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**The disparity between *de jure* and *de facto*  
experiences of Romani women in the Czech  
Republic: An intersectional analysis**

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Prague

4 May 2021

Michelle Angert

*Special thanks to my wonderful advisor Professor Asavei, for providing guidance and clarity throughout this process and to my family for their ongoing support. I could not have done this without you.*

## Table of Contents

<b>ABSTRACT</b> .....	<b>1</b>
<b>GLOSSARY OF ABBREVIATIONS</b> .....	<b>3</b>
<b>CHAPTER 1: INTRODUCTION</b> .....	<b>4</b>
1.1 RESEARCH QUESTIONS.....	5
1.2 OUTLINE.....	7
<b>CHAPTER 2: LITERATURE REVIEW</b> .....	<b>9</b>
2.1 ROMA IN THE CZECH REPUBLIC.....	9
2.2 INTERSECTIONAL THEORY.....	10
2.3 INTERSECTIONAL THEORY AND ROMANI FEMINISM.....	14
2.4 CONCLUSION.....	15
<b>CHAPTER 3: THEORETICAL FRAMEWORK AND METHODOLOGY</b> .....	<b>17</b>
3.1 THE INTERSECTIONAL LENS EXPLAINED FURTHER.....	17
3.2 METHODOLOGY.....	18
<b>CHAPTER 4: AN OVERVIEW OF THE ROMA</b> .....	<b>21</b>
4.1 BRIEF HISTORY OF THE ROMA.....	21
4.2 THE ROMA IN THE CZECH REPUBLIC: SHORT HISTORICAL REMINDER.....	23
4.3 ROMA STEREOTYPES AND MYTHS.....	25
<b>CHAPTER 5: THE <i>DE JURE</i> STANDARDS CODIFIED IN LAW</b> .....	<b>28</b>
5.1 THE EUROPEAN UNION.....	28
5.1.1 <i>European Union laws on Roma equality</i> .....	30
5.1.2 <i>European Union laws on gender equality</i> .....	35
5.2 THE CZECH REPUBLIC.....	38
5.2.1 <i>Czech Republic laws on Roma equality</i> .....	38
5.2.2 <i>Czech Republic laws on gender equality</i> .....	41
5.3 CONCLUSIONS.....	44
<b>CHAPTER 6: THE <i>DE FACTO</i> REALITY FOR ROMANI WOMEN IN THE CZECH REPUBLIC</b> .....	<b>45</b>
6.1 EDUCATION.....	45
6.2 HEALTHCARE.....	53
6.3 EMPLOYMENT.....	60
6.4 CONCLUSIONS.....	66
<b>CHAPTER 7: CONCLUSION</b> .....	<b>67</b>
7.1 INTRA-CATEGORICAL.....	67
7.2 ANTI-CATEGORICAL.....	72
7.3 CONCLUSIONS.....	75
<b>BIBLIOGRAPHY</b> .....	<b>79</b>
<b>APPENDIX</b> .....	<b>88</b>

## Abstract

The Roma are historically one of the most discriminated against minorities in the world. Experiences are not universal throughout the Romani community, and Romani women in particular are subjected to greater injustices. This paper presents the vast *de jure* legislation from both the European Union and the Czech Republic as they relate to Romani women. These women fall under the jurisdiction of gender equality laws and the laws promoting Roma equality. While these laws, as written, strongly support anti-discrimination, the reality is actually very different, and I will demonstrate this disparity by highlighting the real experiences of Romani women in the education, healthcare, and employment sectors. Each example from these three sectors is classified and analysed using Leslie McCall and Kimberlé Crenshaw's intersectionality methodologies. Romani women in the Czech Republic are placed at the intersection of three axes of discrimination: gender, ethnicity, and ethno-gender. This state, at the confluence of these axes, is unique to Romani women and must be acknowledged as salient before Romani women can fully achieve equality within society.

Keywords: equality, gender, Roma minority, ethnicity, discrimination, Romani women, intersectionality

## Abstrakt

Romové jsou historicky jednou z nejvíce diskriminovaných menšin na světě. Zkušenosti nejsou v celé romské komunitě univerzální a zejména romské ženy jsou vystaveny větší nespravedlnosti. Tento příspěvek představuje rozsáhlou de iure legislativu Evropské unie i České republiky, která se týká romských žen. Tyto ženy spadají pod jurisdikci zákonů o rovnosti žen a mužů a zákonů podporujících rovnost Romů. I když tyto zákony poskytují jasný obraz o antidiskriminaci, realita je velmi odlišná a tuto nerovnost demonstrují zdůrazněním skutečných zkušeností romských žen ve vzdělávání, zdravotní péči a zaměstnání. Každý příklad těchto tří sektorů je klasifikován a analyzován pomocí metod intersectionality od Leslie McCall a Kimberlé Crenshaw. Romské ženy v České republice se nachází na křižovatce tří diskriminačních os: pohlaví, etnický původ a etnické pohlaví. Tento stav je dán souběhem těchto os, proto je problém romských žen jedinečný a musí být uznán jako důležitý, aby mohly romské ženy dosáhnout plné rovnoprávnosti ve společnosti.

Klíčová slova: rovnost, pohlaví, romská menšina, etnický původ, diskriminace, romské ženy, intersectionality

## Glossary of Abbreviations

CEE	Central and Eastern Europe
CoE	Council of Europe
EC	European Community
EEC	European Economic Community
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECRI	European Commission against Racism and Intolerance
ERRC	European Roma Rights Centre
FRA	Fundamental Rights Agency
GPR	General Policy Recommendation
MEP	Member of the European Parliament
NGO	Non-Governmental Organisation
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

## Chapter 1: Introduction

*“Romani women are the most vulnerable ones, and hardly anyone cares about our protection and education.” --Rozalija Ilić<sup>1</sup>*

Violent extremists and racist sentiment threaten isolated ethnic minorities. The Romani<sup>2</sup> community is no different. The deep-rooted history and practices of European society gave rise to centuries of discrimination and racism. Unfortunately, this discrimination is not only historical but pervasive and ongoing. While all members of the Romani community face some level of discrimination, Romani women experience even greater hardships than their male counterparts. This increased disadvantage is a result of a cumulative effect of three categories of discrimination. This multi-layered discrimination affects Romani women’s access to employment, quality health care, and education. The disadvantages they face are not only a result of their ethnicity but also due to their gender. Gender plays a role in two distinct contexts. First, it plays a role in the broader framework of discrimination against women in mainstream society. The second is within the Romani community itself. In more ‘traditional’ societies, women are expected to maintain specific roles and traditional Romani communities are no exception. Despite activists’ efforts to change this mindset of gender roles among the Roma, it is sadly still a prevalent attitude. Although there has been an increase in documentation and publication on gender equality and violence against women worldwide, it has largely ignored the voices of minority women. Publications on the situation of Romani women are particularly limited, and the number of publications specifically on the experiences of Romani women in the Czech Republic are even fewer in number.

The European Union and the Czech Republic have appropriately taken steps to aid the ingratiation of Roma into society with initiatives, anti-discriminatory rhetoric, and legislation. I will look at these pieces of legislation and initiatives later in this paper. I will be examining legislation on both Romani equality and gender equality. As this paper focuses on Romani

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<sup>1</sup>*Romani women in Romani and majority societies*. April 12 2021. Accessed January 23, 2021.

<http://www.errc.org/roma-rights-journal/romani-women-in-romani-and-majority-societies>.

<sup>2</sup> The word ‘Gypsies’ is a derogatory term used to describe the Roma and other groups similar by non-Roma. The term ‘Roma’ is an umbrella term for a variety of groups across the world. In this study, I will use the terms ‘Roma’ and ‘Romani’ (adj.) when discussing Romani self-representations. I will refrain from using the terms ‘Gypsy’ and ‘Gypsies’ unless it is directly used by the source.

women<sup>3</sup> specifically, it is imperative to look at both types of law. Unfortunately, these laws are not nearly as effective as both the Czech Republic and the European Union would like and, as a result, Romani women still face discrimination today.

This disparity between written laws and what is occurring, in reality, is the focus of this paper. The majority of scholarship on the topic of European Union or State laws tends to focus on the effectiveness of democratisation efforts, rather than the actual effects of such policies on the populations in question. Taking an intersectional approach, I will be able to analyse the situation of Romani women in the Czech Republic to determine the reason for their continued discrimination.

### 1.1 Research Questions

Two research questions are the basis for this paper. First: is there a difference between the *de jure* laws codified by the European Union and the Czech Republic and the *de facto* experiences of Romani women in the Czech Republic? I centred my research around this question because the inconsistency between the ostensible values that States profess and the reality on the ground has always fascinated me. The European Union and the Czech Republic have laws and declarations that are designed to preclude discrimination. Views on gender, sexuality, disability, ethnicity, etc., are systematically laid out in various statutes. Discrimination of the Romani people is no exception. Both the European Union and the Czech Republic have taken steps to ensure there are laws and declarations plainly prohibiting the discrimination of the Roma. Unfortunately, having something written in law (*de jure*) does not prevent these acts from occurring, and the Romani are still facing persecution and discriminatory treatment. This research question is not contentious because the existence of a gap between *de jure* and *de facto* is a tacit phenomenon. Thus, this question is really a springboard for the second, more salient question that drives the main analysis of this paper.

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<sup>3</sup> For the purposes of this paper, I will be using ‘women’ to encompass *all* Romani females. Some of the examples I detail later on in this paper refer to young girls, but as they are female they will still be analysed. Thus, whenever the word ‘woman’ or ‘women’ is used it is in reference to any Romani female.

My second research question is: why does this discrimination (the gap between *de jure* and *de facto*) persist despite the governments' efforts to stop it? Romani women are particularly disadvantaged due to the conjuncture of several intersecting forms of discrimination. This intersection will be the basis for further analysis later in this paper. What interested me, was not whether Romani discrimination is present in the Czech Republic because this fact can easily be established by a quick google search. What was more interesting, theoretically and politically, is the reason for the disparity between the European Union and Czech Republic anti-discrimination laws and the lived experiences of Romani women.

The concept of 'lived experience' is a term within social science research to understand the differences between lives and experiences. It then "tries to understand why some experiences are privileged over others".<sup>4</sup> Lived experience is relevant to the analysis I will conduct in this paper because I am interested in illuminating the *de facto* reality of Romani women in the Czech Republic. Lived experience highlights inequalities and experiences by positioning research "where we are actually located, embodied, in the local historicity and particularities of our lived worlds".<sup>5</sup> Thus, aspects of life and identity that are often labelled secondary or undeserving of discussion become legitimised. Kruks believes that voicing these lesser-researched lived experiences "reveals our agency to reconfigure it".<sup>6</sup> The *it* referenced here are inequalities and disadvantages. Lived experience means the researcher is not simply delineating facts and figures on these inequalities but also reifying them by describing the situations and genuine circumstances of these individuals. This writing style often brings greater resonance, empathy, and change because it is not just impersonal academic prose.

As I continue outlining the main argument of this paper, I will analyse the discrepancy between the *de jure* and *de facto* experiences of the Romani women in the Czech Republic. The *de facto* situation will be described as a 'lived experience,' showing the actual conditions in the Czech Republic. I will then attempt to answer why this inconsistency exists in the first place. By applying an intersectional lens, it will become clear that Romani women in the Czech Republic

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<sup>4</sup> Boylorn, Robin M. 2008. "Lived Experience." In *The SAGE Encyclopedia of Qualitative Research Methods*, by Lisa M Given, 490. SAGE Publications Inc.

<sup>5</sup> Smith, Dorothy E. 1987. *The Everyday World As Problematic: A Feminist Sociology*. UPNE. Pg. 8.

<sup>6</sup> Kruks, Sonia. 2014. "Women's 'Lived Experience': Feminism and Phenomenology from Simone De Beauvoir to the Present." In *The SAGE Handbook of Feminist Theory*, by Mary et al. Evans, 75-92. SAGE Publications.

continue to be disadvantaged because of an intersection of three categories and factors beyond their control.

## 1.2 Outline

To help keep this paper organised, I will provide a brief overview of what to expect in each of the subsequent chapters. In **chapter 2**, I conduct a literature review of the relevant writings related to the Roma in the Czech Republic and intersectional theory. In the third part of the chapter, I outline the Romani feminist scholars' interpretations of a set of concerns pertaining to Romani women's double jeopardy- as women *and* as members of an ethnic minority. These works are the basis of the analysis conducted in chapter seven.

In **chapter 3**, I elaborate on the theoretical framework and methodological approaches I will employ to support the main argument. Here I explain, in more detail, how intersectional theory (my main theoretical framework) will be employed to analyse the reason for the perpetuation of Romani women's precarious situation in the Czech Republic. In the methodology section, I detail how I conducted my analysis. I also provide information on the limits of my analysis which could motivate further research into this topic.

**Chapter 4** provides a brief history of Romani experiences in the Czech Republic. The third section in this chapter explains the common stereotypes and misconceptions associated with the Romani people. This background information is provided for those who may not be familiar with the Romani community and with the discriminatory attitudes against Roma.

**Chapter 5** outlines and examines the *de jure* laws in both the European Union and the Czech Republic regarding both gender equality and Roma discrimination. Non-discrimination is certainly present in each of these collections of laws. In order to demonstrate the disparity between these laws and the experiences of Romani women, I must first succinctly outline the *de jure* standards the European Union and the Czech Republic aspire to achieve.

In **Chapter 6**, I conduct an extensive analysis of both primary and secondary sources to detail the *de facto* experiences of Romani women in the Czech Republic. These sources range from scholarly articles to visual data such as photographs and art pieces. These sources will provide a comprehensive look into the situation of Romani women in the Czech Republic. Contrary to the non-discriminatory nature of the national and supra-national laws, Romani women in the Czech Republic are still subjected to prejudice and discrimination. These sources will allow me to then, in the following chapter, theorise why these conditions occur.

In **Chapter 7**, I categorise the examples from the previous chapter into one of two intersectional classifications. Intersectional theory is then applied to conclude that Romani women in the Czech Republic continue to face discrimination because they are thrice disadvantaged by factors beyond their control. I answer both of my research questions in this chapter. In the conclusion, I lay out my findings and raise possible avenues of further study into this topic.

## Chapter 2: Literature Review

This chapter provides an introduction to the primary literature on the treatment of Romani women in the Czech Republic. I then discuss intersectional theory and the current debates in the field concerning its usefulness. In the third part of this chapter, I will focus on literature by Romani feminists with regards to Romani women's double jeopardy and intersectional oppressions. This sets the context in which I will examine the actual experiences of Romani women in the Czech Republic and how they are an example of intersectional discrimination.

### 2.1 Roma in the Czech Republic

Scholarship on the Roma specifically in the Czech Republic is very underdeveloped. These works are often focused on the interaction between the Roma and non-Roma-- *gadje*<sup>7</sup> (Frišenská 1999, Jankových & Hlad'o 2012). Frišenská is concerned with the cohabitation of these two groups and writes that the problem lies with the majority (*gadje*) not the minority (Roma). It is often the beliefs and stereotypes of the majority that manifest and become accepted in mainstream society. Frišenská believes that these prejudices overshadow legitimate complaints about discrimination or the behavior of some members of the Romani community.<sup>8</sup> This leads into the widely accepted belief that the Roma are estranged members of society. A study by Jankových and Hlad'o on secondary school teachers' perspectives on the Roma, highlights the idea that assimilation is viewed as either a positive or a negative by individuals, depending on the level of their interaction with members of the Romani community. A Czech government statement cited in this study clearly lays out the challenging environment for Roma integration:

The severity of problems associated with the Roma community is mainly due to the fact that a considerable part of the Roma minority in the Czech Republic belongs to the lowest social level, with high unemployment rate, low education level and taking into account the total population it has a disproportionately large share of crime. In addition, on the one hand the share of Roma population in the

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<sup>7</sup> *Gadje* is the Romani word for non-Roma.

<sup>8</sup> Frišenská, Hana. 1999. "Interetnický konflikt po roce 1989 s ohledem na soužití s Romy." In *Sešity pro sociální politiku*, 208-229. Praha: Socioklub.

total population increases, on the other hand it engages in processes inherent to the majority of society with difficulty.<sup>9</sup>

This quote from 2012 describes what the literature on Roma in the Czech Republic is primarily concerned with. If the government only believes that the Roma are maladjusted or low class, proper integration and the elimination of prejudices will never take place.

Literature on Romani women in the Czech Republic deals primarily with the Czechoslovak and Czech government's policy of sterilisation and its effects (Sokolovká 2008, Cahn 2013, Albert & Szilvasi 2017). These papers describe the economic<sup>10</sup> and prejudicial<sup>11</sup> motivations behind this policy. They also touch on the horrific repercussions that are still being felt by Romani women today.

## 2.2 Intersectional Theory

Intersectional theory or intersectionality is a well-developed social science theory (McKinnon, 2013; Walby, 2008; Verloo, 2006; Yuval-Davis, 2006; Lykke, 2005; McCall, 2005; Oprea, 2005; Wekker, 2004; Lykke, 2003; Collins, 1998; Crenshaw, 1991). At its essence, intersectional theory deals with 'multiple' and 'complex' inequalities. Feminist scholars were becoming increasingly aware that gender had become a singular category in scholarly analysis. They realised that a single category was not sufficient to adequately capture all of their experiences; thus, intersectional theory was created. Feminist scholars first used and developed intersectionality and therefore it is most often associated with feminist scholarship. But, despite its feminist origins, intersectionality is now a prevalent theory to describe multiple discrimination variables in a variety of fields from education to law. As Leslie McCall states, intersectionality denotes "the relationships among multiple dimensions and modalities of social relations and subject formations".<sup>12</sup> This theory is useful for describing not only women's

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<sup>9</sup> Jankovych, Vladislav, and Petr Hlad'o. 2012. "Perception of Roma People by Prospective Secondary School Teachers in the Context of Generalized Ethnicization of Problems Related to Non-Assimilated Part of the Roma Population." *Procedia - Social and Behavioral Sciences* 55: 383-389. Pg. 384.

<sup>10</sup> Sokolova, Vera. 2008. *Discourses on Roma in Communist Czechoslovakia*. Stuttgart: ibidem-Verlag. Pg. 231.

<sup>11</sup> *Ibid.*, 224.

<sup>12</sup> McCall, Leslie. 2005. "The Complexity of Intersectionality." *Signs* 30 (3): 1771-1800. Pg. 1771.

experiences, but any marginalised individual or group and this is why intersectionality has become a popular tool for scholars.

American feminist legal scholar Kimberlé Crenshaw coined the term intersectionality in the late 1980s. She used the term to “denote the various ways in which race and gender interacted to shape the multiple dimensions of Black women’s experiences” in the United States.<sup>13</sup> At this time, feminists interested in the African American experience were criticising the prevailing understanding of discrimination among academics. This understanding focused entirely on *either sex or race*. As Crenshaw pointed out, neither dimension accurately represented African American women’s experiences in the United States. Motivated by the early works and experiences of these feminists, intersectional analysis has advanced into a conception which shows that types of discrimination are not distinct from each other. Different types of discrimination intersect and compound to generate specific individualised experiences of discrimination.

Crenshaw states, “when the practices [of society] expound identity as ‘woman’ or ‘person of colour’ as an either/or proposition they regulate the identity of women of colour to a location that resists telling”.<sup>14</sup> In order to accurately depict Black women’s situation, scholarship must take into consideration all of the potential sources from which the discrimination might originate. When the focus is placed on privileged group members within categories, it sidelines those who experience multiple forms of oppression. The origins of oppression become distorted because they are “grounded in the experiences that actually represent only a subset of a much more complex phenomenon”.<sup>15</sup> For example, in the gender equality debate, White women are often at the forefront. Women of colour have voiced their concern that this focus overlooks their own unique experiences of discrimination.<sup>16</sup> Thus, intersectionality is better able to capture the experiences of Romani women. They have been marginalised within both the Roma equal rights

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<sup>13</sup> Crenshaw, Kimberle. 1991. "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color." *Stanford Law Review* 43 (6): 1241-1299. Pg. 1244.

<sup>14</sup> *Ibid.*, 1242.

<sup>15</sup> Crenshaw, Kimberle. 1989. "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics." *University of Chicago Legal Forum* 1989 (1): 139-167. Pg. 140.

<sup>16</sup> Williams, Monica T. PhD. 2019. *How White Feminists Oppress Black Women: When Feminism Functions as White Supremacy*. January 16. Accessed January 22, 2020. <https://chacruna.net/how-white-feminists-oppress-black-women-when-feminism-functions-as-white-supremacy/>.

movement *and* the women's rights movement. I will discuss the Romani feminist scholars' perspective on intersectionality in the second section of this chapter.

But before examining the Romani feminist scholars' perspective on intersectionality, we must first understand what intersectionality is exactly. Is it a theory? A heuristic device? Or an analytical tool? Intersectionality is seen as a methodology that is able to reveal the thought structures and knowledge that renders certain social groups invisible. Intersectionality also exposes and provides the framework for analysing how these structures and knowledge have become embedded in institutions and practices.<sup>17</sup> By uncovering the practices and ideologies that reinforce the social power dynamics, improvements and reconciliation can occur. In order to accomplish this, simultaneous analyses of the prejudices and the structures must take place to fully comprehend the complexity of the multiple axes of oppression. Failing to acknowledge the intersections of these axes limits the opportunities for women's inclusion. It can also further marginalise them, according to Crenshaw.<sup>18</sup> The use of intersectionality highlights the experiences of individuals and groups who may have been ignored by mainstream scholarship.

