



## Getting Even or Getting Equal? Retributive Desires and Transitional Justice

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*This article examines the effect that different policy interventions of transitional justice have on the desires of the victims of human rights violations for retribution. The retributive desires assessed in this article are conceptualized as individual, collective, and abstract demands for the imposition of a commensurate degree of suffering upon the offender. We suggest a plausible way of reducing victims' retributive desires. Instead of "getting even" in relation to the suffering, victims and perpetrators may "get equal" in relation to their respective statuses, which were affected by political crimes. The article hypothesizes that the three classes of transitional justice: (1) reparation that empowers victims by financial compensation, truth telling, and social acknowledgment; (2) retribution that inflicts punishment upon perpetrators; and (3) reconciliation that renews civic relationship between victims and perpetrators through personal contact, apology, and forgiveness; each contributes to restoring equality between victims and perpetrators, and in so doing decreases the desires that victims have for retribution. In order to test our hypotheses, we conducted a survey of former political prisoners in the Czech Republic. Results from the regression analysis reveal that financial compensation, social acknowledgement, punishment, and forgiveness are likely to reduce victims' retributive desires.*

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"Retributive desires" refer to victims' demands for the imposition of a commensurate suffering upon their offenders.<sup>1</sup> We surmise that retributive desires—

<sup>1</sup> Semantically the notion overlaps with "retributive emotions" (Elster, 2004, p. 216), "vengeful feelings" (Walker, 1991, p. 4), "legitimate retributive hatred" (Murphy, 1992, p. 61), or demands for *lex talionis*. The reactive nature of retaliation is vividly manifested in the ancient "eye for an eye, tooth

whether justified or not<sup>2</sup>—may create obstacles in transitions to peace and democracy.<sup>3</sup> The protracted peace process in Northern Ireland is an instance of unrequited retributive desires that revive past hostilities in the aftermath of sectarian conflicts. Similarly, the situation in Argentina in the late 1980s has shown that retributive desires may also destabilize a transition from authoritarian rule to democracy. This article focuses on the latter class of situations. It studies retributive desires in the political context of transition from an undemocratic regime.

The traditional approach to the satisfaction of the victims' desires for retribution has focused on the punishment of individual perpetrators. However, this approach is seldom politically acceptable or legally feasible in transitional societies which often face constraints imposed by former elites (Kritz, 1995, vol. I). Balancing the ethical imperatives of justice with the political, legal, and structural constraints that hinder the prosecution of perpetrators (Zalaquett, 1992) has led to the development of alternative approaches to justice. While criminal justice remains a major component of dealing with the past, it has been supplemented with various measures of transitional justice. Transitional justice refers to a set of policy interventions designed to bring justice, disclose truth, and promote reconciliation in order to foster peace and establish democracy in the aftermath of political conflicts and authoritarian regimes (cf. Elster, 2004, p. 1; Kritz, 1995, vol. I; Teitel, 2000, pp. 6–7). During the past two decades, we have witnessed an upsurge of truth-finding bodies (Hayner, 2001), reparations programs (Bassiouni, 2000; van Boven, 1996), lustration systems (David, 2006), and apology diplomacy (Gries & Peng, 2002).

In spite of the importance of addressing the desire for retribution, little is known about the effect that transitional justice policy interventions have on retributive desires. For instance, does financial compensation of victims reduce their desires for retribution? Does truth telling and social acknowledgment of the sacrifices that victims have endured affect their desire for retribution? Are the effects of reconciliation and apology positive, or do they provoke uncertainty and skepticism about the sincerity of perpetrators' apologies? Does forgiveness lead to the dissolution of the desire for retribution?

This paper seeks to assess the impact of transitional justice mechanisms on victims' retributive desires. It examines the effect of financial compensation, truth

for a tooth" (e.g., Exodus 21: 22–25). A victim seeks to restore balance, achieve equity, receive equivalence, settle accounts, and get back to zero (cf. Miller, 2006, pp. 4, 5). Retributive desires may drive victims into action (cf. Elster, 2004, p. 229) in order to "get even" with their transgressors (Murphy, 2003).

<sup>2</sup> We refrain from normative discussions on the legitimacy of retributive desires. On the debate, see Murphy (1995 and cited references).

<sup>3</sup> The link between "getting even" and "peace" is also etymological. According to Miller (2006, pp. 15–16), the word *pay* comes from Latin *pacare*, which means to appease, pacify, reduce to peace. The word *peace* then comes via Latin *pax* from *pacare*. Similarly German *befriedigen* has a root *Friede*, which means peace; and Hebrew *shalom*—peace has a core meaning in paying back in kind, making whole.

telling, social acknowledgment, punishment, interpersonal gestures of reconciliation, apology, and forgiveness on the retributive desires of former political prisoners in the aftermath of the socialist regime in the Czech Republic. The country is an appropriate research site for this study because, during the socialist regime in Czechoslovakia between 1948 and 1989, more than 262,000 people were prosecuted for political reasons (Gebauer, 1993, pp. 57–68). Czechoslovakia, and since 1993 the Czech Republic, has adopted comprehensive policies for dealing with the past. The policy included financial compensation, formal acknowledgment of sacrifices made by political ex-prisoners, the extension of the statute of limitations, and attempts to prosecute perpetrators. Moreover, the policy was accompanied by informal interventions at the local level and was affected by interpersonal interaction between victims, transgressors, and the rest of society. In order to examine the effect of these interventions, we conducted a survey of, and interviews with, members of two ex-political prisoners' organizations in the Czech Republic.

### Getting Equal through Transitional Justice

It has been commonplace in Western cultural and political tradition to take a horizontal view of crimes and responses to them. Many theories, as well as popular depictions of revenge, assume a contractual relationship between transgressors and victims. They suggest actions and responses between equal persons in a tit-for-tat exchange. Crime and revenge are generally understood as transactions that are similar to buying and selling goods or services. This *horizontal* approach views crime and responses to it through the lens of private law. The ancient imperatives of an eye for an eye (Ex. 21: 24)<sup>4</sup>, economic approaches to crime (Becker and Stigler, 1974)<sup>5</sup>, and the inclusion of criminal law under an umbrella of commutative justice are typical examples of this approach (Hayek, 1973, vol. III, p. 114).<sup>6</sup> According to this logic, crime creates a debt that a victim is entitled to collect (Exline & Baumeister, 2000, p. 145). Consequently, the retributive desires of victims may be dispelled if the perpetrator is punished (Bassiouni, 1996, p. 26; Huntington, 1991, pp. 68–69; Kritz, 1996, p. 128).

However, this theoretical perspective is not fully able to capture the effects of the heterogeneity of approaches typical in transitional justice, which go beyond

<sup>4</sup> The expression of “eye for an eye, tooth for a tooth, hand for a hand, foot for a foot” (Ex. 21: 24) is one of the first normative attempts to manage retributive desires. It limits the revenge to the same quantity (Shriver, 1995, p. 23). It is only an eye, not two eyes for an eye, which has to be taken as retaliation. The imperative also sets a minimum threshold—no less than one eye or one life (Miller, 2006, p. 21).

<sup>5</sup> In light of these “cost-benefit theories,” the victim may (indirectly) enforce a class of crimes through private law enforcement agencies (Becker & Stigler, 1974).

<sup>6</sup> Hayek (1973) draws on the Aristotelian classification of justice into commutative and distributive. The former is in Hayek's view an attribute of spontaneous order (e.g., free market). The latter is an attribute of nominal order (e.g., state actions). Correspondingly, these spheres are regulated by distinctive kinds of laws (i.e., commercial and criminal laws on the one hand and public law on the other) legislated by two chambers of the legislature (Hayek, 1973, vol. 3, p. 114).

the mere punishment of perpetrators. It adopts a perpetrator-centered approach that understates the social dimension of crimes, their impact on victims, and the diversity of victims' needs, which consist of, but are not limited to, their desire for justice. In particular, this approach has limitations in theorizing the impact of victims' storytelling, the meaning of reconciliation, forgiveness, and social acknowledgment on victims' desires for retribution. The commutative horizontal approach may still be able to explain the issue of financial compensation as a part of a debt that a victim is entitled to collect. However, it is unable to comprehend the variety of alternative responses offered by transitional justice. For instance, the meaning of acknowledgment of victims' sacrifice in public ceremonies can hardly be considered a form of a repayment of debt. Adopting the horizontal approach would lead to the omission or exclusion of social acknowledgment and other transitional justice policies from consideration despite their wide spread in transitional countries and despite their meaning for victims.

