maxim of legal philosophy and social psychology (Lind & Tyler 1988, p. 63), it is not only important that transitional justice is being carried out, but it is equally important that it is seen to be carried out.

Transitional justice

The term 'transitional justice' appears to have been coined by Neil J. Kritz (1995). The term received further boosts from James McAdams (1997), Ruti Teitel (2000) and Jon Elster (2004), as well as other scholars, all of whom incorporated it into the titles of their books. Moreover, the rapid development of transitional justice studies has reached the point at which it is impossible to devise simple characteristics without the risk of simplifying the complex phenomena and processes. However, it is relatively safe to state that scholarship on transitional justice typically distinguishes measures of criminal justice, which include: criminal tribunals established at international, domestic and grassroots levels; administrative sanctions, non-criminal justice, lustrations and purges, all of which concern compromised personnel in the state administration and their collaborators; various forms of truth revelations, truth and investigatory commissions, and access to secret archives; and the reparation of victims of human rights abuses. These measures are argued to form a broad base for social reconstruction programmes (Fletcher & Weinstein 2002). They have been treated as necessary, as if all of them would contribute to the overall process of dealing with the past.

Naturally, different measures of transitional justice would have different propensities for satisfying the diverging needs which divided societies have in terms of dealing with their pasts (Crocker 2000). They may reach different numbers of people ranging from a handful of perpetrators typically prosecuted in criminal courts (Barria & Roper 2005), to thousands of victims reached by reparation policies (David & Choi 2005). Moreover, they may have been adopted at different stages of political transitions, thus having different impacts. It has been recognised that even a single measure of transitional justice may serve a variety of objectives: reparations may vindicate victims, condemn the perpetrators and disclose the truth about the past (Teitel 2000, p. 127); truth commissions have been argued to contribute to the disclosure of the truth, establishment of accountability and the promotion of reconciliation (Hayner 2001; Gibson 2002, 2004). Consequently, the utility of a larger 'universe of transitional justice' (Elster 2004) can only be effectively assessed against various objectives of transitional justice.

In contrast to the political objectives of transitional justice—which can be viewed from the point of view of their ability to redistribute political power through legal means (Teitel 2000)—this research examines the effects of transitional justice on society. The most frequently listed social objectives of transitional justice in parliamentary debates (Łoś 1995; David 2003), preambles to laws,¹ international organisations (Lawson 2009; ICTJ 2010) and academic scholarship (Crocker 2000; Leebaw 2008) are: to achieve some form of historical justice; to pursue national unity and reconciliation; and to disclose the truth about the past. For this reason, justice, truth and reconciliation form a normative background against which transitional justice measures are evaluated in this article.

It is theorised that the utility of transitional justice essentially depends on its ability to unequivocally condemn the previous regime and to break continuity with the past. Different measures of transitional justice carry different expressive meanings which communicate the delegitimisation of the previous regime to a wider audience (Kahan 1996). For instance, criminal trials are able to condemn the previous regime unequivocally, whilst the message of the disclosure of truth or the reparation of victims, though important, is considerably weaker; even if there were only a few criminal trials, proponents of international justice have argued that their impact on transitional societies may be enormous (Cassese 2004; Akhavan 1998; Bass 2000). Importantly, trials may help societies to achieve justice, help reconciliation by reducing the desire for retribution, and accordingly to establish an evidence-based picture of the past.

On the other hand, truth originating from truth commissions or from secret police archives may not be able to delegitimise the previous regime unequivocally. The disclosure of truth has often been considered a second-best option in situations when trials were not possible due to political constraints imposed upon transition by the powerful forces of the previous regime. In many democratic transitions in Latin America, the successor elites had to 'balance ethical imperatives' of 'justice and responsibility' in

¹For example, South Africa's Truth and Reconciliation Act (1995), Truth and Reconciliation Act [National Unity and Reconciliation Act] (1995) No. 34 of 1995 (South Africa), available at: <http://www.justice.gov.za/legislation/acts/1995-034.pdf>, accessed 31 January 2012.

order not to provoke still powerful military by prosecutions and punishments, which could put the fragile democracy at risk (Zalaquett 1992, pp. 1429–30). Truth commissions were seen as a third way between Nuremberg-style prosecutions and blanket amnesty (Tutu 1999). Although truth was argued to contribute indirectly to justice by establishing the accountability of transgressors and to contribute to national reconciliation (Hayner 2001; Gibson 2004), the very notion of truth was very problematic. Social, technical and methodological constraints, as well as epistemological limitations of what can be known, all affect the production of an authoritative account of the past (Chapman & Ball 2001). Consequently, the role of ‘truth’ in post-conflict justice has been seen as overstated, flawed or highly contentious (Mendeloff 2004).

For these reasons, it is hypothesised that, owing to their expressive meanings, retributive measures of transitional justice are perceived as more successful than reparatory measures; and retributive measures of transitional justice are perceived as more successful than measures that reveal ‘the truth’.

Transitional justice in the Czech Republic

The Czech Republic implemented one of the most comprehensive policies of transitional justice amongst post-socialist countries (David & Choi 2005; Nedelsky 2009). The policies had strong retributive undertones, aspiring to punish, exclude and accordingly condemn persons deemed responsible for the systematic human rights violations committed during the period between 1948 and 1989; and further aspiring to reveal all available information about the repression and to rehabilitate and compensate its victims. On the eve of transition, Václav Havel feared a new wave of retribution and tried to dispel desires for vengeance by making appeals to the moral high-ground, stating ‘we are all ... responsible for the operation of the totalitarian machinery’ (Havel 1990). Nevertheless, reconciliation and the overcoming of social differences inherited from the past were never explicitly articulated as political objectives by any significant political party. Similarly, apologies for the repression by the Communist Party to victims’ groups, which are typical measures to achieve such goals, were never given. However, this does not prevent us from assessing those policies which were implemented in relation to the goals postulated by theory (Chen 1990). The objectives of transitional justice may include justice as well as reconciliation. Indeed, a certain degree of social inclusiveness and cohesion has been recognised as a precondition for democracy (Dahl 1971).

The groundwork for transitional justice in the Czech Republic was laid down within the first three years of political reforms, during the period 1990–1993 when, for the majority of this time, the Czech Republic was part of the Czech and Slovak Federation, which was dissolved by 31 December 1992. Transitional justice then continued to be implemented in the independent Czech Republic, although most of the laws passed in that period merely extended the existing legal framework of transitional justice. Transitional justice has been implemented by all post-1989 governments, regardless of their political ideologies; although the former Communist Party of Czechoslovakia (KSČ, *Komunistická strana Československa*) has never been a part of any governing coalition. The following discussion clusters the measures of transitional justice into three groups: retribution, reparation and revelation.