There have been several debates surrounding intersectionality and its attempt to reify the facets of inequality. Crenshaw visualises intersectionality as a multi-layered blanket. This blanket imagery helps to illustrate the concept that a person suffers from multiple forms of oppression simultaneously. Another important aspect of intersectionality means that a member of an ethnic group can be subjugated by fellow group members for another category, such as sexuality or disability.<sup>19</sup> But, intersectionality has been criticised for overly fragmenting the forces behind discrimination and inequality. Prominent feminist scholar Judith Butler calls this fragmentation the 'embarrassed etc.'<sup>20</sup> This term Butler uses to describe the lengthy lists of adjectives scholars like to employ which end in *et cetera*. But Yuval-Davis responds to this criticism by noting that different structures of persecution function in distinctive ways and must

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<sup>17</sup> Lewis, Gail. 2009. "Celebrating Intersectionality? Debates on a Multi-faceted Concept in Gender Studies: Themes from a Conference." *European Journal of Women's Studies* 16 (3): 203-210. Pg. 206.

<sup>18</sup> Crenshaw, "Mapping the Margins," 1251.

<sup>19</sup> Crenshaw, "Demarginalizing the Intersection of Race and Sex," 149.

<sup>20</sup> Butler, Judith. *Gender Trouble: Feminism and the Subversion of Identity*. 10th Anniversary ed. New York; London: Routledge, 1999. Pg. 196.

not be conflated.<sup>21</sup> She states that conflation brings the risk of falsely presuming that one oppression can easily be separated from another. In other words, if a Black woman is discriminated against, it is impossible to determine if it is due to colour or gender or a combination of the two. Therefore Yuval-Davis prefers the term *intermesh* to better highlight the complexity of the categories.<sup>22</sup>

Using an intersectional approach also allows a researcher to recognise the complexity of identities and power relations.<sup>23</sup> There is an infinite number of classifications and categories a person can be a member of. As mentioned previously, researchers that end example lists with *et cetera* are glossing over concrete identifiers that are attributable to a person.<sup>24</sup> This is a valid critique as it could lessen intersectionality's use as an analytical tool. But Acker and Yuval-Davis both argue that choosing categories for research is necessary depending on the context and relevance of each category posited.<sup>25</sup> Overly fragmenting into several categories would make research excessively complicated. Therefore, it is important to explicitly outline which parameters are under review when using intersectional theory. Further problems with intersectionality arise due to its emphasis on the individual and individual identity. For some scholars, intersectionality is consequently disconnected from critical analyses of structural inequality and social relations.<sup>26</sup> Grabham et al. observe that intersectionality theory does not need to be normative, and is thus free from ideology. As a result, it does not need to be critical of the political or social structures or even be used to improve the livelihoods of selected groups. They express trepidation that intersectionality "can be used rhetorically, as a way of performing apparently situated analysis without changing prevailing structures of thought".<sup>27</sup> They continue by concluding that linking intersectionality with the structural and power dynamics is necessary. Without this linking intersectionality is just a purposeless analytical tool.

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<sup>21</sup> Yuval-Davis, Nira. 2006. "Intersectionality and Feminist Politics." *European Journal of Women's Studies* 13 (3): 193-209. Pg. 195.

<sup>22</sup> Yuval Davis, "Intersectionality and Feminist Politics," 195-197.

<sup>23</sup> Crenshaw, "Mapping the Margins," 1241-1299.

<sup>24</sup> Yuval-Davis, "Intersectionality and Feminist Politics," 202.

<sup>25</sup> Yuval-Davis, "Intersectionality and Feminist Politics," 199-203; Acker, Joan. 2000. "Revisiting Class: Thinking from gender, race, and organizations." *Social Politics* 7 (2): 192-214. pp. 199-203.

<sup>26</sup> Grabham, Emily, Davina Cooper, Jane Krishnadas, and Didi Herman. 2009. *Intersectionality and Beyond Law, power and the politics of location*. New York: Routledge-Cavendish. pp. 5-6.

<sup>27</sup> *Ibid.*, 13.

### 2.3 Intersectional theory and Romani feminism

When analysing the experiences of Romani women, intersectionality is a useful and appropriate concept. The movement to improve Romani rights, similar to other ethnic minority groups, centres around identity politics. As Crenshaw states, the problem with identity politics is not with the failure to transcend differences, as critics have posited, but instead with the failure to recognise the different experiences *within* groups.<sup>28</sup> This phenomenon is present within the Romani movement as well. The Roma have been designated a homogeneous group which thus obscures the intersectional identities within the Romani community.<sup>29</sup> As a result, Romani activists, mostly women, are now using intersectionality to point out multiple sites and axes of oppression when they vocalise their social positions.<sup>30</sup> Kóczé states, “I have come to see my own subject position as a Romani woman as a site where multiple forms of power and hierarchy are enacted”.<sup>31</sup> She continues that along with other Romani feminists,

We have struggled to untangle the complex social, political, and economic issues that structure our lives, and develop a language to understand our experiences with multiple inequalities. Finally, we have encountered a ‘new way of thinking’ emerging in intellectual and policy circles: that of intersectionality. Though an intersectional approach is now used almost exclusively by highly educated Romani women, a much wider audience understands its implications in a tangible or practical sense and uses individualized vocabularies to express this.<sup>32</sup>

Kóczé notes that understanding anti-Romani racism and the role of gender within it has been controversial. Romani feminists have observed when advocating for an intersectional approach, they have faced criticism that they are splintering the Romani rights movement.<sup>33</sup> These critics believe that by exposing and attempting to highlight the different axes of oppression, further stigmatisation occurs. Displaying instances of oppression within the Romani community fuels stereotypes of a ‘backwards’ culture,<sup>34</sup> these critics assert. Because mainstream society often overlooks the patriarchal and structural discrimination felt by women, Romani women’s

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<sup>28</sup> Crenshaw, “Mapping the Margins,” 1242.

<sup>29</sup> Opera, Alexandra. 2005. "The Arranged Marriage of Ana Maria Cioaba, Intra-Community Oppression and Romani Feminist Ideals." *European Journal of Women's Studies* 12 (2): 133-148. Pg. 134.

<sup>30</sup> Kóczé, Angela. n.d. *Missing Intersectionality Race/Ethnicity, Gender, and Class in Current Research and Policies on Romani Women in Europe*. 2009, Budapest: Central European University. Pg. 24

<sup>31</sup> *Ibid.*, 9.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*, 20.

<sup>34</sup> *Ibid.*, 14.

experiences are painted in the context of an oppressive society. Centuries of discrimination by the non-Roma society has been exposed through rigorous research and scholarship. But, unfortunately, when the Roma are characterised in the media or literature, it is often the intra-group hierarchies that are focused on. For example, domestic violence or under-educated children are stories often featured in the news. As a result, discrimination by the *gadje* and the institutional racism from the State becomes legitimised and normalised.<sup>35</sup> Opera states that this stigmatisation is even more problematic during times of heightened racial oppression. As she posits, “Romani women are encouraged to defend harmful practices when these practices are used to legitimize racist attitudes about Roma”.<sup>36</sup> Somehow the onus of defending Romani society, despite the internal prejudices they may face, falls to the women.

The issue of which and how many categories should be used in scholarship, also plagues Romani feminists. Activists largely agree that ethnicity, gender, and class regularly intersect in the lives of Romani women. They concur that these are the axes that need to be analysed, so their impact on Romani women’s lives may be determined. Kóczé notes that although Romani activists have been advocating for this approach and scholarship very little has been done in the vein of policy progress.<sup>37</sup> Neither the Romani movement nor the women’s rights movement has adequately capitalised on the discrimination that intersectionality has unearthed. Failing to act on these instances of discrimination has unfortunately resulted in marginalisation and ostracism.

## 2.4 Conclusion

As a relatively new social science theory, intersectionality has garnered significant interest and contemporary scholarship over its efficacy.<sup>38</sup> Thus, intersectionality is studied and also understood by its proponents to highlight the variations in identity and oppression structures. These structures then interact and impact people’s lives in different ways. An intersectional lens helps to combine the structures with their impact. There are also diverse ideas on how intersectionality should be employed in research (some of which have been highlighted above). Much more debate and scholarship have been written on the subject of intersectionality, but

<sup>35</sup> Opera, “The Arranged Marriage,” 136.

<sup>36</sup> Opera, Alexandra. 2012. "Romani Feminism in Reactionary Times." *Signs* 38 (1): 11-21. Pg. 15.

<sup>37</sup> Kóczé, “Missing Intersectionality,” 14.

<sup>38</sup> Davis, Kathy. 2008. "Intersectionality as buzzword: A sociology of science perspective on what makes a feminist theory successful." *Feminist Theory* 9 (1): 67-85. Pg. 67.

these are outside the scope of this paper. I have only included works and debates which are relevant to the analysis I will conduct in later chapters. Importantly, a central theme across the approaches I have mentioned, is the opposition to additive, fragmentary, and essentialising analyses.<sup>39</sup> Discrimination is not something that can easily be picked apart and conceptualised. Intersectionality allows an analysis to view the interaction of multiple axes of discrimination simultaneously. Additionally, analysing structural dynamics and power is central to intersectionality. The subsequent research in this thesis follows on from these perspectives.

Despite the increasing calls for equality and unprejudiced treatment of all people throughout the world, the situation of Romani women has received less attention than they deserve. The scholarship that is available predominantly focuses on forced sterilisation. Moreover, despite the abundance of scholarship on intersectionality, there is limited literature on the use of intersectionality to highlight the disparity between laws and experiences of those affected. I was unable to find *any* works that combined the experiences of Romani women in the Czech Republic with an intersectional lens. This lack of analysis prompts the focus of this paper.

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<sup>39</sup> Phoenix, Ann, and Pamela Pattynama. 2006. "Intersectionality." *European Journal of Women's Studies* 13 (3): 187-192. Pg. 187.

## Chapter 3: Theoretical framework and methodology

This chapter describes the framework and methodology I will employ for my analysis. The first section concerns intersectional theory and explains in more detail how I will use it to analyse Romani women's situation in the Czech Republic. The second section outlines my methodology and lists possible limits to my research.

### 3.1 The intersectional lens explained further

The theoretical framework for this paper focuses on intersectionality, to examine the experiences of Romani women in the Czech Republic. An intersectional approach takes into account the different ways the various characteristics of a person are intertwined. It also allows the individual to define these intersections, which are specific to that person's experiences. Scholars who use intersectionality "socially locate individuals in the context of their 'real lives'".<sup>40</sup> Every person understands and experiences the factors that affect them differently. Intersectionality as a methodology for analysis was expanded upon by Leslie McCall (2005). She created three categories for intersectional analysis: intra-categorical, anti-categorical, and inter-categorical.<sup>41</sup> I will be using the intra-categorical and anti-categorical classifications in my analysis. *Intra-categorical* places the subject group under investigation at the intersection of a single dimension of multiple categories. *Anti-categorical*, on the other hand, deconstructs these existing categorisations to expose their arbitrary nature. My methodology section will explain further how I will use these classifications in this paper. In conjunction with McCall's analytical methodology, I will be using Crenshaw's three forms of intersectional discrimination<sup>42</sup> to further analyse the experiences of Romani women. *Structural intersectionality* deals with the social structures that organise groups (i.e. gender and race) and how they interact to generate outcomes that may not be intended. *Political intersectionality* concerns different political movements (feminism, antiracism) and how they may exclude or marginalise a group, or reinforce prejudices. *Representational intersectionality* deals with images or tropes that are taken to be representative of the group as a whole; ignoring inner group complexities. For my analysis, I

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<sup>40</sup> Guidroz, Kathleen & Berger, Michele Tracy. 2009. *The Intersectional Approach: Transforming the Academy through Race, Class, and Gender*. The University of North Carolina Press. Pg. 1.

<sup>41</sup> McCall, "The Complexity," 1773.

<sup>42</sup> Crenshaw, "Mapping the Margins," 1245-1299.

will be using the representational and structural category definitions from Crenshaw, but modifying the political category slightly. As I am not doing a comparative analysis I will not be mentioning overarching movements like feminism or antiracism and their impact. As a result, it is necessary to change this category to fit better with my analysis. I will be using political intersectionality to represent the *de jure* laws and statutes that symbolise the motivations of the State.

When this approach is used by researchers it allows them to go beyond the most obvious and start to understand all the factors involved. This paper will attempt to illuminate the impact of ethnicity and gender on the lives of Romani women in the Czech Republic. I decided to focus on just the Czech Republic because I was living in Prague while writing this paper. I hope that my proximity to the research will positively influence my study. Using an intersectional lens is essential because the numerous identities of each individual are so interconnected and overlapping that separating them into single identities would result in questionable results. No one identifies as simply one thing. The theory of essentialism states that every entity has certain properties that are necessary to its identity.<sup>43</sup> Many social scientists have understandably shied away from such an understanding as it places constraints and generalisations on categories i.e., what it means to be a male or female or 'belong' to a specific culture, ethnicity, or religion. Each of us has many different identities cultivated through our experiences. How and why these identities are linked is the crux of intersectional theory. Romani women are the focus of this paper because prior research in this field has either focused on gender or ethnicity. Through this paper, I hope to aid in clarifying the relationship between ethnicity and gender regarding the persistence of prejudice against Romani women despite the laws and statutes that state otherwise.

### 3.2 Methodology

I will be employing desk-based qualitative research to explore the research questions outlined in chapter one. This includes but is not limited to analysis of European and Czech laws, journal articles, news articles, photographs, and books. When primary sources are employed I will endeavour to use the most recent sources and information. This is to keep this research relevant and timely. My research will also use non-governmental organisations (NGOs) and any

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<sup>43</sup> Cartwright, Richard L. 1968. "Some Remarks on Essentialism." *The Journal of Philosophy* 65 (20): 615-626.

relevant materials they have. This includes studying their inception, governance, activities, strategies, and resources. These NGOs comprise the basis of Roma rights activism in the Czech Republic. Using such varied sources allows my research to analyse data and information from existing qualitative and quantitative research, to produce a complete and well-rounded examination of the situation of Romani women in the Czech Republic. Each example of discrimination I highlight in the *de facto* chapter I then separate into *intra-categorical* or *anti-categorical* sections in the conclusion chapter. *Intra-categorical* deals with single axes of discrimination. As I am interested in gender and ethnicity, these two axes will be represented by the *intra-categorical* section. Ethno-gender, or gender within ethnicity, will be represented in the *anti-categorical* section because it is an amalgam of two distinct axes. Once I separate the examples of discrimination into these two categories, I will apply Crenshaw's forms of intersectional discrimination to explain why such discrimination is occurring contrary to European and Czech law.

I believe it is important to address the subjects of 'bias' and 'power' and their roles in research, particularly research conducted on sensitive topics. Intersectional analysis attempts to challenge the way that power influences research. As a non-Roma white woman, it is impossible for my perceptions and experiences not to influence this paper in some way. Fine's "who-am-I-to-do-this-work"<sup>44</sup> question is therefore relevant. I have no connection to the Romani community beyond my research. Thus, my research will be slanted by this 'outsider' perspective. As Fine continues, "rather than conducting research that reproduces dominant ideologies—even as these dominant views may be narrated by some of the most oppressed people in the nation" students should attempt to gather anti-hegemonic views that challenge these dominant positions.<sup>45</sup> I am under no illusion that my research will be entirely objective, though I have endeavoured to present the information and facts as impartially as possible. Therefore, I hope that my intersectional analysis will be a springboard for further scholarship on this, as of yet, under-researched field.

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<sup>44</sup> Fine, M. 2006. "Bearing witness: Methods for researching oppression and resistance—A textbook for critical research." *Social Justice Research* 19 (1): 83-108. Pg. 90.

<sup>45</sup> *Ibid.*, 90.

Conducting additional primary research, such as interviews, with Romani women activists would add a supplementary perspective to this study. As the theory of intersectionality emphasises, the experiences of individuals are unique to their social location, so speaking to these activists would be an invaluable source of data. However, given the time constraints, the scope of my research, and the current pandemic situation, this is not possible. I have also left out international law from my analysis. For this paper, I will only concentrate on European Union and Czech Republic national laws. I decided not to include international law because the European Union has already transposed much of the same language into their *acquis*. If I had more time and space it may be pertinent to include a chapter on international law. But I felt, for this master's level thesis, that it would be excessive. My Czech language knowledge is also rudimentary. This does not mean that I have not included Czech language sources in this paper, but I may inadvertently leave out sources that may not have come up in my English focused research. These are the limitations of my research which could perhaps be an opportunity for continued study.

## Chapter 4: An overview of the Roma

This chapter provides a brief overview of the history of the Roma. The first section outlines the history and current situation of the Roma in Europe, and the second describes the Czech Republic in particular. Section three provides a brief summary of the stereotypes and prejudices the Roma are subjected to. Though the history and historical cases of injustice are important, this paper will be focused on the contemporary situation of Romani women. This chapter has been included to provide context for the analysis, which will occur in the later chapters.

### 4.1 Brief history of the Roma

The Roma, one of the largest and oldest ethnic minorities in Europe, is also one of its most disadvantaged. They are considered an invisible minority, living on the periphery of ‘mainstream’ European society. An estimated 10-12 million Roma are living in Europe, according to the European Union. But the number could be even higher due to undercounting. The most recent number by the Council of Europe estimates 250,000 Roma living in the Czech Republic, which is 1.93% of the total population.<sup>46</sup>

The origins of the Roma have been traced to India, possibly as early as the 3<sup>rd</sup> century.<sup>47</sup> And over the past 1,000 years, they have relocated from country to country to flee persecution.<sup>48</sup> A history shared with so many other minorities in Europe’s turbulent history. Yet, the Roma are far from a homogeneous group regarding nationality, language, culture, religion, or way of life. The umbrella term ‘Roma’ refers to many groups that share similar cultural characteristics. These include but are not limited to Roma, Sinti, Travellers, Ashkali, Manush, Jenische, Kaldarash, and Kalé.<sup>49</sup> Perhaps the only commonality they share is the extent of the discrimination they endure. Thomas Hammarberg, past Council of Europe Commissioner for

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<sup>46</sup> European Commission. n.d. *Roma inclusion in the Czech Republic*. Accessed January 27, 2021.  
[https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-eu/roma-inclusion-eu-country/roma-inclusion-czech-republic\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-eu/roma-inclusion-eu-country/roma-inclusion-czech-republic_en).

<sup>47</sup> Horváthová, Jana. 2002. "Kapitoly z dějin Romů." Accessed January 27, 2021.  
<http://www.pf.jcu.cz/stru/katedry/pgps/ikvz/podkapitoly/d01kapitoly.pdf>. Pg. 9.

<sup>48</sup> ENAR & ERIO. n.d. "Debunking Myths & Revealing Truths about the Roma." Accessed January 26, 2021.  
<http://www.khetanes.si/doc/Rezultati/materiali/Debunking%20Myths.pdf>. Pg. 2

<sup>49</sup> Ibid.

Human Rights and vocal Romani rights advocate stated, “Europe has a shameful history of discrimination and severe repression of the Roma”.<sup>50</sup>

Due to their nomadic tendencies, the Roma gravitated towards professions that could easily be pursued whilst travelling. These included seasonal farm work, metal and leather working, street trading, etc.<sup>51</sup> The Roma were always an easily distinguishable group in Europe due to their different language and physical appearance. These differences allowed them to be easily picked out and persecuted based upon racist stereotypes. I will expand on these stereotypes in the third section. Roma persecution is not a new phenomenon and has persisted throughout history. Specific examples of Roma persecution include the following: The Holy Roman Empire banned all Roma in 1501 and any Roma choosing to stay could be killed by any citizen without punishment.<sup>52</sup> In what is now Romania, the Roma were enslaved between the 14<sup>th</sup> century and 1856.<sup>53</sup> During the Second World War, the Roma *Pharrajimos* – The Roma Holocaust – was carried out, which resulted in at least 250,000 victims.<sup>54</sup> One of the more recent rights violations perpetrated against the Roma is the forced sterilisation of Romani women and removing children from their families. The Czech government prolifically performed these acts until recently. I will explain in more detail the forced sterilisation of Romani women in the subsequent section.

In recent years, growing right-wing populism in Europe has brought latent racism back into the mainstream and anti-gypsyism has once again become firmly enmeshed in European culture. Anti-gypsyism comes from a feeling of racial superiority. The dehumanisation of the Roma has allowed imagined fears, negative stereotypes, and myths to become commonplace. Many recent neo-Nazi groups have formed due to increased anti-Roma sentiment, painting the

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<sup>50</sup> Amnesty International. n.d. "Human Rights on the Margins Roma in Europe." *Amnesty International*. Accessed January 26, 2021. Pg. 3.

<sup>51</sup> ENAR & ERIO, “Debunking Myths,” 2.