In order to comprehend the effects of the plurality of transitional justice mechanisms on retributive desires, we have to reconsider the consequences of political crime for victims and society. Instead of treating victims and transgressors as equal, we argue that political crime creates individual, social, and political *inequality*. According to this proposition, the retributive desires of victims may be dispelled if these inequalities are redressed by a variety of transitional justice measures.

Crime is an attack on equality in human relationships. Murphy argues that crime carries symbolic meanings; it has symbolic ramifications. Through crime the perpetrator communicates to his victim that he is superior, more powerful, while his victim is inferior, weak; the perpetrator is important while his victim is insignificant (Murphy, 1988, p. 25; 2003). Consequently, the victim of crime is *humiliated* and downgraded to a social position that is lower than he or she would normally have expected. According to Lindner (2002), the word "humiliation" originates from the Latin word "humus," which entails a downward orientation, literary a "degradation." Crime therefore creates inequalities between individual victims and perpetrators.

Crimes committed in particular political contexts produce two further ramifications: firstly, individuals are often persecuted because of their membership in a particular social category, community, class, race, nation, or political formation. Political crime therefore conveys a political message that tends to humiliate the entire group, or anyone who shares an identity with the victim. It has a capacity to create inequality between the nation of the victim and the nation of the transgressor. Consequently, psychological interventions and therapies with victims of political violence take into account this political aspect (Becker, Lira, Castillo, Gomez, & Kovalskys, 1990).<sup>7</sup> The social identity of victims is tarnished as a result of political crime, and the dignity, honor, and name of the group as a whole needs to be restored.

<sup>7</sup> The dual symbolism of political crime has also been observed by some feminists in cases of war rape. "[W]omen are facing twice as many rapists with twice as many excuses, two layers of men on top of

Secondly, while ordinary crime is conceived as a violation of behavior codes endorsed by society, political crimes are often perpetrated by agents of the state, condoned by political and legal institutions, and kept out of sight of the larger society. The “conspiracy of silence” implies that victims often experience a secondary victimization, suffering from the suppression of the experience of victimization (Danieli, 1995, p. 573). From the point of view of victims, the larger society, if not a direct culprit of their suffering, is at least an ignorant bystander. For many members of society, the institutional nature of political crime means that they may view victims of political crimes as perpetrators of ordinary crime who deserve to be punished as criminals. Ignorance by members of society and the political undertone of the past persecution may lead to stigmatization and the exclusion of political ex-prisoners from society, despite their noble sacrifices and the gross violation of human rights committed by the perpetrators. Political crime therefore creates inequalities between victims and other members of society.

Understanding the various layers of the inequality between victims and transgressors enables us to theorize the effects that different policy interventions of transitional justice may have on victims’ retributive desires. Transitional justice measures may be able to redress the imbalances experienced by political crime through their capacity to elevate the diminished status of victims, demote the illegitimate status of transgressors, and establish at least a minimal civic relationship between victims, transgressors, and other members of society. Transitional justice consists of policies that can be clustered into the classes of reparatory, retributive, and reconciliatory measures, depending on who the *primary* addressee of a particular policy intervention is, whether a victim, a transgressor, or both. Pursuant to the catalogue of transitional justice measures, as listed in the founding publications on the topic (e.g., Kritz, 1995; McAdams, 1997; Teitel, 2000), we can distinguish (1) reparatory measures that include all measures that *empower* victims individually and collectively; (2) retributive measures that *downgrade* transgressors; and (3) reconciliatory measures that promote a cognitive change, after which victims and transgressors are no longer defined by the crime as *unequal*. We argue that the measures of reparation, retribution, and reconciliation enable both sides of the conflict to “get equal” (in terms of their statuses) without being compelled to “get even” (in terms of retaliation).

*Reparatory Measures.* It has been argued that transitional justice is about vindication for the victims of political injustice. This may include support for victims, recognition of injuries suffered, and their need to discover the truth (Biggar, 2003, p. 12). Victims may be empowered by receiving financial compensation, sharing their painful experiences with the rest of society, and receiving social acknowledgment (David & Choi, 2005).

them rather than one, and two layers of impunity serving to justify the rapes. Just war and just live.” (MacKinnon, 1993, p. 65).

Financial compensation allows victims to get access to health, social, and legal services. According to Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law (2005), drafted by Theo van Boven (1996) and M. Cherif Bassiouni (2000), “compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, such as physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; costs required for legal or expert assistance, medicine and medical services, and psychological and social services.” Moreover, financial compensation carries a symbolic meaning (Sznajder, 2002, p. 109) that confirms the victims’ moral worth and social position.

Truth telling is deemed to empower victims through its healing and therapeutic effect (TRC Report, 1998, Vol. 5, p. 351; Tutu, 1999, p. 128). It gives victims a voice through which to articulate their feelings, fear, and pain. These emotions may have been suppressed and need to be validated (Zehr, 1995, p. 27). However, some commentators acknowledge the complexities and difficulties of truth telling in public for victims (Hamber, 2003, pp. 135–138; Hayner, 2001, pp. 133–153); others are skeptical about the capacity of truth commissions to generate therapeutic benefits because of their public nature (Lyster, 2000, p. 187), political goals (Friedman, 1996),<sup>8</sup> and organizational deficiencies in practice (Biko, 2000, p. 197).

In turn, truth telling may be beneficial to victims indirectly through dispelling the conspiracy of silence, and promoting social acknowledgment and reconciliation. Societal acknowledgment and acceptance facilitates the reintegration of previously stigmatized and marginalized groups, restores their name and honor, and equalizes the status of victims with others. Truth may help society come to terms with its past and rewrite its recent history. Recent empirical research on South Africa has found that truth may promote reconciliation (at least among some racial groups), tolerance, and human rights culture (Gibson, 2004a, pp. 212–215; 2004b; 2006), all of which strengthen the notion of equality. These considerations bring us to the following hypotheses:

*H1: Financial compensation reduces victims’ retributive desires.*

*H2: Truth telling reduces victims’ retributive desires.*

*H3: Social acknowledgment reduces victims’ retributive desires.*

<sup>8</sup> In her testimony to the South African TRC, Friedman said “[V]ictims have been asked to make sacrifices once again for the greater good of the Nation, that we must give up our expectations of justice, we must give up our rights to civil claims against perpetrators, and we must talk about our grief in this public forum and I’m afraid we’re going to be asked to then accept symbolic reparation, or community reparation and I think that this is simply not fair.”

*Retributive Measures.* The first feature of punishment, according to Walker (1991), is “the infliction of something which is assumed to be unwelcome on the recipient: the inconvenience of a disqualification, the hardship of incarceration, the suffering of a flogging, exclusion from the country or community, or in extreme cases death” (p. 1). The retributive undertone of “the infliction” of “inconvenience,” “hardship,” “suffering,” and “exclusion” degrade the transgressor from his or her illegitimately acquired social position. Thus, punishment satisfies the desire for revenge. “Satisfaction of victims’ needs” has also been used as an argument to justify criminal trials and punishment in the context of transitional justice (Bassiouni, 1996, p. 26; Kritz, 1996, p. 128; cf. Teitel, 2000, pp. 28–30; Roht-Arriaza, 1995, pp. 19–21; but cf. Fletcher & Weinstein, 2002, pp. 592–595). Moreover, trials may play an important role in affecting the process of democratic transition, thus having an indirect impact on victims. Trials symbolize the condemnation of the past regime and the restoration of equality before the law. They manifest that a change in the system has occurred, and in so doing, they address the political dimension of crime.

On the other hand, the utility of criminal trials in facilitating healing and satisfying the emotional needs of victims has been questioned. It has been argued that healing is a long-term process that involves significantly more than emotional abreaction (Fletcher & Weinstein, 2002, p. 593). Judicial hearings may also fail to satisfy victims’ needs because of their adversarial nature (Tutu, 1999), which may, in fact, exacerbate their desire for retribution. This contradiction leads us to the following hypothesis:

*H4:* Punishment of the perpetrator reduces victims’ retributive desires.

*Reconciliatory Measures:* In contrast to reparatory measures that focus on victims, and retributive measures that focus on transgressors, reconciliatory measures aim at restoring the civic relationship between victims and transgressors (Zehr, 1995, p. 181). Political crime damages relationships between individuals, communities, and social groups. The interconnectedness of the social fabric brings some scholars to the ecological model of social reconstruction (Fletcher & Weinstein, 2002, pp. 621–635), or to the victim-oriented model of transitional justice (David & Choi, 2005, pp. 430–435). The restoration of civic relationships between former adversaries at the individual level is at the core of major national reconciliation processes. The Truth and Reconciliation Commission in South Africa and *Gacaca* in Rwanda are prominent cases in point.<sup>9</sup>

<sup>9</sup> Over 7,000 perpetrators and 2,000 victims participated at the Truth and Reconciliation Commission in South Africa. This initiated a deep reconciliation process in the entire society (see Gibson, 2004a, 2006). *Gacaca* tribunals are community-based forms of participatory justice practiced across Rwanda (see, e.g., Wierzynska, 2004; but cf. Corey and Joireman, 2004).