Retribution

Retributive policies are those which target the wrongdoers as individuals or collectives in order to impose other punitive measures (David & Choi 2009). They include the expropriation of the Communist Party and its youth league; dismissals of persons implicated in the previous regimes in positions of trust; symbolic acts of condemnation of the socialist regime; and measures adopted in order to prosecute the most notorious perpetrators of human rights abuses.

Expropriation of the Communist Party. Prior to November 1989, the Communist Party of Czechoslovakia (*Komunistická strana Československa, KSČ*) and the Socialist Association of the Youth (*Socialistický svaz mládeže, SSM*) used—or were in possession of—extensive property, such as administrative buildings, hospitals and leisure facilities across the entire country. In May 1990, the government issued directive No. 212/1990, which actively prevented the Communist Party from using properties owned by the state. Later, the newly elected Federal Assembly approved two constitutional laws which nationalised the property of the Communist Party of Czechoslovakia (Act No. 496/1990),² and the Socialist Association of the Youth (Act No. 497/1990),³ thereby returning it to ‘the people’. Speaking to the Federal Assembly on behalf of government, Pavel Rychteský argued that both organisations unjustly possessed the property of the people and, for this reason, the property should be returned to the people.⁴ The reference to ‘the people’ was not a coincidence: it was a symbolic rebuke of the organisations which were self-proclaimed champions of ‘the people’ and which frequently abused the word in their policies and rhetoric.

The confiscated property included the property of the Central Committee of the Communist Party; enterprises and business units of the Communist Party, such as publishing houses like the Florenc Press in Prague and recreation facilities such as the Arnika Hotel in Kubova Hut; the property of the territorial units of the Party, which included, among others, Party buildings in every regional capital and district except Nymburk; and the archives of the Party (FS ČSFR 1991). The most significant properties of the Socialist Association of Youth included *Mladá fronta* publishing house, *Mladý svět* magazine, the *Smena* daily newspaper and the *Cestovní klub mladých* (the Youth Travel Club) (Molek 2006). According to Jarolímek (2002), the financial losses resulting from the property transfers were not significant and the property was, in fact, returned to ‘the people’. What happened to the property afterwards, when it was in hands of ‘non-communists’, is another question.

²Constitutional Act on the Return of the Property of the Communist Party to the People of the Czech and Slovak Republic (1990) No. 496/1990, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

³Constitutional Act on the Return of the Property of the Socialist Association of the Youth to the People of the Czech and Slovak Republic (1990) No. 497/1990, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

⁴Federal Assembly, The 8th Session, 16 November 1990, available at: <http://www.psp.cz/eknih/1990fs/slsn/stenprot/008schuz/s008009.htm>, accessed 31 January 2012.

Lustration. Czechoslovakia was the first country to approve a lustration (screening, vetting) law.⁵ ‘*Lustration law* is a special public employment law that stipulates conditions for the access of persons who worked for or collaborated with the political or repressive apparatus of socialist regimes to certain public positions in new democracies’ (David 2011, p. 67). The Czech law was approved by the Federal Assembly in October 1991. It effectively disqualified various persons from holding leading positions in certain state organs and within certain organisations. Owing to its exclusive nature, it resembled several historical precedents, such as the purges in the aftermath of the Soviet-led invasion in Czechoslovakia,⁶ dealing with the Vichy collaborators in France (Novick 1968), and the de-Nazification programme in Germany (Herz 1982). In addition, the Czech National Council passed a minor lustration law in April 1992 (Act No. 279/1992).

The most frequently cited objectives of the lustration law mentioned by members of the Federal Assembly during the parliamentary debate on the lustration bill were personnel discontinuity and minimal justice; national security and public safety; the need to protect the rights of lustrated personnel and the need to regulate the process in order to prevent wrongful accusations; and revelation of the truth (David 2003, p. 392). Notably, the law was originally intended to function as a transitional law which would be valid for five years, until a time when the new democracy was more stable. However, in September 1995, the law was extended (Act No. 254/1995) for another five years, and indefinitely extended in October 2000 (Act No. 422/2000). President Havel tried to veto both extensions. According to his spokesperson, Ladislav Špaček, the president did not want to sign the extension of the lustration laws because this would delay legislation on civil service reform (David 2003, p. 409, n. 45).

The lustration law provided for the dismissal of certain compromised persons from the state administration; once the collaboration of a person was established, the person then had to be automatically dismissed or otherwise demoted to a position which did not fall within the scope of the lustration law. Pursuant to the law, individuals who held or applied for a position specified by the act were required to submit both a certificate issued by the Ministry of the Interior concerning their work for, or collaboration with, the secret police, and an affidavit stating that they did not belong to other groups specified in the act. If an individual belonged to any group specified in the act, the person’s superior was then accordingly required to terminate his or her employment, or to otherwise demote him or her to a position which went unspecified by the act. The lustration law stipulated higher legal protection. Any person could object to the termination of his or her employment at a second-level regional court and could accordingly appeal the decision at the High Court. Further guarantees were provided by existing laws; according to the Supreme Court, the truthfulness of the certificate issued by the Ministry could be challenged on the basis of civil procedures. Moreover, additional legal protections in this area were guaranteed

⁵Act that Prescribes Certain Additional Prerequisites for the Exercise of Certain Positions Filled by Election, Appointment, or Assignment in State Organs and Organisations (1991) Act 451/1991, as amended by Acts Nos. 254/1995, 279/1992 and 422/2000 (Czech lustration act), available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012; see also, Schwartz (1994), Šiklová (1996), Boed (1999), David (2003) and Williams (2003).

⁶Act (Legal Directive of the Board of the Federal Assembly) on Some Tentative Measures Necessary to the Strengthening of Public Order (1969) No. 99/1969, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

by the civil code. Thereafter, a person could submit a constitutional complaint if his or her rights were encroached (David 2003). The publication of a lustration certificate was impermissible without the written consent of the citizen.

The law had forward-looking and backward-looking dimensions: whilst the former concerned positions in the new state apparatus, the latter regarded positions in the communist-era apparatus. Among the forward-looking provisions of the law were that it did not affect ordinary employees but rather the leading positions within the state administration, such as the army, the Ministry of Defence, the Security and Information Service, the police, the offices of the constitutional organs, the public media and the management of state-owned enterprises. The requirements also concerned academic officials in management positions, and it applied to all judges, assessors, prosecutors, investigators, state notaries and some security-sensitive concession-based trades.

The backward-looking provisions concerned a variety of fundamental bodies, including: the members of the State Security (*Státní bezpečnost* (StB), the secret police); its collaborators at prescribed rank; Communist Party officials at district level and above (except those who held these positions between 1 January 1968 and 1 May 1969); the political management of the Corps of National Security; members of the paramilitary People's Militias; and members of the purge committee, which facilitated the dismissal of hundreds of thousands of people from their employment in the aftermath of the communist takeover in 1948 and following the Soviet-led invasion of Czechoslovakia in 1968.

