Conclusions

_Human Rights as Effective Remedy, Human Rights as Liberation Ideology_

How to assess the success or failure of efforts to challenge the coercive sterilisation in the Czech and Slovak Republics in terms of personal autonomy and national sovereignty?

McCann, cited in the previous chapter, has offered among the richest series of insights for the interface between law, social action, and social change. McCann relies however, for the purposes of his reflections on the interface between law and struggle for social change, on a definition provided by Tilly of ‘social movement’, as follows. A ‘social movement’, for Tilly and McCann's purposes, is:

>a sustained series of interactions between powerholders and persons successfully claiming to speak on behalf of a constituency lacking formal representation, in the course of which those persons make publicly visible demands for changes in the distribution or exercise of power, and back those demands with public demonstrations of support.

The subject matter of this thesis is arguably at least somewhat divergent from the model described by Tilly, and relied on by McCann. The women in question have in some senses 'spoken on behalf of a constituency' – other women in similar circumstances who were sterilised coercively, thus seeming possibly to fall within the definition. However, it is likely more accurate to characterize their claims as individual justice claims grouped into a solidarity formation, with, in addition, wider social implications. Similarly, while indeed these women have made ‘visible demands for changes in the distribution or exercise of power’, these demands have been primarily basic demands for dignity, and are missing the wider political connotations implicit in Tilly's conception.

Additionally, as noted above, insofar as these women’s claims have diverged both from the priorities of the visible Romani representation in the Czech Republic, as well as from mainstream women's rights groups in the Czech Republic, the women concerned are in many ways in fact at odds with ‘persons claiming to speak on behalf of a constituency lacking formal representation’.

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On the one hand, the Czech Romani leadership has apparently sought to instrumentalize these women’s concerns, acting in some cases to capitalize on the shock value (‘genocide’), while in other cases acting to downplay what are potentially very troubling eventualities. On the other hand, because of a dearth of solidarity driven by a powerful atmosphere of contempt for ‘Gypsies’, Czech mainstream women’s rights groups have literally been unable or unwilling to make common cause with these women, or to identify in any consistent or meaningful way the underlying gendered elements of their claims. As a result, the Romani women at the heart of this ‘movement’ have been left to formulate their claims on the margin of others seemingly more explicitly situated in Tilly’s definition.

Further, the women concerned start their efforts to claim justice in situations of (often extreme) resource deprivation, and with various forces ranged against them. Many live in or on the margins of poverty, often working three or four unofficial jobs as cleaners or in other parts of the grey economy. Free or spare time is often therefore scarce or not available at all. Many of the women targeted for coercive sterilisation are illiterate or have very low levels of education. Many live in marginal or out-of-the way places, and are reliant on public transport, making regular attendance of support or organizing meetings difficult. Those affiliated with traditional Romani communities – as well as others – frequently labour under extreme patriarchal relationships, in which the voice of the woman is silenced and segregated to the home. Discussion of sexuality is taboo. As noted above, the nature of the practices has also meant that many of the women have been unaware that other women in their circumstances have been subjected to similar practices. As a result, their possibilities to make ‘publicly visible demands for changes in the distribution or exercise of power, and back those demands with public demonstrations of support’ as per Tilly and McCann, are, to put it mildly, extremely limited.

The strategies taken by the legal advocates of the women concerned – and the fates of their international legal complaints – have diverged in the two countries concerned. In Slovakia, advocates have vigorously pursued complaints to the European Court of Human Rights, in evident scepticism that remedy is possible at domestic level. These complaints have to date succeeded, with the caveats as to the legal issues noted in Chapter 4. In the Czech Republic, some of the complainants – guided or supported by their legal representatives – have accepted amicable settlements. As one result, the Slovak cases have left a deeper imprint on international law, as the European Court has been given a chance to rule on the European Convention aspects of these cases. It remains to be seen if and when the Court will ever have the chance to rule on the Czech cases.