The Making of Minority Rights Norms in the Context of EU Enlargement: The Czech Republic and the Roma

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ABSTRACT The end of the Cold War, the twin processes of democratisation and European Union enlargement in the Central and East European states, and the desire to prevent inter-ethnic tensions in the region have created new incentives and resources for the promotion and protection of minority rights. Engaging the constructivist approach within international relations theory, this article seeks to understand the domestic impact of international minority rights norms and the actors who promote them by applying a current 'spiral model' of human rights norm socialisation concerning the case of the Roma minority in the Czech Republic. By tracing the mechanisms of the norm socialisation process, this article illustrates how minority policy and the domestic salience of minority rights norms regarding the Roma steadily progressed between 1990 and EU accession in 2004. Initial changes in minority policy were made for instrumental reasons, but as the Czech Republic became increasingly enmeshed in the transnational minority rights network, further changes were also made for reasons of belief and identity. Both rationalist and constructivist approaches taken together are best able to explain the outcomes.

Introduction

The case of the Romani minority in the Czech Republic since 1990 and during the pre-accession negotiations with the European Union (EU) presents an opportunity to examine important questions within the study of human rights, specifically the process of domestic human rights norm socialisation and the role of international/transnational actors. This article traces the evolution of the Czech Republic’s minority rights regime by examining the relative impact of inter-governmental organisations (IGOs) and to a lesser extent non-governmental organisations (NGOs) and the attendant norms they support upon (a) domestic minority rights policy (i.e. compliance) and (b) domestic norm empowerment. Second, I investigate the mechanisms by which these human rights norms diffuse and become institutionalised at the national government (elite) level.

This article applies a constructivist model of human rights socialisation and argues that Roma rights norms in the Czech Republic have become salient over time (from 1991 to...
2004) primarily due to IGO material and normative pressure and changes in state identity and interests, even despite weaknesses in the EU conditionality process. Despite positive policy, institutional and discourse changes, the human rights situation of the Roma is still fragile, real implementation is lagging, and anti-Roma sentiments are still present. Socialisation at the mass level, unlike the elite level, will take much more time. Ironically, now that the Czech Republic is an EU member, one cannot assume that the initial changes in their minority rights regime will give way to deeper progress and implementation.

Multiple events and policy changes during the accession negotiations of the 1990s illustrate changes in domestic norm empowerment or norm salience. Public discourse and government policy on the Roma has shifted from inaction and denial regarding racism and discrimination of the Roma in the early 1990s to a decade later of general (yet qualified) public acceptance and multiple governmental programs and integration strategies in support of Roma human rights. For example, in 1993 local and international media talked of a teenaged beauty pageant contestant who said she wanted to be a public prosecutor so she could cleanse her town of Gypsies (the audience and host applauded her). In 2001, by contrast, another pageant contender performed a Roma song in traditional costume and language. She was praised and won the contest. Perhaps this is one small illustration of changing public attitudes and discourse toward Roma issues over time. Nevertheless, as this article illustrates, real protection of Roma rights, especially at the local level, remains weak and a long and difficult process.

In tackling these questions, this article evaluates the usefulness of the ‘spiral model’ of human rights norm socialisation that has been seen as a significant constructivist effort to identify the process of human rights change within states. In short, the model argues that ‘target’ norm-violating states accept and institutionalise human rights through a five-phase socialisation process of instrumental and normative pressure from a network of private and public transnational actors. This case study of the Czech Republic upholds aspects of the spiral model, but also shows how the process of minority rights socialisation is distinct. Getting states to alter their policy, treatment and attitudes toward members of minority groups (instead of toward any individual) tends to be more challenging and more resistant to international pressure. There are few studies, especially ones using theoretical frameworks, that examine how the EU conditionality process and general IGO pressure have worked in specific cases. This research aims to fill this gap.

**Euro-Atlantic Integration and the Theoretical Framework of Norm Socialisation**

With the fall of communist systems in Central and East Europe (CEE) and the process of democratisation, the constitutive liberal democratic norms of West European democracies became the ‘standard of legitimacy’ for the entire European system of states. Scholars have therefore been concerned with the socialisation and diffusion process by which CEE states will adopt new norms, human rights norms in particular. The conventional wisdom is that the promise of Euro-Atlantic integration and the EU’s human rights conditionality criteria in particular have been a motivating force in encouraging human rights change in candidate countries. Scholars have often been too ready to attribute a causal role to EU conditionality without effectively investigating the outcomes in different target states. While it is not possible to make causal claims about the role of EU and IGO/NGO pressure, through process tracing, discourse analysis and studying policy
pronouncements and shifts over time, I am able to infer the relationship between EU and other IGO actions and pressure and domestic changes in the minority rights regime.

The treatment and protection of minorities in post-communist Europe has been given increased attention by European states and organisations for primarily security reasons, and secondarily out of concern for justice and equality. Ethnic-related wars in the former Yugoslavia and Soviet Union were examples of how the multi-ethnic nature of post-communist states could create security threats to Europe (albeit ‘soft’ security ones). The EU, in particular, does not wish to import ethnic or territorial conflicts into its borders, as was made clear in the 1999 Stability Pact for Southeast Europe. Moreover, ethnic tension in Romania, Slovakia and the Baltic states led scholars and policymakers to rethink the supposed neutrality of the state with regards to group identity.

Thus, the EU and other IGOs such as Organisation for Security and Cooperation in Europe (OSCE) and Council of Europe have been pursuing a security-based track regarding minority rights, rather than a justice-based track. This may have important implications for the process of norm socialisation since norm-promoters may, similarly to norm-takers, view minority rights instrumentally, which may lead to weak commitment and institutionalisation of minority rights over time. For instance, it can be argued that European states did not take the issue of Roma rights very seriously until the Roma started seeking asylum in large numbers in Western countries. The West’s ‘concern’ for the Roma was more about protecting their rights at home so they wouldn’t seek them elsewhere. This practice could mean that once the minority issue is no longer perceived as a ‘soft security’ risk, then IGOs would be less likely to pressure states on minority rights. A related reason for the security focus is the general assumption that nationalism in the ‘East’ is perceived in ethnic terms and as a potentially dangerous phenomenon, compared to the assumed more benign civic nationalism in the ‘West’.

Given this new interest in minority rights, the European Commission established the Copenhagen Criteria in 1993, which oblige potential members to be democratic and to protect human rights, including respect for and protection of minorities. This was novel given that it was the first time that an IGO made minority rights a membership criterion. Even though when the Copenhagen Criteria became part of EU law in the 1997 Treaty of Amsterdam the specific clause about minority rights was removed, it appears that the general norm and the entirety of the Criteria remain, but have been weakened and made more a political than a legal condition. In the years following the Amsterdam treaty, however, the EU Commission continued its emphasis on minority rights. Nevertheless, I concur with other scholars that the protection of minorities is a weak EU norm and that pressure upon candidate states will not be likely to continue upon membership.

The Amsterdam Treaty did add another tool in the hands of the EU to encourage progress on human rights (for both old, new and prospective members) called the Race Equality Directive, or Article 13. The directive mandates that all members must develop a comprehensive anti-discrimination package; the EU is now empowered to take action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Many new members and candidate countries have already complied with the directive. This has been more problematic in the Czech Republic, which has been trying for many years to get parliamentary approval for such a bill.

The constructivist approach within international relations theory has been seen as a useful tool in explaining norm and identity shifts within and across states. Constructivists’ fundamental claim is that actors’ realities and identities are socially constructed
and that preferences are not given. They emphasise how intersubjective understandings of the world structure the ways in which actors understand what kinds of actions are valuable, appropriate and necessary. Moreover, norms, ideas and identities not only matter in international relations, but they can be a primary causal force in explaining states’ behaviour. Norms, ideas and identities may not necessarily replace objective material conditions as explanatory variables, but they will often be indispensable analytical tools to aid in the process of explanation.