Although all major political actors in the Federal Assembly (except the communists) agreed on the need to cleanse the state apparatus of the remnants of the former regime, they nevertheless disagreed about its scope and method. President Václav Havel signed the original law, although he considered it too strict. Later, in 1991, he proposed his own version of a lustration law and vetoed both extensions of the lustration laws. In 1992, a group of opposition members of the Federal Assembly challenged the law at the Constitutional Court. The Court nullified several provisions of the law but upheld the method of dismissal. In December 2001, the Constitutional Court of the Czech Republic upheld the lustration law and its extension; the Court, however, abrogated various provisions of the minor lustration law which had not been previously reviewed. At the international level, the law was initially criticised by human rights organisations, the International Labour Organization, the Council of Europe, the United States Department of State, journalists and academics (Šiklová 1996; Boed 1999) for violating human rights, including the right to political expression, and the right to be free from discrimination and due process rights (David 2004). Later, however, scholars and the European Court of Human Rights acknowledged the need of transitional states to conduct lustration processes (Horne 2009).

Symbolic condemnation of the communist regime. Czechoslovakian and Czech parliaments approved several declaratory laws which aimed at the symbolic condemnation of the previous regime and its protagonists. In November 1991, the Federal Assembly passed Act No. 480/1991 on the 'Period of Non-Freedom',⁷ declaring that the communist regime between 1948 and 1989 violated human rights

⁷Act on the Period of Non-Freedom (1991) No. 480/1991, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

and its own laws. In July 1993, the Parliament of the Czech Republic passed Act No. 198/1993⁸ on the Illegality of the Communist Regime and on the Resistance Against It, which explicitly condemned the regime and subsequently hailed anti-communist resistance. The Act had a few substantive provisions and was predominantly declaratory. In its first 354 words, for example, it enumerated injustices of the previous regime, using verbs such as ‘*upíral*’ (denied), ‘*nutil*’ (forced), ‘*porušoval*’ (violated), ‘*popravoval*’ (executed), ‘*vraždil*’ (murdered), ‘*žalářoval*’ (incarcerated), ‘*zbavoval*’ (expropriated), ‘*znemožňoval*’ (precluded), ‘*zabraňoval*’ (impended) and ‘*spojil se s cizí mocností*’ (allied with foreign power). In another 101 words, it postulated ‘full co-responsibility’ of the regime, and condemned the regime, the Communist Party and its supporters. Resistance against the regime was then hailed in a mere 56 words. According to David and Choi (2005), the law was considered as a symbolic manifesto by many former political prisoners; however, various ex-prisoners were critical of the word ‘resistance’ as, in the Czech language, this could suggest passive resistance rather than active challenge and revolt.

Prosecutions. The statute of limitations was considered by many as one of the major obstacles to the prosecution of the crimes of communism. Therefore, the new political elite attempted to ‘extend’ it, arguing that the normal legal term for prosecution could not expire before 1989 because the communist state was not interested in prosecuting those who executed its own crimes. For this reason, the Rehabilitation Act No. 119/1990 stipulated that the statute of limitation for crimes committed during the era of communism, and which were redressed by that law, would not expire before 1 January 1995.⁹ Furthermore the Act on the Illegality of the Communist Regime of 1993 stated that the period of the communist regime—between 1948 and 1989—could not be considered as a period of limitations for the purposes of the statute of limitations. A group of deputies considered this a violation of retroactivity, prohibited by international and domestic human rights documents, and consequently requested the Constitutional Court to review the law. Subsequently, however, in the same year, the Court upheld the law.¹⁰ Importantly, whilst some critics saw this as a violation of retroactivity, the decision was also criticised for its lack of ability to fully depart from the past legal order and for the failure to apply international conventions, namely the European Convention on Human Rights and its Article 7, section 2.¹¹

In order more effectively to investigate and prepare cases for prosecution, the government established the Office for Documenting and Investigating the Crimes of Communism (*Úřad dokumentace a vyšetřování zločinů komunismu, ÚDVZK*), which was mandated to investigate criminal offences committed during the period between 1945 and 1989, which were not investigated and prosecuted due to political

⁸Act on the Illegality of the Communist Regime and on the Resistance Against It (1993) No. 198/1993, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

⁹Act on Extra-Judicial Rehabilitation (1990) No. 119/1990, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

¹⁰Constitutional Court of the Czech Republic, Decisions, Pl. ÚS 19/93, available at: <http://www.concourt.cz/view/pl-19-93>, accessed 31 January 2012.

¹¹European Convention on Human Rights, Council of Europe (1950), available at: <http://www.hri.org/docs/ECHR50.html>, accessed 9 February 2012.

interferences under the previous regime. In parallel to its investigatory function, ÚDV was authorised to archive and analyse materials, information and documents on the criminality of the previous regime and its repressive units, and to further disseminate the findings to the public by means of publications, lectures, exhibitions and media presentations.

In spite of the legal possibility of prosecuting crimes, only a few perpetrators were prosecuted and punished. Based on the data from the Office for Documenting and Investigating the Crimes of Communism (2010), only eight people received prison sentences. One of them was Dr Ludmila Brožová-Polednová, a former communist prosecutor in the 1950s, who faced charges for her role in the orchestration of a show trial and in manipulating evidence against Dr Milada Horáková, a former member of the Czechoslovak parliament. Dr Horáková, who had refused to run again in the 1948 elections in order to protest against communist rule, was executed following the show trial in 1951. At the age of 86, Brožová-Polednová was found guilty and sentenced to serve a six-year sentence in jail; President Klaus did not grant her a pardon. The Czech press considered the case to be the last one brought against the perpetrators of the crimes of communism (CzechNews 2008; Gazdík 2009).

Reparation

Reparation is defined as a set of transitional justice policies aimed at rectifying historical injustices which had impacted on victims. They include financial compensation of victims, their legal rehabilitation and social acknowledgment, and the restitution of property.

