

<CN>Chapter 9

<CT>How Citizenship Laws Leave the Roma in Europe's Hinterland

<AU>Helen O'Nions

Roma and other travelers¹ find themselves on the margins of every society in which they live.² They experience discrimination in addition to extreme economic and social disadvantage, including widespread unemployment, high infant mortality, residential isolation, and educational segregation. The fundamental principle of equality before the law is routinely denied to European Roma.³ In 2002, the EU Network of Independent Experts on Fundamental Rights identified an “apartheid situation” in which the Roma were excluded from virtually every right contained in Charter of Fundamental Rights.⁴ The situation has become more apparent with the expansion of the European Union to include states with relatively high Roma populations such as Hungary, Slovakia, and Romania.⁵

This chapter will move beyond a discussion of the social and economic context to reflect on the slippery nature of citizenship in the context of Roma inclusion by examining how citizenship laws and their interpretation can compound this disadvantage. Citizenship defines membership in a political community, it is, thus, vital for inclusion and integration. Following the dissolution of Czechoslovakia, thousands of Roma were denied automatic Czech citizenship and became de facto stateless. Many rights advocates argued that the new naturalization criteria had been drafted purposely to exclude Slovak Roma.

The discriminatory effects of the law were finally remedied in 1999, but the issue of citizenship has again raised its head, with routine expulsions of Roma migrants from several European states. These Roma are EU citizens with the right under European law to migrate and reside in another member state for at least three months without formalities.⁶ Yet their nomadic tradition of life, which seems well suited to these migratory rights, is typically depicted as a threat to the stability of host states, resulting in arbitrary arrest and collective expulsion. There is no clear legal authority for collective expulsion, yet there has been no

enforcement action or decisive condemnation by the European watchdog, the European Commission. Instead, these Roma are forcibly returned to their countries of nationality having been effectively stripped of their complementary Union citizen status.

<A>The Situation of Roma in Europe

The Roma are Europe's largest minority with an estimated population of between ten and fifteen million spread across the region. The Council of Europe has recognized the Roma's unique history of "widespread and enduring discrimination, rejection and marginalisation all over Europe." The Committee of Ministers called on states to adopt strategies aimed at addressing legal and/or social discrimination and promoting equality of Roma and traveler peoples.⁷ The UN High Commissioner for Human Rights and the Organization for Security and Co-operation in Europe (OSCE) counterpart have regularly discussed Roma poverty, unemployment, and deprivation, in addition to pervasive discrimination. The European Committee on Social Rights (ECSR) has upheld Roma complaints concerning housing and discrimination against Italy, France, and Bulgaria, with subsequent resolutions from the Committee of Ministers. In 2008, the Czech Republic was found to have violated the rights to education and non-discrimination when consigning Roma pupils to special, remedial schools, effectively preventing their access to mainstream education and employment.⁸ Although desegregation laws have been introduced across eastern Europe, educational and residential isolation remain common.

The relationship between Roma and non-Roma is characterized by mutual mistrust. The EU's non-discrimination survey found that one-quarter of respondents would "feel uncomfortable" with having a Roma neighbor (compared to 6 percent for neighbors from other ethnic groups). That number rises significantly to almost 50 percent in Italy and the Czech Republic.⁹ The European Commission has recognized the urgent need to tackle Roma exclusion and has pledged to continue financial support for inclusion projects.¹⁰

In the cases of state dissolution, particularly in Kosovo and Montenegro, the Roma became de jure stateless.¹¹ However, a more common concern to Roma advocates is the social and economic exclusion that undermines the opportunity for Roma to participate fully in civil society. This problem has received comparatively little attention in international law, dwarfed as it is by the more serious examples of de jure statelessness. In this respect, the Roma are different from the other case studies in this book: the link between a Roma minority or nation and a geographical homeland is missing. The Roma are a diaspora and are more accurately defined as a “transnational minority.”¹² The precise membership of that minority is beyond the scope of this chapter—suffice it to say that a broad approach could incorporate similar groups including Sinti, British Gypsies, and Irish travelers. These groups are linked by a history of persecution and a tradition of traveling but otherwise there is limited common ground to characterize and define this transnational minority. Modern reformulations of the theoretical dimensions of citizenship often fail to engage fully with these issues. Kymlicka’s multicultural citizenship, for example, requires a degree of homogeneity among the communities envisaged to benefit from group rights.¹³ It is simply not possible to fit the Roma into the homogeneous or constitutive community model and thus they tend to be excluded from such theoretical remodeling.¹⁴

<A>The Czech Citizenship Law

The dissolution of Czechoslovakia saw the implementation of a new Czech citizenship law in January 1993 (Law 40/1992). Under the previous Constitution Act 1969, there had been two types of legal identity: citizenship of Czechoslovakia and citizenship of either of one of the federal states, according to place of birth. No significance was attached to the federal citizenship until 1993 when it became the basis of new citizenship provisions. These provisions were based on principles of descent (*jus sanguinis*), which resulted in descendants of Slovak federal citizens being automatically excluded.