States often understand their interests in terms of their identity. Today East European states are in a process of reconstituting their identities. State identity refers to ‘state actors’ [leaders] understanding of the purpose of the state and how that purpose connects it to or separates it from other states’. Additionally a state’s identity provides a ‘psychological frame of reference in which to function...[and it] defines values and serves as a basis for ranking priorities’.

The international system can be ‘constitutive and generative, creating new interests and values for actors’. Inter-governmental organisations, such as the EU and NATO, are central to this ideational shift – they are not just economic or military organisations – they have their basis in ideas. Moreover, international norms may alter a state’s and a nation’s identity. A post-communist state may construct its national interest based upon its intersubjective understanding of its identity as a European, liberal, democratic state (that includes the protection of a full range of human rights).

A state’s identity can affect action through the ‘logic of appropriateness’ and the ‘logic of consequences’. The former claims that actors’ behaviour is conditioned by their efforts to conform to the expectations of a role inherent in their identities, while the latter states that actors’ behaviour is instrumental, driven by material rational interests. In short, the ‘logic of appropriateness’ means that ‘if we are X [e.g. a European state], then we are to behave like X [e.g. a protector of human rights]’. States adhering to certain norms are fulfilling a role that says ‘good people do X’, which differs from following a rule which says ’do X to get Y’. Thus, rationalist behaviour may slowly give way to normative behaviour over time.

In the case of the Czech Republic, we find both types of behaviour occurring simultaneously, that is, elites are positively responding to minority rights norms (and EU conditionality more generally) both in order to please the EU and gain tangible benefits, but also because (through a process of social learning and persuasion, and in keeping in line with a new identity) they believe these changes are appropriate and good. For many post-communist states, joining ‘Europe’ has symbolic and psychological meaning that is connected to this identity shift (especially since so many post-communist states see themselves as always having been a part of ‘Europe’, thus the oft-quoted phrase ‘return to Europe’).

The edited volume by Thomas Risse, Stephen C. Ropp and Kathryn Sikkink ‘represents the constructivist state-of-the-art’ in the area of norm socialisation. In this article, I examine the usefulness and generalisability of the Risse et al. ‘spiral model’ framework by examining different target states (democratic/Western) and different types of rights (non-discrimination/minority). The central theoretical goal of the Risse et al. volume is to integrate insights from rationalist and social constructivist approaches in understanding the domestic impact of international human rights norms.

The model provides a comprehensive look at the social mobilisation side of norm diffusion, that is, how international norms affect domestic policy and politics. The interaction
of three levels of analysis (society, state and transnational) in the norm socialisation process is combined with three main mechanisms of change and five main phases of the process. The phases a target state should follow are: repression, denial, tactical concessions, prescriptive status, and the last stage where one observes rule-consistent behaviour with human rights norms. Thus, a target state in the first phase actively represses rights, in phase two they would deny that there is a human rights problem, while phase three is the turning point where improvements are made as concessions to transnational pressures (from IGOs and NGOs). In phase four, states start to actively institutionalise the rights and become socialised to accept these rights as appropriate given their new identity, and finally the last phase of rule-consistent behaviour should find the target state following the norms out of habituation and out of reasons of belief more than for purely instrumentalist purposes. For example, in the case of minority rights, states could progress from denying that they have an ‘identity’ or minority problem to tactical concessions, to eventual prescriptive recognition of new multicultural identity norms and perhaps protection of a minority culture.

The mechanisms of norm socialisation vary depending upon what point in the process a state finds itself. In the early processes, the mechanisms of socialisation are instrumental adaptation and strategic bargaining, but as a state becomes more open to transnational pressure, the processes at work shift to moral conscious-raising, argumentation, dialogue and persuasion (e.g. appealing to new identities) and finally through mechanisms of institutionalisation and habitualisation. The middle mechanisms are often the most important since it is through the process of arguing, debating and persuading (and establishing increasing connections with IGOs and NGOs) that a state may revise its interests and its identity and subsequently its action and beliefs regarding minority rights.

Somewhat consistent with the spiral model’s phase two, a Roma transnational advocacy network (TAN) became activated. Keck and Sikkink show how TANs form around a specific issue area with the goal to change the behaviour of states; the networks are ‘forms of organisation characterised by voluntary, reciprocal, and horizontal patterns of communications and exchange’.29 In the mid-1990s in Europe, one could identify a TAN on behalf of Roma rights, whose members included European IGOs such as the OSCE in addition to many Romani leaders and NGOs, transnational NGOs such as Human Rights Watch, and even American leaders such as Representative Christopher H. Smith, who spoke out on Roma rights as a member of the US Helsinki Commission. The Roma TAN worked hard to shame the Czech Republic specifically in the wake of numerous skinhead attacks and the migration of Romani asylum seekers westward starting in 1997. The network was key to linking up governmental and non-governmental actors around a common cause and putting pressure upon the target state. But while public transnational actors (and particularly the EU as discussed below) were key to putting the Roma issue and the Czech Republic on the international agenda and making them more vulnerable to outside pressure, it does not appear that these private non-state actors were instrumental in getting the Czech government initially to pass resolutions and make the plight of the Roma a policy issue.

The Czech Roma and Evaluation of the Minority Rights Regime
The Roma (also called ‘Gypsies’), numbering about 10 million in Europe, have a long history of persecution and discrimination.30 While communist regimes generally sought
to assimilate the Roma and deny their ethnic identity, they also improved their material conditions (which were the poorest in society) by guaranteeing social and economic rights similar to the dominant society. The period of democratic transition and marketisation since 1989 has brought a worsening of their socio-economic status (e.g. average unemployment rate is 70%), but some improvements in civil, political and cultural rights. Moreover, international organisations have been spreading awareness of Roma rights and pressuring governments. The Roma themselves have been politically mobilising. Nevertheless, the post-communist period can be characterised by the onset of violent attacks upon the Roma and persistent discrimination in public life. Discrimination is particularly rife in housing, education and employment. Surveys from the mid-1990s showed that Czechs in particular had negative views of the Roma. In the Czech Republic, 91% stated they disliked the Roma, compared to 79% in Hungary, 71% in Bulgaria, 68% in Romania and 66% in Slovakia.31

The minority rights regime of the Czech Republic has undergone significant changes over the past 15 years. Looking at norm empowerment (or salience) and policy change, we find that the government has moved from denial of a problem in 1990 to minority rights norms attaining ‘prescriptive status’ according to the spiral model discussed above (phase four) in 2000 to 2002. While the period from 1990 through 1996 was marked generally by promises and subsequent inaction, the period from 1997 onward saw a sustained effort on behalf of the government to fulfil its earlier promises (and recommendations made by regional and international bodies) and to enact institutional and policy changes to further integrate the Roma and reduce discrimination against them. Not coincidentally, 1998 was the first year that the EU began making its regular reports on the Czech Republic’s progress toward accession.

As I argue below, government progress on Roma rights was the result of EU conditionality, as rationalist theories would assume, but, in line with constructivist arguments, progress was also due to norm shifts and changes in identity. The Czech Republic was caught up in a network of transnational actors, both public and private, all pushing toward greater recognition and protection of Roma rights; this multi-faceted lobbying helped state actors see how Roma rights were essential to full human rights protection and to the Czech’s fulfilment of their liberal democratic identity and their collective European identity.