<sup>52</sup> DeCoste, F.C, and Bernard Schwartz. 2000. *The Holocaust's Ghost: Writings on Art, Politics, Law and Education*. University of Alberta. Pg. 181.

<sup>53</sup> Commissioner for Human Rights. 2015. *Time to cure amnesia about the history of Roma in Europe* . July 30. Accessed January 27, 2021. <https://www.coe.int/en/web/commissioner/-/time-to-cure-amnesia-about-the-history-of-roma-in-europe>.

<sup>54</sup> Council of Europe. n.d. "Holocaust." *Project Education of Roma Children in Europe*. Accessed January 27, 2021. [http://romafacts.uni-graz.at/view\\_pdf.php?t=history&s=h\\_5\\_0&l=en](http://romafacts.uni-graz.at/view_pdf.php?t=history&s=h_5_0&l=en). Pg. 7.

Roma as thieves and drains on society.<sup>55</sup> But, it is not only ordinary citizens that are guilty of such prejudices; government officials and leaders are also culpable. As Hammarberg states, “public leaders and opinion bodies – both elected officials and others – have openly defamed Roma and travellers using racist or stigmatising rhetoric”.<sup>56</sup> Segregated schools, ghettoization, and reduced access to public services are just some examples of State discrimination against the Roma. The Romani situation has improved in recent decades, but there is still much progress needed to ensure equal treatment of Romani citizens.

#### 4.2 The Roma in the Czech Republic: Short historical reminder

The actual number of Roma in the Czech Republic is difficult to answer but, the most recent official census counting (2011) stands at only 13,150. This number is a vastly smaller number than the 250,000 estimated by the European Union. Many Roma are wary of government officials, so census counts are not very accurate. Perhaps unsurprisingly, in the same census, nearly 2,000 more people reported themselves as ‘Jedi’, the fictional knights from *Star Wars*, than reported Romani ethnicity.<sup>57</sup> The Romani’s tumultuous history within the Czech Republic has fueled this mistrust. This mistrust is highlighted by the campaign of forced sterilisations the Czechoslovak Government performed on Romani women during the Communist era. These sterilisations began under the Nazi regime and were continued by the Czechoslovak government under the communist regime along with removing children from their families. Coercive sterilisation of Romani women has been documented across Europe. Between the 1970s and 1993, it was Czechoslovak State policy to sterilise Romani women; to reduce their “high and unhealthy” birth rate. The forced sterilisation policy was part of a broader policy intended to assimilate the Roma into mainstream society. It also hoped to stop the ‘social risk’ posed by the Roma. Doctors often performed these procedures under the pretense of caesarean sections and abortions. Social workers also pressured young women by offering

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<sup>55</sup> Gergely, Dezideru, and Gwen Albert. 2013. *Neo-Nazis mobilise against minorities in Czech republic*. October 23. Accessed January 29, 2021. <https://euobserver.com/opinion/121856>.

<sup>56</sup> Commissioner for Human Rights. 2012. *Human rights of Roma and Travellers in Europe*. Council of Europe. Pg. 11.

<sup>57</sup> Hospodářské Hoviny. 2011. *K romské národnosti se veřejně hlásí 13 150 lidí. Méně než k Rytířům jedi ze Star Wars*. December 15. Accessed March 2021. <https://domaci.ihned.cz/c1-54211050-k-romske-narodnosti-se-verejne-hlasi-13-150-lidi-mene-nez-k-rytirum-jedi-ze-star-wars>.

monetary incentives.<sup>58</sup> The Ombudsman of the Czech Republic estimates that nearly 90,000 Romani women in Czechoslovakia became infertile because of this policy.<sup>59</sup> Forced sterilisations did not end with the Communist period, and Roma rights organisations have documented cases as recent as 2007.<sup>60</sup>

Many Romani children are also placed in ‘special schools’ for the mentally disabled or separated into all-Roma classes in mainstream schools. These schools often have diluted and inferior curriculums, thus, providing the children wrongly admitted with a substandard education. In 2007, a case was brought to the European Court of Human Rights to challenge this systemic racial segregation. At the time of the case, Romani children in the Czech Republic were 27 times more likely to be placed in a school for the mentally disabled than non-Roma children.<sup>61</sup> The Court ruled that there was indirect discrimination against these school children. But, while this groundbreaking court case did bring this issue to international focus, very little has been done to properly integrate Romani children into mainstream schools. A September 2020 poll by the Center for Public Opinion Research, found that 30% of the Czech public believe that Romani children should not be educated in mainstream classes.<sup>62</sup> The Council of Europe (CoE) has been monitoring the situation in the Czech Republic and has found little improvement. They have also called for the ending of all segregation in schools.<sup>63</sup>

The Roma in the Czech Republic also have to contend with growing right-wing anti-Roma sentiment. These extremist parties, increasingly active on the internet, try to garner support for their anti-Roma messages. In the Czech Republic, the now-defunct *Dělnická strana*

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<sup>58</sup> Lucero, Florinda, and Jill Collum. n.d. "The Roma: During and After Communism." *Topical Reserch Digest: Human Rights in Russia and the Former Soviet Republics* 98-106. Pg. 98.

<sup>59</sup> Hammarberg, Thomas. 2011. "The Romani Holocaust and Contemporary Challenges: Tackling Discrimination and Human Rights Abuse of Roma." Council of Europe. October 20-21. Accessed February 2021. <https://rm.coe.int/16806da5be>. Pg. 6.

<sup>60</sup> Gokcen, Sinan. 2010. *Romani Victims of Coercive Sterilisation Still Denied Justice in the Czech Republic*. October 11. Accessed February 2021. <http://www.errc.org/press-releases/romani-victims-of-coercive-sterilisation-still-denied-justice-in-the-czech-republic>.

<sup>61</sup> *D.H. and Others v. Czech Republic*. 2007. (European Court of Human Rights).

<sup>62</sup> Ryšavý, Zdeněk. 2020. *Czech poll finds 30 % of the public does not want Romani children in mainstream classes and does want them to be segregated*. October 9. Accessed March 2021. <http://www.romea.cz/en/news/czech/czech-poll-finds-30-of-the-public-does-not-want-romani-children-in-mainstream-classes-and-does-want-them-to-be-segregated>.

<sup>63</sup> European Commission against Racism and Intolerance. 2020. *ECRI Report on the Czech Republic (sixth monitoring cycle)*. Council of Europe. Accessed March 2021. <https://rm.coe.int/ecri-6th-report-on-the-czech-republic/1680a0a086>. pg. 8.

(Workers' Party) was very aggressive in their anti-Roma tactics, especially during election years. During rallies, regularly attended by neo-Nazis, violent acts against Romani citizens and the police occurred.<sup>64</sup> They also organised 'patrols' of Roma communities. These marches led to "violent clashes with police, whose intervention was required to prevent demonstrators from reaching the Janov neighbourhood," said the Czech Government Human Rights Commissioner.<sup>65</sup> In 2010, the Workers' Party was disbanded by the Supreme Administrative Court because it was xenophobic, homophobic and had racist features.<sup>66</sup> This setback did not deter the leaders, who quickly formed the *Dělnická strana sociální spravedlnosti* (Workers' Social Justice Party). Marches through Romani neighbourhoods and demonstrations attended by neo-Nazis once again are taking place.<sup>67</sup> These far-right extremists believe in dangerous and false stereotypes about the Roma. It is due to these misconceptions that violence and prejudice are finding a foothold in the Czech Republic.

### 4.3 Roma Stereotypes and Myths

Along with the Jewish community, the Roma have historically been the minority that has suffered the most due to their supposed 'inferiority'. This stems from their nomadic past when, as relatively latecomers to sedentary European society, they were unable to amass credibility due to their 'otherness'. The Roma were easily distinguishable due to their different clothes, language, and customs. The Roma were also prone to keep to themselves, which only further fueled European distrust. Throughout the centuries, myths have emerged and spread, which targeted the Roma. Just as with anything not understood, stories are created by the majority to quantify perceptions. The stereotypes created about the Roma are so deeply rooted in European culture that most are no longer considered as such, and instead accepted as fact.

The first myth, which I have touched upon earlier, is that all Roma are the same. This is categorically false. There are several groups that are considered 'Gypsies' but do not fall under

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<sup>64</sup> iDNES.cz. 2009. *Čtyři členové Dělnické strany čelí obvinění kvůli násilí a výtržnictví*. October 7. Accessed February 2021. [https://www.idnes.cz/zpravy/cerna-kronika/ctyri-clenove-delnicke-strany-celi-obvineni-kvuli-nasili-a-vytrznictvi.A091007\\_115418\\_krimi\\_pei](https://www.idnes.cz/zpravy/cerna-kronika/ctyri-clenove-delnicke-strany-celi-obvineni-kvuli-nasili-a-vytrznictvi.A091007_115418_krimi_pei).

<sup>65</sup> Hammarberg, Thomas. 2011. "Report Following his visit to the Czech Republic from 17 to 19 November 2010." *Commissioner for Human Rights*. March 3. Accessed February 2021. <https://rm.coe.int/16806db679>. Pg. 6.

<sup>66</sup> European Court of Human Rights. 2010. "Application no. 70254/10 DĚLNICKÁ STRANA and Tomáš VANDAS against the Czech Republic." Case brief.

<sup>67</sup> Gergely & Albert, "Neo-Nazis Mobilise."

the umbrella 'Roma'.<sup>68</sup> But as this distinction will only serve to further complicate my research, I will continue to use the umbrella term 'Roma' for this paper. Roma are also perceived to still be migratory without stable homes. But this is again false, with only approximately 20% of Roma maintaining a nomadic lifestyle.<sup>69</sup>

The second myth stems from the Roma's traditional nomadic ways. Europeans believed, and many still do, that this itinerant culture somehow had bearing on the morality of the Roma. One of the most common stereotypes is that criminality is rife within the Romani community. It is believed that the majority of crimes per capita are committed by the Roma; assaults, robbery, and child trafficking. Data showing higher rates of crime in communities with high Romani populations is misleading. Roma are more likely to be profiled by law enforcement. According to a 2009 survey by the European Union Agency for Fundamental Rights, 1 in 3 Roma respondents was stopped by police in the past 12 months.<sup>70</sup> When individuals are more frequently stopped and searched by law enforcement, there will, of course, be more individuals found guilty of some crime. Fears of Romani child traffickers is a common misconception throughout Europe. Yes, there are instances of child exploitation and forced child marriage which disproportionately affects Romani women and girls. But the Roma are no more likely to commit these acts than any other ethnic group.<sup>71</sup>

Another myth is that the Roma are abusers of social welfare. People who believe this myth point to large families and high unemployment numbers as proof. They believe the Roma boost their income by remaining home and making more money through state contributions. According to statistical data and expert analysis, this myth is factually inaccurate and discriminatory.<sup>72</sup> It is difficult to circumvent the system for your own gain and there are cases of

<sup>68</sup> Petrova, Demitrina. 2003. "The Roma: Between a Myth and the Future." *Social Research* 70 (1): 111-161. pp. 113-114.

<sup>69</sup> Committee of Ministers. 1995. "Council of Europe." *The Situation of Gypsies (Roma and Sinti) in Europe*. May 22. Accessed February 2021. <https://rm.coe.int/09000016809136b7>.

<sup>70</sup> European Union Agency for Fundamental Rights. 2009. *Data in Focus Report | The Roma*. EU-MIDIS. Pg. 3.

<sup>71</sup> European Roma Rights Centre. 2011. *Breaking the Silence*. Hungary: European Roma Rights Centre and People in Need. Pg. 41.

<sup>72</sup> Kostlán, František, and Gwendolyn Albert. 2011. *Czech Republic: Facts and myths about Romani people and welfare*. December 9. Accessed February 2021. <http://www.romea.cz/en/news/czech/czech-republic-facts-and-myths-about-romani-people-and-welfare>; Albert, Gwendolyn, and Michaela Marksová. 2012. The most common, untrue myths about the Romani minority in the Czech Republic. March 4. Accessed February 2021. <http://www.romea.cz/en/news/czech/the-most-common-untrue-myths-about-the-romani-minority-in-the-czech-republic>.

fraud—by both Roma and *gadje*. Government authorities do not categorise their benefit outputs by ethnicity, so it is impossible to determine the exact amount received by the Roma. But, several government officials have made public statements debunking this myth.<sup>73</sup>

These are only a few of the myths and stereotypes attributed to the Romani community. There are others, but as this is only a brief overview, I will not go into detail about all stereotypes. What is important to take away from this chapter is that the Roma are routinely persecuted and prejudiced against due to their apparent inferiority. This inferiority has spurred incorrect stereotypes that Romani people are lazy or criminal. In chapter seven, when I piece together the situation of Romani women in the Czech Republic, we will further examine these myths and stereotypes.

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<sup>73</sup> News articles on this story can be found here: <http://www.romea.cz/en/news/czech/czech-republic-facts-and-myths-about-romani-people-and-welfare>; [https://www.idnes.cz/zpravy/domaci/cesky-socialni-system.A161124\\_193939\\_domaci\\_neh](https://www.idnes.cz/zpravy/domaci/cesky-socialni-system.A161124_193939_domaci_neh), [https://www.idnes.cz/finance/financni-radce/socialni-davky-jen-pro-potrebne-romove-zbohatnout-nemohou.A130807\\_143854\\_viteze\\_zuk](https://www.idnes.cz/finance/financni-radce/socialni-davky-jen-pro-potrebne-romove-zbohatnout-nemohou.A130807_143854_viteze_zuk); <https://www.novinky.cz/finance/clanek/socialne-vyloucen-kteri-nikdy-nepracovali-ducnod-neberou-je-to-mytus-tvrdi-urad-204035>.

## Chapter 5: The *de jure* standards codified in law

This chapter will outline the laws and statutes from both the European Union and the Czech Republic. I will be delineating the laws that pertain to the Roma on equality and anti-discrimination. Also, I will be describing any laws concerning gender equality. Romani women fall under the purview of both categories. Therefore, it is important to thoroughly cover each category equally. This chapter will detail the standards both the European Union and the Czech Republic strive to achieve regarding improving Romani women's situation. To produce an accurate analysis of the discrimination suffered by Romani women, we must first have a base understanding of the legal framework.

### 5.1 The European Union

The European Union<sup>74</sup> is a political and economic union between its 27 member countries. Along with providing increased economic connectivity for its members, the European Union promotes specific values and goals it expects its members to achieve. These values include equality and respect for human rights. The European Union embraced the United Nations' Universal Declaration of Human Rights and has used it as the foundation for the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The ECHR is a binding document that all prospective member states must satisfy to gain accession. Along with the ECHR, there are a few other main treaties that provide the basis for European law on the protection of minorities. The Treaty on European Union (TEU) and the EU Charter of Fundamental Rights are also important documents. The Czech Republic became a member of the European Union in May 2004.<sup>75</sup> Therefore, it falls under its jurisdiction and must uphold the values outlined in these treaties.

The European Union has a legal system and set of laws, laid out in its founding Treaties. These Treaties are known as 'primary law', and they set out the framework of the European

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<sup>74</sup> The European Union is an extremely complex bureaucratic entity. Attempting to describe every piece of legislation or directive that pertains to a certain topic is almost impossible. In that case, I will only be describing the most important or most prominent pieces of EU policy on both Roma and gender equality.

<sup>75</sup> 2020. *EUROPA | Czechia*. May 14. Accessed February 2021.

[https://europa.eu/european-union/about-eu/countries/member-countries/czechia\\_en](https://europa.eu/european-union/about-eu/countries/member-countries/czechia_en)

Union. The two major Treaties relevant to this paper are the TEU and the Charter of Fundamental Rights. The European Union can also adopt legal and legislative acts. These ‘secondary laws’ include legislation, agreements, and directives. These acts are legally binding and must be applied and respected by the Member States.<sup>76</sup>

To become a member of the European Union, the Czech Republic needed to comply with the Copenhagen criteria, which included conditions focusing on the protection of minorities. When the European Union began looking eastward, and these countries became Member States, Roma issues necessitated salience in the EU agenda. Roma are a recognised minority within the European Union and are therefore afforded the protections included under these European Union treaties. Unfortunately, each member state has not uniformly enforced these protections. The European Union acknowledges that the Roma are systematically falling behind their European counterparts when it comes to education level, employment, access to healthcare and housing. As a result, the European Union has taken the responsibility to create ‘Roma inclusion’ plans for each member state. These inclusion plans will be explained in more detail in the second part of this chapter when I focus on the Czech Republic.

While these treaties provide the framework for minority protection, many Romani children are not registered with the European Union at birth. This could happen for a variety of reasons: from mistrust in public institutions, lack of funds for the registration, or they were simply unaware they needed to register their child. Unfortunately, this lack of registration may render a child stateless. Stateless status can prevent the child from getting citizenship, which, in turn, means they may not be able to vote. Without a birth certificate, “children have no guaranteed protection under state legislation relating to child labour, early marriage or commercial sexual exploitation”.<sup>77</sup> These children can also be denied education services, healthcare, and social protections. This statelessness is not only a problem for protection under state law, but at the European Union level as well.

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<sup>76</sup> 2020. *EU law*. October 7. Accessed February 2021. [https://e-justice.europa.eu/content\\_eu\\_law-3-en.do](https://e-justice.europa.eu/content_eu_law-3-en.do).

<sup>77</sup> UNICEF. 2011. "The Right of Roma Children to Education." *UNICEF*. Accessed March 2021.

[https://www.unicef.org/eca/sites/unicef.org/eca/files/2017-11/Roma\\_Position\\_Paper\\_-\\_June12.pdf](https://www.unicef.org/eca/sites/unicef.org/eca/files/2017-11/Roma_Position_Paper_-_June12.pdf). Pg. 18.

### 5.1.1 European Union laws on Roma equality

The Roma are a recognised minority group in the European Union and are therefore afforded certain protections and concessions. But this has not stopped Roma from being expelled from several European Union countries, including Italy and France. There have also been limits placed on their mobility. The European Union is uniquely positioned to have great influence in improving the social and political situation of their Romani residents. As stated in the previous section, all European Union laws and directives are legally binding. This means that all member states must adopt whatever edicts the EU passes regarding Roma protections. The European Union has adopted a two-pronged approach to its Romani minority. First, it has adopted and requires the implementation of anti-discrimination legislation. Second, the European Union works with the Member States to improve their policies. This soft-power approach is reinforced, especially within Central and East European (CEE) states, through the allocation of structural funds.

The European Union founding treaties, in particular, are full of allusions to values that should guide EU action. These include human dignity, freedom, democracy, equality, the rule of law and respect for human rights. The rights of minority persons are also explicitly mentioned. Article 2 of the TEU specifically mentions the rights of persons belonging to minorities. As the foundation for European Union law, the rights of minorities must be mentioned in the fore. Along with the TEU, the Treaty on the Functioning of the European Union (TFEU) is central to combat discrimination and ensure equal opportunities for all EU citizens.<sup>78</sup> Article 9 guarantees social protection, a high level of education, protection of human health, and protection against social exclusion. Article 10 combats discrimination based on racial or ethnic origin, amongst other criteria. Article 19 goes further to state that appropriate action may be taken to combat any discrimination. It continues that the European Parliament and Council may adopt laws and force compliance from member states to achieve non-discrimination. Article 153 concerns education and vocational training, Article 167 concerns culture, and Article 168 discusses health. Each of these Articles can be used in a direct way to address Romani issues in the European Union.

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<sup>78</sup> 2012. "Treaty on the Functioning of the European Union." *EUR-Lex*. October 26. Accessed February 2021. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>.

The core of the European Union's anti-discrimination *acquis* is Article 13 of the EC Treaty. This article was first introduced in the Treaty of Amsterdam in 1997. Article 13 provided the legal foundation for the European Union to pass laws to fight discrimination based on ethnic or racial origin. Two directives implementing this principle of equal treatment were passed in 2000. Known collectively as the 'Equality Directives' they were the Racial Equality Directive<sup>79</sup> and the Employment Equality Directive.<sup>80</sup> These directives had to be transposed into domestic law by July and December 2003, respectively.<sup>81</sup> These were significant legal developments for European Union minorities. The Directives presented a well-defined, comprehensive, and consistent model of negative discrimination. In other words, these Directives insured that individuals could not be treated differently due to race or ethnicity. Though they do not pertain directly to the Roma, the Directives are an invaluable legal tool for combatting direct and indirect discrimination that the Roma experience daily. Individual victims now have the prerogative to make complaints before a judicial or administrative body. These directives have also begotten important legal techniques such as, "[shifting] the burden of proof in cases of discrimination, the possibility for non-governmental organisations (NGOs) to engage on behalf or in support of victims of racial discrimination, and the requirement for a deterrent effect in the remedies".<sup>82</sup> Due to these directives, which have now been transposed into national legislation, domestic activists now have an accessible tool to bring complaints forward. Activists have already used these 'Equality Directives' to challenge school segregation.<sup>83</sup>

Beyond the founding treaties, the central bodies of the European Union recognised their potential impact on improving Romani equality. The European Commission has contributed to the European Union's Romani policy. The European Commission drafts proposals for new European laws to present to Parliament and the Council. In a principal communication, the

<sup>79</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. July 19 2000. Accessed February 2021. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32000L0043>.