The social dynamic of reconciliation is based on changing the social roles and identities of former adversaries who are no longer defined by past human rights violations. It originates from the Augustinian view of hating the sin but loving the sinner (Augustin [426], 1993). The sinner remains identified with the sin unless he shows repentance (Murphy, 2003, p. 80). In order to achieve reconciliation, the transgressor has to separate his future actions from his past (Govier, 2002, pp. 46–47). This can only be done through a meeting between the victim and the transgressor, at which the transgressor shows and offers an apology. After being sufficiently empowered and convinced by the perpetrators' remorse, the victim may be able to forgive (David & Choi, 2006), thus eventually overcoming his or her retributive desire.

*H5: Apology reduces victims' retributive desires.*

*H6: Forgiveness reduces victims' retributive desires.*

### **Transitional Justice in the Czech Republic**

In February 1948, the Communist Party orchestrated a putsch that destroyed postwar democracy in Czechoslovakia. It established a socialist regime that prosecuted entire groups of people based on their political opinions, past political affiliations, class backgrounds, religious beliefs, and associations with those who were deemed inimical to the regime. Around 240 people were judicially executed for political reasons, about 4,500 people died under unclear circumstances in prisons, about 280 people died while crossing the border, and about 262,500 people were prosecuted for political reasons, among them around 205,500 on the territory of the Czechlands (Gebauer, 1993; Mihalco, 2006; Pacner, 2000; Stehlík, 2000). The most severe repression occurred in the late 1940s and the early 1950s, but the repression lasted until the end of the regime in November 1989.<sup>10</sup>

After 1989, Czechoslovakia launched a policy of dealing with the past. Following the breakdown of the Federation, the Czech Republic has continued this policy. At the time of conducting the survey, the Czech Republic had one of the most comprehensive sets of policies for dealing with the past among all

<sup>10</sup> Initially, the repression served the regime to consolidate its political power. This so-called Stalinistic stage was marked by show trials, imprisonment, persecutions, and purges. It lasted until 1956 when the Soviet leader Nikita Khrushchev exposed the brutality of Stalinism. Between 1956 and 1989, the regime was less violent than in the first stage, although some political prisoners were jailed until its very end. In this period, open violence, though still widely used, was largely replaced by the rule of fear and systems of incentives that encouraged collaboration with the regime. The exception to this rule was the period in the aftermath of the Soviet invasion in 1968, which witnessed massive purges and the persecution of the political opposition outside and within the Communist Party.

postsocialist countries.<sup>11</sup> It boasted a variety of formal policy measures, including financial compensation, restitution of properties, lustrations, and the extension of the statute of limitations for prosecutions. The formal policies were embedded in laws and centrally implemented. Further, a half dozen regime changes in the country in the twentieth century have led to the development of informal modes of behavior related to dealing with the past. These informal processes usually include various forms of social acknowledgment that have arisen spontaneously from grassroots levels. Pursuant to our framework the formal and informal processes can be grouped into three classes: reparative, retributive, and reconciliatory. In the following paragraphs, we focus on those policies that were implemented before our survey was conducted in 2000.

*Reparatory Policies and Processes.* The Extra-Judicial Rehabilitation Act (1990) and the Judicial Rehabilitation Act (1991) laid the foundation of reparation policy in the Czech Republic. The former Act regulated the formal cancellation of politically motivated judicial rulings *ex lege* and the renewal of judicial procedures in borderline cases. It provided for financial compensation of 2,500CZK for each month of imprisonment and redressed some disadvantages in pensions. The law did not make any distinction between political prisoners who were jailed in the 1950s and the 1960s from those who were jailed in the 1970s and the 1980s, although the prison conditions were significantly harsher in the earlier stages. This was one of the sources of tension between the two cohorts of victims and resulted in the under-representation of the younger group of victims in the two political ex-prisoners' organizations (see below). The latter Act has provided for the return of confiscated property. Subsequently, the Act on the Illegitimacy of the Communist Regime (1993) provided for additional financial compensation; it was implemented in 1996 and amounted to 625CZK for each month of imprisonment. This Act also carried a high degree of symbolic meaning for victims. It acknowledged their suffering and honored resistance against the socialist regime.

The informal part of the reparation processes has been expressed in several modes of social acknowledgment. Former political prisoners have been honored by town halls and invited by schools to share their experiences under the socialist regime with students (e.g., the town of Aš rewarded all former political prisoners in its district by an honorary citizenship). President Havel annually invited hundreds of them to official commemorations at the Prague Castle; many of them received high state awards.<sup>12</sup> While no victim-centered, truth-finding body was

<sup>11</sup> In comparison, Slovakia implemented the restitution of property but abandoned the Czechoslovak lustration law. In contrast to the exclusive Czech lustration law, Poland and Hungary approved alternative lustration procedures that exposed informers of the secret police but effectively left them in the office (David, 2006). As with the Czech Republic, Poland enabled prosecutions of crimes that were not prosecuted for political reasons, while Hungary abolished such laws, and Slovakia failed to approve its proposal. In common to all these countries is the dismal number of people prosecuted for crimes of socialism.

<sup>12</sup> Every year President Havel gave awards to several prominent former political prisoners. The lists of all those awarded are available at [http://old.hrad.cz/president/Havel/rady/index\\_uk.html](http://old.hrad.cz/president/Havel/rady/index_uk.html).

established in the Czech Republic, many former political prisoners have shared the truth about the past through the media, especially during the first few years of political transformation.

On the surface, these reparatory policies were successful. They were well-intended measures which were affordable in a state that had inherited a depleted economy. However, many former transgressors received packages for their dismissals that were more substantial than those that the victims received for their imprisonment (David, 2004, p. 809, n. 42). This caused dissatisfaction among victims who felt that society did not value the sacrifices they had made.

*Retributive Policies and Processes.* The Act on the Illegitimacy of the Communist Regime (1993) provided a framework for the formulation of retributive policy. It extended the statute of limitations for crimes that could not be prosecuted previously for political reasons. The Act therefore enabled the launch of investigations into the conduct of the most notorious torturers of the regime. In order to implement its objectives, the Office for Documentation and Investigation of the Crimes of Communism was established in 1995.<sup>13</sup> However, at that time, its investigations seldom led to prosecutions; prosecutions seldom led to judicial condemnation; and judicial condemnation seldom resulted in punishment. At the time of conducting the survey, only eight perpetrators had been convicted, and among them five received suspended sentences.<sup>14</sup> The truth-finding role of the Office was also limited. Nevertheless, the willingness of the Office to publish the names of perpetrators of particular abuses of power enabled the truth to function as a proxy for justice, as theorized in the literature on truth commissions (Hayner, 2001).

Some of those responsible for the repression had already been punished under the socialist regime. These punishments, however, were not expressions of justice that signified the regime's adherence to the rule of law. On the contrary, they provided evidence of the lawlessness and internal power struggles within the repressive apparatus of the Communist Party. One of the most notorious perpetrators of political crimes after the Communist takeover was Bedrich Reicin. He was one of the driving figures behind the incarceration of many political prisoners, the orchestration of show trials, and the execution of political opponents, especially those from the anti-Nazi resistance. However, in 1952 he was arrested, tried in a show trial, convicted on manipulated evidence, and executed together with the Communist Party secretary Rudolf Slansky.<sup>15</sup> Many of their victims may have felt vindicated by their prosecution.<sup>16</sup>

<sup>13</sup> For information about the Office, see <http://www.mvcr.cz/policie/udv/english/index.html>.

<sup>14</sup> This information is from the website of the Police of the Czech Republic, as visited during conducting of the survey, on 30 June 2000, available at <http://www.mvcr.cz/policie/udv/english/pripady/index.html>.

<sup>15</sup> A short Reicin bio (in Czech) is available at <http://www.libri.cz/databaze/kdo20/search.php?zp=9&name=REICIN+BED%D8ICH>.