Financial compensation and social rehabilitation of victims. The first major law to be approved in terms of dealing with the past was the Act on Judicial Rehabilitation (Act No. 119/1990). The law was approved by the Federal Assembly in April 1990, several weeks prior to the first democratic elections. The law had several objectives: first, to invalidate all judicial decisions concerning acts that contravened civic and politics rights guaranteed by the constitution and international accords; second, to eliminate disproportional hardship resulting from repression; third, to provide persons with social rehabilitation and adequate material compensation; and fourth, based on these findings, to determine that those persons who violated laws would consequently face legal repercussions. The act applied to injustices committed during the entire communist era between 25 February 1948 (the communist takeover) and 29 December 1989 (the election of Václav Havel as president). Pursuant to the law, unjust criminal judgments concerning subversion, treason and other political 'crimes' were cancelled by the parliamentary act (*ex lege*). Those cases which did not clearly fall within the list of political crimes could be reopened. Former political prisoners were entitled to receive CSK 2,500 for each month of imprisonment, as well as other additional remedies; however, the latter could not exceed CSK 30,000 per year in total. The period of detention and imprisonment was also taken into account for the purposes of rectifying injustices in the pensions of former political prisoners.

The law was relatively well implemented, whilst problems associated with rehabilitation were rather attributed to the quality of the law itself. The first problem

concerned the so-called ‘outstanding punishments’; former political prisoners were usually charged with ‘political crimes’, such as treason and subversion, as well as ‘non-political’ (normal) crimes. Whilst the former cases were annulled, the latter cases had to be reopened. For instance, a former dissident and priest, Jan Šimsa, had to wait for his rehabilitation of his sentence by the communist regime for insulting a secret policeman until the decision of the Constitutional Court almost 20 years after 1989, a crime that post-1989 courts refused to consider as politically motivated (Mazáč 2008). Cases like this were particularly insensitive considering those elderly victims who did not therefore have the opportunity to clear their names or receive any compensation during their lifetimes (Gad’ourek & Nehněvajska 1997). Another problem—which consequently negatively impacted upon victims—was the fact that financial compensation was paid in two instalments: victims were entitled to receive a maximum of CSK 30,000, whilst the remaining amount was to be awarded in the form of government bonds since the depleted economy could hardly afford lump-sum payments. On the other hand, members of the repressive apparatus received generous packages for leaving posts. Many political prisoners were disappointed with the government for compensating secret policemen, prison wardens and torturers (David & Choi 2005).

The inadequate financial compensation and the limited number of persons entitled to such compensation led to the approval of other laws. Act No. 87/1991 on Extra-Judicial Rehabilitation (see below) provided for the alleviation of material injustices and furthered social rehabilitation of victims.¹² Act No. 198/1993 on the Illegality of the Communist Regime and on the Resistance Against It was approved in 1993, and provided a legal framework for further compensation of former political prisoners. The law authorised the government to issue directives in order to compensate former political prisoners; thus, government directive No. 165/1997 concerning compensation was issued in 1997.¹³ In 2001, Act No. 261/2001 compensated persons imprisoned in military labour camps.¹⁴ In 2002, government directive No. 102/2002 compensated persons in military camps of forced labour, including the infamous Auxiliary Technical Battalions.¹⁵ In the same year, Act No. 172/2002 compensated persons who were abducted to the USSR, or who were otherwise detained in camps run by the USSR in other states.¹⁶ In 2009, government directive No. 122/2009 compensated university students who had not

¹²Act on Extra-Judicial Rehabilitations (1991) No. 87/1991, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

¹³Government Directive on the Payment of One-off Compensation to Alleviate some Wrongs Created by the Communist Regime (1997) No. 165/1997, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

¹⁴Act on Persons in Military Labour Camps (2001) No. 261/2001, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

¹⁵Government Directive on the Payment of One-off Compensation to Alleviate some Wrongs Created by the Communist Regime to Persons in Military Camps of Forced Labour (2002) No. 102/2002, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

¹⁶Act on the Compensation of Persons Abducted to the USSR or to the Camps Created by the USSR in other states (2002) No. 172/2002, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

been permitted to complete their education for political reasons.¹⁷ In the same year, government directive No. 135/2009 compensated persons rehabilitated by the rehabilitation law in 1990, awarding CZK 1,800 for each month of imprisonment or detention.¹⁸

Restitution of property. The Czech Republic implemented one of the most ambitious restitution programmes in history: it aspired to return real (immovable) and personal (movable) properties which were nationalised during the rule of the Communist Party, and which were in possession of the state, to the original owners or their heirs. The restitution of property was an extension of the law on judicial rehabilitation; in fact, the restitution was originally intended to be part of one rehabilitation law, but several laws had to be approved in order to pursue the restitution of property. The most important was Act No. 87/1991 on Extra-Judicial Rehabilitations, which was approved in February 1991.¹⁹ The government which drafted the bill argued that the objective of the law would only be concerned with alleviating some material injustices caused during the communist regime, thereby stating that full material compensation for the era of communism would be impossible (Čalfa 1991). According to the law, the state was obliged to return property to those individuals who were citizens and, at the same time, permanent residents in the country.

The restitution of property had positive as well as negative effects. On the positive side, it was viewed as a clean method of privatisation of the nationalised state economy, especially in contrast to the voucher privatisation. On the other hand, however, restitutions created numerous problems: those who had been forced to emigrate from the country and could not immediately return were excluded from the restitution process; this effectively alienated many Czechoslovak émigrés. Furthermore, the litigations resulting from unsuccessful restitution claims significantly burdened the judiciary, including the Constitutional Court. Another problem associated with the restitution was a return of property with legal obligations from the past. In many situations, this practically meant that a house was returned to the owner occupied by tenants whose lease and rent were legally protected. This created a financial burden for the owner who effectively had to subsidise the tenants or to otherwise provide them with alternative accommodation. There was subsequently a great deal of uncertainty for tenants who feared for their futures, as the government was gradually lifting regulated rents.

Another major property restitution issue was the restitution of churches and religious congregations. Although several relevant laws were passed and implemented,

¹⁷Government Directive on the Compensation of University Students who were not Allowed to Complete their Education due to Political Reasons (2009) No. 122/2009, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

¹⁸Government Directive on Providing One-off Compensation to Alleviate some Wrongs Created by the Communist Regime (2009) No. 135/2009, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

¹⁹Act on Extra-Judicial Rehabilitations (1991) No. 87/1991, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

the issue was not satisfactorily settled during the two decades following the fall of socialism (Linek 2009).

Revelation

Revelation encompasses all policies of transitional justice which primarily aim at disclosing new facts previously concealed as secret. The revelation policies include: the opening of secret police archives; publishing names of secret police informers; and introducing new history textbooks which are not burdened by the ideology of Marxism–Leninism.