Soon after the fall of communism, the Czech Republic quickly adopted the formal institutions and practices of a liberal democracy – already in 1993 it was considered ‘free’ with a score of one for political rights and a two for civil liberties according to the Freedom House ratings. Its conception of human rights was individualistic (the ‘civic principle’); unlike Hungary, it did not make collective rights fundamental to its state identity or state policy. The Czech Republic was talking, acting and looking like a liberal democracy and a protector of human rights. Elites clearly viewed the country as returning to its rightful place in Europe and envisaged its identity as democratic and supportive of human rights. The victory of former dissident, activist and playwright Vaclav Havel in gaining the presidency did much to implant this identity and symbolism within the minds of both Czechs and foreigners alike. As constructivists argue, it did appear that the Czech Republic’s interests had changed now that its identity was changing from ‘communist’ or ‘totalitarian’ to ‘democratic’ in response to a changed global ideational structure and a grassroots revolution by citizens and dissidents 1989.

If we were gauging the success of human rights norm diffusion in the Czech Republic in terms of rights of personal integrity as Risse et al. in the Power of Human Rights do, then
the Czech Republic would appear to already be at phase 5 (rule-consistent behaviour) by 1993. (See Table 1 for key events such as joining the Council of Europe.) However, examining the state of human rights without looking at the human rights of members of minority groups does not give us the whole picture. The US State Department in its 1993 human rights report of the Czech Republic found no evidence of torture and systematic police abuse, in addition to an impartial and independent judiciary and fair trials. Nevertheless, the individual rights of the Roma were being violated on exactly these points as the US State Department itself reveals in its annual reports.32

Phase 2: Mobilisation and government denial, 1990–199533

In the beginning, the Czech Republic did not accept the discourse of minority rights. More importantly, while the Czech government accepted general human rights discourse, including the application to members of national and ethnic minority groups (as evidenced in their Charter of Fundamental Rights and Freedoms), they did not frame the Roma ‘problem’ as a human rights problem, much less a minority rights issue. This is curious given that the Roma are the largest minority in the country (about 250,000), that racial violence had been on the rise, and that the massive post-communist socio-economic fallout hit Roma the hardest. Already in the early 1990s, NGOs, the US State Department and European organisations such as the Council of Europe stated that the most important human rights problem in the Czech Republic was prejudice and discrimination against the Roma.34 Nevertheless, the government took no meaningful steps to accept responsibility and to deal with the violence, the pervasive discrimination, the educational segregation or the disastrous economic and housing problems during this phase two.35

In fact, the negative treatment of the Roma throughout much of the 1990s was constructed as a social and cultural problem, not as a human rights issue.36 This partly

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<th>Activity/change</th>
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<tr>
<td>Council of Europe Membership</td>
<td>1991</td>
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<tr>
<td>Ratify European Convention Human Rights + individual right of petition</td>
<td>Jan. 1993</td>
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<td>Creation of a minorities</td>
<td>1993</td>
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<td>council or govt. institution for minorities</td>
<td>1997 – specific to Roma</td>
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<tr>
<td>Application for EU membership</td>
<td>Jan. 1996</td>
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<td>EU officially begins accession process</td>
<td>June 1997</td>
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<td>Change of specific law after transnational pressure</td>
<td>April 1996 – (Citizenship, first change)</td>
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<td>July 1999 – (second change)</td>
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<td>Passage of law protecting minority rights (general or specific)</td>
<td>June 2001</td>
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<td>Passage of comprehensive anti-discrimination law</td>
<td>Framework 2003, lower house approve, upper house denied May 2006</td>
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<td>Joins European Union</td>
<td>May 2004</td>
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stems from the fact that Romani identity throughout time in the region has been constructed in social rather than ethnic terms. That is – Roma are more different because of their social, rather than because of their inter alia ethnic or linguistic, characteristics, as most other national minorities are. As the spiral model predicts, the Czech Republic as a target state used moral discourses to frame the violations in a different, less harsh light so that blame was placed more on the minority than the government. Moreover, those critical of the Roma rights program used culture as a rationale for human rights violations, arguing that the Roma’s different culture prevents their equal treatment within society and prevents their success in mainstream institutions. Human rights NGOs (particularly those focused on the Roma) have tried to persuade policymakers and the public at large that the Roma ‘problem’ is a human and minority rights problem; it is not just that the Roma have higher rates of unemployment, but that their socio-economic condition has something to do with pervasive discrimination against them. Discrimination and violence against them are often because of their minority status.

While national leaders did not publicly denounce the Roma or the norm of minority rights, local level leaders and, most notably, the head of an extremist right-wing party have contributed to the anti-Roma anti-minority rights discourse throughout phase two. In these cases, however, the national government and other leaders did not formally condemn the racist statements or actions. Elites did not even make formal changes, much less attitudinal changes, regarding the Roma until after 1995 and increased pressure by transnational forces.


The spiral model is most useful in analysing how and why the Czech Republic advances to phase three and remains there for four years. Risse et al. argue that transnational networks and the domestic opposition are the dominant actors that move a target state from the denial phase to the tactical concessions phase. In this case, we can identify the EU as the most important actor within the TAN (despite the fact that the Roma issue is low on its agenda), followed by (in order of importance) IGOs such as the Council of Europe and the OSCE, and then Romani NGOs working locally and transnationally. The Czech Republic moves into phase three when it begins the accession negotiation process with the EU and accepts the process of law harmonisation and norm standardisation. It completes phase three and moves into phase four (prescriptive status) in mid-2000 when parliament approves a comprehensive 20-year plan for Roma integration after years of pressure to do so.

Risse et al. hypothesise that ‘[T]he transition to the third phase constitutes the biggest challenge for the transnational human rights network. This transition primarily depends on the strength and mobilisation of the transnational network in conjunction with the vulnerability of the norm-violating government to international pressures’ (emphasis mine). Thus, 1996 was the key turning point in the norm socialisation process. Up until then, EU membership was a possibility, but not as realistic as it became when, in July 1997, the European Commission submitted its first official opinion on the Czech Republic’s application for EU membership, confirming and critiquing the problems and rights violations of the Roma outlined above. At this point, the European Commission stated the following with regard to the situation of the Czech Roma:
The situation with regard to the Roma, however, would appear more difficult [compared to the Slovak minority]. They are the target of numerous forms of discrimination in their daily lives and suffer particular violence from skinheads, without adequate protection from the authorities or the police. Their social situation is often difficult (though sociological factors to some extent account for this) alongside any discrimination they may suffer from the rest of the population, notably over access to jobs or housing. In addition, the way in which some Roma were expelled during partition has been criticized by a number of humanitarian organizations . . . There is a problem of discrimination affecting the Roma, notably through the operation of the citizenship law.43

The case of the controversial Czech citizenship law is quite illustrative of the process of norm socialisation and EU conditionality. The 1993 citizenship law was harshly criticised as discriminatory by the US Helsinki Commission, the US State Department, the UN High Commissioner for Refugees (UNHCR), the OSCE and the Council of Europe, and numerous NGOs such as the Czech Helsinki Committee (CHC).44 It was widely understood that the citizenship law was created in an effort to leave many Roma stateless and to encourage them to move to Slovakia after the break-up of the country. An internal document leaked to the press stated the following:

We should use the process [of the division of the republic] for the purpose of departure of not-needed persons from factories, especially for the reasons of structural changes, and for the departure of people of Roma nationality to the Slovak Republic.45

The UNHCR, for instance, argued that requiring a clean criminal record five years previous ‘is not justified’ and ‘does not follow the accepted pattern established under general international legal principles.’ Moreover, the COE report found that ‘conformity with European legal standards might be doubtful’, in terms of the clean criminal record requirement as well.46 It is noteworthy that the criticisms of the citizenship law were made in legal and normative terms. The Czech Republic was persuaded to amend it because it was not in compliance with international norms and laws. The use of this language signalled to the Czech government that the argument was about legal human rights. For the Czechs to dispute the claims, they would have to do so in terms of legal and normative standards.