Many Slovaks moved to the Czech lands under the postwar communist industrial program when demand for labor grew dramatically.¹⁵ An estimated 25,000 Roma habitually resident in the Czech lands were left without Czech citizenship following dissolution¹⁶. Linde argues that the difficulty in demonstrating Slovak nationality meant that many were actually stateless *de jure*.¹⁷ Yet, given international law's narrow interpretation of *de jure* statelessness, it may be more accurate to define them as stateless *de facto*.¹⁸ Blitz observes that often *de facto* stateless persons are unable to prove their nationality, residence, or other means of qualifying for citizenship and, as a result, may find themselves excluded from the formal state.¹⁹ A leaked government internal document indicated that the Czech government feared an influx of economically impoverished Slovak Roma following dissolution. The citizenship criteria were drafted in such a way so as to prevent this "catastrophic scenario."²⁰

Article 18 of Law 40/1992 set out the citizenship conditions, including five years' proven residence (this period was initially two years for Slovak citizens in a concession that expired in July 1994), a clean criminal record, and competency in the Czech language. Linde describes this *ex post facto* penal sanction of denaturalization as "the most blatant violation of international law."²¹ For many rights advocates, it constituted a deliberate and cynical attempt to exclude Roma, and it soon became known as the "gypsy clause."²² Sample research indicated that a third of Roma denied citizenship had been indicted for petty offenses, prompting the argument that there was "a clear connection between the tragic social condition of the Roma community and the predominant type of criminal offences" Furthermore, 45 percent of the sample were refused citizenship notwithstanding their clean criminal records, suggesting that many were victims of discriminatory or ill-informed local bureaucracy.²³

The "gypsy clause" was widely condemned by international and regional human rights agencies.²⁴ The Council of Europe reasoned that, while a clean criminal record was typically a requirement of naturalization criteria, it was discriminatory and disproportionate

when applied in the context of state succession if a person could demonstrate established ties with the state.²⁵ In cases of succession, citizenship is based on a genuine and effective link with the state territory, habitual residence, the will of the person concerned, and the territorial origin of the person.²⁶ Yet it is estimated that over half those denied citizenship were actually born, and had remained, in the Czech Republic.²⁷ An amendment in 1996 allowing the interior minister to waive the criminal record requirement in individual cases did not stem the international criticism.²⁸

Roma also had difficulty satisfying the residence period due to their occupation of overcrowded, substandard accommodations designed to temporarily house new workers.²⁹ Even the Czech language requirement, which was waived for former Slovak citizens, caused some difficulty, as high levels of illiteracy and unsympathetic municipal officials combined to prevent many Roma from completing the application process.

Unsuccessful applicants could apply for permanent residence that would enable claims for medical and unemployment support. However, this also depended on a clean criminal record and proof of income. As a result, many Roma were left in legal limbo as the government recognized

<EXT>they cannot be legally employed or start a business; they cannot be registered by labor offices or receive unemployment benefits; they have no social or medical insurance; they have no right to the state social support benefits; their children are often taken from them and placed in children's homes as a result of neglect which leads to a chain reaction of social problems; their children should not, in theory, attend school unless the parents directly reimburse the costs.³⁰

Some 851 Slovak citizens were expelled between 1993 and June 1997, the majority of whom were believed to be of Romani origin.³¹ In 1997, the Czech Supreme Court ruled that the lifetime expulsion of a Slovak Romani for stealing \$4 worth of beetroot was disproportionate and therefore unlawful.³²

It is also possible to identify a wave of Roma emigration blamed in part on their social and economic situation in addition to the rising popularity of far-right politics that typically depicted Roma as enemies of the state. In 1993, 24,000 people were detained after attempting to depart illegally for Germany, a significant number of whom were identifiable as Roma.³³ On occasion, Roma were actively encouraged to leave; one notable example was the offer from the mayor of Mariánské Lázně to provide public funds to assist with their flight expenses.³⁴ The construction of a wall segregating Roma and non-Roma residents in the town of Ústí nad Labem also attracted international condemnation.³⁵ Canada became a popular destination after the airing of a television documentary depicting Canada as a safe haven with a special Roma assistance program.³⁶ In response to the number of Roma asylum applicants, the Canadian government imposed visa requirements on Czech nationals in 1997, but there remained a continual flow of Roma arrivals.³⁷ Similar concerns led to the temporary imposition of visa requirements against Slovak nationals in the UK.