File access and exposure of secret informers. Initially, the government did not allow people to learn the identities of those who were passing information to the authorities about them. Capitalising on this silence, in 1992, former dissident Petr Cibulka published a leaked list of secret collaborators (Šiklová 1996). In 1996, the parliament approved the Act on the Access to Files Created by Activity of the Former State Security (No. 140/1996), which allowed everyone to gain access to his or her own file, although the names of the secret informers were nevertheless restricted.²⁰ In 2002, the parliament passed an amendment to the Act (No. 107/2002), according to which everyone also had access to the files of secret collaborators—as well as to other files—unless they posed a threat to persons or to the interests of the Czech Republic and its security.²¹

The law was very controversial. Many liberal intellectuals feared the files were not reliable, and that people would not be able to assess them critically (Šiklová 1996). Notably, President Havel criticised the law. He stated that:

It is important to find the right balance, the right approach, one that would be humane and civilized, but would not try to escape from the past. We have to try to face our own past, to name it, to draw conclusions from it, and to bring it before the bar of justice. Yet we must do this honestly, and with caution, generosity, and imagination. There should be a place for forgiveness wherever there is confession of guilt and repentance. (Michnik & Havel 1993, p. 22)

In March 2003, the Ministry of the Interior officially published the names of all secret informers on its website; several celebrities, however, claimed that they had not collaborated with the secret police. After winning their court battles with the Ministry of the Interior, information about them had to be removed from the lists. Access to secret files was further expanded by the 2004 Archives Law (Act No. 499/2004),²² and by Act No. 181/2007, which also created an Institute for the Study of Totalitarian

²⁰Act on the Access to Files Created by Activity of the Former State Security (1996) No. 140/1996, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

²¹Amendment to the Act on the Access to Files Created by Activity of the Former State Security (2002) No. 107/2002, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

²²Archives Act (2004) No. 499/2004, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

Regimes.²³ As a result access to secret police files in the Czech Republic is now without major restrictions; however, despite this, Stanislav Penc, a former dissident, has published various lists of ‘Persons of Interest’ on his website (ČTK 2009).

In order to disclose the truth relating to the past in a more effective manner, the government established the Institute for the Study of Totalitarian Regimes in 2007. The establishment of the new institute was motivated by the existence of institutes of national memory, which already operated in Slovakia, Poland and other countries. On 8 July 2007, the Czech Parliament passed a law (Act 181/2007) which, amongst other objectives, aimed to preserve the memory of victims and recognise losses of life during Nazi and communist rule, and to maximally disclose the secretive nature of the regimes. The law provided a legal basis for the establishment of the institute and for the creation of the Archive of Security Services. The law was challenged at the Constitutional Court (2010). One of the controversies was that concerning employment requirements which effectively excluded members of the Communist Party from working in the institute and in the archive. On 13 March 2008, the Court upheld the law—despite the fact that seven judges took a dissenting opinion, and one judge dissented on the reasoning. The institute is managed by the seven-member Council, which is elected by the Senate of the Parliament.

History textbooks. After years of censorship and manipulating history curricula for ideological purposes, many parents expected that state schools would provide students with an unbiased history education. Soon after the end of the socialist regime, pupils and students at various levels of school received new textbooks which did not explicitly adhere to the Marxist–Leninist ideology. However, the persistence of inherited ideological stereotypes seemed difficult to eradicate: although explicit remarks on the leading role of the Communist Party were deleted, a revised 1988 history textbook contained a number of ideological undertones. For instance, a chapter on ancient Mesopotamia mentioned that ‘the ruling class and the priests enriched themselves at the expense of other citizens’, and the chapter on ancient Egypt mentioned that ‘those in the position of power appropriated the wealth created by the work of the people’ (Blažek 2005). The mother of an 11-year-old pupil criticised the use of this textbook, stating the following: ‘I object to the support for the class hatred without highlighting the cultural contributions of ancient civilizations’ (Blažek 2005).

Conceptualisation and measurement

As noted above, the implementation of each measure of transitional justice is assessed by means of a nationwide survey, which was conducted in the Czech Republic in March 2010. The survey was supported by the British Academy and conducted by Centrum pro výzkum veřejného mínění (CVVM). The agency used a nationwide representative sample, which was stratified based on region, the size of the place of

²³Act on Institute for the Study of Totalitarian Regimes and on the Archive of Security Services and on Other Amendments (2007) No. 181/2007, available at: <http://aplikace.mvcr.cz/sbirka-zakonu/GetAll.aspx>, accessed 31 January 2012.

residence, sex, education and income. Some 1,079 face-to-face interviews were completed with persons older than 15 years of age with a response rate of 50.2%.

Dependent variables

Pursuant to our research interests, three dependent variables which capture the objectives of transitional justice were included in the questionnaire: justice, reconciliation and truth.

First, justice was conceptualised as a redress of the most serious historical injustices. The reference to the ‘most serious’ injustices was motivated by the constraints of dealing with the past in the Czech Republic. At the outset of the transition, the new political elite realised that undoing all injustices would be virtually impossible. Notably, although many people were wronged in the past, the government maintained that only the most serious wrongdoings would be addressed (Čalfa 1991). Second, reconciliation was conceptualised as overcoming divisions of the past; however, since the divisions of the past appear to persist in the Czech Republic, and since reconciliation was never promoted as a goal of transitional justice, we measured ‘lack of reconciliation’ which was conceptualised as the persistence of social divisions of the past. Furthermore, the word ‘reconciliation’ had to be avoided so as to prevent it from being contaminated by the notion of the Czech–German reconciliation. Third, truth was conceptualised as the knowledge of the true scale of historical injustices committed under the previous regime.

Each question comprised five response categories measured on the Likert scale and coded from 0 (strongly disagree) to 4 (strongly agree).²⁴ For the purpose of the regression analysis, the responses concerning the lack of reconciliation were recoded to show positive aspects of reconciliation: opinions that social divisions of the past persist were coded as 0, whilst opinions that they do not persist were coded as 4.

Independent variables

Most policies of transitional justice examined in this article were operationalised based on their substance as opposed to their nominal terms; this was the case so as to prevent their ideological contamination. For instance, support for lustrations would be clouded by dissatisfaction with the process on the political left as well as on the political right. Whilst many on the left considered lustrations as creating new injustices, many on the right saw it as an inadequate measure of dealing with the past. Together, they might withdraw their support for lustrations—albeit for completely different reasons. With this in mind, our questions were not concerned with lustrations, but rather whether people associated with the past regime left leading positions in the state administration. Similarly, other policies were not operationalised using their nominal names, such as restitution and rehabilitation, but based on their content.

²⁴The Likert scale is a symmetric, one-dimensional (linear) scale, which allows respondents to express the degree of their agreement and disagreement with a particular statement.