While many NGOs criticised the citizenship law in 1994, the government began to consider its discriminatory effects only after the recommendation of the Council of Europe and other international bodies.47 The Czech government amended the law in April 1996, waiving the clean criminal record requirement, but ‘on an individual basis for Slovaks who had been resident in the Czech lands before the 1993 split’ (US State Department 1996).

This change, however, did not remove all of the discriminatory aspects of the law; in addition, the government failed to inform Roma communities about the revisions, leaving it up to local NGOs to take on the burden of helping Roma through the application process. IGOs argued that the law was still not in compliance with international legal standards.48 Deputy foreign minister Cyril Svoboda told the Council of Europe that the government had no intention of changing the law.49 In addition to the
USA, NGOs and other international bodies continued to apply pressure after the 1996 amendment.

Upon increasing pressure from all sides, the citizenship law was once again amended on 23 September 1999 to be in compliance with the recommendations of both international and domestic organisations. According to a CHC lawyer, this new law will solve most of the problems of Roma statelessness and loss of citizenship.

The government’s reforms regarding citizenship most clearly illustrate the significant impact of international pressure upon domestic minority rights policy. The link between external criticism and internal change is strongest in this case. Council of Human Rights members and current Human Rights Commissioner Jan Jarab attributed about 75% of the credit for the amended citizenship law to outside, international pressure. Jarab also believes that the process of domestic actors taking in and reacting to ‘foreign messages’ takes a long time, which might explain why it has often taken years for the Czech government to acknowledge and respond to external criticism. But in time, it appears that these ‘messages’ have got through.

In short, during phase three, the target state seeks to pacify international criticism and therefore makes tactical concessions. Just enough change is often made to reduce or halt the international pressure, as in the case of the 1996 amendment to the citizenship law. But when the pressure continues and intensifies, the state again will have to make deeper concessions and changes, as the 1999 amendment illustrates. As Risse et al. find, the target state is acting strategically and instrumentally, using concessions to gain something; in this case, less international censure and a better international image and reputation to prepare for becoming a member of the European collective identity.

Four key events of 1997–98 illustrate how the Czech Republic became increasingly vulnerable to transnational actor pressure and made subsequent changes in its minority rights regime: (1) the Romani exodus to the West; (2) the creation of the Interdepartmental Commission for Romany Affairs; (3) the government’s ‘Report on the Situation of the Romani Community in the Czech Republic’ (hereafter ‘Bratinka Report’; (4) a town’s plan to build a wall separating Roma and non-Roma residents.

Like the citizenship law, the exodus of over 1,000 Roma asylum seekers to Canada and the UK in the summer of 1997 made international headlines and increased the vulnerability of the Czech government to outside pressure. In August 1997 over 1200 Czech Roma sought political asylum in Canada and the UK. The impetus for the exodus was a documentary by the private TV station Nova that depicted a comfortable and persecution-free life for Romanies in Canada. Canada reacted to the arrival and asylum claims of the Czech Roma by reinstating visa requirements for all Czechs. By the end of 1997, only 19 claims for asylum had been accepted. The Canadian Immigration and Refugee board issued a critical 30-page report condemning the Czech Republic’s discriminatory citizenship law and its general mistreatment of and lack of protection for the Roma. Just as the Czech government did not want any problems with EU enlargement, it did not relish the fact that its citizens would need a visa to travel to the West. The government continued to see how addressing the treatment of the Roma was in its self-interest. They would thus adapt accordingly as the subsequent events of that year illustrated.

One of the most important achievements of the government’s Council for National Minorities was the publication of the comprehensive ‘Report on the Situation of the Romany Community’, known as the Bratinka Report. The study was quite revolutionary in the
history of Czech–Roma relations in that it realistically took account of the specific problems between the Roma and the dominant society and established a long-term approach for addressing the root causes of the human rights abuses, namely influencing the majority population and helping the Roma gain equality with the rest of society. The report highlighted the ‘errors’ of the government and Czech society. According to Will Guy, this was the first time that an official report ‘conceded that in major respects the government had simply failed the Roma’ (2001, 301) and that, as the report noted, in the light of ‘practical experience and the actual situation, ... it must be conceded that overall the criticisms are substantiated’. The report also admitted that society’s unwillingness to accept the Roma, despite their efforts to integrate, had driven many Roma to emigrate and seek asylum. According to Jan Jarab, the Bratinka Report was in response to a number of highly publicised racially motivated murders in 1990–93. These attacks, while occurring in the early 1990s, did not become widely accepted by the government and its authorities as a systemic problem until after 1995 when international and domestic pressure and publicity increased.

While the report succeeded in surveying the multiple problems facing the Roma and the role of the government, it ‘did not propose a coordinated governmental program to remedy the situation’. The government at this point was making tactical concessions and half-hearted attempts to appear serious about minority rights. It would be a few more years until Czech elites start to make more tangible improvements that mirror their rhetoric. One notable outcome, however, of the Bratinka report was the creation of the Interministerial Commission for Romani Affairs (IMC).

The much publicised incident in 1998–99 regarding the ‘wall’ is yet another example illustrating the Czech Republic’s increasing vulnerability to outside pressure during phase three and its increasing use of tactical concessions to appease transnational actors, particularly the EU. The plans by the local city council and citizens in Ustí nad Labem to build a high wall separating the Roma from the non-Roma residents on Maticni Street created an international outcry and resulted in condemnation by multiple members of the Roma TAN (such as the ones mentioned above that criticised the citizenship law). In the USA, Congressman Christopher H. Smith, then co-chairman of the Helsinki Commission, spoke to the House of Representatives on ‘Racial Intolerance in the Czech Republic’ criticising the plans by local authorities to build ‘ghettos’ in both Ustí nad Labem and also in Plzen.

Following national and international protests, the plans to build the wall were delayed for the time being and local authorities said they would build a lower fence, in addition to a new playground and sidewalks. President Havel visited the site in December and promised financial help for conflict mediation. But later the town decided to build the wall after all.

In line with the government’s behaviour during this phase of being strategically more publicly vocal regarding Roma issues, then Prime Minister Zeman issued a strong statement condemning the construction of the wall and asked the Commissioner for Human Rights to ‘meet with local officials to dissuade them from their plan’, and ‘warned that it would use all legal and administrative remedies to stop construction should dialogue fail’. The Czech cabinet voted to block construction of the wall, stating that it promoted racial discrimination (note the use of ‘human rights’ language). The end to this story came when in November 1999 the government agreed to give the city government $85,000 (3 million crowns) to remove the wall and ‘improve social conditions in the town’.
Phase 4: Institutionalising minority rights: attaining prescriptive status

Four key changes in governmental policy during 2000–2001 mark the transition from phase three (tactical concessions) to phase four, when minority rights norms attain ‘prescriptive status’: (1) the creation of an Ombudsman’s Office (Public Defender of Rights), (2) parliamentary approval of the ‘Concept for the Integration of the Romani Community’, (3) the Law on National Minorities and (4) the Memorandum of Understanding signed between the Ministry of Foreign Affairs and the International Romani Union (IRU). The spiral model is useful here in detailing the conditions under which a transition should occur (even though some of the conditions had been met earlier). ‘Prescriptive status’ means that domestic norms are generally mirroring international norms. In this phase, as the spiral model predicts, the Czech government regularly refers to the norms to justify their actions and comment upon their behaviour and ‘the validity claims of the norm are no longer controversial, *even if the actual behaviour continues violating the rules*’. Moreover, ‘the final stages of reaching prescriptive status always preceded sustained improvements in actual behaviour’. This was the case in the Czech Republic in 2000 where violations of Roma rights were (and are) still commonplace, where the government was often slow to react, yet at the same time the institutionalisation of minority rights norms and of specific programs to address the discrimination of the Roma was clearly under way, particularly when compared to activities in the early 1990s.