<sup>80</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. December 2 2000. Accessed February 2021. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>.

<sup>81</sup> Kostadinova, Galina. 2006. *Substantive Equality, Positive Action and Roma Rights in the European Union*. September. Accessed February 2021. <https://minorityrights.org/wp-content/uploads/old-site-downloads/download-65-Substantive-Equality-Positive-Action-and-Roma-Rights-in-the-European-Union.pdf>. Pg. 2.

<sup>82</sup> Ibid.

<sup>83</sup> Alexiadou, Nafsika. 2019. "Framing education policies and transitions of Roma students in Europe." *Comparative Education* 55 (3): 422-442.

Commission stated, “the EU and its Member States have a responsibility towards the Roma, who live in all Member States, candidate countries and potential candidates”.<sup>84</sup> Key highlights of the Commission’s contribution to Romani integration include the launch of the European Platform for Roma Inclusion in 2009. This platform brings together EU institutions, international NGOs, domestic authorities, and key members of the civil society. Its purpose is the exchange of best practices and promotes successful cooperation between these entities.<sup>85</sup> Another significant event transpired in 2010. This year marked the first of a series of Communications and Frameworks which established baseline targets for poverty reduction, employment, and education.<sup>86</sup> EU Commissioner for Equality, Helena Dalli, stated at the unveiling of the current 10-year plan for 2020-2030,

For the European Union to become a true Union of Equality we need to ensure that millions of Roma are treated equally, socially included and able to participate in social and political life without exception. With the targets that we have laid out in the Strategic Framework today, we expect to make real progress by 2030 towards a Europe in which Roma are celebrated as part of our Union's diversity, take part in our societies and have all the opportunities to fully contribute to and benefit from political, social and economic life in the EU.<sup>87</sup>

This 10-year plan requires Member States to put policies in place to achieve certain targets and goals. These include,<sup>88</sup>

- Cutting the portion of Roma experiencing discrimination by half
- Doubling the number of Roma who file reports when they experience discrimination
- Reducing the poverty gap between Roma and general population by at least half
- Cutting the gap in early childhood participation in education by at least half
- Reducing proportion of Roma children attending segregated schools by at least half
- Cutting the employment gap and gender employment gap by at least half

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<sup>84</sup> European Commission. 2010. "Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions The social and economic integration of the Roma in Europe." *EUR-Lex*. April 7. Accessed February 2021. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52010DC0133>.

<sup>85</sup> European Commission. 2009. *EU Platform for Roma Inclusion (Prague, 24 April 2009)*. April 24. Accessed February 2021. [https://ec.europa.eu/commission/presscorner/detail/en/MEMO\\_09\\_193](https://ec.europa.eu/commission/presscorner/detail/en/MEMO_09_193).

<sup>86</sup> These included the ‘The social and economic integration of the Roma in Europe’ 2010, ‘An EU Framework for National Roma Integration Strategies up to 2020’, and the most recent ‘EU Roma strategic framework for equality, inclusion and participation’ for 2020-2030.

<sup>87</sup> European Commission. 2020. *Commission launches new 10-year plan to support Roma in the EU*. October 7. Accessed February 2021. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_20\\_1813](https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1813).

<sup>88</sup> *Ibid*.

- Reducing the gap in housing deprivation by at least a third
- Ensuring at least 95% of Roma have access to tap water

This 10-year plan builds upon the progress of the previous plan, which ended in 2020. According to a 2014 report on the success of the previous Framework, “progress, although slow, is beginning to take shape”.<sup>89</sup> To necessitate further improvements the current 10-year plan was put into effect in October 2020. To help each Member State fulfill these targets the EU has created European Neighbourhood Enlargement policies and National Roma Integration Strategies tailored to each Member State. These offer an individualised method for tackling the issues affecting Romani communities and individuals. These plans update and change as each Member State makes improvements towards the stated goals. Compliance with these plans is compelled through the allocation of structural funds. The Czech Republic has its own National Roma Integration Strategy, and for the 2014-2020 period was allocated €22 billion with at least 20% available for Roma-related actions.<sup>90</sup> This strategy focuses on the areas of education, employment, health, housing, and anti-discrimination. But, despite positive trends, the outlook is still underwhelming. The absence of ‘hard law’ instruments and actual EU sanctions for non-compliance render these policies and frameworks rather weak. If the European Union continues to advocate for individualised plans and for the bulk of the work to fall to the Member States, then ‘hard law’ will become necessary.

The European Parliament has also been central to forming European Roma policy. In 2011, their resolution on the European strategy on Roma inclusion directly preceded the Commission’s ‘An EU Framework for National Roma Integration’. The Parliament encouraged the Commission to concentrate on fundamental rights, education, non-discrimination, employment, housing, healthcare, and political and civil participation.<sup>91</sup> But as mentioned in the previous paragraph, the Commission opted to focus on only four priority areas (education,

<sup>89</sup> European Commission. 2014. *COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Report on the implementation of the EU Framework for National Roma Integration Strategies*. April 2. Accessed February 2021. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM%3A2014%3A0209%3AFIN>.

<sup>90</sup> “Roma inclusion in the Czech Republic.”

<sup>91</sup> European Parliament. 2011. *European Parliament resolution of 9 March 2011 on the EU strategy on Roma inclusion*. March 9. Accessed February 2021. [https://www.europarl.europa.eu/doceo/document/TA-7-2011-0092\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-7-2011-0092_EN.html).

employment, housing, and healthcare).<sup>92</sup> Because of this, the European Union’s approach to Roma policy does not always consider human rights and political and civil participation as strongly as it should. In February 2019, Parliament issued a resolution that assessed the results of the EU framework for Roma integration through 2020. Parliament stated they wanted a specific anti-discrimination goal to be drawn up with relevant Roma stakeholders and equality bodies to be present in the forthcoming framework. They also urged the Commission to employ gender mainstreaming and a child-centred approach for the new framework. Targeting specific groups within the Roma community is vital because “multiple and intersectional discrimination have to be addressed”.<sup>93</sup> Parliament continued its push for further legislation on antigypsyism, fighting poverty, and improving the living and health conditions of Romani people with a September 2020 resolution.<sup>94</sup>

The European Union has made it clear, through its National Frameworks and policies, that the Roma are guaranteed access to education, healthcare, housing, and non-discrimination. Through its two-prong approach, of EU level directives and State level mandates, Roma equality has a strong legal foundation in the European Union. This chapter only states the facts; the *de jure* laws and standards that the European Union puts forward when it comes to Roma equality. As a recognised minority, some Articles and Directives preclude Romani discrimination due to ethnicity at the European Union level. Whether these have been transposed to the State level will be outlined in the section on the Czech Republic. But, Romani women are not just ‘Roma’, they are also women. It is, therefore, equally important to go through any legislation that pertains to gender equality as they will have just as much effect on the lives of Romani women.

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<sup>92</sup> European Commission. 2011. *COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS An EU Framework for National Roma Integration Strategies up to 2020*. April 5. Accessed February 2021. <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A52011DC0173>.

<sup>93</sup> *European Parliament resolution on the need for a strengthened post-2020 Strategic EU Framework for National Roma Inclusion Strategies and stepping up the fight against anti-Gypsyism (2019/2509(RSP))*. February 6 2019. Accessed February 2021. [https://www.europarl.europa.eu/doceo/document/B-8-2019-0098\\_EN.html](https://www.europarl.europa.eu/doceo/document/B-8-2019-0098_EN.html).

<sup>94</sup> Franz, Romeo. 2021. *Post 2020 EU Framework on Roma Equality and Inclusion Strategies/ After 2020-09*. January 21. Accessed February 2021. <https://www.europarl.europa.eu/legislative-train/theme-a-new-push-for-european-democracy/file-eu-framework-on-roma-equality-and-inclusion/01-2021>.

### 5.1.2 European Union laws on gender equality

Along with strong rhetoric on protecting minorities, the European Union also promotes gender equality. Discussing gender equality legislation is extremely important when ethnic minority women are the subject. Not only are Romani women ‘Roma’, but they are also women. Therefore, they fall under the purview of both sets of legislation. Promoting equality between men and women was one of the European Union’s founding values. This principle has been reinforced with legislation, requiring all Member States to guarantee equal opportunities and treatment for men and women. They also fight against any discrimination based on gender. European laws have changed over time from protecting individual rights in the 1970s to introducing precise actions addressing the disadvantages of women in the 1980s to policies aimed at gender mainstreaming<sup>95</sup> in the 1990s. The European Commission, the Council, and the Parliament all collaborate on the goal of gender equality.

First, I will begin by outlining the various Treaty provisions that make up the foundation for EU law. When the European Economic Community (EEC) was beginning its intervention into the social domain, economic arguments came to the fore. There was a need to harmonise national social systems to negate any barriers to free trade among member states. In this context Article 119 of the Treaty of Rome can be understood. Article 119 asserted that men and women should receive equal pay for equal work.<sup>96</sup> Of course, this was not a matter of proclaiming the principle of gender equality or social justice. It was included as protection against social dumping<sup>97</sup> in industries, such as textiles, which depended largely on female labour.<sup>98</sup> In reality, Member States were unwilling to transpose the equal pay provision into their national laws. It

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<sup>95</sup> Gender mainstreaming is defined by the European Commission as, “not restricting efforts to promote equality to the implementation of specific measures to help women, but mobilising all general policies and measures specifically for the purpose of achieving equality”. Gender discrimination is very evident in sectors like education and employment but it is not as evident in others. Gender mainstreaming attempts to ensure that *everyone* has the same access to resources and rights. Information taken from: <https://www.etuc.org/en/gender-mainstreaming>.

<sup>96</sup> 1957. *Treaty of Rome*. March 25. Accessed February 2021. <https://netaffair.org/documents/1957-rome-treaty.pdf>. Pg. 43.

<sup>97</sup> Social dumping is defined by the European Parliament as, “a set of practices on an international, national or inter-corporate level, aimed at gaining an advantage over competitors, which could have important negative consequences on economic processes and workers’ social security.” Information taken from:

[https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS\\_BRI\(2017\)599353](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2017)599353)

<sup>98</sup> Jacquot, Sophie. 2020. *European Union Gender Equality Policies Since 1957*. June 22. Accessed February 2021. <https://ehne.fr/en/encyclopedia/themes/gender-and-europe/gender-citizenship-in-europe/european-union-gender-equality-policies-1957>.

was not until 1975 that it was implemented through a Council Directive.<sup>99</sup> Article 119 is now Article 157 of the TFEU. The Treaty of Amsterdam (1997) also played a part in promoting gender equality. It made equality between men and women an express task of the European Union. Article 6a importantly allowed the Council to take appropriate action “...to combat discrimination based on sex...”.<sup>100</sup> The Treaty of Lisbon (2007) also known as the TFEU brought further developments. The TFEU contains the first reference to the EU Charter of Fundamental Rights,<sup>101</sup> making it legally binding under European Law. The Charter of Fundamental Rights includes provisions on the right to education, non-discrimination, and health care. Article 23, entitled *Equality between men and women*, states equality “must be ensured in all areas” and equality “shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex”.<sup>102</sup> In 2012, the most recent Treaty, the TEU, was put into effect which consolidated all previous treaties. The TEU maintained the reference to the Fundamental Rights, meaning that each of these rights must be put into force in National laws and upheld by the judicial system.

EU Directives are legislative acts<sup>103</sup> that set out goals that the EU Member States must achieve, and it is up to each State individually to determine how they will accomplish these goals. Two EU Directives are worth mentioning in the field of gender equality: the Directive on equal treatment in employment and occupation (2000/78)<sup>104</sup> and the Recast Directive (2006/54).<sup>105</sup> The Recast Directive amalgamated several older Directives including: equal pay for men and women; equal treatment of men and women in the workplace; and asserting that the

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<sup>99</sup> Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women. February 19 1975. Accessed February 2021. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31975L0117:EN:HTML>

<sup>100</sup> Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts. November 10 1997. Accessed February 2021. <http://data.europa.eu/eli/treaty/ams/sign>.

<sup>101</sup> “Treaty on the Functioning.”

<sup>102</sup> Official Journal of the European Communities. 2000. *Charter of Fundamental Rights of the European Union*. December 18. Accessed February 2021. [https://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](https://www.europarl.europa.eu/charter/pdf/text_en.pdf). Pg 13.

<sup>103</sup> Directives do not come from one EU body specifically. They can come from just one or they can also be a joint entity.

<sup>104</sup> 2000. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. December 2. Accessed February 2021. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>.

<sup>105</sup> 2006. Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). July 26. Accessed February 2021. <http://data.europa.eu/eli/dir/2006/54/oj>.

burden of proof in sexual discrimination cases lies with the employer. These directives are extremely important in promoting gender equality because the Member States must adopt these Directives within their own legislation and practices.

The European Commission also plays an important role in promoting gender equality. The Commission publishes five-year ‘Gender Equality’ strategies. The current strategy is in place until 2025 and uses the Gender Equality Index to measure gender equality across the Member States. The Strategy sets out the agenda for gender equality across various policy areas. It envisages a Europe where,

women and men, girls and boys, in all their diversity, are equal – where they are *free* to pursue their chosen path in life, where they have equal opportunities to *thrive*, and where they can equally participate in and *lead* our European society [emphasis in the original].<sup>106</sup>

The key principles of the Strategy are: combating gender-based violence and challenging gender stereotypes, ensuring equal opportunities in employment, and equal pay. The Strategy also emphasises gender mainstreaming, which I mentioned previously. The Commission states that it will consider gender equality earlier in its policy designs. A Task Force for Equality was also set up to ensure the implementation of gender mainstreaming. Unfortunately, at this time, there is no provision, beyond naming and shaming in annual reports, for ensuring the enactment of these goals by the Member States. The European Parliament passed the Strategy for Gender Equality, and it has been in effect since 2020. The Parliament called the Strategy a “decisive, clear and ambitious policy framework to further realise women’s rights and gender equality, and counter-attacks against them”.<sup>107</sup> MEPs did express concern that the Strategy is often vague, without clearly defined targets and monitoring tools. They called for binding measures that would provide concrete solutions for marginalised women in the Member States and guarantees that “multiple and intersectional forms of discrimination are eradicated”.<sup>108</sup>

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<sup>106</sup> Wigand, Christian, Katarzyna Kolanko, and Guillaume Mercier. 2020. *Questions and Answers: Gender Equality Strategy 2020-2025*. March 5. Accessed February 2021. [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_20\\_357](https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_357).

<sup>107</sup> 2021. *European Parliament resolution of 21 January 2021 on the EU Strategy for Gender Equality (2019/2169(INI))*. Accessed February 2021. [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0025\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0025_EN.pdf).

<sup>108</sup> Ibid.

Since its founding, the European Union has been dedicated to ensuring gender equality and equality for minorities. This section has provided an overview of the trajectory of equality legislation in the European Union. This section is by no means an exhaustive telling of gender and minority equality legislation, but for this thesis, it is important to get an overarching sense of the EU's position on both of these topics. The main takeaway from this section is that the European Union, in its expressly written documentation, strives for non-discrimination and equality for all ethnicities and genders. The subsequent section will detail whether the Czech Republic has been faithful in its duty to transpose the EU legislation into its own National laws.

## 5.2 The Czech Republic

As shown in the previous section, the European Union appears to take the protection and promotion of minority and women's rights very seriously. The inclusion of provisions on these protections in European Law ultimately means that the Member States must also include similar provisions in their own National Laws. In 1996 when the Czech Republic was a candidate for EU membership, Prime Minister Zeman stated, "we shall not conceive our entry to the EU only as a foreign policy matter, but also as a domestic affair, because the impact of European norms on the Czech law is basically a matter of domestic policy".<sup>109</sup> The Czech Republic became a member of the European Union in 2004. As a member, they are required to uphold and transpose certain values that I explained in the previous sections. The Constitution of the Czech Republic and the Criminal and Civil Codes form the basis of Czech national law. The following section will lay out the Czech Republic's efforts to protect the Romani minority and support gender equality.

### 5.2.1 Czech Republic laws on Roma equality

The Constitution of the Czech Republic was enacted in 1993, replacing the 1960 Constitution of Czechoslovakia. While in other countries, such as the United States, the Constitution would set out citizens' rights and duties, the Czech Constitution focuses on delegating the powers of State institutions. The preamble does make mention of "respect for human rights" and "obligations towards others" as allusions to equality.<sup>110</sup> There is no mention

<sup>109</sup> Ram, Melanie H. 2003. "Democratization through European integration: The case of minority rights in the Czech Republic and Romania." *Studies in Comparative International Development* 38: 28–56. Pg. 29.

<sup>110</sup> 1992. *The Constitution of the Czech Republic*. Prague, December 16.

of ‘Roma’ and only Article 6 makes mention of the interests of minorities. As this is only meant to be a document delineating the duties of governmental bodies, it is not a cause for concern that there is no reference to the Roma in the Constitution.

To supplement the Constitution, the Czech Republic adopted a Charter of Fundamental Rights and Basic Freedoms in 1991. It was written by the Czechoslovak Federal Republic and is still a part of both the Slovak Republic and Czech Republic systems of government. Interestingly, when Czechoslovakia split, Slovakia incorporated this Charter into their constitution while the Czech Republic kept it separate. Although it is a separate document, it is still imbued with the same legal standing as the Constitution. Unfortunately, again the Roma are not mentioned specifically in this Charter. Article 3 states that these rights are guaranteed to every citizen regardless of race, colour, ethnic or social origin, or membership in a national or ethnic minority.<sup>111</sup> This is the strongest statement of ‘equality’ in Czech Law. But, in order to qualify for these rights and protections, one must be a citizen of the Czech Republic. As mentioned in the chapter on the history of the Roma, citizenship is often a complex issue. A 1992 law set out the conditions for citizenship as five years’ residence, five-year clean criminal record, and competency in the Czech language. Linde calls the clean criminal record provision the “most blatant violation of international law” because most Roma would be unable to meet these requirements.<sup>112</sup> This provision became known as the ‘gypsy clause’<sup>113</sup> and rights groups chastised it as a blatant attempt to exclude Roma from citizenship.<sup>114</sup> There are various reasons why these criteria became known as anti-Roma. Roma typically occupied settlements on the outskirts of cities and towns; often in overcrowded ‘temporary’ accommodation with poor infrastructure. Many were, therefore, unable to satisfy the residency criteria. Research conducted showed a third of Roma denied citizenship had only been indicted for petty offences. There were also reports of individuals denied despite clean criminal records.<sup>115</sup> After substantial

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<sup>111</sup> 1992. *Charter of Fundamental Rights and Freedoms*. Accessed February 2021.

[https://www.usoud.cz/fileadmin/user\\_upload/ustavni\\_soud\\_www/Pravni\\_uprava/AJ/Listina\\_English\\_version.pdf](https://www.usoud.cz/fileadmin/user_upload/ustavni_soud_www/Pravni_uprava/AJ/Listina_English_version.pdf).

<sup>112</sup> Linde, Robyn. 2006. "Statelessness and Roma Communities in the Czech Republic: Competing Theories of State Compliance." *International Journal on Minority and Group Rights* 13 (4): 341-365. Pg. 349.

<sup>113</sup> O’Nions, Helen. 2007. *Minority Rights Protection in International Law: The Roma of Europe*. Abingdon: Ashgate Publishing. Pg. 118.

<sup>114</sup> O’Nions, “Minority Rights,” 120.

<sup>115</sup> Human Rights Watch. 2017. *Human Rights Watch World Report 1998*. January 24. Accessed February 2021. <https://www.hrw.org/legacy/worldreport/Helsinki-09.htm>.

pressure from international institutions,<sup>116</sup> an amendment to the law was added allowing the Ministry of the Interior to waive the five-year clean record requirement. But this was not without consternation on the part of the Czech government, who largely ignored international criticism and championed state sovereignty.<sup>117</sup> It was only the desire to apply for EU membership that ultimately provided the impetus to change.

The Czech government created a long-term policy on the Roma in June 2000. This was shortly after the European Commission's 1999 Regular Report stated that the Czech government needed "a comprehensive long-term policy to fight discrimination and social exclusion".<sup>118</sup> Minorities are also protected under Czech Criminal Law. Within the criminal law of the Czech Republic, there are three types of offences which can be racially or similarly motivated attacks perpetrated against an individual or a group. These are Criminal Code sections 356<sup>119</sup> (incitement to hatred), 355<sup>120</sup> (defamation), and 352<sup>121</sup> (violence against a group of persons or an individual). The European Union's General Policy Recommendation (GPR) No. 7 focuses on national legislation combatting racism and racial discrimination. In a 2015 ECRI report, the Czech Criminal Code was compared to the recommendations put forward by the European Union. The ECRI reports that the Criminal Code is acceptable but does not go far enough. Express mentions of "colour and language" need to be included in these sections. Also, the inclusion of a section on "public insults of a racist nature; the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a group of persons; and racial discrimination in the exercise of one's public office or occupation".<sup>122</sup> Unfortunately, as of the writing of this thesis, these changes have not been enacted to the Criminal Code.