TABLE 1
DESCRIPTIVE STATISTICS

<i>Dependent variables: Do you agree or disagree with the following statement:</i>	<i>Agree (%)</i>	<i>Disagree (%)</i>
The largest injustices of the previous regime were undone [justice]	36.6	30.7
Social divisions inherited from the past persist [lack of reconciliation]	50.4	17.8
True scale of injustices of the past regime is well known [truth]	39.4	23.8
<i>Independent variables: The realisation of the following measures was successful or unsuccessful:</i>	<i>Successful (%)</i>	<i>Unsuccessful (%)</i>
Financial compensation of former political prisoners [reparation]	40.9	20.6
Social acknowledgment of former political prisoners [rehabilitation]	48.3	18.8
Return of nationalised property to original owners or their heirs [restitution]	50.9	14.1
Punishment of perpetrators of communist crimes	22.0	42.8
Moral condemnation of communist crimes	32.6	32.0
Confiscation of the property of the Communist Party	28.2	36.8
Departure of people associated with the communist regime from leading posts in the state administration and the police [lustration]	23.1	43.5
Official publication of the names of secret collaborators with <i>Státní bezpečnost</i> (StB)	35.5	26.0
Opening the archives of the secret police to the public	37.8	22.6
Publication of new history textbooks	40.8	17.5
<i>Control variable:</i>	<i>Yes (%)</i>	<i>No (%)</i>
Have you ever been a member of the CP before 1989?	10.2	89.8

Note: the table displays cumulative percentage points for responses ‘strongly agree’ (‘definitely successful’) and ‘rather agree’ (‘rather successful’) together; and ‘definitely disagree’ (‘definitely unsuccessful’) and ‘rather disagree’ (‘rather unsuccessful’) together. The neutral response can be calculated accordingly. Missing values were excluded from the analysis since their number was small, ranging from 0.9% to 2.4% although it reached 4.5% for questions concerning the publication of history textbooks.

Furthermore, we also controlled for a set of independent variables including sex, age (five categories), education (four categories) and income (five categories); this categorisation was created by the survey agency based on a combination of their experience and local knowledge. Moreover, since the historical dividing lines have been found to be a significant predictor for the support of the new regime (Mishler & Rose 2002)—which may fundamentally affect the perceptions of the regime’s attitudes to the past—we have also controlled for membership in the former Communist Party prior to 1989. Table 1 summarises the exact wording of our main questions.

Results

In this section, we shall report the results of the descriptive statistics and the results of the OLS linear regression analysis. The data were obtained from the questionnaire embedded in the nationwide survey of 1,079 respondents, which was conducted in the Czech Republic in March 2010.

Descriptive statistics

Dependent variables. Three items were used in order to determine the goals of transitional justice: justice, lack of reconciliation and truth (see Table 1). Approximately 36.6% of respondents agreed with the statement that ‘the largest injustices of the previous regime were resolved’, whilst 30.7% disagreed. More than 50% agreed that social divisions of the past persisted, whilst only 17.8% disagreed. Approximately 39.4% of respondents agreed that the true scale of historical injustices was well known, whilst 23.8% disagreed.

Independent variables. Our survey found that 40.9% respondents considered the financial compensation of former political prisoners as successful, whilst 20.6% considered it unsuccessful (see Table 1 and Figure 1). Approximately 48.3% of respondents considered the social acknowledgment of former political prisoners as successful, whilst almost 19% considered it unsuccessful. Almost 51% of respondents in the Czech Republic considered the return of nationalised properties to their original owners and their heirs as successful, whereas 14.1% considered it unsuccessful.

Given the low number of prosecutions, it is not surprising that 22% of the public considered the prosecution of crimes of communism as successful, whilst 42.8% considered it unsuccessful. Despite the extensive nationalisation of its property, the Communist Party of Bohemia and Moravia (*Komunistická strana Čech a Moravy*, KSČM)—a successor of the Communist Party of Czechoslovakia in the Czech Republic—was seen as having a significant material base. According to the survey, approximately 28.2% of respondents considered the confiscation of the property as successful, whilst 36.8% viewed it as unsuccessful. Moreover, approximately 32.6% of citizens considered the moral condemnation of the communist regime as successful, whilst almost the same percentage, 32%, viewed it as unsuccessful. Despite almost two decades of lustration, only 23.1% of respondents considered the departure of persons

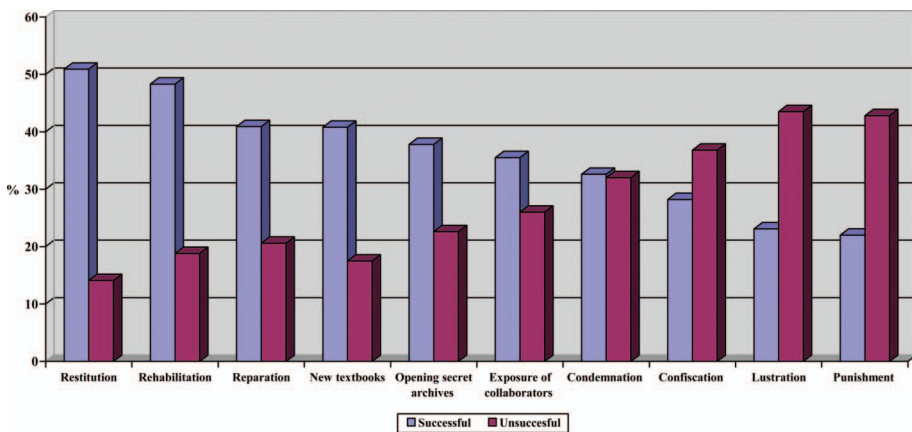


FIGURE 1. ASSESSMENT OF INDIVIDUAL MEASURES OF TRANSITIONAL JUSTICE IN THE CZECH REPUBLIC.

associated with the past regime from leading positions in the state administration and the police as successful, whilst 43.5% saw it as unsuccessful. The discrepancy between the relatively solid implementation of lustration and its perceived failure may be due to the effects of the media, which critically highlighted any eventual breach of lustration law.

The official publication of the names of secret collaborators was considered successful by 35.5% and unsuccessful by 26% of all respondents. Approximately 37.8% of the public considered the opening of secret files as having been successful, whereas 22.6% considered it to be unsuccessful. The publication of new history textbooks was seen as successful by 40.8% of respondents, whilst 17.5% viewed it as unsuccessful.

In sum, restitution was seen as the most successful policy of transitional justice in the Czech Republic, followed by the social acknowledgment (rehabilitation) of former political prisoners. Punishment was viewed as the least successful policy of transitional justice, followed by the departure of people associated with the past regime from leading positions (lustrations).