The Czech government’s long-term 20-year plan, ‘Concept for the Integration of the Romani Community’ (hereafter 2000 Concept) addressing the multiple problems of Romani integration and human and minority rights was in response to transnational actors who have consistently called for, year after year, a comprehensive government plan for addressing the Roma issue. For example, the European Commission’s EU Accession Report of 1999 states, ‘The greater attention paid by the government since September 1998 to the improvement of the condition of the Roma needs to be translated into a comprehensive long-term policy to fight discrimination and social exclusion’.

The 2002 Updated Concept reflects the government’s ‘new’ approach of examining the Roma issue from three perspectives: human rights, minority rights and the broader socio-cultural perspective. Moreover, the government explicitly expresses its will to ‘remedy the injustice of centuries of discrimination and damages cause before 1989 by the policy of forced assimilation’, with the general aim ‘to achieve the non-conflictual co-existence of Roma communities with the rest of society’, including the protection of the Roma’s ‘cultural identity’. This language is significant in that it follows the human rights discourse and the recommendations of the EU and Romani NGOs. The 2002 Updated Concept specifically states that, ‘The future form of the institutionalisation to ensure the integration of the Roma community will in all likelihood cohere with the directives of the EU’.

The direct reference to international and regional norms regarding minority rights by the Czech Republic supports the spiral model phase four, where we expect target states to regularly refer to norms to describe, comment upon and justify their behaviour. The government has made the link clear between the recommendations, criticisms and directives of transnational public actors and the government’s current and future actions related to Roma rights. Importantly by contrast, the government’s 1997 report did not justify the protection of Roma rights by reference to minority rights norms or IGOs.

It is also evident that the discursive practices of the Czech government in the two above concepts for Romani integration support the validity of minority rights norms irrespective
of domestic or international audience (a key factor in the model). The fact that both the
2000 and 2002 Concepts are only to be found in Czech, not in English (or in an EU
language such as German or French), perhaps illustrates that these reports were not
written merely for foreign consumption or for cosmetic reasons. The ground-breaking
1997 Bratinka Report, by contrast, was published in its entirety in English. Moreover, I
have not found any evidence of argumentative inconsistency; of the government saying
one thing to the EU and saying another to its own constituents, to Parliament, or to the
domestic media – consistency being a feature of phase four.

As evidence of a further commitment to the minority rights norm, after years of discus-
sion, debate and consultation with NGOs, the Czech Chamber of Deputies approved a Law
on National Minorities.\(^{73}\) Its main principles accord with those laid out by the Framework
Convention on National Minorities. Jan Jarab described the law as a ‘fundamental
about-face’ for a government who had been weary of publicly supporting minority
rights and now ‘members and elected authorities of these minorities will have the right
to have the state obligations fulfilled’ (*Minority Protection in the Czech Republic* 2001,
156). The Minorities Law recognises 12 minorities in the Czech Republic, provides a defi-
nition of national and ethnic minorities, guarantees free choice of identity, and provides
rights in the area of language, culture, education, media access, political participation
and political representation.\(^{74}\)

Many new laws and policies toward the Roma illustrate compliance with the Framework
Convention such as: new textbooks that include Romani history, Romani teaching assistants,
financial support for Romani media, Romani language classes, Romani interpreters in court,
recruitment of Romani police, recruiting Roma to government positions, Romani advisors at
work at the municipal level.\(^{75}\) While it is too early to tell how the law may directly affect
Romani civil rights, it is significant that the government has officially recognised not only
the ‘idea’ of minority rights, but has taken steps to put the ideas into practice, especially
since many West European governments have not ratified the treaty.

**The Final Obligation? The EU Race Equality Directive and Czech
Anti-Discrimination Legislation**

The adoption of the Race Equality Directive in June 2000 by the EU Council of Ministers,
which mandated that all member states (including candidate states) must establish anti-
discrimination legislation, should have had a direct effect on the minority rights regime
of the Czech Republic, but so far it seems to be minimal since the government has been
slow in complying. While there are some provisions in the Czech Employment and Con-
sumer codes that deal with anti-discrimination, they provide no definition of discrimi-
nation and no mechanism for redress; moreover, the burden of proof is on the victim
and there are no provisions for compensations of the victim.\(^{76}\) With the new Directive,
the burden of proof shifts to the government to show that discrimination has not
occurred.\(^{77}\)

Every IGO and NGO that constitutes the Roma transnational advocacy network has
made special mention of the lack of protective legislation for racial discrimination. In
2002, the European Commission reminded Prague that it must pass and implement this
legislation.\(^{28}\) However, the Czech Republic joined the EU in 2004 without this legislation
(so did other old EU members and candidate countries), and at the time of writing an anti-
discrimination bill is trying to be resuscitated after failing in the Senate last year (2006).
The most recent report of the Czech Republic by the UN Committee for the Elimination of Racial Discrimination (CERD) in March 2007 reiterated the importance of the still-lacking anti-discrimination legislation.\textsuperscript{79}

The seven-year history of the Czech’s efforts to enact anti-discrimination legislation mirrors the pattern of slowness and foot-dragging evident in earlier cases such as the Citizenship Law and raises the question of whether elite attitudes and identities have changed all that much.\textsuperscript{80} A 1999 government resolution gave eight ministries the responsibility for ‘creating conditions’ to ‘restrict racial (or other) discrimination’, but the draft criminal legislation submitted to Parliament in December 2000 did not include provisions of this kind.\textsuperscript{81} Moreover, calls to amend the Law on National Minorities to include anti-discrimination provisions have gone unheeded. In the Czech governments’ reports to various IGOs, they have talked of anti-discrimination provisions they have already enacted, but these are basically ineffectual, \textit{ad hoc} and superficial, as mentioned above. In 2000, the Czech government promised to have a draft in line with the Race Directive by the end of 2002.\textsuperscript{82} Finally in December 2004, the government approved a bill based on the Race Directive.\textsuperscript{83} The lower house (Chamber of Deputies) approved it by a narrow majority in December 2005, but the bill was rejected by the Senate a few months later.\textsuperscript{84} Their veto was not overridden. Critics point to fears about affirmative action and positive discrimination and argue that the bill unnecessarily extends the scope of discrimination. In early 2007, the Social Democrats said they will again submit the bill for consideration.\textsuperscript{85}

The failure of the Czech government to take timely action on the Race Directive illustrates the difficulty of stating unambiguously that minority rights norms have attained ‘prescriptive status’. It illustrates that minority rights are still being debated, negotiated and argued about. It also illustrates that models may be useful guides, but will often not explain all the nuances of a given case.

\textbf{Norm ‘Violators’ and ‘Protectors’ Switch Sides?}

As discussed in the introduction, there has been criticism of the minority rights mechanisms of the EU enlargement process and of the double standards between what the ‘east’ versus the ‘west’ is expected to comply with. With this in mind, the controversial and publicised events of 2001 regarding British checks at Prague’s airport turns some of the basic assumptions about norm socialisation on their head. With the reluctant consent of the Czech Cabinet, British immigration officials began in July 2001 screening Czech airline passengers headed to the UK in order to weed out potential Romani asylum seekers. Though publicly the UK claimed they were just checking documents, undercover ‘testing’ by journalists revealed that only Roma passengers were prevented from boarding, even if they had all the correct documents.\textsuperscript{86} Human rights organisations condemned the British policy as unlawful and discriminatory since they were infringing upon the right to seek asylum and because their airport checks stopped almost exclusively Romani passengers.\textsuperscript{87} Not only were domestic and international human rights NGOs protesting against the checks, members of the Czech government also proclaimed the checks were discriminatory and called for their end.\textsuperscript{88}

What is the significance of this controversy for Roma rights and the norm socialisation model? The narrative of norm socialisation (and the spiral model in particular) assumes that Western governments and organisations are the ‘teachers’ and norm-givers and the
target states are the ‘students’ and norm-receivers. The conventional view is also that the norm promoters comply with the norms they are promoting and pressuring upon others and that by being norm promoters they have achieved a certain identity, in this case, a state identity that is centred on human rights. The case of the British fear of Romani asylum seekers and the discrimination and general poor treatment of the Roma in West European states somewhat erodes these above assumptions. This is not to say that we do not expect human rights violations in EU countries (as they occur everywhere, just in different degrees), but that in this case of the EU requiring candidate countries to protect, integrate and respect the Roma in particular when the EU itself does not follow this advice, our models tell us we should expect different outcomes. This evidence calls into question models that assume a clear delineation between norm followers and norm violators. The reality is more nuanced.