<sup>16</sup> This intraparty struggle led to a historical irony: victims of communist crimes and their perpetrators sometimes ended up in the same jail. Moreover, they also encountered a third group, the so-called

Members and collaborators of the secret police were affected by the Lustration Act (1991), which provided for their mandatory disqualification from leading state positions (David, 2004). In addition to this, every person had an opportunity to access the file held on him or her by the secret police (Act on the Access to Files Created by Activity of the Former State Security, 1996). Although the names of informers were deleted, people could nevertheless identify the person who had informed on them. The “naming perpetrators” in the so-called “Cibulka’s Lists” was another significant substitute for justice in the eyes of many victims. In 1992, Petr Cibulka, a radical member of the former anticommunist opposition, published a leaked list of former informers and persons who had collaborated with the secret police. The lists were later placed on the internet and published in books in 1999 and 2000 (Cibulka, 1999). These lists did not lead to any retributive attack, although they may have led to the ostracism of those who were included in the lists (Salivarova-Skvorecka, 2000).

*Reconciliatory Policies.* The Czech Republic did not provide a formal public forum, such as the South African Amnesty Committee, to promote reconciliation between former adversaries. Victims and transgressors could only interact informally. In many cases former political prisoners reported the persistence of past hostilities. However, this was not always the case. In one instance a well-known former political prisoner, Lubos Hruska, planted a garden of reconciliation and publicly stated that he had forgiven his former torturers (Kastnerova, n.d.).

The slogan of the Velvet Revolution “we are not like them” was largely nonretributive.<sup>17</sup> Yet as early as before the election of 1990, people had started to ask questions about retribution. This may have been as a result of the policies of the Communist Party, which had never seriously apologized for the human rights violations committed in the past. Until today, the Party remains unreformed and unapologetic.

The Catholic Church attempted to initiate a reconciliation process after 1989. However, the Church did not have the moral authority to lead society towards a lasting reconciliation. In fact, it mirrored inherited divisions in society: some clergymen openly collaborated with the regime in a movement called *Pacem in Terris*, some of them collaborated secretly, others were imprisoned, and a few formed an underground “hidden church” (cf. Fiala & Hanus, 1999); the majority of them continued their profession in the grey zone in-between.

“retribucaci,” people incarcerated based on the Retribution Decrees for their crimes and collaboration with the Nazis (Interview with M.S., 2000). It was not unusual that people who fought Nazism were imprisoned under socialism. Thus, the victors and the losers of 1945 and the victors and the losers of 1948 may have all ended up in one communist jail in the 1950s.

<sup>17</sup> This may have been promoted by its leadership, who may have opted not to provoke the hundreds of thousands of Russian soldiers who had been deployed in Czechoslovakia since the Soviet military crash of the Prague Spring in 1968.

## Survey and Qualitative Data

This study combined findings from a survey of political ex-prisoners associated in two organizations with data collected during in-depth interviews and other qualitative sources. The survey data were used to examine the statistical associations between the dependent variable (retributive desires) and the hypothesized independent variables. The meanings of all observed statistical associations were then elaborated, contextualized, and interpreted with the qualitative data.

### *Survey Data*

We designed and conducted a cross-sectional survey of former political prisoners in 2000. The sampling frame consisted of members associated with the Confederation of Political Prisoners (KPV) and the Association of Former Political Prisoners (SBPV) in the Czech Republic. The members of these organizations<sup>18</sup> comprised about two thirds<sup>19</sup> of the total number of some 7,800 former political prisoners in the country in January 2000 (Drobny, 2000). All the members of these two organizations received a self-administered questionnaire when they attended annual meetings at their local branches. The KPV and SBPV both have well-established organizational infrastructures. There is nearly 100% literacy rate in the Czech Republic. Self-administered questionnaires distributed through these two associations were therefore considered a reliable and practicable method of gathering responses from an otherwise hidden population. Since the Ministry of Labor and Social Affairs is not allowed to disclose the identities of former political prisoners, it was not possible to gain access to the remaining one third of the political prisoners who had not joined KPV and SBPV.

<sup>18</sup> The KPV comprises the majority of former political prisoners. The SBPV has about 200 members. However, not all ex-prisoners are members of these organizations. Former members of the Communist Party and collaborators with the secret police are not allowed to join these groups. Moreover, there is a tension between the political prisoners who were imprisoned in the 1950s and the 1960s and those who were imprisoned in the 1970s and the 1980s. There are several reasons for this tension: (1) the latter included some reform communists of the Prague Spring who progressed in their previous careers during the time when the former were imprisoned; (2) the latter was willing to strike a deal with the members of the Communist Party in the aftermath of the Velvet Revolution 1989, to the dismay of the former; (3) there is about a 20-year age difference between the two cohorts, which enabled the younger one still to be co-opted into politics after 1989. Consequently, the younger cohort is not a member of these organizations.

<sup>19</sup> We estimate the number at between 4,500 and 5,000. The exact number is unknown for various reasons. Firstly, the organizations, according to their members, "are gradually dying out." Indeed, in 1968, the predecessor organization K231 comprised over 100,000 former political prisoners. By 1990, the number dropped to about 10,000. By 2000, the membership halved. Secondly, many of the members are old. They may suffer from serious diseases that prevent them from participating in activities of the organizations or attending the annual meetings. Thirdly, those imprisoned for less than one year are not entitled to free public transport, which inhibits their attendance at annual meetings, where the stamps for free transport are distributed. On the other hand, stamps for free transport motivate many others to attend the meeting.

The questionnaire was piloted among 18 political prisoners before the survey. Of all the questionnaires, a total of 826 were returned. The response rate, calculated as a percentage of the estimated number of association members (i.e. 826/4500), was 18.35%. We believe that this calculation has understated willingness to respond. Two groups of political ex-prisoners were not included. The first group consisted of former prisoners who did not attend annual meetings of the organizations and thus did not receive the questionnaires. It is probable that older political ex-prisoners may have been less likely to attend annual meetings because of illness and old age. The attendance rate amongst those who were incarcerated for less than 12 months may have been lower. This is because they were not given yearly vouchers for free public transport to attend, which were distributed in these meetings. Sensitivity analyses were conducted to examine the possible impact of this sampling bias on the results. These analyses explored whether findings would have been different if the data set had been modified by (1) randomly deleting 20% of respondents; (2) deleting the oldest 10% of respondents (which tests the effect of excluding the oldest cohort); and (3) deleting those whose length of imprisonment was shorter than 12 months (which tests the effect of excluding those with shorter periods of imprisonment). Results of the sensitivity analysis are presented in the results section.

The second group of former prisoners that were not included in the survey were those who attended the annual meetings and received the questionnaire, but did not return it. The lack of response from this group was important to the results. Unfortunately, we do not have any individual-level characteristics about this group of nonrespondents. These data would allow us to weight cases in order to correct for at least some biases that may have resulted from the data collection procedures. For this reason, we should be cautious when making generalizations about the findings of the survey to the entire population of political ex-prisoners.

Data from the questionnaires were processed using SPSS. Cross-checking of data input was conducted to ensure correct data entry.

### *Qualitative Data*

In total we conducted 14 face-to-face open-ended semistructured interviews with former prisoners and 18 correspondence interviews. Other qualitative data also included 24 enclosures to the questionnaires, 10 letters from our respondents, and numerous comments and open-ended answers written in questionnaires. All the respondents of the face-to-face interviews were recruited through snowball sampling methods. Correspondence interviews were conducted with those who revealed their addresses when returning their questionnaires. The face-to-face interviews and the correspondence interviews were conducted by the first author. The language of these interviews was Czech. All the face-to-face interviews were recorded and later transcribed. Observations were conducted by participating in

KPV official meetings on the local, national, and central levels and in informal meetings.

## Variables

*A. Dependent Variables.* We conceptualize retributive desires in the context of political crime as encompassing two dimensions: individual and collective. The first is support for the punishment of individual perpetrators who were responsible for the respondent's imprisonment. The second is support for the punishment of the institution/organization that perpetrated past human rights abuses. In addition, we also examine a general retributive desire, manifested in the support for the death penalty. We believe that the three variables are able to capture, though each to a different extent, the blend of backward-looking and the forward-looking motives for retributive desires. In the backward-looking perspective, a victim is compelled to harm a perpetrator only in response to the harm suffered. In the forward-looking perspective, a victim may be prompted to retaliate against a perpetrator either because he or she does not want to be harmed in the future again or because he or she does not want the perpetrator to harm others. Revenge in cases of child molestation is a typical example of the mixture of forward-looking and backward-looking motives for retribution in the category of ordinary crime. In the context of transitional justice, the preventative motives for retributive desires are typically evoked by various versions of the slogan *Nuncá Mass*.