TABLE 2
EFFECTS OF TRANSITIONAL JUSTICE MEASURES ON GOALS OF TRANSITIONAL JUSTICE

	<i>Justice</i>		<i>Reconciliation</i>		<i>Truth</i>		<i>Tol.</i>
	<i>B</i>	<i>SE</i>	<i>B</i>	<i>SE</i>	<i>B</i>	<i>SE</i>	
Age (five categories)	0.04	(0.03)	-0.05 [^]	(0.03)	0.08**	(0.03)	(0.80)
Sex (female)	0.12*	(0.06)	-0.06	(0.07)	0.07	(0.06)	(0.97)
Education (four categories)	-0.02	(0.03)	0.05	(0.04)	0.03	(0.04)	(0.87)
Income (categories)	0.02 [^]	(0.01)	0.01	(0.01)	0.00	(0.01)	(0.80)
Pre-1989 Party membership	0.00	(0.11)	-0.09	(0.12)	-0.12	(0.11)	(0.85)
Financial compensation (reparation)	0.16***	(0.04)	0.00	(0.05)	-0.02	(0.05)	(0.47)
Social acknowledgement (rehabilitation)	0.05	(0.04)	0.04	(0.05)	0.18***	(0.04)	(0.51)
Restitution of property	0.10*	(0.04)	-0.11*	(0.04)	0.10**	(0.04)	(0.64)
Punishment of perpetrators	0.15***	(0.04)	0.04	(0.05)	0.02	(0.04)	(0.42)
Condemnation of the previous regime	0.10*	(0.04)	0.03	(0.05)	0.03	(0.04)	(0.44)
Expropriation of the Communist Party	0.05	(0.04)	-0.01	(0.04)	0.04	(0.04)	(0.50)
Lustration	0.14***	(0.04)	0.12**	(0.04)	-0.01	(0.04)	(0.60)
Publication of names of informers	0.11*	(0.05)	0.06	(0.05)	0.13**	(0.05)	(0.39)
Access to secret police archives	-0.07	(0.05)	0.05	(0.05)	-0.07	(0.05)	(0.40)
Publication of new history textbooks	-0.02	(0.03)	0.01	(0.04)	0.03	(0.04)	(0.80)
(Constant)	0.04	(0.31)	1.35***	(0.34)	0.95**	(0.32)	
SEE	0.902		1.008		0.931		
R ²	0.328		0.062		0.136		
Adjusted R ²	0.316		0.047		0.121		
N	908		908		908		

Note: *B*—unstandardised regression coefficient; *SE*—standard error; *Tol.*—tolerance (the multicollinearity statistic is the same for all models).

[^]*p*<0.1, **p*<0.05, ***p*<0.01, ****p*<0.001.

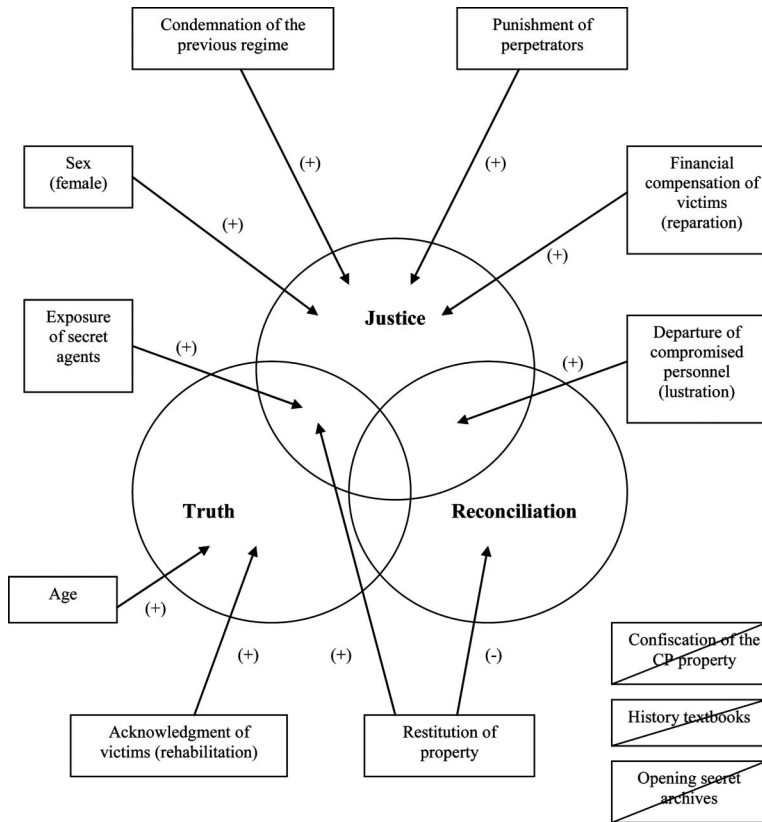


FIGURE 2. MEASURES AND GOALS OF TRANSITIONAL JUSTICE.

OLS linear regressions

We have regressed our three dependent variables on our independent variables, controlling for basic socio-demographic indicators and membership in the former Communist Party. Table 2 and Figure 2 summarise the results of the three regression models. In addition to common unstandardised regression coefficients, standard errors and significance, Table 2 also reports the level of tolerance for each variable so as to dispel any eventual fears of multicollinearity. The level of tolerance does not drop below the acceptable 0.2 level; in fact, the lowest level is above 0.3.

Justice. Three tangible policies of transitional justice generated the strongest effects on the perception of ‘undoing historical injustices’, hereinafter ‘justice’. Other things being equal, satisfaction with the financial compensation of former political prisoners increased the perception of justice ($b = 0.16$; $p < 0.001$). Satisfaction with the punishment of perpetrators had the second highest impact on the perception of

justice ($b = 0.15$; $p < 0.001$), other things being equal. Satisfaction with lustration was the third tangible policy of transitional justice which has an impact on justice ($b = 0.14$; $p < 0.001$), other things being equal. The perceptions of two other policies of transitional justice also had an impact on dealing with the past. Satisfaction with the publication of the names of secret informers contributed to the positive perception of justice ($b = 0.11$; $p = 0.014$), other things being equal. The satisfaction with the restitution of property was also a significant predictor of the perception of justice ($b = 0.10$, $p = 0.013$), other things being equal. Finally, satisfaction with the moral condemnation of the previous regime also contributed to the positive perception of justice, other things being equal ($b = 0.10$; $p = 0.013$).

Reconciliation. This was conceptualised as overcoming social divisions inherited from the past, with only two transitional justice policies having been determined as significantly associated with reconciliation. Satisfaction with lustrations tended to contribute to the positive view of reconciliation ($b = 0.12$; $p = 0.002$), other things being equal, which means that those who believed that persons associated with the former regime have left the leading positions, also tended to see that historical divisions have been overcome. However, satisfaction with restitution was the only variable negatively and significantly correlated with the positive view of reconciliation ($b = -0.11$; $p = 0.012$), other things being equal. The most plausible explanation of this seeming paradox would be that restitutions of property were not seen as a process of overcoming historical divisions in society, but rather as a process of their creation.