Despite all the seeming contradictions of the Western norm-promoters, it may be that this case illustrates that minority rights have attained prescriptive status in the Czech Republic, since it was members of the Czech government who were now the ones claiming discrimination (as opposed to the EU), which suggests that elites are ‘talking the talk’ and ‘walking the walk’ as the spiral model argues. The government used the language of discrimination to protest against norm violations by EU members themselves. But in the end, the government was not addressing whether persecution actually existed and that the Roma therefore had a right to flee.

Conclusion

This article has traced the development of the Czech Republic’s minority rights regime during the post-communist period of European Union negotiation and accession. It has provided a window and a case study into the human rights norm socialisation process and into the effects of European Union conditionality. Making use of a ‘spiral model’ of norm socialisation and through an analysis of discourse and policy changes, I have shown how human rights for the Czech Romani minority have become more salient over time. Minority rights norms, despite weaknesses in implementation, have become institutionalised, empowered in the public realm, and generally accepted as appropriate at the elite level.

To summarise, in the first part of the 1990s, the government denied that the poor status and treatment of the Roma constituted a ‘problem’. By 1995 the EU accession process became a reality and private transnational actors increasingly targeted the Czech government through shaming techniques. Tactical concessions were made throughout the second half of the 1990s when the citizenship law was amended, among other changes. By 2000, the government made good on a promise to develop a long-term strategy for Roma integration and passed a key law on national minorities, illustrating that elites were increasingly ‘walking the walk’ regarding minority rights.

Just before EU accession in 2004, many of the conditions for phase four had been met: actors regularly referred to norms to describe and comment on their behaviour; all major treaties relating to human and minority rights had been ratified; norms were institutionalised domestically; a mechanism existed for citizens to complain about human rights violations; and the discursive practices of the government were consistent, irrespective of audience. Moreover, relations with key domestic human rights NGOs had significantly changed by 2000 compared to the early 1990s. Also consistent with the model,
argumentative rationality and institutionalisation are the main mechanism in phase four by which norms are becoming socialised. The fact that Parliament has been debating over the past year the merits of a comprehensive anti-discrimination law illustrates ‘arguing’. In sum, the Czech Republic made consistent, yet weak changes in minority and Roma policy.

The spiral model, however, suggests that by phase four actors are complying with norms more for reasons of belief and identity than merely for instrumental reasons (as they did in the earlier phases). While I believe that there have been shifts in identities and attitudes, I conclude that the ‘logic of consequences’ and the ‘logic of appropriateness’ are at play simultaneously, that is, elites are still acting instrumentally and rationally, in addition to acting out of changed attitudes about what is right.91 Scholars can have different interpretations of state behaviour and one could argue that the Czech Republic is not fully in phase four because IGOs (i.e. public transnational actors) are still driving norm socialisation when at this point, at least according to the spiral model, national governments and domestic society should be moving the process forward to a much greater extent. For instance, Czechs are still under pressure from the EU to comply with the Race Directive, in addition to being influenced by domestic forces, such as the Czech Helsinki Committee and Roma organisations. This weakness of domestic socialisation can be partially explained by the nature of the right. That is, it is more difficult for society to mobilise and pressure the government on behalf of equal rights for a disliked minority than to lobby for rights that are seen as benefiting all (for example, at the beginning of the democratisation process in the early 1990s).

The mixed progress on Roma rights and continued weak implementation can also be explained by the interplay between international and domestic norms (persistent norms of prejudice against the Roma). Studies have shown that the norm socialisation process is complicated and hindered by competing and/or antagonistic domestic or local norms, that is, the lack of a ‘cultural match’.92 Thus, an examination of Czech–Roma relations reveals historically constructed domestic norms of oppression, inequality and intolerance toward the Roma. In terms of identity, the Roma can either assimilate into Czech society (as communist policy attempted to help them do) or continue to be outside the constructed Czech nation. Thus identity is mutually exclusive – one can be Czech or Roma but not both.93 A third option, of the Roma becoming full and equal members of a multicultural Czech society, is more problematic – though not impossible. These contradictory norms suggest that the Czech Republic is up against significant historical and normative barriers to seeing Roma as equal citizens. These domestic norms may influence the timing, pace and strength of new policies and laws regarding minorities, as observed in the Czech case.94

While the spiral model is often a helpful guide for understanding the norm socialisation process, the Czech case illustrates some of the weaknesses of the model. For instance, the phases of the model assume forward movement in clear demarcated phases (although the authors say target states can go backward then forward again). But the fact that international norms (especially weak non-consensual ones such as minority rights) are not grafted onto a clean domestic slate means that the outcomes will naturally be some sort of combination of norms. The teleology of reaching “rule-consistent behaviour” appears a little too idealised in the real world of politics. The recent furore over Slovenia tarnishing its new EU image by forcibly relocating a large Romani family in response to mob violence is a case in point.95 That is, instead of speaking of norms being accepted or rejected in zero-sum terms, we should think of the process as a continuum of multiple outcomes, some of which may be sub-optimal or unintended. Adamson, for example, implicitly
questions the spiral model of ‘phases’, wondering whether the outcomes may not be temporary stages on the way to universal rule-consistent behaviour, but that they may be hybridised practices.\textsuperscript{96}

Also, it is unclear how a state gets to the fifth and final phase of ‘rule-consistent behaviour’ and moreover how national-level institutionalisation of human rights norms can lead to actual implementation and societal-level socialisation. I realise that this latter point is not the goal of the spiral model or of this study, but it is surprising that the Risse \textit{et al.} model does not offer advice on this point. For victims of repression, it may be little comfort knowing that minority rights have been ‘institutionalised’ within domestic law, yet they are still targeted by the police because of their identity. The spiral model argues that national governments and the domestic society are the dominant actors moving states to phase five. They further claim that ‘sustainable change in human rights conditions will only be achieved at this stage of the process when national governments are continuously pushed to live up to their claims and when the pressure “from below” and “from above” continues’.\textsuperscript{97} This is a vague prescription and does not help us gauge what specifically will need to happen for the Czech Republic to get to phase five.

Moreover, in terms of the mechanisms of how socialisation occurs, the spiral model implicitly considers the importance of elite social learning, but it would benefit from deeper theoretical consideration of how this process occurs. Their model is too heavy on the social mobilisation side and too weak on the elite political choice side.\textsuperscript{98}

In summary, the following specific conclusions can be made:

(1) The type of norm (minority rights), the type of regime (democracy) and the process of Europeanisation have altered the context under which the spiral model operates, resulting in: IGOs being more significant than NGOs, domestic elites being more amenable to normative change (than their authoritarian counterparts). (In cases of non-Roma minorities, domestic political process and domestic actors would play a larger role than the spiral model would assume.)\textsuperscript{99}

(2) Local/domestic norms affect the strength of norm diffusion. Therefore, strong and historically embedded domestic anti-Roma norms in the Czech Republic have affected the \textit{strength} of the minority rights regime, in addition to the process of norm socialisation. That is, Roma rights present an especially hard case for norm socialisation (not just in the Czech case, but in almost all countries with a significant Roma minority).