- 1) Individual retributive desires are retaliatory responses that former political prisoners have for their incarceration. These desires are reflected in support that they have for different forms of punishment. In the survey, support for direct punishment, i.e., jail sentences, is contrasted with support for other means of punishment, including probation in cases of confession, the imposition of apology if remorse is expressed, the imposition of fines, and other forms of condemnation of former transgressors or other persons who were responsible for the victim's unlawful incarceration. The variable for individual retributive desires was derived from a question that asked: "What do you think should be the best result of a judicial trial against those responsible for your imprisonment?" The responses were delineated into two categories: unconditional sentence (scored 1) and all others (scored 0). Barely less than one third (28.6%) of respondents supported unconditional jail sentences for perpetrators responsible for suffering that the respondents had suffered in the past.
- 2) Collective retributive desires are retaliatory responses to the class struggle, fostered throughout the period of the Communist rule in Czechoslovakia between 1948 and 1989. The repression had profound collectivistic features: it targeted entire classes of citizens on the basis of their origins, their property ownership, their opinions, the opinions of their relatives and ancestors, their (past) political affiliations and religious beliefs, etc. (Charter 77 Manifesto;

Kaplan, 1983). The collective entity, which was politically, legally, and constitutionally viewed in the eyes of political prisoners as being responsible for the repression, was the Communist Party. Our in-depth interviews with former political prisoners suggest that those who supported the banning of the Communist Party viewed this as the collective punishment of those who were responsible for the persecution of political prisoners.<sup>20</sup> In contrast, the democratic state's tolerance of the Communist Party was taken as a signifier of its impunity for crimes committed on victims. The corresponding question for this variable was: "Do you think that the Communist Party should be banned?" The responses were delineated into three categories: no ban (scored 0), conditional ban (i.e., ban after 1989 but not now; scored 1), and unconditional ban (scored 2). Over half (60%) of our respondents demanded an unconditional banning of the Communist Party. Another one third (32.8%) asked for a conditional banning, and just 7% said that they did not think the Communist Party should be banned at all.

- 3) In addition to the two specific retaliatory principles, we also tested the principle in its abstraction as general support for the death penalty. In Europe, the support for capital punishment is the best expression of the *lex talionis* formulated in the biblical "eye for an eye."<sup>21</sup> This variable served as a general indicator of retributive desires, which could be used as a control to help us understand the desire for collective and individual retribution more fully. Since the death penalty was eliminated from the Czech Penal Code in 1990, the question that concerned the death sentence was formulated as: "Do you support the revival of the death penalty?" The responses were delineated into four categories: "no" (scored 0), "don't know" (scored 1), "yes, but under some conditions" (scored 2), and "yes" (scored 3). Around 20% of our respondents supported the death penalty, another half (51.3%) supported it under some exceptional conditions. Less than 3% were undecided and slightly more than one-quarter (26%) did not support the death penalty.

*B. Independent variables.* Sufficiency of *financial compensation* (Hypothesis 1) was indicated by a question that asked "was the amount of financial compensation in the framework of reparation sufficient?" The question had five response

<sup>20</sup> Former political prisoners often compare the impunity of the Czech Communist Party, its current parliamentary privileges and constitutional protection with the banning of the Nazi Party in Germany after WWII. This comparison in large part stems from the comparison between Nazism and Communism on a global scale. The latter is argued to be responsible for more deaths; and the regimes that the communist parties established tend to last longer than the Nazi regimes.

<sup>21</sup> The existence of the death penalty is one of the manifestations of some minor cultural differences between Europe and the United States (see Judd, 2005). In European countries, support for the death penalty refers to the support for the *revival* of the death penalty. Membership in the Council of Europe is conditional on the banning of the death penalty. For many transitional countries which joined the Council shortly after the breakdown of socialism, the revival of the death penalty suggests a step back to "prepolitical" (cf. Shriver, 1995) or "uncivilized" conditions characterized by the culture of revenge.

categories: “definitely yes” (scored 4); “rather yes” (scored 3); “do not know” (scored 2); “rather no” (scored 1); and “definitely no” (scored 0). Only around 15% of our respondents were satisfied with the financial compensation which they received. Nearly three quarters (74%) were dissatisfied while another 10% were undecided about their position (answered did not know).

*Truth telling (H2).* As stated above, the Czech Republic did not establish a formal platform, such as South Africa’s truth commission, for victims to tell their stories. Nonofficial or informal channels for truth telling, e.g., through the media, emerged spontaneously. Truth telling in this article was therefore indicated by a composite scale which measured the extent of public truth telling, publicizing personal stories, and private truth telling. The three corresponding questionnaire items were: (1) “Did you try to tell your story publicly, e.g., through the media?” (2) “If yes, was your story published?” (3) “Did you tell your story privately (e.g., to friends, grandchildren, except other brothers and sisters in KPV)?” All three items had two response categories: “yes” (scored 1); “no” (scored 0). Scores of these three items were summed to form the scale of truth telling, which ranged from 0 to 3. Higher scores indicated a higher level of truth telling. The (Cronbach) alpha value of the scale was 0.64. The mean score of truth telling was 1.4, with a standard deviation of 0.86.

*Social acknowledgement (H3).* Victims of political crime in authoritarian countries are not only victimized by the crime, but are often regarded as second class citizens, stigmatized and marginalized for substantive periods as explained above. Social acknowledgement should therefore be understood not only as the recognition by society of past injustices inflicted on victims, but also as the effort of communities to honor and reintegrate victims. Initiatives for social acknowledgement may be taken through different levels of the state apparatus. Initiatives may also occur at the microlevel through acceptance by colleagues and neighbors etc. The first indicator of social acknowledgement used in this article was whether the respondent had received any awards or invitations by the town hall to honor his/her sacrifice and suffering in past struggles. The question had two response categories: “yes” (scored 1) and “no” (scored 0). The second indicator of social acknowledgement was the perception by neighbors. The questionnaire item asked “How do your neighbors perceive you?” The indicator had six response categories: “think highly” (scored 2), “normally” (scored 1), “not sure” (scored 0), “don’t care” (scored -1), “still suspicious” (scored -2), and “dislike” (scored -3). One third of our respondents (32.7%) had received awards or invitations from the local government as an expression of acknowledgement for their role and sacrifice in past political struggles. Turning to the second indicator of social acknowledgement, less than 1% (0.5%) of our respondents reported that their neighbors disliked them; nearly 5% said that their neighbors were still suspicious of them; and 16% reported that their neighbors did not care. Four percent of respondents were not sure about the perception of their neighbors towards them; 62% said that their neighbors treated them normally; and 13% said that their neighbors thought highly of them.

*Punishment (H4).* Punishment was measured by two variables. (1) Individual punishment referred to the punishment of at least one individual who was responsible for the unlawful suffering inflicted on the respondents. (2) Overall satisfaction with the system in bringing into justice perpetrators of gross human rights abuse. Corresponding to these two dimensions of punishment, the first variable was derived from the question “was anybody who harmed you in the past condemned?” This variable had three response categories: “yes” (scored 2), “don’t know” (scored 1), and “no” (scored 0). The second variable was derived from a question that asked “are you satisfied with the number of people condemned for communist crimes in the Czech Republic?” The question had five response categories: “definitely yes” (scored 4); “rather yes” (scored 3); “do not know” (scored 2); “rather no” (scored 1); and “definitely no” (scored 0). Only 4% of the respondents said that at least one of their wrongdoers was punished; another 3% did not know whether their wrongdoers were punished or not. The majority (93.2%) of respondents said that their wrongdoers were not punished. Furthermore, most victims (96.4%) were not satisfied with the number of perpetrators condemned in the country as a whole. A mere 1.1% of the respondents were satisfied with the country’s record for punishing perpetrators of past gross human rights violations.

*Apology (H5).* Reconciliation involves the interaction between perpetrators and victims, the response of the perpetrators towards victims, and the reaction of victims. In our analysis, we included two dummy variables to measure reconciliatory behavior. These two variables were derived from two questions that asked “Have you ever met anybody who harmed you in the past regime?” and “If yes, what was his/her typical response?” In the first variable, those who had met their perpetrators were coded 1, otherwise 0. In the second variable, those who had met their perpetrator and received an apology were coded 1, else 0. Around half of the respondents had met someone who harmed them in the past regime. Yet only a small minority had received an apology from a former perpetrator whom they met (3.2%).

*Forgiveness (H6).* Forgiveness was indicated by a question that asked “Have you forgiven anyone who harmed you in the past?” Responses were delineated into three categories: “no” (scored 0), “don’t know” (scored 1), and “yes” (scored 2). Nearly half (42.4%) of the respondents said that they had forgiven somebody who harmed them in the past.

