Conclusion

During the first decade and a half after the end of the Homeland War, the process of transitional justice in Croatia was slow, painful, and often accompanied by divisive and contested politics. The policy of criminal prosecution expanded and stabilized after 2000 to address more adequately and impartially the wartime legacies of abuse, and some progress has been made in relation to the issues of missing persons and reparations. The major challenges to full-blown transitional justice in the Republic of Croatia stem from the ambivalent attitudes toward the repressive past prevalent among the political class and the Croat majority in the country. Although the record of transitional justice has improved in the context of Croatia’s bid for EU membership, very often this process has addressed European institutions but continued to ignore Croatian Serbs.

Iavor Rangelov

Cross-references: Amnesty; Bosnia-Herzegovina; Court Trials for Redress; International Criminal Tribunal for the Former Yugoslavia; Lustration; Montenegro; Reparations; Serbia; Unofficial Truth Projects.

Further Readings


Cuba

The revolutionary regime in Cuba (declared communist in 1961 by supreme leader Fidel Castro) began on January 1, 1959. At the time of this writing, the sole cosmetic change in leadership has been a succession of power from Fidel Castro to his younger brother Raúl in 2006. Regime continuity impedes efforts at transitional justice, although groups outside the island have documented repression and sought compensation for victims through non-Cuban court systems.

The Repressive Past and Present

The Castro regime sought to eliminate all accused collaborators of the toppled Fulgencio Batista dictatorship (1952–1959), including Batista-affiliated government contractors, businesspeople, provincial governors, mayors, aldermen, bank presidents, judges,
members of the armed and police forces, university professors, Catholic priests and other religious leaders, and anyone unable to prove their loyalty to the revolution, immediately after the founding of the revolutionary regime. Documented total cases to date indicate about 4,000 deaths by firing squad alone. The famous Argentine rebel Ché Guevara ordered more than 100 of these executions and some were by his own hand. The regime held closed kangaroo trials, or sham legal proceedings held by biased parties, resulting in predetermined guilty verdicts for alleged counterrevolutionary activities. The Ministry for the Recovery of Misappropriated Assets confiscated vast and valuable properties from the so-called Batista collaborators. These events, together with religious persecution, imprisonments, hard labor, indoctrination, and the fear of Soviet influence, led to the first wave of Cuban refugees, mostly to the United States. An unknown number of refugees were convicted in absentia for abandonment of the island and counterrevolutionary acts.

Early supporters of the Cuban Revolution soon turned on Fidel Castro when his promises of restoring democracy and competitive elections never materialized. The regime jailed those who openly criticized the Revolution and its increasingly communist tendencies. Property confiscations went beyond those of accused Batista collaborators. All bourgeois, capitalist elements, such as lawyers, bankers, farmers, cattle ranchers, and commercial and industrial enterprise owners, became targets. Owners of income-generating residential properties lost them, and property titles and ownership promised by the Cuban regime to tenants were never delivered. Within the first decade, even owners of small firms and plots were affected by confiscatory measures. Anti-Yankee (a derogatory term for U.S. citizens) rhetoric was employed to garner support domestically and abroad from enemies of U.S. interventions. The agrarian reforms of 1959 and 1963 transferred to the state vast lands and agro-industries owned by Cuban nationals and foreigners, including several hundred thousand acres owned by U.S. citizens. Nationalization legislation authorized the seizure of private properties of all sizes and monetary value at the beginning of the Revolution and, in 1968, of several thousand remaining small businesses. With few exceptions, no compensation was paid.

The failed Bay of Pigs invasion of April 1961, when Cuban exiles together with U.S. citizens mounted a U.S. government-backed attack against the island in the hope of inciting opposition among Cubans and ousting the Cuban regime, resulted in the imprisonment or execution of those who were captured by Cuban combatants. The attack prompted increased repression on the island in order to quash any possibility of counterrevolutionary cooperation with outside forces. Nevertheless, dissident activity increased on the island and was punished by imprisonment, torture, and forced exile. As in other communist countries, the regime encouraged citizens to report on family, friends, and neighbors, and a vast network of secret informers was recruited throughout the island. According to former Cuban intelligence officer Juan Antonio Rodríguez Mernier (1994), Cuba’s Ministry of the Interior (MININT) employed 100,000 persons in the 1980s, at the time when the population numbered 10 million. Additionally, 500,000 agents produced most MININT intelligence data and 3 million intelligence sources were available for service when needed. Cuban regime defector Manuel Beunza, a former high-ranking intelligence officer, has corroborated these figures. This facilitated the revelation of dissident or counterrevolutionary activity, creating an environment of paranoia and distrust.