(3) This study coheres with the theoretical basis of the spiral model: both rationalism and constructivism taken together are best able to explain the outcomes. Constructivism does provide added value to our understanding of the norm socialisation process (regardless of the type of norm or the type of regime.) The symbolic and psychological importance of European integration for post-communist countries means that explanations for EU compliance should go beyond purely rationalist materialist accounts.

(4) Full socialisation of minority rights, compared to human rights (e.g. personal integrity rights), will be much more difficult and will take much longer since society is much less willing to support minority rights for ‘some’ compared to human rights for ‘all’.

Despite low and often ambiguous benchmarks of minority protection to satisfy EU political criteria, public opposition to minority rights (i.e. contradictory domestic norms) and weak implementation of laws, Roma rights have still become empowered and socialised within the Czech Republic. Many discourse, policy and legal changes have been made,
and, compared with 1990, there is relative acceptance that the Romani minority have human rights that must be protected in a liberal democracy.

Notes

1. Socialisation is understood as the ‘process directed toward a state’s adoption of the (constitutive) norms of an international community’. By institutionalising these constitutive norms, new democracies such as those in the CEE can become a member of the community. The basic liberal norms (inter alia, democracy, human rights and minority rights) are said to be ‘constitutive’ of the Western IGOs because they define the collective identity and membership of these organisations. See F. Schimmelfennig, ‘Introduction: The Impact of International Organizations on the Central and East European States – Conceptual and Theoretical Issues’, in R.H. Linden (ed.), Norms and Nannies: The Impact of International Organizations on the Central and East European States (New York: Rowman and Littlefield 2003), p.6.

2. Minority rights here are understood as primarily individual or civil rights applied or accorded to members of minority groups (UN understanding of minority rights as articulated in Article 27 of the International Covenant on Civil and Political Rights) and rights dealing with culture, education and language (and sometimes territory) that may be more properly called ‘group rights’ or ‘cultural rights’ since they deal with positive protection. This paper deals particularly with the former, civil rights, since these are the most violated in the case of the Roma. The regime is the sets of norms, rules and institutions within the state that deal with these rights.

3. The EU and its conditionality process have been criticised on a number of important points. First, there are no EU standards of minority rights per se and EU members themselves have a mixed and sometimes poor record on minority rights. This makes it ambiguous, difficult and questionable to press candidate countries on these rights. For example, there is little to no pressure upon West European states in which the Roma are also poorly treated. Human rights scholars and policy makers should be wary in assuming the benevolence and humanitarianism of the ‘West’ in support of Roma rights. See J. Hughes and G. Sasse, ‘Monitoring the Monitors: EU Enlargement Conditionality and Minority Protection in the CEECs’, JEMIE, Issue 1 (2003); and J. Hughes, G. Sasse and C. Gordon, Europeanization and Regionalization in the EU’s Enlargement to Central and Eastern Europe: the Myth of Conditionality (New York: Palgrave 2004).


11. Schimmelfennig (note 1).
12. Hughes and Sasse (note 3).
14. Hughes and Sasse (note 3).
17. This is supported by this paper. See also Vermeersch (note 10).
20. On this point, constructivism and liberal institutionalism meet whereby ideas can become embedded and institutionalised and therefore constrain public policy. Institutions mediate between ideas and policy outcomes. See J. Goldstein and R.O. Keohane, *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change* (Ithaca: Cornell University Press 1993). But constructivists reject the neo-institutionalist approach that sees ideas merely as constraining and sees state’s interests and identities as given and not something to be explained.
25. Czech collective identity has been historically constructed as ‘European’ and ‘democratic’, and leaders since 1989 have stressed their desire to once again be a part of Europe. See L. Holy, *The Little Czech and the Great Czech Nation: National Identity and Post-Communist Transformation* (Cambridge: Cambridge University Press 1996).
26. This is an argument made by James Fearon and discussed in Risse, Ropp and Sikkink (note 8) p.8.
28. The edited volume consists of 11 case studies and finds that all states under review except Tunisia improved their human rights practices during the 1980s and 1990s according to their model. The editors argue that cultural, political and economic differences between countries mattered only in terms of the timing and duration of the socialisation processes, but did not affect the validity of the explanatory model (p.6). Nevertheless, *The Power of Human Rights* framework has a geographic and ideological bias: the norm-violating states are all non-Western and non-democratic, while the human rights protective networks are all Western and democratic. The human rights under review are personal integrity rights only.
Barany (ibid), p.193–194. Additionally, a 1994 poll that found that more than a third of Czechs aged between 15 and 29 agreed with skinhead attacks against the Roma, while 30% of the population believed that the Roma should be deported or ghettoised. Moreover, 10-times more people could imagine a visit to Earth by extraterrestrials than could conceive of marrying a Rom.


Following the phases of the spiral model discussed above. Phase one, repression, is skipped since, as a liberal democracy in the early 1990s, the Czech Republic was not actively repressing Roma rights.


For instance, Miroslav Sladek, leader of the far-right nationalist Republican Party, represents one minority view within society: that the Roma are inferior and cannot be considered ‘Czech’ and do not deserve human rights. While one scholar notes that the Republican Party succeeded primarily in creating ‘political spectacles’ (Barany, note 30, p.295) it was successful in garnering more popular support throughout the 1990s. Sladek has called for expelling all Roma from the Czech Republic. As the elites and national government moved toward greater minority rights norm socialisation, the central government’s reaction to Sladek and his extremist public outbursts changed from indifference to condemnation. But importantly between 1990 and 1995, Sladek remained a target of the emerging Roma TAN, but not of the government’s.

Notably, however, as the Czech Republic moves into phases three and four, the same leaders who denied Roma rights and made derogatory statements about them were criticised by the government and by the public.


OSCE Document, Human Rights and the Process of NATO Enlargement. Chairman of US Helsinki Commission Christopher Smith sent letters to both President Havel and Premier Klaus concerned that the citizenship law could result in the largest denaturalisation in Europe since World War II (cited in J. Sikkova and M. Mikluskova, ‘Citizenship of Roma After the Split of Czechoslovakia: A Social Problem to be Faced by Other Multinational States’, European Journal of Social Work, Vol.1 (1998); US State Department Human Rights Report, 1996–98; The Czech and Slovak Citizenship Laws and the Problem of Statelessness, The Office of the United Nations High Commissioner for Refugees, February 1996; Reports of Experts of the Council of Europe on the Citizenship Laws of the Czech Republic and Slovakia and their Implementation (Council of Europe: Strasbourg April 1996); Human Rights Watch, Roma in the Czech Republic: Foreigners in Their Own Land (New York: HRW 1996). As an additional note, the US Helsinki Commission stated that the Council of Europe was unable to substantively examine the citizenship law in deciding whether to admit the Czech Republic into its ranks; if they had, perhaps the Czechs would not have been admitted. See CSCE Report, Human Rights and Democratization in the Czech Republic, p.25.

Human Rights Watch (ibid) p.19 and in Guy (note 36) p.299.

State Department Human Rights Reports, 1993–1998, which also discuss the criticism of multiple international bodies.

47. Siklova and Mikluskova (note 44) p.184. Members of the Czech Helsinki Committee also communicated this to me, as did Human Rights Commissioner Jan Jarab.

48. For example, American lawmakers as part of the US Helsinki Commission (CSCE) called upon the government to amend the law. The CSCE report stated that ‘[A]n April amendment to the Czech citizenship law attempted to improve it and strengthen its association with international human rights norms. Nevertheless, the amended law continues to permit the ex post facto increase of criminal penalties.’ CSCE news release, ‘Czech Republic called upon to amend citizenship law’, 23 September 1996.