We also controlled for age, sex, educational attainment, experience of torture, length of imprisonment, and the frequency of church attendance in our analysis. The mean age of our respondents was 75 years, with a standard deviation of six years. The majority of our respondents were male (87%). Despite the fact that most victims were discriminated against as regards access to education, slightly more than 10% of our respondents had university qualifications, around half (46%) had secondary school qualifications, and slightly less than one third (26%) had apprentice school qualifications. Nearly half (47.8%) of respondents

reported that they had been tortured in prison. The mean length of imprisonment was 63 months. Only 16% of our respondents reported not having any religious belief. The majority (70%) were Roman Catholics, 5% belonged to the Czechoslovak Hussite Church, and another 5% belonged to the Evangelical Church of Czech Brethren. In terms of frequency of church attendance, 2% were priests/chaplains/church functionaries, 8% visited church more than once a week, 23% visited church once a week, 21% visited church less than once a week/irregularly, 6% visited church on Christian holidays, and 40% were either non-believers or were believers who did not participate in church activities at all. Table 1 presents the summary of the dependent, independent, and control variables in our sample.

## Results

Table 2 presents the results of multivariate regressions. Since individual retributive desires were coded as a binary variable in this study, logistic regression analysis was used to analyze the association between the independent variables and individual retributive desires. Statistical results with respect to individual retributive desires were reported in the forms of log odd and p values. Ordinary Linear Regression was used to analyze the association between the predictor variables and collective and general retributive desires. Statistical results related to collective and general retributive desires were reported in the forms of standardized coefficient and t values. (The results are captured in Scheme 1; the star indicates a possibility of a reverse causation.)

### *Reparatory Measures*

The sufficiency of financial compensation was negatively associated with individual ( $\beta = -0.24$ ), collective ( $\beta = -0.09$ ), and general retributive desires ( $\beta = -0.09$ ). One indicator of social acknowledgement, acknowledgement by local government, was negatively associated with general retributive desires ( $\beta = -0.08$ ).

Among all our predictor variables, satisfaction with financial compensation is the only variable that is significantly associated with all three indicators of retributive desires. Arguably, it is therefore the most important transitional justice measure that may influence victims' retributive desires. Our qualitative data suggest that insufficient financial compensation has kept the social position of many victims lower than that of perpetrators who profited from the socialist regime. Financial benefits received by perpetrators were used as a benchmark against which former political prisoners compared their situations. Political ex-prisoners compared differences in pensions, social benefits, and health care received by them and their former adversaries.

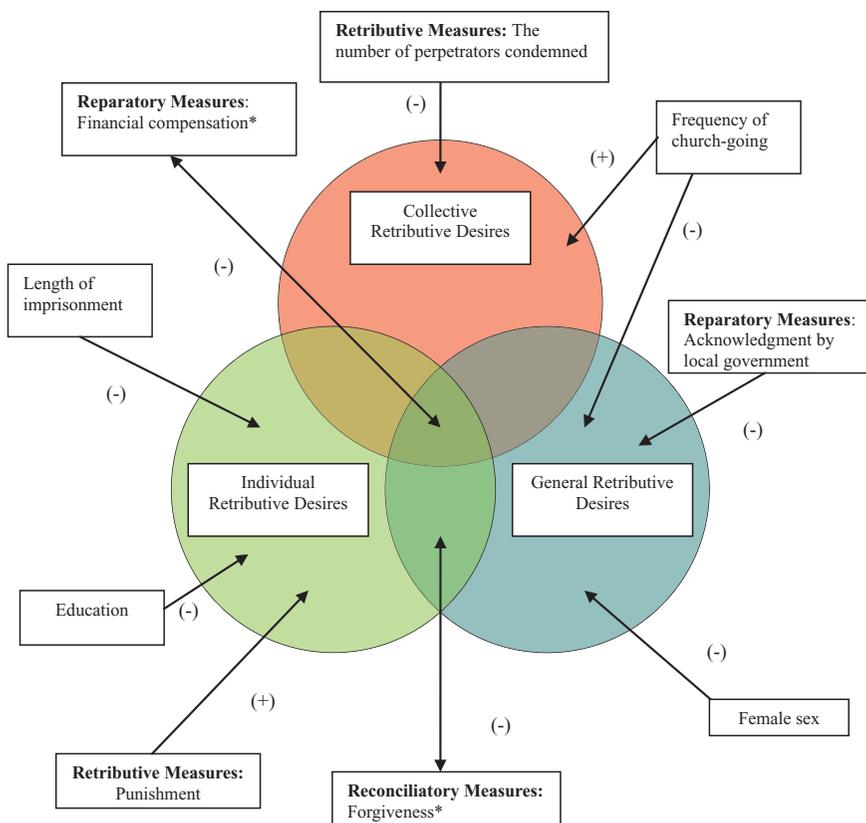
Table 1. Summary of Dependent, Independent, and Control Variables

	Independent variables			Control variables		
	Frequency	Percent	Satisfaction with compensation	Frequency	Percent	Sex
Individual retributive desires						
No jail sentence	487	71.4%	Definitely no	329	41.7%	Men
Unconditional jail sentence	195	28.6%	No	254	32.2%	Women
Collective retributive desires			Don't know	82	10.4%	Age (years)
No ban of Communist Party	58	7.2%	Yes	105	13.3%	Mean
Conditional ban	265	32.8%	Definitely yes	19	2.4%	Standard deviation
Unconditional ban	484	60.0%	Mean score of truth telling	1.4 (0.86)		Education
General retributive desires			Invitation by local government			<basic school
No death penalty	210	26.0%	No	526	67.3%	Basic school
Don't know	21	2.6%	Yes	256	32.7%	Apprentice
Conditional death penalty	414	51.3%	Attitude of Neighbors			Secondary school
Unconditional death penalty	162	20.1%	Dislike	4	0.5%	University
			Still suspicious	36	4.4%	Experience of torture
			Don't care	126	15.6%	No
			Don't know	32	4.0%	Don't know
			Normally	504	62.3%	Yes
			Think highly	107	13.2%	Church attendance
			Perpetrator condemned			Priests/chaplains
			No	694	93.2%	>once a week
			Don't know	22	3.0%	Once a week
			Yes	29	3.9%	<once a week
			Satisfaction with punishment			Christian holidays
			Definitely no	700	88.5%	No participation
			No	61	7.7%	
			Don't know	21	2.7%	
			Yes	1	0.1%	
			Definitely yes	8	1.0%	
			Met perpetrator			
			No	412	50.6%	
			Yes	402	49.4%	
			Apology received			
			No	788	96.8%	
			Yes	26	3.2%	
			Forgiveness			
			No	413	50.7%	
			Don't know	56	6.9%	
			Yes	345	42.4%	

**Table 2.** Regression Results of three dimensions of retributive desires among Czech political ex-prisoners surveyed in 2000

Independent variables <sup>a</sup>	Logistic Regression Analysis		Ordinary Linear Regression Analysis			
	Individual retributive desires		Collective retributive desires		General retributive desires	
	Log odd	P value	Standardized beta ( $\beta$ )	P value	Standardized beta ( $\beta$ )	P value
Sex	-0.04	0.91	0.06	0.16	-0.12	0.00***
Age	0.00	0.99	-0.04	0.39	-0.01	0.86
Education	-0.25	0.02*	0.02	0.55	0.07	0.06
Frequency of church attendance	-0.08	0.15	0.09	0.03*	-0.22	0.00***
Length of imprisonment	-0.01	0.04*	0.03	0.44	0.02	0.67
Experience of torture in prison	0.01	0.94	0.06	0.13	0.02	0.62
Sufficiency of financial compensation	-0.24	0.02*	-0.09	0.04*	-0.09	0.02*
Truth telling	0.13	0.30	0.02	0.61	0.02	0.68
Invitation by local governments	-0.18	0.42	-0.04	0.33	-0.08	0.03*
Attitude of neighbors	0.03	0.77	-0.02	0.55	-0.01	0.87
Punishment of individual perpetrator	0.56	0.02*	-0.04	0.32	-0.01	0.86
Satisfaction with no. of people condemned	-0.02	0.91	-0.08	0.04*	0.05	0.16
Meeting with perpetrator	-0.31	0.14	0.00	0.92	-0.03	0.48
Apology received	-0.48	0.44	0.02	0.59	0.04	0.33
Forgiveness	-0.70	0.00***	-0.01	0.84	-0.22	0.00***
(Constant)		1.25	7.67		5.02	
Model coefficient/Multiple R		78.63	0.20		0.40	
R <sup>2</sup>		-	0.02		0.14	
F (df)		(15)***	1.66 (15)*		7.93 (15)***	

\*p < 0.05; \*\*p < 0.01; \*\*\*p < 0.001



Scheme 1. Factors Associated with Retributive Desires.