The Cuban regime shut down Catholic and other private schools in order to consolidate state control over education and to commence communist indoctrination. Parents
feared the indoctrination of their children and the loss of their parental rights to the state. In 1960, James Baker, headmaster of the American Ruston Academy in Havana, and Father (later Monsignor) Bryan O. Walsh, Director of Catholic Welfare Bureau, organized the evacuation of 200 students whose parents were considered opponents of the regime. From November 26, 1960 to October 22, 1962, 14,048 unaccompanied Cuban children were sent to the United States by their parents in the so-called Operation Pedro Pan program. The Catholic Church placed children in camps until foster parents were identified. Jewish Family and Children’s Services arranged for the 396 Jewish children in the group to be placed immediately with Jewish foster parents. The Operation sought to ultimately reunite children with their parents who had stayed behind in Cuba. Sometimes it took years for parents to escape Cuba and in a few cases parents never made it out of the island. State control over children was officially validated in Articles 37, 38, and 39 of the 1976 Cuban Constitution, which read that the communist state controls education and parents are obligated to educate their children to be useful citizens in a socialist society.

The Cuban regime rid the country of many opponents by permitting mass migrations to the United States. On September 29, 1965, Castro announced that those who wanted to leave could do so through the Cuban port of Camarioca. Thus, hundreds of Cuban exiles in boats retrieved 2,979 relatives until November 15, 1965. Refugees had to apply to the Ministry of the Interior to receive permission to exit the island. That same year, recognizing the danger of these trips for those who took them, U.S. President Lyndon Johnson announced that he would welcome all Cuban refugees. From 1965 to 1973, the Cuban and the U.S. governments organized about 3,000 “freedom flights” from Varadero to Miami in which 265,000 Cubans left the island on American planes. The US$12 million program was financed by the U.S. government and assisted by religious and volunteer agencies that attempted to disperse the refugees around the country. In 1980, Castro again declared that all those who wished to leave Cuba could do so, including the homosexuals, a group the Revolution had attempted to “reeducate.” As a result, some 125,000 Cubans left in the Mariel Boatlift mass exodus, in which the Cuban regime surreptitiously placed on boats violent criminals and mentally ill emptied out from its prisons and psychiatric facilities as a condition of allowing refugees to depart. Although Cubans had fled to the United States on boats and rafts since 1959, the end of Soviet subsidies in the early 1990s, following the dismantling of the Soviet Union in 1991, and the ensuing dire economic straits, resulted in thousands of Cubans escaping to the United States on stolen or hijacked boats and makeshift rafts. The refugees, known as balseros or rafters, numbered in the tens of thousands between 1991 and 1994. As of 2004, some 80,000 rafters lost their lives while attempting to escape. The regime aggressively tried to stop the exodus by shooting refugees or sinking their vessels to drown them. The Miami Herald houses searchable online databases for Operation Pedro Pan, the Freedom Flights, and the Mariel Boatlift.

In the mid 1990s, a nascent independent press created an international stir. The Cuban regime briefly imprisoned and state agents frequently harassed some journalists. In 1998, the Varela Project, inspired by Czechoslovakia’s Charter 77, collected signatures for a petition asking the Cuban authorities to observe the democratic rights protected by the international conventions the country had signed, such as the International Covenant on Civil and Political Rights. Seventy-five human rights activists, including twenty-five Varela Project members and twenty-nine independent journalists, were arrested in
Cuba’s Black Spring (March 2003). Some of the families of the imprisoned who were harassed, monitored, and lost their jobs chose exile as life in Cuba became unbearable.

**Transitional Justice**

Without regime change in Cuba the possibilities to enact transitional justice are limited. One of the greatest risks in Cuba’s lack of change is that the regime learned from fallen communist countries. That is, there has been time to take measures to ensure that the redress of wrongs committed by them will be made more difficult. The expressed desire of exiles and dissidents to deal with the past and present repression in Cuba varies from “forgive and forget” to trials and prosecution for all involved with the regime.

**Truth and Memory**

Although a Truth Commission cannot yet be established because the current communist regime denies any wrongdoing, foundations for this option have been established. The Cuba Archive of the Free Society Project, founded in 2001 in the United States and made up of academics, human rights activists, and professionals, documents the loss of life (political disappearances and fatalities) resulting from the Cuban Revolution, from the 1952 Batista coup d’état to the present time. The project compiles cases based on bibliographic and primary sources and provides pictures of victims when available. The goal is to provide a springboard for “constructive remembering” so that the atrocities and injustices will not be repeated after the expected collapse of the Cuban communist regime.

More than half a century has passed since the revolutionary takeover. Therefore, many of the earliest surviving victims are quite elderly. To help capture their experiences, Cuban-American filmmaker Rafael Lima created two documentaries about political prisoners, “Presidio: The Trip Back” (2003) and “Plantados” (2006), which are available from the University of Miami and have entered Cuba via channels not approved by the Cuban government. The visual medium of these testimonies is crucial to educating current and future generations about the systematic destruction of family and life by the Cuban communist regime.