52. Interview with Jan Jarab, Prague, 29 July 1999.

53. Prague Post, ‘Canadian Asylum for Czech Romanies’, 22 April 1998; Also, Siklova and Mikluskova (note 44) p.182. One mayor of a small town in Moravia announced that the town council would help pay for the plane tickets of any Roma who wanted to leave, on the condition that they give up claims to their apartments. See Prague Post, ‘Romanies ready to flee to Canada’, 13 August 1997.

54. Siklova and Mikluskova (note 44) p.182.


59. Interview with Jan Jarab, Prague, 29 July 1999.

60. Minority Protection in the Czech Republic (Open Society Institute 2002).

61. The Commission is made up of 12 government representatives and 12 Romani representatives, plus the Commissioner for Human Rights. It functions to analyse government measures pertaining to minorities, disseminate information to Romani communities about government activities, provide financial support for Romani programmes, and help resolve housing, discrimination and education issues. Interview with CHC lawyer Petra Tomaskova, 27 July 1999. One of the successes of the Romani Commission includes the creation of district-level Romani advisor positions. The advisors work with local Romani communities, gather information about Romani problems, help resolve them, and keep NGOs and governmental bodies informed of what is occurring ‘on the ground’, according to Tomaskova.


64. Ibid.

65. Risse, Ropp and Sikkink (note 8) p.29.

66. Ibid. p.247.

67. The Concept was released in January 2000 and approved by Parliament in June 2000.


70. Minority Protection in the Czech Republic (note 60) p.134. The Concept deals with the following concerns of the Roma community: racial discrimination, institutions, employment, housing, Romani language and culture, Romani education, multicultural education, Romani security, and role of NGOs.

71. 2002 Updated Concept, translation by author. The report specifically mentions compliance with the Race Equality Directive 2000/43/EC. Since then, the government has updated the ‘Roma Integration Policy Concept’ yearly in line with developments.

72. These two concepts also differ from the earlier 1997 report (during phase three) by creating mechanisms for administering, implementing, and monitoring the 2000 Concept – that is putting the goals of Romani integration into practice. Several specialised committees were created by the Council for Human Rights to prepare periodic reports for the monitoring mechanism of international human rights treaties. (Minority Protection in the Czech Republic (note 60)). The Council for Roma Community Issues (formerly the ICM) acts as
an advisory body to the government and manages the creation and implementation of governmental policy towards the Roma. The main way that the Concept will have an effect on events on the ground, however, is through the tasking to various ministries, which independently decide funding levels to implement the Concept. This could present some roadblocks to the full implementation of the Concept.

73. I was involved in 1999 with the Czech Helsinki Committee in translating a draft law and was made aware by CHC of the long process they had gone through to get the government to support a law on national minorities.


77. Ibid.


80. It may more illustrate the difficulty of measuring norm socialisation given the messiness of domestic politics. Thomas Risse does well in exploring the domestic realm of norm socialisation. See Risse-Kappen (note 18).


82. Minority Protection in the Czech Republic (note 60) p.146. An EU-supported Twinning Project with the UK has supported this effort. The Human Rights Department of the Office of the Government and the UK Home Office Race Equality Unit oversaw from April 2001 to June 2002 consultative roundtable discussions between government officials, civil society and Roma representatives on various topics related to discrimination.


84. Ibid.


87. The Guardian (ibid).

88. BBC News, ‘Havel joins attack on UK asylum checks’, 1 August 2001. The airport checks were in response to a continue flow of Czech Romani asylum seekers in the UK. In the three weeks before the checks were instituted, Britain had received 200 asylum claims, while during the checks they received only 20. See The Guardian, 'Britain forced to end “discriminatory” watch on would-be Czech migrants', 8 August 2001. See also BBC News, ‘UK reimposes Czech asylum controls’, 27 August 2001. While the British claim that the checks are not discriminatory since everyone must go through them, human rights monitors and the Czech government disagree. Two undercover reporters for Czech Television, one Roma and one non-Roma, tried to board a UK flight. The Roma was not allowed to fly and was questioned for 25 minutes, while the non-Roma was allowed onboard. This entire incident was secretly filmed and broadcast on Czech television. See The Guardian, ‘Airport Colour Bar’, 30 July 2001; a European Commission representative in the country said the EC had little comment on the matter since the checks involved sovereign states. See Minority Protection in the Czech Republic (note 75), p.128. When the checks ended, the number of asylum seekers from the Czech Republic increased and the UK resumed the checks. See BBC News, ‘UK reimposes Czech asylum controls’, 27 August 2001.


90. Jana Chrzova, director of the Czech Helsinki Committee, described how, before sustained international criticism, the Czech government was patriarchal. The state would tell NGOs that a certain issue was ‘none of their business’. In about 1999/2000, however, the situation changed and the government has been much more cooperative, according to Chrzova; it asks the CHC for suggestions and advice regarding policies, it informs the CHC of its activities, and counts on them to review draft laws, as well as relying on them for their valuable detailed information about the status of the Roma. One effect of international pressure and the diffusion of new norms, according to the Czech Helsinki Committee, is this increased cooperation between the government and human rights NGOs. This supports the spiral model, which finds that domestic actors are strengthened and taken more seriously as the norm socialisation process progresses. As part of the
process of complying with international norms, states tend to start relying on NGOs. Domestic actors in turn will increase pressure on the government to reform. Interview with Jana Chrzova, Prague, 20 July 1999.

91. I do believe that the majority of Czech elites have altered their interests and they now see that minority rights is a good in itself and that it is central to the Czech liberal democratic identity. While we may never know the ‘true’ beliefs of elites, what is important and what constructivists have argued is that, if governmental elites walk the walk and talk the talk and have made behavioural changes, we can say that there is evidence that interests and identities have shifted and that norm diffusion or socialisation has occurred. The government now responds to domestic human rights actors and has changed the way they talk about and perceive the Roma. Norm empowerment has increased.

92. F. Adamson, ‘International Norms Meet Local Structures – Dilemmas of Democracy Promotion in Post-Soviet Central Asia’, Presented at the Annual Meeting of the American Political Science Association, Washington DC, 2000; Cortell and Davis (note 4) p.10. A ‘cultural match’ is defined as a situation where ‘the prescriptions embodied in an international norm are convergent with domestic norms, as reflected in discourse, the legal system (constitutions, judicial codes, laws), and bureaucratic agencies (organisational ethos and administrative procedures’). See Checkel (note 18) p.87.

93. In short, Czechs historically have identified themselves in opposition to Germans, but now, with most Germans in the Czech lands gone after World War II and with the Slovaks achieving their own state, the Roma are the minority against which Czech identity can be constructed, and as some have argued the ‘test’ of citizenship rights within the Czech Republic. See T. Papp, ‘Who is in and who is out? Citizenship, Nationhood, Democracy, and European integration in the Czech Republic and Slovakia’, Internarium, Vol.1 (1997). The controversy over the Citizenship Law illustrates that the Czech Republic attempted to adopt an ethno-cultural sense of citizenship. ‘In accordance with state-seeking nationalism, the Czechs have developed a deeply rooted ethnic understanding of nationhood and a moderately ethno-centric conception of citizenship.’

94. For example, this is seen by the mixed progress of norm socialisation, that is, some positive changes, but often occurring after so much foot-dragging, after so much pressure, and when done, still sort of lukewarm and weak. The weakness of implementation and difficulty with the Race Directive are two concrete examples.


96. Adamson (note 92).

97. Risse, Ropp and Sikkink (note 8) p.33.


99. For example, in the case of the Hungarian minority in Romania that is territorially concentrated, historically significant and supported by a neighbouring state, then the domestic political realm will be an important variable in the norm socialisation process. (S. Swimelar, The Making of Minority Rights: International Norms, Transnational Actors, and National Identity in the Czech Republic and Romania: PhD dissertation, University of Nebraska-Lincoln 2003).