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<sup>116</sup> The Commission on Security and Co-operation in Europe of the United States Congress, the United Nations High Commission for Refugees, and Human Rights Watch were vocal in their condemnation of the Czech citizenship law. They believed it violated human rights. Taken from: <https://www.hrw.org/legacy/reports/1996/Czech.htm>

<sup>117</sup> Linde, "Statelessness," 353.

<sup>118</sup> *1999 Regular Report from the Commission on Czech Republic's Progress Towards Accession*. October 13 1999. Accessed February 2021. [https://ec.europa.eu/neighbourhood-enlargement/sites/nea/files/archives/pdf/key\\_documents/1999/czech\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/nea/files/archives/pdf/key_documents/1999/czech_en.pdf). Pg. 17.

<sup>119</sup> See appendix 1

<sup>120</sup> See appendix 2

<sup>121</sup> See appendix 3

<sup>122</sup> 2015. *ECRI Report on the Czech Republic*. June 16. Accessed February 2021. <https://rm.coe.int/fifth-report-on-the-czech-republic/16808b5664>. Pg. 12.

The Czech Chamber of Deputies enacted the Anti-Discrimination Act in 2009. A similar act was vetoed by President Vaclav Klaus in May 2008, citing that it would eliminate “natural inequalities”.<sup>123</sup> The Equal Rights Trust (a UK based NGO) wrote to the Chairperson of the Chamber of Deputies demanding a reversal of the veto as the Czech Republic was (at this point) the last country in the EU to adopt anti-discrimination legislation. The Act was finally adopted in June 2009 primarily to avoid legal proceedings from the EU Commission for failing to meet the obligations of the EU Race Equality Directive (Council Directive 2000/43/EC) and the Employment Equality Directive (Council Directive 2000/78/EC).<sup>124</sup> The Act contains provisions on equal treatment and prohibits discrimination in employment, health care, welfare, and access to goods and services (including housing).<sup>125</sup> Importantly, direct and indirect discrimination on a list of grounds including race, ethnic origin, nationality, and beliefs or opinions is prohibited. Sadly, as the ECRI again reports, colour and language are missing. Another crucial ECRI observation is that segregation is not explicitly listed as a form of discrimination.<sup>126</sup>

Taking all of this into consideration, the Czech Republic has a rather comprehensive legislative and legal foundation for non-discrimination based on ethnicity. According to the Government, the Roma are protected from violence, hate speech, and discrimination. Additionally, as members of a minority, they are supposed to be afforded the same access to education, health services, and employment. The following section will explain the Czech Republic’s legislation regarding gender equality.

### 5.2.2 Czech Republic laws on gender equality

Historically, newly independent Czechoslovakia became a forerunner for gender equality. The independence declaration (1918) – The Washington Declaration – states that the government could not treat any citizen differently on the grounds of gender, class, or religious affiliation. It specified that women would be “placed on an equal footing with men, politically, socially and

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<sup>123</sup> Doleželová, Hana. 2008. *Anti-discrimination law still in limbo*. July 16. Accessed February 2021.

<https://www.eurofound.europa.eu/publications/article/2008/anti-discrimination-law-still-in-limbo>.

<sup>124</sup> 2010. *Equality: European Commission closes two cases against Czech Republic on equality legislation*. May 4. Accessed February 2021. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_10\\_530](https://ec.europa.eu/commission/presscorner/detail/en/IP_10_530).

<sup>125</sup> 2008. *198/2009 Coll. ACT of 23 April 2008*. Accessed February 2021. [https://www.ochrance.cz/uploads-import/DISKRIMINACE/pravni\\_predpisy/Anti-discrimination-Act.pdf](https://www.ochrance.cz/uploads-import/DISKRIMINACE/pravni_predpisy/Anti-discrimination-Act.pdf).

<sup>126</sup> “ECRI Report 2015,” 12.

culturally” and that universal suffrage would be a pillar of this new democracy.<sup>127</sup> Under communism, women’s employment did increase from 37.4% in 1948 to 46% in 1984,<sup>128</sup> though mainly in childcare and other ‘stereotypical’ women’s jobs, which cemented a strong tradition of gender stereotypes in the Czech Republic. In 1980, almost 70% of the population believed women should not work during the first three years of their child’s life.<sup>129</sup> This trend continued with women designated to ‘carer’ roles. High unemployment after the fall of communism and extreme wage inequality has plagued Czech women for decades. The main foundation for equality is defined in Article 3 of the Czech Charter of Fundamental Rights and Basic Freedoms (1992). It states that rights including protection of health, education, and personal freedom are guaranteed to “everybody irrespective of sex”.<sup>130</sup> Although this has not always been the case, it was not until the second half of the 1990s when the Czech Republic returned to equal treatment of men and women due to the need to harmonise Czech law with EU law.

There are a few significant EU directives that have been incorporated into Czech law that pertain to gender equality. One main change was in equal access to employment opportunities. Directives 2002/73/EC, 76/207/EC, and 97/80/EEC are the relevant European Union directives on equal treatment of men and women in the workplace. The Czech Labour Code prohibits all forms of discrimination in the workplace including, direct and indirect discrimination, harassment, and sexual harassment.<sup>131</sup> The Labour Code states that all instances of discrimination defined by the Anti-Discrimination Act are prohibited. Part I sections 2-5 of the Anti-Discrimination Act define each of these terms. Essentially all employees are entitled to a fair work environment, free from discrimination, regardless of “sex [and] sexual orientation”.<sup>132</sup>

The second important aspect of gender equality concerns equal pay. Two main acts pertain to equal pay in Czech law. These are Act no. 1/1992 (on pay, remuneration for stand-by

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<sup>127</sup> n.d. *Virtual Archive of Central European History Documents on the Founding of Czechoslovakia, 1918-1919*. Accessed February 2021. [https://ecommons.cornell.edu/bitstream/handle/1813/2139/Founding\\_of\\_Czechoslovakia\\_1918-1924.pdf?sequence=1&isAllowed=y](https://ecommons.cornell.edu/bitstream/handle/1813/2139/Founding_of_Czechoslovakia_1918-1924.pdf?sequence=1&isAllowed=y). pp 7-8.

<sup>128</sup> Koldinská, Kristina. 2015. *The Policy on Gender Equality in the Czech Republic*. European Parliament. Pg 8.

<sup>129</sup> Bauerová, Jaroslava, and Eva Bártová. 1987. *Proměny ženy v rodině, práci a ve veřejném životě*. Prague: Svoboda. Pg. 197.

<sup>130</sup> “Charter of Fundamental.” Czech Republic.

<sup>131</sup> *LABOUR CODE (full translation) No. 262/2006 Coll., as amended „Zákoník práce“*. Accessed April 2021. [https://www.legislationline.org/download/id/6742/file/Czech\\_Republic\\_Labour\\_Code\\_2006\\_am2011\\_en.pdf](https://www.legislationline.org/download/id/6742/file/Czech_Republic_Labour_Code_2006_am2011_en.pdf). Pg. 12.

<sup>132</sup> “2008. 198/2009 Coll. ACT of 23 April 2008,” 2.

work, and average earnings) and Act no. 143/1991 (on pay and remuneration for overtime in state and some other organisations). In 2006, these two Acts were amended by Parliament to state “all employees employed by one employer are entitled to receive equal remuneration for the same (or equal) work or for work of the same value”.<sup>133</sup> These two aspects focus on employment and labour, but there is more to gender equality than working conditions.

Access to quality healthcare tailored to gender is also vital. Article 31 of the Charter of Fundamental Rights and Freedoms states, “everybody has the right to protection of his or her health”.<sup>134</sup> The Czech Government’s Strategy for Equality of Women and Men outlines several goals for placing greater emphasis on the distinctive needs of men and women in the healthcare industry. All employed Czech citizens are entitled to full, free healthcare<sup>135</sup> and it is imperative to ensure everyone’s needs are catered for. Education is another area where gender equality comes into play. According to the Charter of Fundamental Rights and Freedoms, all citizens have the right to free education up through university.<sup>136</sup> Equal access to education means no discrimination based on gender. The Government Strategy includes goals to decrease gendered segregation in the education system and preventative measures for harassment and sexual harassment.<sup>137</sup>

Even at its founding, the Czech Republic designated gender equality a necessity. Through the process of joining the European Union, the Czech Republic has had to make various changes to fully realise greater gender equality. Currently, Czech Law states that all citizens are entitled to equal access to employment, healthcare, and education regardless of gender or sexual orientation. Whether this is true in reality will be explored in the following chapter.

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<sup>133</sup> *Sbírka zákonů č. 262/2006*. June 7 2006. Pp 3171-3172.

<sup>134</sup> “Charter of Fundamental.” Czech Republic.

<sup>135</sup> There are various stipulations on who beyond employed citizens is entitled to healthcare. Unemployed individuals must be registered with the Labour Office in order to qualify. See <https://ec.europa.eu/social/main.jsp?catId=1106&langId=en&intPageId=4473> for more information.

<sup>136</sup> “Charter of Fundamental.” Czech Republic.

<sup>137</sup> The Office of the Government of CR. 2014. *Government Strategy for Equality of Women and Men in the Czech Republic for 2014 –2020*. Accessed February 2021. [https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Projekt\\_Optimalizace/Government\\_Strategy\\_for-Gender\\_Equality\\_2014\\_2020.pdf](https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Projekt_Optimalizace/Government_Strategy_for-Gender_Equality_2014_2020.pdf). pp 20-21.

### 5.3 Conclusions

In this chapter, I have outlined the basic foundations for Roma protection and gender equality in both the European Union and the Czech Republic. European Union law and precedence states that all individuals may not be discriminated against for any reason including, sexuality, gender, or ethnicity. This sentiment carries down into Czech law. All Czech citizens have their rights and freedoms protected by various Acts and Codes. The purpose of this chapter is to provide an understanding of the *de jure* policies of the Czech Republic and the European Union. These entities state that protection of the Romani minority and promotion of gender equality is codified in law. This chapter has summarised specific pieces of legislation that pertain to these goals. However, just because it is written in law does not mean it is necessarily properly enforced. In the subsequent chapter, I will present the *de facto* reality of Romani women in the Czech Republic.

## Chapter 6: The *de facto* reality for Romani women in the Czech Republic

From the previous chapter, several important commonalities can be examined that will guide this chapter. First, both the European Union and the Czech Republic have fostered an environment that advocates equal treatment and opportunity for all its citizens.<sup>138</sup> This advocacy is apparent by the numerous laws and codes dedicated to this purpose. Second, many of these statutes revolve around education, healthcare, and employment. The promotion of equality in these areas seems to be a priority for both the European Union and the Czech Republic. Therefore, I have chosen these three areas to focus on for this chapter. This chapter will pull information from news articles, reports from NGOs, photographs, and other relevant documentation to paint an accurate picture of the *de facto* reality for Romani women in the Czech Republic.

### 6.1 Education

As mentioned in the chapter providing background information on the Roma, there is a difficult history pertaining to education in the Czech Republic. Many students are separated into different classrooms or schools for the mentally handicapped. Beyond being singled out for perceived ineptitude, many students also face racist taunts by classmates and sometimes the administration. The *gadje* perception of the Roma as a ‘backwards’ and ‘patriarchal’ society fosters this environment Romani children must endure in order to avail themselves of their right to a quality education. The Romani community is also often conservative, which means that girls may not be encouraged to pursue an education.

The difference in the level of education between Romani men and women across the region is quite telling. In a 2013 survey by the FRA, Roma respondents from 11 EU member countries were asked several questions regarding their level of education. According to this

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<sup>138</sup> It is important to note that the question of citizenship is central whenever the Roma are discussed because some members of the Romani community residing in the Czech Republic may not necessarily be officially documented citizens but, for the purposes of this paper I will be assuming every person quoted or mentioned is a citizen of the Czech Republic. Certainly, there is a possibility they may not be a citizen, but unless it is explicitly stated in the literature there is no way for me to know definitively. Regardless of citizenship, this chapter will detail the real experiences of Romani women in the Czech Republic.

survey, 85% of Romani males over 16 self-declared their ability to read and write, while only 77% of women did. In the Czech Republic, interestingly, this gap is non-existent. Romani men and women self-described literacy at 95% and 96%, respectively. The survey also asked about continuing education. 40% of Romani women and 43% Romani men dropped out or failed to continue school beyond age 16, across the region.<sup>139</sup> The fact that 60% of Romani women in the Czech Republic continued with education beyond age 16 is a promising statistic. This survey is only a small part of the story of education in the Czech Republic, and while there are encouraging trends of increased education among the younger generation of Romani women, there are still some troubling developments.

Romani children are often removed from their main classroom and placed into remedial, special schools (*zvláštní školy*), often referred to as practical schools. This is despite the ruling of *D.H. and Others v. Czech Republic* (2007), which stated that school segregation was disproportionately prejudicial towards Roma children.<sup>140</sup> This segregation has been publicly denounced by the Czech Government,<sup>141</sup> but is still common throughout the Czech Republic. There are two reasons that this segregation has manifested. The first concerns the purposeful misdiagnosis of Romani children with special education needs (SEN). The second occurs through the informal practice of mainstream schools becoming ‘Roma’ practical schools due to spatial ostracism and parental decisions i.e. ‘white flight’. These schools, while formally labelled as mainstream, overwhelmingly provide a lower standard of education. A certificate from a practical school is not equivalent to one from a regular school because these schools focus on ‘real-world’ activities and a “reduced range of subjects and learning opportunities in comparison to pupils in mainstream basic schools”.<sup>142</sup>

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<sup>139</sup> European Union Agency for Fundamental Rights. 2013. *Analysis of FRA Roma survey results by gender*. September 18. Accessed March 2021. <https://www.europarl.europa.eu/cmsdata/193477/20130917ATT71422EN-original.pdf>.

<sup>140</sup> Sys, Filip. 2020. *D.H v Czech Republic: Roma Educational Quality and the Vulnerability of Strategic Litigation*. Accessed March 2021. [https://karolinum.cz/data/clanek/8533/ST\\_20\\_1\\_0071.pdf](https://karolinum.cz/data/clanek/8533/ST_20_1_0071.pdf).

<sup>141</sup> 2019. *Eight years after the D.H. judgement a comprehensive desegregation of schools must take place*. November 1. Accessed March 2021. <https://osf.cz/en/2019/11/01/eight-years-after-the-d-h-judgement-a-comprehensive-desegregation-of-schools-must-take-place/>.

<sup>142</sup> Ivatts et al. 2015. *Special Report on Roma Inclusion in Early Childhood Education and Care*. Czech Republic: Open Society Foundation. Pg. 25.

Misdiagnosing Romani children is possible due to the definition of SEN and the willingness of parents to approve the transfer. At first, the process appears straightforward and impartial: the decision to transfer a child is based on doctor recommendation or teachers who see a child struggling in class. But, anti-Romani prejudice means teachers tend to refer children for psychological testing at the first sign they are floundering, rather than employing strategies to help them. Many parents have recorded feeling pressured to send their children for testing and that the tests were often abstract or prejudiced. For example, this psychologist reportedly asked a Romani girl where her mother buys bread, to which she replied, “to the Vietnamese guy’s place.” The mother stated that this answer was true, but the psychologist corrected the daughter stating that the right answer should have been “the bakery”.<sup>143</sup> There is a pervasive view among teachers that Romani children are better off in practical schools. This idea was crudely expressed in a 2015 article written by a practical school teacher, “[Romani children] are placed into practical schools because they belong there. Primary practical schools amount to a great act of kindness and are for Roma the same as a pair of glasses for visually impaired...and a wheelchair for the immobile ones”.<sup>144</sup> Schools often argue that they lack the resources to support underperforming pupils, therefore it was ‘better’ to place them in practical schools.

Magdalena Karvayová, now a prominent Romani rights activist, was told by a teacher that “she would be better-off at a ‘special school’ among her ‘own race’”.<sup>145</sup> Karvayová has since founded the Awen Amenca Association; an NGO dedicated to informing Romani parents on their rights and the right of their children to attend mainstream schools. This NGO is necessary because while many children are removed from mainstream schools by administrators, in other cases, parents will deliberately move their children to these ‘practical’ schools because they perceive it to be a ‘Roma’ school, i.e. the school that their child *should* go to because there are many Roma children there. Approximately 20% of Czech parents believe that schools are better without Roma or foreign students, this is according to a survey by the Social Inclusion

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<sup>143</sup> 2009. *Persistent Segregation of Roma in the Czech Education System*.

[http://www.errc.org/uploads/upload\\_en/file/03/AC/m000003AC.pdf](http://www.errc.org/uploads/upload_en/file/03/AC/m000003AC.pdf), pg. 30.

<sup>144</sup> Amnesty International. 2015. *Must Try Harder Ethnic Discrimination of Romani Children in Czech Schools*. London: Amnesty International. Pg. 20.

<sup>145</sup> Horvátová, Rena. 2019. *Magdalena Karvayová: Parents in the ghettos need to see education offers their children a future*. July 23. Accessed March 2021. <http://www.romea.cz/en/news/czech/magdalena-karvayova-parents-in-the-ghettos-need-to-see-education-offers-their-children-a-future>.

Agency.<sup>146</sup> Therefore, maintaining separate schools for pupils outside of the mainstream spares *gadje* parents and children from sharing classrooms with Romani pupils. It also means teachers do not have to dedicate time to managing a diverse classroom. As one mother recalls, school administrators did not want Romani children because of stereotypes:

*“When I applied for a place in the kindergarten for my son, the teacher told me they wanted no children from socially disadvantaged backgrounds. I told her she was wasting my time since I had to go to work, and then she said, ‘Oh you work, you should’ve said that immediately.’ I told her to call the headmistress and the problem was solved.”<sup>147</sup>*

It is easier for administrators to continue these prejudicial practices because it seems to please the *gadje* and because many Romani parents do not understand that there is anything wrong. For these reasons, segregated schools have been allowed to continue. To date, Awen Amenca has helped enroll 985 Romani children in mainstream schools across the Czech Republic. Karayová is not the only Romani woman who has channelled her childhood experiences into providing a better future. Olga Polakova recognised the sub-standard education she and her daughter were receiving in their Roma-only classrooms. “Hoping to protect her daughter from undergoing the same childhood experience, Polakova enlisted her [daughter] in a ‘white’ school. At first, the girl was accepted, however, early on in the semester, she was transferred to a Roma-only branch of the school. ‘There was nothing I could do about it. When I complained, they said, ‘Take it or leave it’”.<sup>148</sup> Along with several other Romani mothers, she has started a Facebook campaign; *V jedné lavnici/Together in one classroom*. The page features photos of non-Roma holding personalised signs in support of school integration. Each of these groups, started by Romani women, are currently active in the Czech Republic, pointing to the dire need for intervention on behalf of Romani children.

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<sup>146</sup> ČTK. 2019. *One-fifth of Czech parents believe schools without Roma and foreign students are better*. November 29. Accessed March 2021. <https://news.expat.cz/czech-education/one-fifth-of-czech-parents-believe-schools-without-roma-and-foreigners-are-better/>.

<sup>147</sup> Dizdarevic, “Position of Roma,” 11.

<sup>148</sup> van der Zee, Renate. 2016. *Roma mothers in Czech Republic fight for better schools*. September 7. Accessed March 2021. <https://www.aljazeera.com/features/2016/9/7/roma-mothers-in-czech-republic-fight-for-better-schools>.



'We decide what we will do after school, not skin colour'



'I hope that my son will have Romani classmates'

Both images taken from: [https://www.facebook.com/vjednelavici/?ref=page\\_internal](https://www.facebook.com/vjednelavici/?ref=page_internal)



From Amnesty International 'We must do better'

During a report on the treatment of Romani children in the Czech school system, Amnesty International asked students to draw themselves in the classroom. This girl (left) drew herself alone in a classroom. As Salil Shetty, Amnesty International's secretary-general stated in 2015, "the widespread segregation of Romani children is a horrifying example of systematic prejudice, with schools introducing children to bitter discrimination at a young age. Let's call this what it is: racism, pure and simple."<sup>149</sup> In October 2020, the EU Commissioner for Human Rights submitted a report detailing the execution of the ruling in *D.H. and Others v. Czech Republic* and its verdict to end the practice of school segregation. While the Commissioner stated that government measures, including increased spending

<sup>149</sup> Al Jazeera and The Associated Press. 2015. *Rights group: Czechs segregating Roma kids at schools*. April 23. Accessed March 2021. <http://america.aljazeera.com/articles/2015/4/23/rights-group-czechs-still-segregating-roma-kids-at-schools.html>.

for rural schools, have been implemented they have failed to “provide the major breakthrough necessary” to put the Czech Republic on track to solving this complex issue.<sup>150</sup>

Related to school segregation is the issue of racism, which many Romani children endure while at school. A study of 19 Romani women by the Open Society, an NGO based in Prague, asked these women, between the ages of 17-59, to recount their experiences throughout their school life.<sup>151</sup> Some of the women had positive experiences:

*“Learning at school was so normal, easy, I understood everything, I was an excellent student...”<sup>152</sup>*

*“I had no (at school) problems, even with teachers.”<sup>153</sup>*

While others were not so lucky:

*“I don't have good memories of the teacher. They discouraged me a lot from further studies. They told me I didn't have the skills.”<sup>154</sup>*

*“It was terrible at the base [sic], I was the only Roma woman there. Plus, I came tanned after the holidays. I didn't know anyone there, everyone already had friends and nobody talked to me. They made it very clear to me that I was different.”<sup>155</sup>*

These accounts paint very different pictures of school experiences. Some women remember their time at school fondly, while others were subjected to ostracism and hurtful comments. Amnesty International's report features accounts from students of their experiences in mainstream schools. One girl was called a ‘gypsy’, and when she spoke to a teacher, she was told to ignore it. When the bullying did not stop her mother removed her from her mainstream school and placed her in an all-Roma one. Now, she says, she learns less but better.<sup>156</sup> These are not uncommon instances. Tragically, in 2018, the bullying was so unbearable for an eighth

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<sup>150</sup> Mijatović, Dunja. 2020. "Rule 9 Submission." *Council of Europe*. October 22. Accessed March 2021. <https://rm.coe.int/commdh-2020-24-rule-9-submission-dh-v-czech-republic-en/1680a035b3>. Pg. 6.