**Compensation**

In 1996, the U.S. Congress amended the Foreign Sovereign Immunities Act to allow U.S. citizens victimized by terrorist acts and state sponsors of terrorism to sue for damages. In 2002, Congress passed the Terrorism Risk Insurance Act to pursue assets of state sponsors of terrorism such as Cuba, which provides safe haven for members of terrorist organizations from around the world, including the United States. Victims and their families who are U.S. citizens have used this legislation to sue the Cuban government in an effort to tap into frozen Cuban assets in U.S. bank Chase Manhattan. In 1996, Cuban MiGs shot down four members of Brothers to the Rescue, an organization whose volunteer pilots flew missions over the Florida Straits looking for rafters. Three of the four pilots shot down were U.S. citizens. Their families used the legislation to sue for wrongful death and were awarded US$187 million. The Clinton administration (1992–2000) initially rejected the release of frozen Cuban funds to pay the award, because
President Bill Clinton claimed that these judgments interfered with U.S. foreign policy. He relented in 2001, the day before he left office, allowing the families of Armando Alejandre, Carlos Alberto Costa, and Mario M. de la Peña to collect US$96.7 million. Cuba’s frozen assets are largely depleted since several families have collected millions of dollars in damages in other lawsuits against the Cuban government.

**Restitution of Property**

The U.S. government is the only one of the countries whose citizens were affected by confiscations, such as Canada, France, Spain, Switzerland, and the United Kingdom, that has not signed a bilateral compensation treaty with the communist Cuban government and accepted compensation payments for properties owned by its citizens, largely because payments would be inadequate (payments to the signatory countries were pennies on the dollar). These properties are currently estimated to be worth billions of dollars. Cash compensation payments for properties confiscated from U.S. and Cuban citizens will be virtually impossible with the depleted frozen funds and a Cuban Treasury bankrupted by decades of economic mismanagement and the funding of missions intended to garner international support for the Cuban regime.

Cuban exiles attempted to create a registry of confiscated properties that would purportedly have been used to organize and facilitate the resolution of claims, but a lack of trust on the part of potential claimants thwarted this endeavor. Academic groups such as the Association for the Study of the Cuban Economy (ASCE), founded in 1990, have also provided conference presentations and publications, including privatization plans and recommendations on how to best resolve property claims.

**Documenting and Reporting Crimes**

The Cuban Democratic Directorate (Directorio) was founded in 1990 by students outside of Cuba to aid in the regime change of the island. This organization, informed through its in-country contacts, reports on its Web site, electronic newsletters, and publications on daily repressive acts of the Cuban regime. This provides information that could be used by a postcommunist government to determine how and if to punish the perpetrators of crimes and to rehabilitate the victims. Together with Directorio, Mothers and Women against Repression (M.A.R. por Cuba), founded in 1994 in Miami, brings awareness of human rights abuses in Cuba around the world and lobbies foreign governments and organizations to support opponents of the regime. M.A.R. differs from other Latin American women’s groups in that members have not necessarily lost children or spouses to Cuban prisons and executions. These organizations have the support of governments, dissidents, exiles, and others from former communist Czech Republic, Estonia, and Poland that could pressure a postcommunist government in Cuba to right its predecessor’s wrongs.

**Conclusion**

The length and continuing existence of Cuba’s communist regime makes it virtually impossible to achieve justice for its victims. In light of events in formerly communist countries, members and collaborators of the Cuban regime have taken steps to protect
themselves from future prosecution and the potential reversal of their policies. Many elites' children and relatives live abroad and hold dual citizenship. Officials own real estate around the world, particularly in states friendly to the regime. The option of exile to countries such as Venezuela or Spain (while their communist-tolerant administrations are in place) may allow perpetrators of human rights abuses to find protection from extradition and prosecution. The end of Soviet subsidies led the Cuban regime to open up to foreign investment, including in confiscated properties. This complicates future claims. Additionally, the passage of time has allowed for the option of destroying property registries and state security files. The political will on the island to redress the past is virtually impossible to measure unless a transition from communism begins in earnest.

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Cross References: Cuba Archive; Property Restitution; Rehabilitation of Political Prisoners.

Further Readings


Mariel Boatlift Database. Available at: http://www.miamiherald.com/cgi-bin/mariel/index (accessed September 27, 2010).


Operation Pedro Pan Database. Available at: http://www.miamiherald.com/cgi-bin/pedropan/search (accessed September 27, 2010).


The Czech Republic

The Czech Republic implemented one of the most comprehensive transitional justice programs among postcommunist countries. These policies had strong retributive undertones, aspiring to punish, exclude, and condemn persons deemed responsible for the systematic human rights violations committed during the 1948–1989 period, and to rehabilitate and compensate the victims of repression. Many policies were controversial in their design, implementation, or both; in particular, the public was disappointed that the authorities were able to bring only a dismal number of perpetrators to justice.

The Repressive Past

The Czech Republic and Slovakia share a common Czechoslovak past. Founded in 1918, Czechoslovakia was divided during World War II, was renewed after the war, became a Federation in 1968, and peacefully separated at midnight on January 1, 1993. While