Truth. Truth was conceptualised as knowledge of the true scale of historical injustices committed; it is therefore not surprising that the most significant predictors of this transitional justice goal were those measures which concerned the largest number of people. Satisfaction with social acknowledgment of former political prisoners was seen as a major means of determining the true scale of historical injustices committed ($b = 0.18$; $p < 0.001$), other things being equal. Similarly, it also made perfect sense that satisfaction with the publication of the names of the large numbers of secret informers contributed to the perception of truth ($b = 0.13$; $p = 0.006$), other things being equal. Satisfaction with the restitution of nationalised property—which was another megaproject of transitional justice—was also seen as contributing to knowledge of the extent of historical injustices ($b = 0.10$; $p = 0.009$).

Membership of the Communist Party prior to 1989 was not significant in any of the models; this indicates that a very heterogeneous group of people may have originally joined the party, and that such people did not form any ideological block which would ultimately affect the outcomes of transitional justice. Amongst the socio-demographic variables, only age and sex had an impact in our models. Notably, sex (female) is a significant predictor of the perception of justice, other things being equal. Age has a significant impact on the perception of truth, other things being equal.

Limitations

The results of OLS suffer from common limitations of cross-sectional surveys. They are unable to establish clear causal links, thereby suggesting the possibility of reverse

causality, especially among attitudinal variables studied here. For instance, the punishment of the perpetrators of human rights abuses may be a predictor of justice; however, different views of justice among individual respondents may also be a predictor of the assessment of punishment of perpetrators. Thus, the results of the descriptive statistics provide a more conclusive assessment of transitional justice measures than linear regression analysis.

Moreover, opinion polls often carry limitations when used as a policy evaluation methodology. What has been assessed here is not the effects of various measures on 'justice', 'reconciliation' and 'truth' themselves, but rather people's perceptions of justice, truth and reconciliation. Popular perceptions do not tell us whether a goal such as justice has actually been accomplished. Likewise, perceptions of reconciliation do not prove that social divisions have actually been overcome, and perceptions of injustice do not prove that the truth actually is known. More studies, for example analyses of judicial cases or victims' surveys, would need to be conducted to assess the extent to which these goals have been achieved.

Conclusion

A relatively large number of transitional justice measures were approved in order to deal with the communist past in the Czech Republic. This study has reviewed 10 of these measures and accordingly assessed their perceptions in society. Motivated by the dominant legal discourse in this field, it was hypothesised that retributive measures would be more successful policies of transitional justice because they convey the message of justice more convincingly than reparation and revelation measures; however, the results of descriptive statistics show exactly the opposite. Figure 1 clearly demonstrates that reparatory—or victim-centred—measures were viewed as the most successful policies of transitional justice in the Czech Republic. Restitution of nationalised properties, social acknowledgment and rehabilitation of victims and their financial compensation were perceived as the most successful policies of transitional justice.

The group of policies which were primarily designed to reveal the truth about the past was assessed as being slightly less successful than reparatory policies, but still more successful than retributive policies. The publication of new history textbooks, the opening of secret police archives to the public and the official exposure of collaborators with the previous regime were all perceived positively. In contrast, retributive measures were viewed as being unsuccessful. Moreover, the punishment of perpetrators of socialist crimes, lustrations of people in leading positions and their departures, and the confiscation of the property of the Communist Party, were all viewed as being unsuccessful, whilst the moral condemnation of the previous regime was rather neutral. Given the low number of prosecutions, it is certainly unsurprising that the punishment of perpetrators is viewed as unsuccessful: although over 200,000 people were rehabilitated for political reasons (many of them *in absentia*) in the territory of the Czech Republic (David & Choi 2005), less than 10 individuals were actually condemned to jail in its aftermath.

It is surprising that the comprehensive lustration programme was rated so unfavourably despite it having been enforced in the country since 1991 and informally expanded deep into non-leading positions in the state administration and the police.

The confiscation of the property of the Communist Party was another important policy of transitional justice, which was not rated positively. The reason for this may be that the confiscation was swiftly implemented as a ‘one-off’ policy in 1990. The time gap and the continuing profile of the Communist Party as a force with a significant material basis may explain why the policy was perceived as unsuccessful. Another reason was that the properties were not well looked after by their new owners.

The fulfilment of transitional justice goals paints a mixed picture in terms of dealing with the past. Although Czechs tend to see that largest injustices were resolved and that their true scale is known, more than 50% of respondents agreed that social divisions of the past have not been overcome. The results of the regression analyses (Figure 2) show that the perceptions of three out of the 10 examined transitional justice measures—confiscation of the property of the Communist Party, publication of new history textbooks and the opening of secret police archives—are not associated with any of the transitional justice outcomes.

The perceptions of three measures are significant predictors of more than one goal of transitional justice. First, the positive view of the departure of compromised personnel from leading posts in the state administration and the police, which was implemented mainly through the lustration law, is a significant predictor of both justice and reconciliation. This finding makes sense since the dismissal of compromised personnel from leading posts helped to redress historical injustices, as well as to overcome social divisions. Secondly, the positive view of the exposure of secret agents is a predictor of truth as well as justice; in other words, truth may indeed work as a proxy for justice (Hayner 2001). However, a third multi-goal measure, the perception of the restitution of nationalised property, paints a mixed picture of dealing with the past: it helps to achieve justice and, perhaps owing to its mass scale, reveal the true scale of historical injustices. However, it also inhibits reconciliation, thus being viewed as the only policy of transitional justice which has a negative effect on an outcome variable. Indeed, the implementation of the massive restitution programme was seen as creating many new injustices: landlords could not effectively use their own property and tenants lost the lease previously granted to them by the state. Thus, the state that was a major culprit in nationalisation effectively avoided its responsibilities by privatising historical injustices and transferring them to society.

The perceptions of four measures of transitional justice have been determined as predictors of a single goal of transitional justice. The positive view of the social acknowledgment of victims has been positively associated with the disclosure of truth; and the positive views of the financial compensation of victims, the punishment of perpetrators and the moral condemnation of the previous regime have been found to be associated with justice. Thus, we can draw two major conclusions from these findings. First, perpetrator-centred measures are not more effective measures of transitional justice in expressing the message of justice when compared with victim-centred measures. Other things being equal, the perceived effect of punishment on justice is approximately the same as that of reparations. Secondly, the possible impact of symbolic condemnation on the perception of justice is a finding that provides other transitional societies with a useful example: punishments may be difficult to pursue in countries facing political constraints imposed by outgoing ruling elites, reparation may be demanding to implement in countries with depleted

economies, and lustration may be unsound in countries that are poor or lacking in human resources. Ultimately, however, a symbolic condemnation of the previous regime may prove to be an alternative, albeit less efficient, measure for the new political elite to pursue historical justice.

Newcastle University

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