“Prison wardens who tortured us were dismissed in the beginning of the 1990s but with a package of not less than 100,000 koruna and adequately high pensions, while their victims have to survive with a pension at the borderline of a minimum for survival.” (Letter of respondent No. 185)

“[The government should take] measures which would lead to the increase of [our] pensions at least to the level enjoyed by the prominent members of the Communist regime.” (Enclosure to the questionnaire No. 803)

The requests of former political prisoners for their own empowerment were in some cases accompanied by the requests for disempowerment of their former adversaries. Such disempowerment then has a punitive function.

“The property of the Communist Party should have been confiscated to the last koruna. I disagree with the compensation paid to high officials of the Party and the State—I support the idea of decreasing their pensions.” (Respondent No. 748)

However, the imbalances between victims and perpetrators are not merely unwarranted subjective perceptions of victims. Research on elite transformation in the Czech Republic has shown that the association with the *nomeklatura* stratum of the socialist society is associated with membership in the new socio-economic elite (Mateju & Rehakova, 1997). In the eyes of former prisoners, these inequalities reflect the value which their society has placed on their sacrifices.

### *Retributive Measures*

The two indicators of retributive measures, whether perpetrators of respondent's victimization was punished and satisfaction with the overall number of perpetrators condemned, were significantly associated with individual and collective retributive desires. Punishment of the perpetrators responsible for the respondent's imprisonment was significantly and positively associated with the respondent's individual retributive desires ( $\beta = 0.56$ ). It signifies that victims whose perpetrators were punished were more likely to demand unconditional jail sentences for their perpetrators. Satisfaction with the number of perpetrators condemned was negatively associated with victims' collective retributive desires ( $\beta = -0.08$ ). It means that victims who were satisfied with the number of perpetrators condemned in the country as a whole were less likely to support the ban of the Communist Party. How can we explain these results?

Given the situation in the Czech Republic, readers should interpret these results in reverse: it is the inability of the state to prosecute perpetrators that increases collective retributive desires; and in those few cases when prosecutions occurred, perpetrators received lenient sentences, often perceived as a mockery of justice, that increase individual retributive desires. These associations suggest the following social dynamic: if the state fails to prosecute and punish individual perpetrators based on due process, victims start demanding collective action against perpetrators as a social group. However, if the state attempts to prosecute and punish individual transgressors, victims are likely to hold grudges against these individuals instead of the collective entity.

“I think the government did nothing [in dealing with the past]. Communists remain in leading positions, including the government. If a member of StB [former secret police] is tried for torture or beating of prisoners, the judgment is a caricature of justice.” (Correspondence interview with respondent No. 56)

“Do you know anyone who was condemned for communist crimes? I do not! . . . Our “independent” judiciary will take care of Mr Grebenicek [an alleged Communist torturer] not to be bothered with such a banality as a judicial trial is. His accomplice, who tortured prisoners with electric current, has already been released . . . None of the political prisoners wants the heads [of perpetrators] but we categorically demand that every [politically] motivated crime be punished. Unpunished crime invites perpetration of other crimes. The Communist Party was without any doubt a criminal organization with criminal objectives.” (Letter of respondent No. 185)

The social dynamic—the state’s failure to prosecute individual perpetrators—fuels the collective retributive desires of victims and may be viewed as a process of the “collectivization of guilt”. However, the collectivization of guilt is not a process that started with the fall of Communism in 1989. On the contrary, these collectivist characteristics were maintained throughout the period of Communist rule and had been most vividly manifested in the societal divisions between “we” and “they” which surfaced at that time. In the aftermath of regime change in the Czech Republic, the collectivization of guilt signifies a negative response to the State’s inability to individualize guilt. The year 1989 provided an opportunity to “individualize the guilt” by channeling the collective political responsibility for the regime to individuals who were criminally responsible for the gross violations of human rights through individual trials of perpetrators.<sup>22</sup> This opportunity was not utilized and only eight of those responsible for human rights violations were condemned, receiving lenient sentences (see above). This was a reason for the disappointment among victims. Many of our respondents now feel bitter about their initial belief in justice under the new democratic government. Consequently, they consider the banning of the Communist Party as self-evident and regret that the Party was not banned after 1989.

“The biggest mistake was made in 1989 when we, all political prisoners, did not insist on the banning of the [KSC] Communist Party as a criminal organization. [Despite] so many murders and suffering, KSC was not punished and continues to work.” (Enclosure to questionnaire No. 361)

“The Velvet [Revolution] has clouded everything. [It was an era of] false tolerance and falsehood, malignant humanism.” (Respondent No. 706)

<sup>22</sup> We can trace the need to individualize guilt to the very origins of transitional justice. The purported need to assign the guilt to individual leaders instead of blaming the entire nation was one of the reasons behind the establishment of both the Nuremberg and Tokyo trials (Hicks, 1998, p. 128). On the other hand, Martin Buber argued against the execution of Adolf Eichmann, seeing it as a “mistake of historical dimensions” that might “serve to expiate the guilt felt by many young persons in Germany” (Arendt, 1963, p. 251).

Many victims also see a double standard with the prosecution of the crimes of Nazism. While the Nazi crimes were harshly prosecuted, the crimes of socialism were not. This contradiction is particularly irritating to those political prisoners who had experience with both kinds of totalitarianism. Some of them resisted Nazism and were therefore imprisoned under socialism, while some others were imprisoned under both regimes.

“[We should] realize how draconically we punished the representatives of Nazism and how lenient we were towards the representatives of Communism.” (Correspondence interview with respondent No 39)

“Fascism and Nazism were condemned at an international tribunal. Communism has not been condemned so far!” (Respondent No. 706)

The collectivization of guilt applies in the above two citations as well. Both respondents use collective terms but at the same time adhere to the principle of individual trials. The first one criticizes the leniency towards “representatives of Communism,” while the second one refers to the Nuremberg tribunal, which condemned the Nazi leadership.

*Reconciliatory Measures.* The ability of victims to forgive their perpetrators is significantly and negatively associated with individual ( $\beta = -0.70$ ) as well as general retributive desires ( $\beta = -0.22$ ). Consistent with these findings from the survey data, our qualitative data also suggest that forgiveness reduces demands for the imposition of punishments and the death penalty.

The precondition is that victims are able to dissociate the perpetrator from the criminal act or other kinds of human rights transgressions. If victims view perpetrators as human beings who are capable of moral development, they are likely to forgive and overcome their retributive desires.<sup>23</sup> However, more often we witnessed a lack of empathy and remorse among former perpetrators as a motive for the inability or unwillingness of victims to forgive. At the beginning of transition, many victims expected an improvement in the behavior of perpetrators towards them. However, they become disillusioned as many of those who had harmed them in the past did not relent:

“I insist on the banning of the Communist Party. They have not improved yet. They still hold leading positions. That’s the reason for our bad situation today. They have cynical contempt for the suffering and killing

<sup>23</sup> Literature often defines forgiveness as a counterthesis of retributive desires, as a negation or abandonment of vengeance (see, e.g., Arendt, 1958, pp. 240–241; Murphy, 2003, pp. 13–16; Shriver, 1995, p. 8). However, reducing the relationship between forgiveness and retributive desires to a simple negation would ignore the positive dimension of forgiveness, which is able to recreate relationships (see Arendt, 1958).

[they had] caused. . . . I would ask for justice to let them realize their own guilt. Otherwise, I strongly believe in higher justice.” (Letter of respondent No. 148)

“Reconciliation, [to say] truth face-to-face, [to make] a contact, a remorse of a prison warden—it’s not too late for this. . . . But the timing is important. In 1989, the Communists were afraid, but today they know how [to exploit] the situation.” (Interview with M. S.)

These quotations show the belief that victims have in the humanity of perpetrators and their capacity for moral development under new conditions. They show that some victims are able to dissociate wrongdoers from their wrongdoings, as hypothesized in reconciliatory models. However, they opt for retribution once their expectations have not been met.