<sup>151</sup> Hynková, Martina. 2015. *Romská žena – identita, role, postavení*. Accessed March 2021. <http://hledejmespolecnenovoucestu.cz/wp-content/uploads/2014/10/V%C3%BDzkumn%C3%A1-zpr%C3%A1va-k-tisku.pdf>.

<sup>152</sup> Translated from “Romská žena,” 11. See Appendix 4 for original Czech.

<sup>153</sup> Ibid.

<sup>154</sup> Ibid.

<sup>155</sup> Ibid.

<sup>156</sup> Amnesty International, *Must Try Harder*, 42.

grade Romani girl that she attempted suicide. In her words, “it began with insults because of what I look like and what I am. They said I am a shitty gypsy”.<sup>157</sup>

Unfortunately, racism is not limited to comments from classmates and teachers. A CoE study of textbooks found a worrying tendency to include prejudicial language in reference to the Roma. Reproducing gender and ethnic stereotyping in school textbooks limits the natural development of children and reinforces this prejudicial thinking in their parents. This 2020 CoE study analysed how the Roma and other ethnic minorities were described in state-approved textbooks used in schools across the European Union. Out of 38 textbooks from the Czech Republic, only 11 had mention of the Roma. According to Ščuka, one of the researchers, the total number of words mentioning the Roma across all the textbooks in the Czech Republic is just 1,080 in 71 sentences.<sup>158</sup> In history textbooks, the Roma are mentioned in conjunction with Jewish people and the Second World War. For example, “Hitler decreed the extermination of whole nations, first of all the Jews and the Roma. The worst destiny was drawn up for the Jews. They all became people without rights and had to wear the Star of David on their clothing in public”.<sup>159</sup> Civics textbooks paint a more stereotypical picture of the Roma with passages like, “usually they live together with their large family in one house or in one neighbourhood. The greatest punishment for Roma has always been exclusion from their family. It is said that the Roma have natural rhythm in their bodies and most of them sing beautifully. Music has been and still is a source of livelihood for them”.<sup>160</sup> This is a passage from a 7<sup>th</sup> grade civics textbook published in 2017. With such a limited mention of Roma history and being singled out as different from the ‘mainstream’ society in these textbooks, it is not hard to see how instances of racial bullying occur.

These barriers to a quality education not only affect female students but male as well. Both female and male Romani students have documented instances of segregation and bullying.

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<sup>157</sup> Baudyšová, Jana. 2018. *Romani girl attempts suicide after bullying at her primary school in Czech town*. October 30. Accessed March 2021. <http://www.romea.cz/en/news/czech/romani-girl-attempts-suicide-after-bullying-at-her-primary-school-in-czech-town>.

<sup>158</sup> Ryšavý, Zdeněk. 2020. *Czech primary school materials feature a total of 71 sentences about Roma - and they promote stereotypes*. September 5. Accessed March 2021. <http://www.romea.cz/en/news/czech/czech-primary-school-materials-feature-a-total-of-71-sentences-about-roma-and-they-promote-stereotypes>.

<sup>159</sup> Spielhaus et al., 2020. *The Representation of Roma in European Curricula and Textbooks Analytical Report Appendix 1*. Council of Europe. Pg. 66

<sup>160</sup> *Ibid.*, 68.

Sadly, Romani girls suffer more so than their male counterparts for one specific reason: they may be discouraged from continuing or even pursuing education by their familial structure. It is important to note that this trend is noticeably diminishing. Slovo 21 (an NGO) administered a survey in 2014 of 600 Roma women from 10 cities across the Czech Republic. 85% of respondents would support their child continuing their education, with a majority saying they would support the child regardless of gender.<sup>161</sup> According to a European Union survey of Romani women across several member states, the trend of Romani girls staying on in education beyond age 16 is increasing. Respondents aged 45+ who left school before 16 was at 70%, ages 25-44 at 52%, and 16-24 at 40%,<sup>162</sup> showing a clear decrease in the number of girls leaving school before age 16. While the number of Romani girls continuing their education is increasing, there are still cases of apathy or misplaced cultural norms that prevent Romani girls from getting an education. Some young women are prevented from continuing education because of familial duties.

*“...I wanted to study as a seamstress when I came out of elementary school, but my mother didn't let me in the end because we were full, a lot of children, there were ten of us and there was a lot of work at home, so I couldn't go to school for that study, so I'm very sorry that I didn't learn.”<sup>163</sup>*

These ‘masculine’ social values mean many Romani girls are forced to leave school to get married or raise children. If they are able to attend a mainstream school, they could be subjected to racist bullying from peers and teachers, which foments anxiety and may contribute to higher drop-out rates. These factors are not exclusive to only Romani girls, but boys as well. The emphasis on masculinity and patriarchal values in the Romani community mean that often girls are precluded from attending or continuing with their education. Thankfully this trend seems to be decreasing with the younger generations placing greater emphasis on attaining higher levels of education. This painting *Roma Superheroine* from Czech artist Lea Kupková from her project ‘Community Service’, portrays a Romani woman as a superheroine carrying a book defeating a snake that represents adversity. The description says, “Roma super heroine

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<sup>161</sup> Dizdarevic, Selma. 2014. *Position of Roma Women in the Czech Republic – Research Results*. September. Accessed March 2021. [https://www.researchgate.net/publication/272479077\\_Position\\_of\\_Roma\\_Women\\_in\\_the\\_Czech\\_Republic\\_-\\_Research\\_Results](https://www.researchgate.net/publication/272479077_Position_of_Roma_Women_in_the_Czech_Republic_-_Research_Results). Pg. 21.

<sup>162</sup> European Union Agency for Fundamental Rights. 2016. *Education: the situation of Roma in 11 EU Member States Roma survey – Data in focus*. Accessed March 2021. [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2014-roma-survey-dif-education-1\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-roma-survey-dif-education-1_en.pdf). Pg. 36.

<sup>163</sup> Translated from “Romská žena,” 13. See Appendix 4 for original Czech.

defeating adversity with the most powerful weapon”.<sup>164</sup> Education is certainly a powerful weapon because it can combat the systemic discrimination that is prevalent in society. Education promotes gender equality and reduces poverty by providing better employment opportunities.



Lea Kupková 'Roma super heroine'

Access to a quality standard of education is a right, guaranteed by law that Romani women have been excluded from through prejudice, segregation, and patriarchy. The repercussions of this marginalisation perpetuate Romani women's subjugation within society and encumber their ability to meaningfully participate within other sectors of mainstream life.

## 6.2 Healthcare

The healthcare system in the Czech Republic, like any other country, is not consistent across all regions. This inconsistency, along with education and income inequality means the Roma population in the Czech Republic is at a disadvantage. Their life expectancy is about 10–15 years less than the majority of the population, and there is a significantly higher prevalence of chronic illnesses.<sup>165</sup> Moreover, Roma commonly face disproportionate barriers to accessing

<sup>164</sup> Images taken with artist's permission from: Kupková, Lea. *Instagram*, Accessed May 2021, [https://www.instagram.com/na\\_kaluzich\\_olej/](https://www.instagram.com/na_kaluzich_olej/). Left image is a print. Right image is the artist in-front of her social activist street art in Prague, Czechia, promoting the power of education.

<sup>165</sup> Slepickova, Lenka, and Filakovska Bobakova. 2020. "Conceptualization of Roma in Policy Documents Related to Social Inclusion and Health in the Czech Republic." *International Journal of Environmental Research*

healthcare services. Several factors appear to cause these barriers. Many Roma live in remote areas which may not have the necessary health and transport infrastructure. A lack of financial resources or insurance,<sup>166</sup> as well as discriminatory attitudes also beset the Romani community.

When healthcare and Romani women are mentioned the first thing that comes to mind is the horrific sanctioning of sterilisations. I have previously written about this issue in the Roma history chapter, and I wish to keep this paper as topical as possible. But with that being said, it is impossible to discuss healthcare in the Czech Republic without going into a few details about the sterilisation campaign and its lasting effects on the Czech Republic's Romani women.

It is more important to underscore the fact that forced sterilisations were allowed under Czech law from 1972 until 1993.<sup>167</sup> In 1972 the Sterilisation Directive came into effect, which permitted sterilisations, with consent, in cases of life-threatening danger to either the mother or child. Consent, in writing, was required. Sterilisation was introduced as a contraception measure, but it soon outgrew this rationale and became a State tool for eugenics. As a 1977 report from the town of Přerov states, “[the] high fertility rate of the poor quality population living in dysfunctional families is nowadays well-regulated through the interest of these citizens to undergo the procedure [sterilisation]”.<sup>168</sup> It was deemed that the cost of children born to lower-income families would become a burden on the State. Coincidentally, the families most likely to fall into this category were Roma. There is no accurate total for the number of women who underwent this procedure, but it is said to be in the thousands. Romani women fell victim to this practice for a variety of reasons: economic incentive, coercion, and in the most extreme cases they were simply not told that the procedure would be taking place. According to a report by the European Roma Rights Centre (ERRC), all 22 of the women they interviewed from the Czech Republic did not fully understand the nature and consequences of sterilisation.

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*and Public Health* 1-18. Pg. 3.

<sup>166</sup> Individuals without employment but who are not registered as unemployed with the Labour Office must pay for their own health insurance.

<sup>167</sup> European Roma Rights Centre. 2016. "Sterilisation and its Consequences for Romani Women in the Czech Republic (1966-2016)." November. Accessed March 2021.  
[http://www.errc.org/uploads/upload\\_en/file/coercive-and-cruel-28-november-2016.pdf](http://www.errc.org/uploads/upload_en/file/coercive-and-cruel-28-november-2016.pdf) pg. 23.

<sup>168</sup> *Ibid.*, 27.

Some women were told about the procedure, but were either coerced by a social worker or persuaded that it was necessary. Many women were sterilised during C-section deliveries. According to the 1972 Sterilisation Directive, sterilisation may be administered after a C-section “if it is indicated for the reason that will probably repeat in the next pregnancy, if a woman does not wish to undergo another Caesarean section”.<sup>169</sup> Notably, there is no mention of risk to life or health of repeated C-sections, which was the main argument of many medical personnel for performing the procedure.

Zuzana was sterilised during her second C-section birth after the first resulted in a stillbirth. She was later told that the decision was made for her health.

*“When I was in the operating room, they were watching me already. Suddenly, they gave me Ajatin,<sup>170</sup> right? It was all burning and sore [...] they brought me a piece of paper to sign that said they will do a sterilisation. But seriously, just like that - no explanation, nothing.”<sup>171</sup>*

Others were coerced by social workers who threatened to take their children away. Lucie was told the day after she had given birth that the social worker had requested the doctor perform a sterilisation procedure on her.

*“I was explained what it means to be sterilised, but he said I have no choice; otherwise, they will take my new born baby to the children’s home. I was crying just when I imagined that I won’t have any more children.”<sup>172</sup>*

Doctors also intentionally misdiagnosed others with tumours or life-threatening illnesses that necessitated a sterilisation procedure,<sup>173</sup> while others were told that the procedure was only temporary.<sup>174</sup> Hundreds of women across the Czech Republic fell victim to these tactics. They have campaigned for recognition and retribution for years, and there is currently a campaign to provide the survivors with monetary compensation from the Czech Government.

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<sup>169</sup> European Roma Rights Centre, "Sterilisation and its Consequences," 39.

<sup>170</sup> A type of disinfectant.

<sup>171</sup> European Roma Rights Centre, "Sterilisation and its Consequences," 40

<sup>172</sup> Ibid., 49

<sup>173</sup> Ibid., 42-43

<sup>174</sup> Ibid., 46-49



Romani women demonstrating in Ostrava, September 2020 image taken from: <http://www.romea.cz/en/news/czech/romani-women-call-on-czech-mps-to-take-the-first-step-toward-compensating-forcibly-illegally-sterilized-persons-150-figures>

Holding signs stating “her body, her rights” and “sterilise cucumbers not women”, these women were calling for Czech MPs to support the bill that would provide compensation to victims of sterilisation. In March 2021, the first draft of the bill received support from members of several political parties.<sup>175</sup> If adopted, the bill would provide a one-off payment of CZK 300,000 (EUR 11,000). Though this is a positive step by the Czech Government as recompense to the victims, it does not undo the procedure. Activist Elena Gorolová was unknowingly sterilised after giving birth to her second son when she was twenty-one. “I always wanted a girl,” she said.<sup>176</sup> Many of the women who were victims of this eugenics agenda are in their seventies now and some have since passed away, making this bill all the more urgent. One of the lasting effects of this practice is that it has compounded the existing, powerful mistrust of administrators. Olga developed such a strong phobia of hospitals and doctors that she actively avoided going to the doctors for almost thirty years, during which time tumours were

<sup>175</sup> Baudyšová, Jana. 2021. *Czech MPs support bill to compensate illegally sterilized women*. March 10. Accessed March 2021. <http://www.romea.cz/en/news/czech/czech-mps-support-bill-to-compensate-illegally-sterilized-women>.

<sup>176</sup> Koslerova, Anna. 2021. *'I always wanted a girl': scandal of Czech Roma forcibly sterilised*. March 8. Accessed March 2021. <https://www.theguardian.com/global-development/2021/mar/08/czech-republic-roma-women-forcibly-sterilised-scandal>.

unknowingly growing in her uterus.<sup>177</sup> Many of these women are also concerned for their own daughters. While most families understood that the sterilisation was done unknowingly, some families still blamed the women. The decades-long campaign of sterilisations began as a way to limit the Romani population, and doctors and social workers promoted the procedure despite there being no medical reasoning. The effects of this state-sponsored eugenics program are still being processed and felt today.

Sterilisations are, unfortunately, not the only aspect of healthcare that has negatively impacted the lives of Romani women. Racial discrimination inside the healthcare system can manifest in denial of treatment or inappropriate and/or inaccurate treatment. A 2011 survey by the FRA asked, ‘In the past 5 years have you ever been discriminated against by people working in public or private health services?’ with 34% of Czech Romani female respondents answering yes.<sup>178</sup> This conduct has a profound effect on Romani women when it comes to reproductive and maternal health. This discrimination is not systemic and, through my research, I have found that the overwhelming majority of Romani women are treated fairly in the healthcare system. However, this does not mean that discrimination does not occur. It is imperative to elucidate these cases so the system does not become complacent that everything is working as it should.

The Slovo 21 study mentioned in the previous section also asked Romani women about their experiences in the healthcare industry in the Czech Republic. Overall this was the area where the women experienced the least amount of discrimination. Many women had positive experiences in the healthcare sector. But they prefaced this decent treatment with statements like, “I think when doctors see that a person behaves decently, that s/he is not dirty, that s/he is normal, they treat them normally. Recently they treated me very well”.<sup>179</sup> This position puts the onus onto the patient to act in a way that is preferable to the healthcare professional. It is the duty of the doctor to treat any patient regardless of demeanour or attitude. Patients’ rights in the Czech Republic dictate that any insured person has the right to respect, dignity, and privacy.<sup>180</sup>

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<sup>177</sup> European Roma Rights Centre, "Sterilisation and its Consequences," 62

<sup>178</sup> FRA. 2011. *Roma Pilot Survey*. Accessed March 2021. <https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-discrimination-and-social-exclusion-roma-eu-2011>.

<sup>179</sup> Dizdarevic, “Position of Roma,” 29.

<sup>180</sup> Kancelář zdravotního pojištění. 2021. *Rights of patients in the Czech Republic*. February 25. Accessed March 2021. <https://www.kancelarzp.cz/en/travel-healthcare/foreign-in-cz/rights-patients-in-cz>.

The right to privacy may be taken too literally though, in the case of segregating Romani mothers in separate maternity wards. Though this phenomena is not widely reported on, in my research, I found several mentions of segregated maternity wards, in recent surveys and reports.<sup>181</sup> The European Union acknowledged the practice of segregation in maternity wards in 2006,<sup>182</sup> but I could not find recent documentation from a scholarly source. I am not encouraged by the lack of recent data declaring specific accounts of this practice. Yes, it could be that the absence of data means that this practice has stopped, but I feel it is more likely that there is no desire to research and publish such statistics. Nothing in my research leads me to believe that the healthcare system in the Czech Republic is so free from prejudice that segregating Romani women into separate wards would be unheard of.

One of the reasons I am not inclined to be positively swayed by the lack of current data on segregation in hospitals is due to evidence of prejudicial or discriminatory practices by doctors and other healthcare administrators.

*“I did feel discrimination. After I was hospitalized they released me, but the problem recurred so I had to go back to hospital. When the doctor saw me he immediately accused me, in a snappy way, of escaping from the hospital before my treatment ended. He later apologized, but the feeling of shame he brought upon me in front of all the other patients can’t be erased.”<sup>183</sup>*

Some women were turned away or dismissed by practitioners.

*“Most of us are unwanted by doctors... the dentists are the worst. General [local] practitioners adopt the attitude ‘if it has to be, then we will take you’, but they are not happy about it. The only ones who are accessible are pediatricians and gynecologists, but specialized doctors and general practitioners, that’s catastrophic.”<sup>184</sup>*

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<sup>181</sup> Segregation in maternity wards is mentioned in the following sources: Dizdarevic, “Position of Roma,” 29; Danova/Russinova, Savelina. 2004. *Undiagnosed: The Impact of Racial Discrimination on Roma Health*. December 15. Accessed March 2021. <http://www.errc.org/roma-rights-journal/undiagnosed-the-impact-of-racial-discrimination-on-roma-health>; Watson, Helen. L, and Soo Downe. 2017. "Discrimination against childbearing Romani women in maternity care in Europe: a mixed-methods systematic review." *Reproductive Health* 14 (1): 1-16; League of Human Rights. 2016. "NGO information to the United Nations Committee on the Elimination of Discrimination against Women." Pg. 6.

<sup>182</sup> 2006. *Romové v Evropské unii*. February 23. Accessed March 2021.

<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:045E:0129:0133:CS:PDF>. Pg 131.

<sup>183</sup> Dizdarevic, “Position of Roma,” 29.

<sup>184</sup> *Ibid.*, 28.

*“I went to see a dentist, who refused to see me. I asked why? Is it because I am Roma? They said, ‘Yes’.”<sup>185</sup>*

*“I was at the general practitioner at half-past twelve in the afternoon, telling him that I have bad smell coming from my mouth and that my belly is somehow growing. He didn’t examine me, didn’t ask anything, he told me I’m fine. And then at half-past two I happened to be on the operating table not knowing of the world [sic]. They had to resuscitate me and change the blood and everything. I had blood poisoning, because I had a dead foetus in me, already in my seven month of pregnancy. And he didn’t recognise it.”<sup>186</sup>*

In this case, a pediatrician explains a situation where she recommended a dentist to a Roma family:

*“For example, I was recently involved in a problem of a Roma family, a mother with five children who could not find a dentist for her children. I told her that her children must see the dentist [...] and she said she called there and that they did not want to see her. So I called [the] dentist [because I know she is] still accepting more patients. I spoke with her nurse and she confirmed this. The second day that colleague calls me back and scolds me, telling me never to do that again. Colleagues refuse to take those patients, to register them, so they go somewhere else, this is how we get too many patients because nobody wants them.”<sup>187</sup>*

In a similar case, the Czech Ombudsman recently cited a study of discrimination against Roma patients by a dentist.<sup>188</sup> Mrs. Milana (a Romani woman) made an appointment over the telephone. When she arrived for her appointment, she was turned away by the dentist because they ‘did not accept new adult patients except in exceptional circumstances’. Two (adult) employees of the NGO, one a Roma and the other not, then made appointments. The Roma was turned away while the other was seen for treatment. This institutional discrimination on the grounds of ‘full capacity’ or ‘excessive workload’ is currently legal under Czech law.<sup>189</sup>

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<sup>185</sup> European Union Agency for Fundamental Rights. 2013. *Inequalities and multiple discrimination in access to and quality of healthcare*. Accessed March 2021. [https://fra.europa.eu/sites/default/files/inequalities-discrimination-healthcare\\_en.pdf](https://fra.europa.eu/sites/default/files/inequalities-discrimination-healthcare_en.pdf). pg. 67

<sup>186</sup> European Roma Rights Centre, "Sterilisation and its Consequences," 56

<sup>187</sup> European Union Agency for Fundamental Rights, "Inequalities," 67.