### *Other Variables*

The length of imprisonment was negatively associated with individual retributive desires ( $\beta = -0.01$ ). Our qualitative data also point to the forgiving tendency of former political prisoners. The longer the victim’s jail sentence, the less intense his or her desire to see his/her former enemy imprisoned. Thus, former political prisoners who had been in jail for long periods of time often held nonretributive positions similar to those of Vaclav Havel and the left of the Polish Solidarity, as contemplated by Elster (2004, p. 242).<sup>24</sup>

Various reasons may explain the forgiving tendency of long-term prisoners. First, we have identified certain cohort solidarity. Many former political prisoners share the same aging troubles as their former enemies. They do not wish the “old grandpas as we are” to be punished. Indeed, many opt for their condemnation and a symbolic punishment. Second, the longer the imprisonment, the greater the opportunity for victims to become exposed to the precepts of forgiveness insemnated by the imprisoned Christian priests, monks, and religious officials (Kaplan, 1983). Third, longer imprisonment may have led to the development of coping strategies that enabled victims to reevaluate what was important in their daily lives. The following citation combines some of these propositions:

“When I served my sentence in Mirov prison, there were about 640 priests out of 1300 prisoners. It was a monastery which you cannot find around the world. . . . Many of us considered it a school. The highest school which ever existed in Europe. . . . If you take prison as a school,

<sup>24</sup> This should not be interpreted as a closeness of former political prisoners to Vaclav Havel. In fact, many of them tend to distance themselves from Havel, especially due to his initial reconciliatory attitude towards people from the old regime.

you look differently at it. Those who took it as punishment, they cried over the lost years. . . . Especially those who had kids were bad, desperate. . . . If they were too desperate, thinking of suicide, they were placed in solitary confinement to come to terms with it.” (Interview with A. Huvar; priest, former political prisoner)

Frequency of church attendance was positively associated with collective retributive desires ( $\beta = 0.09$ ) and negatively associated with general retributive desires ( $\beta = -0.22$ ). The frequency of church attendance thus plays a dual role in affecting retributive desires. Our qualitative data suggest that the first part of the dualism may be explained by the historical experience of Christians under the socialist regime, which systematically persecuted believers and churchgoers. The Communist Party, which has not renounced its continuity with its totalitarian predecessor, is then deemed to be responsible for the persecutions. On the other hand, Christians’ respect for human lives may be an ideological reason for their opposition to the revival of the death penalty in the Czech Republic.

“I am against the death penalty. . . . A human being does not have the right to take another person’s life. It is unchangeable. On the other hand, I believe that there are a lot of people in this country who would deserve the death penalty for their deeds.” (Letter of Respondent No. 185)

“Although many would deserve it [death penalty], we have no right to take another person’s life, we have not given it [life] to ourselves.” (Respondent No. 791)

Education was negatively associated with individual retributive desires ( $\beta = -0.25$ ), suggesting that victims with higher education are less likely to demand unconditional jail sentences for the perpetrators responsible for their suffering. We surmise that victims with a higher education may be able to see the benefits of alternative approaches to justice, although we do not have qualitative evidence to substantiate this claim.

### *Sensitivity Analysis*

In order to examine the possible sampling biases derived from excluding the oldest cohort and those of a shorter length of imprisonment on the analysis, we conducted sensitivity analyses within three of the reduced data sets: those with (1) random deletion of 20% of the cases (first reduced data set), (2) deletion of the oldest 10% of the respondents (second reduced data set), and (3) deletion of respondents whose length of imprisonment was shorter than 12 months (third reduced data set).

Results from all three of the reduced data sets were generally similar to those in the entire data set (results for the sensitivity analyses available from the authors). In the second and third reduced data sets, the sufficiency of financial compensation and forgiveness remained significantly and negatively correlated with individual retributive desires. Frequency of church visits, experience of torture, the sufficiency of financial compensation and satisfaction with the number of perpetrators condemned were significantly associated with collective retributive desires. Gender, frequency of church visits, the sufficiency of financial compensation, and forgiveness remained significantly associated with general retributive desires. These results suggest that the findings from the surveys are stable even if some ex-prisoners may have been excluded from the survey because they did not attend the annual meetings at which the questionnaires were administered.

### *Limitations*

Before summarizing the policy implications of our findings, a few comments with respect to data limitations must be addressed. Thanks to the extraordinary assistance of two political prisoners' associations, we were able to gain access to an otherwise hidden population in the Czech Republic. However, this data collection procedure has also led to several sampling biases. First, the majority of our respondents were political ex-prisoners jailed in or before 1956. This hampers our examination of the impact of different historical contexts on the dynamics of victims' retributive desires.<sup>25</sup>

Second, while we have developed methods to examine the possible sampling biases caused by victims who did not receive our questionnaires, we have no means of examining the possible impact of those who received our questionnaire but did not return it. Third, our survey was a cross-sectional study. We recognize the possibility of reverse causation. For example, the sufficiency of financial compensation and forgiveness may reduce retributive desires. Vice versa, retributive desires may inhibit the victims' perception of the sufficiency of financial compensation as well as forgiveness. We have therefore refrained from making

<sup>25</sup> In order to examine whether differences in historical context, particularly, the time the respondents were jailed had any influence on the dynamics of their retributive desires, we disaggregated the data into two cohorts: those who were jailed in or before 1956 ( $N = 671$ ), and those who were jailed after that year ( $N = 69$ ). Separate regression analysis for the three indicators of retributive desires was conducted for these two cohorts. Statistical results concerning the first cohort (jailed during Stalinism) were fairly similar to the total sample. However, in the post-1956 cohort, forgiveness was the only variable significantly associated with individual retributive desires whereas satisfaction with the number of perpetrators condemned in the country was the only variable significantly associated with collective retributive desires. No variable was significantly associated with general retributive desires. When we examined the directions of association between the independent and dependent variables between the pre- and post-1956 cohorts, we found that the two cohorts were exactly identical. We therefore believe that the reasons for the lack of significant association observed in the post-1956 cohort were more likely due to the small sample size than to a fundamental difference in the dynamics of retributive desires between these two cohorts (statistical results available upon request).

statements about causal relationships (note that we reported statistical associations rather than causation between most independent and dependent variables). Reassuringly, results from our sensitivity analyses have suggested that the findings are stable and possibly robust. Furthermore, the combination of in-depth interviews and survey methods has enabled us to contextualize our study and to provide further delineation of the associations found in the statistical models.

### Conclusion

Our findings suggest that measures of transitional justice are capable of diminishing the retributive desires that victims of human rights violations hold against their perpetrators. Reparatory, retributive, and reconciliatory measures of transitional justice are able to reduce inequality between victims and perpetrators and, in doing so, they are likely to reduce retributive desires in some of their forms. When victims hold social positions that are on a par with their perpetrators, they are likely to be able to overcome their desire for retaliation.

These findings have theoretical implications for transitional justice, policy implications for transitional countries in general, and the Czech Republic in particular. Theoretically, justice in times of political flux requires changing the perspective from commutative to distributive justice: it does not only compensate debts but it also redresses social inequalities caused by political crime. Based on this “distributive theory of transitional justice,” in order to be successful, it requires going beyond retributive justice towards reparatory and reconciliatory interventions. In other words, policy interventions require going from the narrow perpetrator-centered approach to the models of social reconstruction.<sup>26</sup>

The major policy implication of this research is that it may be possible to partially reduce retributive desires even in situations when the prosecution of perpetrators is not a viable option, for example, due to a political compromise in those protracted transitions in which the handover of political power was negotiated. Financial compensation and the promotion of reconciliatory policies may work as substitutes for criminal justice policies. Our findings in this respect are in line with research on the fairness of amnesties in the context of political transition in South Africa (Gibson, 2002). In his experimental study, Gibson found that victims’ truth telling, apology of perpetrators, and financial compensation of victims made amnesty granted to perpetrators more acceptable to the public (2002, pp. 546–551). In other words, reparatory justice that empowered victims and reconciliatory measures that helped victims to dissociate a wrongdoer from his past actions may decrease inequalities between the two and contribute to the reduction of societal pressure for retributive justice.

<sup>26</sup> For the ecological model of social reconstruction, see Fletcher and Weinstein (2002, pp. 621–635); for a victim-centered model of social reconstruction, see David & Choi (2005, p. 433); for restorative justice, see Zehr (1995).

However, the reduction of retributive desires by distributive justice policies may come at a price. The failure to individualize guilt through the prosecution of perpetrators in criminal trials may preserve the seeds of the past political conflict in the memory of the nation. We have called this process the collectivization of guilt: the inability to prosecute individual perpetrators motivates victims to turn against the collective entity (political party or social group) which is responsible for human rights violations committed in the past. Even lenient punishments that were typical in the Czech Republic are capable of individualizing guilt: victims whose perpetrators were (symbolically) punished do not demand the banning of the Communist Party but they demand punishments for individual transgressors.

The punishment of perpetrators and the promotion of reconciliation have largely failed in the Czech Republic. Despite being compensated to an extent, many former political prisoners face remorseless perpetrators who enjoy impunity and higher socioeconomic positions. The relatively higher compensation paid to perpetrators for their dismissals from the security services proved to be particularly frustrating for many victims. Surprisingly, the population of former political prisoners in the Czech Republic is fairly forgiving. However, the lack of repentance of former perpetrators prevents a more significant dissolution of the victims' desire for retribution. Due to their frailty and old age, former political prisoners have lost the strength to continue their struggle for meaningful redress.

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