<sup>188</sup> Ombudsman. n.d. *Diskriminace a rovné | zacházení příručka pro vzdělavatele v sociální práci*. Accessed March 2021. <https://www.ochrance.cz/uploads-import/DISKRIMINACE/aktuality/Prirucka-pro-vzdelavatele-v-socialni-praci.pdf>. pg. 37.

<sup>189</sup> Czech Republic, Czech Medical Chamber Code (Etický kodex české lékařské komory), Section 2, available at: <https://www.lker.cz/stavovske-predpisy-clk-212.html>; Czech Republic, Act No. 48/1997 Coll, Section 11 on public health insurance, which concerns new patients’ registration.

Another Romani woman was forced to pay up-front before she would be administered emergency services:

*“I started bleeding and I didn’t know why, so me and my husband went to a hospital in Prague at one o’clock at night and the doctor, a gynecologist, did not respond to us and then, at one o’clock at night, she asked us to pay upfront. We paid about ten thousand crowns, if we hadn’t paid, she wouldn’t even have wanted to check what my problem was.”<sup>190</sup>*

This section has provided details regarding the experiences of Romani women in the Czech healthcare system. It is clear that there is substantial prejudice when it comes to refusing to treat patients, segregation, and upfront payments. Irreversible sterilisations were also administered, sanctioned by the government, in a conscious effort to limit the Romani population. The survivors are still waiting for restitution. While there is protection under both EU and Czech law for Romani women as both members of an ethnic minority and women, they are still subjected to prejudicial treatment. This harmful treatment is particularly heinous when it occurs during prenatal and postnatal care. Healthcare workers are not legally allowed to bar Roma from exercising their right to quality healthcare on ethnic grounds, but this has not stopped such injustices from occurring.

### 6.3 Employment

Equal opportunities in employment for Romani women are restricted, not only by gender discrimination but also by racial discrimination. Romani women face prejudice during the hiring process and their salaries. Furthermore, countless Romani women are barred completely from the formal economy. They are constrained by limited educational opportunities, traditional gender roles, and general ostracism from the majority community. As I detailed in the education section of this chapter, despite promising improvements in the number of children attending mainstream schools and continuing in their education, many Romani women still face constraints in education. Lack of education is a particular obstacle to employment because the number of years of school is often equated with ‘intelligence’ or competency.

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<sup>190</sup> European Union Agency for Fundamental Rights, “Inequalities,” 67.

The Czech Republic has one of the largest gender wage disparities in the European Union, with women earning, on average, 20% less than men.<sup>191</sup> This disparity is even more pronounced for marginalised groups, and Romani women are often paid less than 70% of the average non-Roma wage.<sup>192</sup> Reduced qualifications and bad experiences with employers often drive Roma to seek employment in the informal sector – these jobs could be temporary, part-time, or self-employment. Working a job in the informal sector means there is no wage regulation or social benefits like healthcare and pensions. Healthcare is only provided free by the State if the individual pays into the mandatory employment-linked insurance plans. Thus, working informal jobs would disqualify many individuals from qualifying for this benefit. Because many Roma work in these informal or temporary jobs, they also may not be counted towards the official employment rate. Therefore, it is difficult to get an accurate count of the unemployment numbers for the Romani community. Overall, while employment rates for both Romani women and men are far lower than those of the general population, the number for Romani women is particularly low. The graph below was taken from the Second European Union Minorities and Discrimination Survey (2019), which interviewed Roma in nine countries.<sup>193</sup>

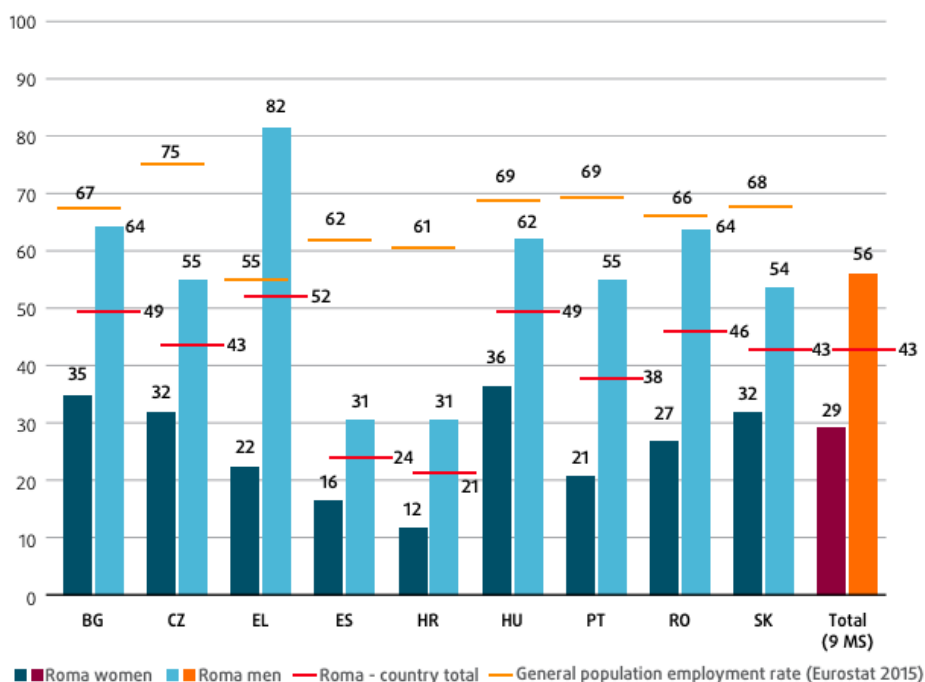
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<sup>191</sup> Lazarová, Daniela. 2020. *Gender pay gap still a big problem in the Czech Republic*. March 14. Accessed April 2021. <https://english.radio.cz/gender-pay-gap-still-a-big-problem-czech-republic-8105610>.

<sup>192</sup> Cukrowska, Ewa, and Angela Kóczé. 2013. *Interplay between gender and ethnicity: Exposing Structural Disparities of Romani women*. Bratislava: UNDP. Pg. 37.

<sup>193</sup> European Union Agency for Fundamental Rights. 2019. *Second European Union Minorities and Discrimination Survey*. Accessed April 2021. [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2019-eu-minorities-survey-roma-women\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-eu-minorities-survey-roma-women_en.pdf). pg. 28.

Figure 16: Paid work rate for Roma women and men aged 20-64 years, including self-employment and occasional work or work in the past four weeks, compared with the Europe 2020 employment rate 2015 (Eurostat) (%)<sup>a,b,c</sup>



This graph shows that only 32% of Romani women ages 20-64 are currently employed in the Czech Republic. According to the same survey, 56% of Romani women in the Czech Republic ages 16-64 are not in the active labour market because they care for children or sick/elderly relatives.<sup>194</sup> This statistic reinforces a common theme from the previous sections; that Romani women are often expected to take care of the domestic work. These traditional gender roles are further highlighted when the survey asked respondents whether men should have just as much responsibility with the home and children. 78% of Czech Romani women agreed with this statement, while only 58% of men agreed.<sup>195</sup> Interestingly, this 20 point disparity was by far the largest of the nine countries surveyed.

Romani women are at a particular disadvantage when it comes to finding employment because they lack the childcare facilities to allow them to get a job early on in their child's life. Some portions of the Romani community are still very patriarchal, meaning that the gender roles within the family are particularly rigid. In a traditional family, the woman's role is exclusively

<sup>194</sup> European Union Agency for Fundamental Rights, "Second European," 30.

<sup>195</sup> Ibid., 32.

contained to giving birth, raising the children, feeding the family, and taking care of the house.<sup>196</sup> This role has altered in recent years, and younger generations of Romani women are more inclined to continue education and enter the workforce. While this change is certainly a positive step for the empowerment of Romani women, many are still hampered by their traditional familial duties. School is compulsory at age 5 in the Czech Republic with the advent of preschool. All citizens of the Czech Republic are entitled to a place in compulsory preschool for one year free of charge before age 6.<sup>197</sup> Therefore, families must find ways to care for their children before age 5. This care often comes in the form of daycares and crèches known as children's groups (*dětská skupina*). These groups can be free or tuition-based. Despite preschool being free and compulsory, a 2012 study of surveys by the UNDP and World Bank found that only 28% of Roma children ages 3-5 were attending some kind of preschool institution.<sup>198</sup> There are a variety of reasons why such a low percentage of Roma children attend early education programs. There is an overwhelming lack of spaces, with 46% of Czech municipalities having no kindergarten, nursery, or child group.<sup>199</sup> Pre-education institutions naturally are concentrated in large population centres where there is the largest number of children. Unfortunately, as over 50% of the Romani population in the Czech Republic live in socially excluded areas,<sup>200</sup> they are more likely to not have access to these institutions. There are also reports of preschools unwilling to take Roma children<sup>201</sup> and instead taking non-Roma children first. Thus, there is a severe lack of pre-school and childcare places for Romani children. The compounding of these factors makes it extremely difficult for Romani families to place their children in childcare facilities. Single mothers are even more affected by these factors, and as a result, many have trouble entering the workforce.

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<sup>196</sup> Kajanová, Alena. 2013. "The Status of the Romany Woman in the Family and in Society." *Journal of Nursing, Social Studies, Public Health and Rehabilitation* 159–164. Pg. 160.

<sup>197</sup> European Commission. 2021. *Early Childhood Education and Care*. March 12. Accessed April 2021. [https://eacea.ec.europa.eu/national-policies/eurydice/content/early-childhood-education-and-care-21\\_en](https://eacea.ec.europa.eu/national-policies/eurydice/content/early-childhood-education-and-care-21_en).

<sup>198</sup> Brüggemann, C. (2012). Roma Education in Comparative Perspective. Analysis of the UNDP/World Bank/EC Regional Roma Survey 2011. Roma Inclusion Working Papers. Bratislava: United Nations Development Programme. Pg. 33.

<sup>199</sup> ČTK. 2020. *Czech nurseries' capacities short of 20,000 places for toddlers*. February 2. Accessed April 2021. <https://news.expats.cz/czech-education/czech-nurseries-capacities-short-of-20000-places-for-toddlers/>.

<sup>200</sup> Čada, Karel. 2015. *Analysis of socially excluded localities in the Czech Republic*. Prague: GAC spol s.r.o. pg. 10.

<sup>201</sup> Kuznická, Anna. 2013. *Monika Šimůnková: Předškolní vzdělávání je pro Romy důležité*. June 23. Accessed April 2021. <https://euractiv.cz/section/cr-v-evropske-unii/interview/monika-simunkova-nedostatek-romskych-deti-v-ms-vede-k-jejich-pozdejsimu-znevychodneni-csr-zmocnenkyne-romove-010932/>.

If a Romani woman is able to enter the workforce, she may be subjected to discrimination from employers when applying for jobs. I have found several accounts of women who were turned away from positions due to their ethnicity. In these cases, the women in question were turned away despite meeting the qualifications:

*“It happened to me, I called on the phone for work, they told me, sure, please come, we are hiring, no problem – but when I got there to talk to them personally and they saw I was Roma, they started hesitating, making things up, claiming that just a few moments ago they hired someone, some lady came, we hired her. I tell them, all right, but give me a chance, try me, but they say, no, sorry. I ask them why? Do I not meet your requirements? I have a business license, I have a driver’s license, I’m not stupid, I know how to work, and I have the same attitude toward work as that white woman or man. I ask them: Why do you put us all in the same box? Why are you making differences based on if someone is white, black, or I don’t know – purple?”<sup>202</sup>*

*“I called on the phone for a job and they told me they had a vacancy, that I should come, bring my stuff, and then the guy saw me at the restaurant and said, ‘I’m sorry we don’t hire Roma nationality.’ He told me that directly and it happened many times.”<sup>203</sup>*

In this case, the woman realised that employers were judging her based upon her surname Olahová which is perceived to be a common Romani surname.<sup>204</sup>

*“I went to many companies, they always looked at me with suspicion. I suffered also financially, I had to work more for less money. At my last job, I worked there for 10 years, then I was hit by a car, and after two months of sick leave, I was fired. Then I realized it was about racism. My surname is Olahová, and when I didn’t mention it, everything was fine, but as soon as they saw me in person, the job was occupied, but I knew it wasn’t.”<sup>205</sup>*

There are also cases of non-Roma employees refusing to work with them Roma employees and getting the women fired as a result.

*“I worked in a bakery as a shop assistant and everything worked fine until the owner found out I was Roma. ‘The good people’ told her I was Roma and I was fired.”<sup>206</sup>*

However, it is not only Romani women who face discrimination. IQ Roma Servis, is an NGO that helps Romani individuals and families in a variety of areas and provides employment support in the form of career centres and workshops. In 2018, after facing problems securing a

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<sup>202</sup> Dizdarevic, “Position of Roma,” 11.

<sup>203</sup> Ibid., 26.

<sup>204</sup> In reality, the surname Oláh comes from the Hungarian word for ‘Romanian’ and has no connotation with the Roma. See: <https://www.refworld.org/docid/5b9bc76b4.html>

<sup>205</sup> Dizdarevic, “Position of Roma,” 11.

<sup>206</sup> Ibid., 26.

location, IQ Roma Servis were finally able to open a new branch of their career service centre in Brno. Its manager Martina Horváthová was dismayed that several landlords refused to rent property because of the NGO's target clientele. "Some owners did not like the ethnicity of many of our clients and openly told me that they did not want Roma in their building, others, in my opinion, were strangely foggy [sic]. The owner has the right to choose the tenant, but I'm sorry that in the 21st century, skin colour still plays a role," she said.<sup>207</sup>

These prejudicial experiences are not ubiquitous, and the surveys I have cited in this chapter also had positive testimonials from women who did not experience any discrimination in the workplace or when looking for a job. As people are more likely to voice complaints than positive experiences, many of the surveys focus on the negatives. Despite the prevalence of negative testimonials, it is still important to disclose the positive ones because these stories are the ones that are more likely to help break down the walls of prejudice in the employment sector.

*"I worked in Globus, there I had some problems, but I had a good crew, we really understood each other well. There were three of us Roma women there, and the rest were white, and it was good, it was really good. We were a good crew, we had each other's back. If something happened we would solve it among us and there was peace."*<sup>208</sup>

*"I was looking for a job two years after graduation. For example, I completed the selection process for an assistant mayor in (the city from which she comes). But I was a graduate with no experience, they preferred an older, more experienced lady. I did not encounter racism when looking for a job."*<sup>209</sup>

*"I was unemployed for only four months during the whole time [sic]. But I have never been discriminated against as a Roma."*<sup>210</sup>

This section has provided details on the experiences of Romani women in the employment sector. One of the consequences of poor education means that Romani women face reduced employment prospects. Some turn to the informal sector; working jobs that provide no healthcare or social provisions for their family. Significantly reduced wages is also a factor that these women face; in a country where the gender wage gap is already very pronounced. Romani

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<sup>207</sup> IQ Roma Servis. 2021. *Kariérové Centrum, které kvůli své cílové skupině nemohlo najít vlastní kancelář, otevírá*. February 15. Accessed April 2021. <https://iqrs.cz/karierove-centrum-ktere-kvuli-sve-cilove-skupine-nemohlo-najit-vlastni-kancelar-otevira/>. Translated. See Appendix 5 for original Czech.

<sup>208</sup> Dizdarevic, "Position of Roma," 26.

<sup>209</sup> Translated from "Romská žena," 19. See Appendix 4 for original Czech.

<sup>210</sup> Ibid.

women may also face discrimination when applying for jobs due to their ethnicity, while traditional gender roles and lack of early education facilities mean many women cannot afford to work while their children are young.

#### 6.4 Conclusions

In this chapter, I have catalogued the contemporary experiences of Romani women in education, healthcare, and employment. An important caveat to keep in mind is that while this chapter details many instances of discrimination and outright racism towards Romani women, there are, of course, many Romani women who have not been subjected to this kind of treatment. It is commonly understood that individuals report negative experiences more frequently. Consequently, any analysis of the experiences of a marginalised group, such as this analysis of the experiences of Romani women, will undoubtedly lean towards the unpleasant experiences. I have endeavoured to include as many positive testimonials as I can to highlight that these practices are not emblematic. This chapter is not meant to be indicative of *all* Romani women, but to illuminate that these situations *do* occur and are still occurring in the Czech Republic today. In the subsequent chapter, I will be using intersectional theory to elucidate the underlying components of the prejudices experienced by Romani women in the Czech Republic.

## Chapter 7: Conclusion

In this chapter, I will be applying intersectional methodologies to further expound on the underlying components of Romani women's experiences. Therefore, I have broken this chapter into two sections: intra-categorical and anti-categorical. In chapter 3, I outlined in detail the differences between these two categorisations of intersectionality. Intra-categorical is focused on either the gender or ethnicity axis, while anti-categorical focuses on ethno-gender, which is the amalgam of gender within ethnicity. Within these sections, the examples of the prejudices I mentioned in the previous chapter will be analysed using my own interpretation of Crenshaw's three modes of intersectional discrimination: political, structural, and representational. By using this methodology, I will show that Romani women in the Czech Republic are experiencing discrimination from a variety of fronts and for a variety of reasons.

### 7.1 Intra-categorical

Intra-categorical refers to the singular axes of either gender or ethnicity and how they separately impact Romani women's lives. My first example in the intra-categorical classification is the prevalence of segregated schools. Romani children are placed in these segregated schools because of their ethnicity. Gender does not play a role in this example because both male and female Romani children receive the same treatment. The sole reason these children are singled out from their peers is due to their ethnicity. Accordingly, segregated schools are allowed to continue because of social structures, political practices, and mainstream representations of the Roma. First, concerning social structures, segregation happens subconsciously through the actions of the mainstream community. *Gadje* parents who refuse to send their children to schools with Romani children spur a 'white flight' phenomenon which subsequently results in separate schools for Romani children and *gadje* children. This kind of social grouping produces segregation, but it materialises on the subconscious level because these actions are not explicitly intending to create segregated schools. There are no movements championing 'white only' and 'Roma only' schools or individuals creating schools explicitly for one group and not the other. It is merely families switching their child to a different school. The result of which is subconscious school segregation.

Regardless of the various reasons why a family might choose to remove their child from a school with Romani students, the removal of white students occurs because of representational discrimination. The families who choose not to send their child to a school with Romani children are reinforcing the stereotypes that Roma are dirty, bad influences or will somehow hurt their child's education. These stereotypes are certainly not indicative of every Roma child going to school, but this type of racism encourages segregation; parents removing their children from school or teachers placing Romani students in separate classrooms, promoting ostracism. Surveys stating that generous percentages of the Czech public do not want Romani children in school with their child is evidence to this fact. Finally, the ambiguous process of diagnosing a mental disability, deliberately vague in its conception, means that it is easier for teachers and doctors to purposely misdiagnose Romani children. The methodology and testing for mental disabilities is a dictated, political statement that is unfairly targeting Romani children. Romani families have a difficult time challenging a ruling of mental disability to return their child to mainstream schooling because of the *de jure* testing procedure. The EU (TFEU Article 9) and the Czech Republic (Charter of Fundamental Rights and Freedoms Article 33) guarantee the right to an education. While the Czech Article does not specify the quality of the education guaranteed, it is clear that the EU considers the standards in 'special' schools to be inadequate. The Czech Republic seems to have acknowledged this fact because they continue making pledges to end segregation. Unfortunately, despite the EU's Equality Directives (which have already been used by rights groups to challenge school segregation), these practices are still ongoing.

Along with segregated schools, racism in standardised school textbooks is another example of the intra-categorical classification. In the previous chapter, I described standardised textbooks that contained infrequent but significant passages displaying stereotypes and inaccurate generalisations about the Romani community. Just as with school segregation, these racist descriptions are a result of ethnic profiling. The generalisations about enjoying music and dance and the history textbook references only about the Second World War have nothing to do with gender. These textbooks were not saying things about Romani men or women but the ethnicity as a whole, homogeneous entity. Hence, the only axis of discrimination in play is

ethnicity. The representation of the Roma in mainstream media and society plays a role in this homogeneous depiction. Obviously, not all Roma like dancing or playing music, but many movies and television shows frequently use this representation. The Romani community incorporates a multitude of different groups and ethnicities, therefore amalgamating the diversity among the Roma simplifies and erases their complex ethnic identity.

I will now turn to the prejudicial treatment of Romani children by teachers and other students. This case is very similar to the previous example because ethnicity and representation are again the driving factors behind this conduct. These teachers and students bully and harass Romani students simply because they are Roma. When I described the specific instances of racism in the previous chapter, the teachers and students were not singling out these students because they were girls, but because they were Roma. While conducting my research for this dissertation, I found just as many instances of prejudice against male Romani students as female. For this reason, the harassment of female Romani students occurs exclusively on the ethnicity axis, not gender. Racism in schools is another example of how stereotypes and representation negatively affect opinions which provoke consequent actions. The language these individuals use like, 'dirty' and calling the children unintelligent, harkens back to misconceptions about the Romani community. These bullies use generalisations that they have heard and picked up from the media or interactions with other individuals and use them to unfairly characterise all Roma. The above examples I have expanded on are all examples of the intra-categorical classification of intersectionality in the education sector because they are all triggered by only ethnicity.

Turning now to employment, I have found two examples of intra-categorical intersectionality (i.e., the singular axes of either ethnicity or gender). The two examples are: the lack of childcare facilities and also the discrimination from employers and colleagues. While the lack of childcare facilities does not directly affect employment, it does limit some Romani women's ability to gain employment during the first years of their child's life. Romani children are often unable to get places in early education facilities because of their ethnicity. There is no separate provision for discrimination against female versus male Romani children. All Romani children face the same barriers to entry, thus only the ethnicity axis is in play in this instance. The first barrier is political: local municipalities provide funding to schools in the most heavily

populated areas, like cities and suburbs. Therefore, these facilities will have the most school places. Consequently, Romani children living in the catchment areas for these facilities have a higher probability of gaining a place than their suburban/countryside peers. Unfortunately, not all Romani children live in these catchment areas. Approximately 50% of the Roma in the Czech Republic live outside the metro areas and are often isolated in predominantly Roma ‘ghettos’. These areas are under-serviced and rely almost exclusively on outside funding to keep services running. The Czech Republic *has* acknowledged that it is deficient in the number of early education places it needs to properly accommodate its whole population. Accordingly, the government focuses its spending on facilities in the cities with the largest catchment because that is where their money will be the most fiscally impactful. But the result is, they are leaving behind the most vulnerable children. Social structures also play a role in limiting Romani children’s access to childcare and early education. In the same manner that some *gadje* parents and administrators reject Roma children in the primary and secondary school levels, a similar phenomenon of social grouping and segregation is occurring here, at the preschool level. Romani children must, unfortunately, contend with analogous segregation throughout the entirety of their education. Romani families, in particular single mothers, are therefore forced to find alternatives when the system fails to provide a place for their child. In some cases, an alternative is found, but this is not always possible. Consequently, some women are forced to stay home to care for their children, which, in turn, affects their ability to become gainfully employed.

Following on, the second intra-categorical example in the employment sector is discrimination by employers and colleagues. This discrimination is an interesting example because it is double-edged. In one instance, ethnicity is in play, while on the other, it is gender. But I would argue that ethno-gender is *not* in play for this type of discrimination. For example, when an employer turns away a candidate due to a presupposed Romani surname, this is because of their ethnicity; not because they were a Romani woman, but because they were identified as Roma. Similarly, when, over the phone, an employer agrees to hold an interview but changes their mind when the candidate arrives in person, this is again prejudice based solely on ethnicity. These employers would be just as likely to turn away a candidate who was a Romani male as they would a female. Thus, gender does not play into this kind of discrimination.

Representation is the main motivation behind this prejudice. These employers and colleagues shun Romani employees because of damaging stereotypes.

Romani women who take employment in the informal or formal economy also receive less pay simply due to their gender. As I detailed in the previous chapter, the Czech Republic has a poor track record concerning gender wage equality, with women earning less than men across several sectors. It was particularly difficult to determine whether an anti-categorical or intra-categorical classification would best describe this situation. Ultimately, I decided to place it in the intra-categorical classification because of the prevalence of lesser wages for women across the board in the Czech Republic. It is difficult to know whether being a Romani woman would mean receiving an even lower salary simply for being Roma because very little data has been collected on this issue. But there is a preponderance of evidence in literature and by EU reporting that a gender wage gap exists in the Czech Republic and it is large. Consequently, Romani women, just like the majority of women in the Czech Republic, must continually advocate for equity in salary. There is European Union law (Article 119 Treaty of Rome/157 TFEU) and Czech laws (2006 amendments to Acts no. 1/1992 & 143/1991) detailing equal pay for equal work so the motivation for the wage gap cannot be political. Therefore, it is a mix of representational and structural forces that cause this wage gap. It is representational because women were often paid less for work due to their perceived weakness and inability to complete tasks as well as their male colleagues. Social structures are also a root cause because many jobs, until recently, were dominated by either males or females. These gendered jobs meant that wage discrepancy was not common because the employees were all members of the same group. When women began gaining employment in predominantly male industries, employers would often pay these women less because they were deemed inferior. Unfortunately, these factors persist to this day and Romani women fall prey to the same Czech wage gap that plagues all women within this country.

In conclusion, these instances of maltreatment are all examples of intra-categorical discrimination because either gender *or* ethnicity was the driving factor behind the discrimination. Romani women and girls experience these types of discrimination because they are Roma or because they are women. For the majority of these cases, it is easy to determine the

rationale. In the case of reduced wages, it was difficult to distinguish whether the motivation was gender or ethnicity. Further study and data on this topic would most likely illuminate better the underlying forces, but for now, this is an especially ambiguous case. This particular example serves to show that the forces behind discrimination are not always cut and dry, but just because they are unclear does not mean that they do not exist or should not warrant further investigation.

## 7.2 Anti-categorical

In this section, I will be dealing with the anti-categorical classification of discrimination as defined by McCall. Anti-categorical rejects the usual distinct categorisations and instead looks at the overlaps. For my analysis, gender within ethnicity or ethno-gender refers to such an intersection of two categories. Mainstream scholarship on discrimination is known to focus on one category i.e., gender, ethnicity, or sexuality, but this does not always paint an accurate picture of events. Romani women, in particular, are usually grouped within the Roma movement or women's right's movement at large. But each of these categories does not completely capture the full experiences of Romani women because they are a distinct entity within society. Therefore, looking at ethno-gender is important to gain a better understanding of the experiences of Romani women.

When Romani girls are stopped from continuing their education by family members, marriage, and other societal constraints, this is due to ethno-gender. The only reason they are stopped is that they are Romani girls, not because they are Roma. There is significantly less pressure for boys to drop out of school to take care of the family. Furthermore, it is not because they are girls; there is no evidence of *gadje* girls leaving school at the same rate that Romani girls do. Thus, it is down to the patriarchal social structure of the Romani community that produces this unique situation. The rigid gender roles in the family are a considerable barrier to pursuing an education, which, in turn, decreases employability later on in life if the girl so chooses to enter the workforce. Only social structures motivate this practice. No EU or Czech law dictates that Romani girls must leave school early. In fact, the Czech Charter of Fundamental Rights and Freedoms Article 33 dictates compulsory education, so it is not politics that is motivating girls to leave school early. Romani families are also not disturbed by the mainstream representations of the patriarchal Romani community to reduce the drop-out rate. In

reality, this custom is most likely fueling representations of the Romani community as ‘backward’ and ‘patriarchal’. The decreasing numbers of girls leaving school *is* promising, but this practice still exists throughout the Czech Republic. This is the first example of discrimination that is prevalent only among Romani women.

The Czech government’s sanctioned practice of performing sterilisations on Romani women is the second example of an ethno-gendered motivation for prejudice. This procedure was performed on Romani women because of both their gender *and* their ethnicity. It was easier to perform sterilisation procedures on women than on men. The reason for this is: women are/were more vulnerable during childbirth. Thus, the procedure could be performed without consent or they could be forced to sign away consent whilst under the influence of drugs. I detailed instances of both in the previous chapter. But, in fact, it was not just their gender that motivated the sterilisation procedure; it was their ethnicity. The Czech Government has acknowledged that sterilisation was a State-sponsored eugenics program designed to alleviate purported future spending on lower-class individuals. Indeed, this was not an explicit program aimed at targeting the Roma, and there was no specific mention of the Roma in the official documentation of the Sterilisation Act. While this is true, the fact remains that it was Romani women who were the vast majority of the victims. In this instance, economic class intermeshes with ethnicity, and they become inextricable from each other.

The State was able to target Romani women because they were labelled as ‘lower class’, not because of their ethnicity. Their ethnicity cannot be counted out, though. This practice went further than simply sterilising women who needed the procedure to save their life or those who were deemed ‘lower class’-- to women who were sterilised against their will. Sterilisations therefore were no longer a tool to ‘alleviate social spending’, but a eugenics tool aimed at decreasing the Romani population. Hence, it was these women’s status, as a Romani woman, that provided the rationale. This practice was sanctioned by law, meaning many Romani women believed they had no course to complain. The Sterilisation Act of 1971 remained in existence in the Czech Republic until 2011 even though it violated both Czech and European law. The Czech Charter of Fundamental Rights and Freedoms, which came into effect in 1991, guarantees the right to personal liberty and privacy. Articles 6 and 7 of the EU’s Charter of Fundamental Rights

guarantee these same rights. Deciding the number and spacing of your children falls under personal liberty and privacy, both protected under these laws. Unfortunately, the eugenic politics of the Czech Republic superseded these human rights.

Politics was not the only impetus in this case. Social structures also played a role by creating an environment where victimised women were afraid or unable to come forward. The Romani community, in general, has a longstanding aversion to government agencies or ministries. Consequently, when traumatic circumstances occur, the victims may not feel comfortable voicing their concerns. Some may not know that they *could* come forward at all. Because many women kept silent, there was no circulating information between friends or from the media to forewarn potential victims. Thus, the sterilisations were able to continue for approximately 40 years. Although uncommon, there were instances of families blaming these women for allowing this procedure to take place. In these cases, shame and the potential for bringing dishonour meant that many women stayed silent. These social justifications prevented many Romani women from speaking up. The principal motivation for committing these sterilisations, however, was representational. Doctors, social workers, and other healthcare administrators believed that Romani women needed to be sterilised because of stereotypes; these women are incapable of taking care of their children, the state would be ‘footing the bill’, and other racist generalisations. The overwhelming belief that conducting these procedures was for the good of society emerged from these prejudicial opinions. Consequently, sterilisations occurred because of political, social, and representational motivators placed on the ethno-gender axis.

The final experience I will be analysing is the racial discrimination in hospitals and by healthcare professionals. Unlike the previous examples of discrimination that I expounded on in the preceding section, I contend that this prejudice is anti-categorical because it happens at the intersection of both gender and ethnicity. Contrasting with racism in schools or the workplace which occurred solely because of ethnicity, in the healthcare sector gender must be added to the mix. I agree that the overarching axis in play in these examples is still ethnicity, and many doctors *are* still singling out these women due to their background, but the gendered nature of healthcare means that gender cannot be stricken completely from these experiences. I have

already analysed the underlying factors in the sterilisations to be a result of ethno-gender, but this is not the only area within the healthcare sector. Prenatal care, cancer screenings, and OB-GYN consultations are just some of the areas where Romani women could conceivably be treated differently from other patients. Men, Romani men in this case, comprise a separate category within the healthcare sector, with different needs and care. Therefore, it would be inequitable to categorise the experiences of Romani women in the same group. Thus, ethnicity by itself cannot be the driving force behind the treatment of Romani women. At the same time, gender cannot be the singular motivation either. Romani women are singled out from the mainstream female population to be subjected to segregated wards and insensitive language from administrators. Hence, ethno-gender discrimination is functioning here. These women are being discriminated against because they are Roma *and* a woman together. Romani men and other females do not receive the same conduct from healthcare professionals. As with all other instances of discrimination in this essay, representation is the driving factor behind this treatment. Some administrators accede that Romani women are somehow incapable of making the correct decisions about their own bodies because of stereotypes of ignorance or indifference. Thus, administrators believe they are within their rights to make decisions on these women's behalf.

All instances of racial discrimination and prejudice that I have detailed in this essay occur contrary to both European and Czech laws. Both sets of *de jure* laws explicitly guard against prejudices on ethnic grounds. The European Union's TEU and TFEU both include Articles dedicated to the protection of minorities and repudiating discrimination based on ethnicity (Article 2 and Article 10, respectively). In the Czech Republic, the Roma are considered a protected minority (Charter of Fundamental Rights and Freedoms Article 24 protects minorities) and the Anti-Discrimination Act defends them from discrimination in everyday life. Yet, as I have accounted in this essay Romani women are, to this day, persistently victims of prejudices despite laws against it at both the European and Czech level.

### 7.3 Conclusions

In this essay, I have detailed the extensive *de jure* laws in both the European Union and the Czech Republic that refer to gender equality and Roma protection. Subsequently, I listed the *de facto* experiences of Romani women, both negative and positive where possible, in the Czech

Republic in the education, healthcare, and employment sectors. Each experience was then analysed using Leslie McCall's intra and anti-categorical classifications to show the underlying motivations behind these discriminations. I also used Kimberlé Crenshaw's intersectional methodology to show that Romani women in the Czech Republic experience discrimination because of political, social, and representational factors outside of their control.

This discriminatory treatment persists despite laws in place at both the EU and Czech level to prevent such things from happening. The EU and the Czech Republic are clear in their respective *acquis* that discrimination based on gender or ethnicity is against the law. The founding treaties of the European Union and subsequent Directives (such as the Equality Directives) form the basis of their position on nondiscrimination. The Czech Republic also, through its laws, espouses equality and nondiscrimination based on gender or ethnicity. As a member of the EU, the Czech Republic is also obligated to transpose Directives and the *acquis* into its national law. Thus, the *de facto* writings of the Czech government are resoundingly anti-discrimination. The Czech Republic has laws against discrimination by gender or ethnicity, promoting equal pay, and providing compulsory education. The EU and Czech government also regularly publish plans and targets aimed at improving the situation of their Romani population. Unfortunately, despite these plans (to cut the gender employment gap, for example) there are still Romani women who experience such discrimination.

I was careful in my delineation and analysis to refrain from comparisons between the situation of Romani women and other groups. This paper has instead focused solely on the Romani women themselves and has centred and concentrated on their own experiences. These experiences are valid in their own right, not just when presented in comparison to other groups. Research in this field can be further augmented by conducting in-person research and interviews with subjects to gain a first-hand perspective within these three sectors. There are also other sectors of society such as domestic violence or housing, that would benefit from similar intersectional analysis.

To conclude, Romani women in the Czech Republic are in a precarious position due to their distinctive categorisation. Their unique situation provides the foundation for three axes of

discrimination. Romani women can therefore be discriminated against because of their gender, their ethnicity, *and* their ethno-gender. This discrimination is tenable by political rationale, social structures, and stereotypical representations. In each of the cases of prejudice I detailed in this paper, one or more of these motivations compelled its inception and perseverance. Importantly, these motivating factors are all beyond the control of the impacted women.

The axis of discrimination (gender, ethnicity, or ethno-gender) on display is clear in some cases. In the case of segregated schools, for example, it was easy to see how just ethnicity motivated this discrimination. However, all too often, these axes are inextricably linked with one another, and it is difficult to quantify the exact motivation behind the prejudicial treatment. Discrimination from employers and reduced wages are two such examples where differentiating between gender and ethnicity was particularly difficult. Therefore, great care needs to be taken by the relevant authorities to acknowledge the discrimination faced by Romani women as its own entity. It cannot merely be understood in diametric terms of race and gender because this does not always encompass the full scope, but as it truly exists, discrimination exclusive to *Romani women*.

In some instances of discrimination, Romani women may easily be able to bring a case against the perpetrators on the grounds of gender or ethnicity. But, when the crux of the discrimination is unclear or nebulous, i.e. it occurs at the intersection of multiple axes, seeking restitution becomes increasingly difficult. Say, for example, a Romani woman believes she was turned away from a job unfairly and wants to lodge a complaint against the employer. Under what domain, ethnicity or gender, would be it pertinent to bring the case forward? If she tries to bring the case based on ethnic discrimination, but there are other Roma working in the same company, the employer will point to those individuals as evidence that they are not racist. If she brings the case based on gender discrimination, but there are other women working in the company, the employer will, again, point to these individuals as evidence they are not sexist. So, what then should the Romani woman do? As it stands now there is no precedence, in the Czech Republic, for bringing discrimination cases forward based on two fronts. Thus, the distinct experiences of Romani women in the Czech Republic are neglected by the same authorities meant to be promoting their equality. This intersectional discrimination, felt by the Romani

women in the Czech Republic, merits advocacy and recognition. Until the relevant authorities acknowledge that the experiences of Romani women are unique and incited by factors outside of their control, this prejudice will continue for the foreseeable future. It will persist regardless of the laws, directives, inclusion plans, and the well-meaning resolve of activists because there is no clear avenue for genuine redress.

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# Appendix

## 1 Section 356 Czech Criminal Code

Section 356 Instigation of Hatred towards a Group of People or of Suppression their Rights and Freedoms

- 1 Whoever Publically instigates hatred towards any nation, race, ethnic group, religion, class or another group of people or instigates suppression of rights and freedoms of their members, shall be sentenced to imprisonment for up to two years.
- 2 The same sentence shall be imposed to anyone who conspired or assembles to commit the act referred to in Sub-section (1).
- 3 An offender shall be sentenced to imprisonment for six months to three years, if he/she
  - a Commits the act referred to in Sub-section (1) by press, film, radio, television, publically accessible computer network or in another similarly effective way, or
  - b Actively participates in activities of a group, organisation or association that promotes discrimination, violence or race, ethnical, class, religious or other hatred by such an act.

## 2 Section 355 Czech Criminal Code

Section 355 Defamation of Nation, Race, Ethnic or other Group of People

- 1 Whoever publically defames
  - a Any nation, its language, any race of ethnic group, or
  - b A group of people for their true or presupposed race, belonging to an ethnic group, nationality political or religious beliefs or because they are truly or supposedly without religion,

Shall be sentenced to imprisonment for up to two years

- 2 An offender shall be sentenced to imprisonment for up to two years, if he/she commits the act referred to in Sub-section (1)
  - a With at least two persons, or
  - b By press, film, radio, television, publically accessible computer network or in another similarly effective way.

## 3 Section 352 Czech Criminal Code

Section 352 Violence Against Group of People and Individuals

- 1 Whoever threatens a group of people with death, bodily harm or causing extensive damage, shall be sentenced to imprisonment for up to one year.

- 2 Whoever uses violence against a group of people or against an individual or threatened them with bodily harm or causing extensive damage for their true or presupposed race, belonging to an ethnic group, nationality, political or religious beliefs or because they are truly or supposedly without religion, shall be sentenced to imprisonment for six months to three years.
- 3 The same sentence as in Sub-section (2) shall be imposed to anyone who
  - a Conspires or assembles for the purpose of committing such an act, or
  - b Commits the act referred to in Sub-section (1) by press, film, radio, television, publically accessible computer network or in another similarly effective manner.

4 Original Czech from *Romská žena – identita, role, postavení*

Footnote 143: “Učení bylo na škole takový normální, lehký, já jsem všechno chápala, byla jsem výborná žákyně...”

Footnote 144: “Neměla jsem (ve škole) žádný problémy, ani s učením”

Footnote 145: “Na učitele nemám dobré vzpomínky. Hodně mě od dalšího studia odrazovali. Tvrдили mi, že na to nemám schopnosti”

Footnote 146: “Na základce to bylo hrozné, byla jsem tam jediná Romka. Navíc po prázdninách jsem přišla opálená. Nikoho jsem tam neznala, všichni už měli kamarády a se mnou se nikdo nebavil. Dávali mi hodně najevo, že jsem jiná”

Footnote 163: “(...) jsem chtěla, když jsem vyšla základku, se vyučit za švadlenu, jenže maminka mně to nakonec nedovolila, protože jsme byli plno, hodně dětí, nás bylo deset a bylo hodně práce doma, takže na to studium jsem nemohla jít se vyučit, takže to mě moc mrzí tady toto, že jsem se nevyučila.”

Footnote 209: “Práci jsem si hledala ty dva roky po maturitě. Například jsem absolvovala výběrové řízení na asistentku starosty v (město, ze kterého pochází). Byla jsem ale absolventka bez zkušeností, dali přednost starší zkušenější paní. S rasismem jsem se při hledání práce nesečkala.”

Footnote 210: “Za celou dobu jsem byla nezaměstnaná jen čtyři měsíce. Ale nikdy jsem se nesečkala s diskriminací, že jsem Romka.”

5 Original Czech from IQ Roma Servis

Footnote 210: “Klientka váhala, jestli je to správný krok a práce v zahraničí se obávala. Společně jsme ale její situaci rozebrali, prozkoumali rizika a přínosy, zkontrolovali návrh smlouvy a začátkem dubna klientka odcestovala. Podobně budeme rádi doprovázet i další klienty,” uzavírá Horváthová.

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<b>Title:</b> The disparity between <i>de jure</i> and <i>de facto</i> experiences of Romani women in the Czech Republic: An intersectional analysis
<b>Short description of the topic:</b> I use intersectional methodologies to analyse the <i>de facto</i> experiences of Romani women in the Czech Republic in the education, healthcare, and employment sectors. I show that discrimination is prevalent, despite <i>de jure</i> laws precluding such action, because Romani women are at the intersection of three axes of discrimination.
<b>Proposed structure:</b> 1. Abstract 2. Introduction 3. Literature review 3. Theoretical Framework & Methodology 4. Brief history of Roma 5. <i>de jure</i> standards codified in law (EU & CZ) 6. <i>de facto</i> reality (education, healthcare, employment) 7. Conclusion
<b>Sources (basic selection):</b> Intersectional methodology: Leslie McCall & Kimberle Crenshaw De jure laws: EU treaties, EU Directives, Neighbourhood Plans, Czech Charter of Fundamental Rights and Freedoms, Czech Criminal Code De facto situation: NGO reports & surveys, EU reports & surveys, pictures & paintings, news articles