The citizenship law continued to be condemned by international and regional human rights agencies for its discriminatory application.³⁸ After sustained criticism and, most significantly, with EU membership on the horizon, the effects of the law were largely ameliorated by an amendment in 1999 which permitted those resident on Czech lands at the time of dissolution to seek a declaration of citizenship.³⁹ In the year immediately following the amendment, 6,278 former Slovaks finally achieved Czech citizenship relying on the new provision.⁴⁰ However, this came too late for several thousand Roma who had already migrated. The paradoxical effect was that the nomadic tradition that had been abandoned by most Roma in the region became the only realistic option for many. This return to nomadism, also evidenced by Roma migration in the EU, is the logical response for a community on the margins. Yet it is this nomadism that strikes fear in many European politicians.

The Czech citizenship law is not purely a matter of historical record. Similar issues have resurfaced in the “old” European states that have become destinations for migrant

Roma from “new” Europe. A citizenship dimension is provided by the Treaty on the Functioning of the European Union (TFEU) and EU Citizenship Directive 2004/38, which grants the privileged status of Union citizenship to all EU citizens. This status is more than political sentiment; it places legal obligations on host countries. The basic principle is the right of European citizens to move and reside in other member states without formalities for a period of three months. More significantly, the host state cannot lawfully expel a Union citizen unless it complies with the specific provisions in the directive.⁴¹

<A>Union Citizenship

The focus of European law has changed markedly from the original objectives in the 1957 Treaty of Rome. Human rights were then relevant only to the extent that they supported economic rights, for example in the fields of employment and equal pay. However, as the Community morphed into the Union, the construction of the European citizen became a priority, and human rights, particularly the right to non-discrimination, became central to the competences of the law-making machinery. Notwithstanding some skepticism surrounding the citizenship project,⁴² the case law of the European Court of Justice (CJEU) demonstrates that there is real substance to these developments.

The Citizenship Directive provides the right to move and reside in another member state irrespective of economic status. This right, originally for three months, will be extended indefinitely if the citizen can demonstrate economic self-sufficiency.⁴³ The right can only be removed on grounds of public security, public policy, or public health.⁴⁴ Furthermore, that deprivation must be proportionate. Collective and indefinite expulsions are prohibited.⁴⁵

Theoretically, the Roma with their nomadic traditions should fit perfectly within the free movement paradigm, particularly since its decoupling from economic status. However, Roma arrivals have typically been met with hostility. Collective expulsions have been tenuously predicated on a generalized public security threat that portrays Roma as threats to the fabric of stable society. Their relative poverty is used against them to justify expulsions.⁴⁶

<A>Italian and French Expulsions: An Overview

Collective Expulsions from Italy

In 2008, a census of camp residents in Italy was implemented following declaration of a “nomad emergency.”⁴⁷ The emergency stemmed from the killing of an Italian woman by a Romanian migrant believed to be of Roma descent. The murder resulted in a number of violent attacks, culminating in a mob arson attack on a Roma settlement in Naples.⁴⁸ In May 2009 the powers were extended from three to five regions. Many temporary camps were destroyed, and camp residents either were relocated to designated “villages” or simply became homeless. Action was simultaneously commenced to expel migrant Roma who lacked proof of residence.⁴⁹ Undocumented stay in Italy became punishable with a fine of up to 10,000 euros, and a nationwide register of homeless residents was established.⁵⁰ Nomad plans were introduced to relocate those Roma with “good character” to authorized “villages,” but the plans remain incompletely implemented, with many continuing to inhabit temporary shelters with no running water or sanitation.⁵¹

The problems faced by Roma and other travelers in Italy are not new.⁵² In 2004, the Italian government was held in breach of a range of obligations under the European Social Charter, including adequate housing, non-discrimination, and the prohibition on forced evictions.⁵³ The same year, a Veronese court found a group of Northern League members guilty of inciting racial hatred, having plastered walls with posters demanding the expulsion of nomadic Roma.⁵⁴ Such incidents attracted little attention outside Italy.

The European Parliament condemned the 2008 census of Roma camp residents and urged the Commission to investigate whether the measures contravened European law.⁵⁵ Yet the Italian authorities continued to allow local administrations to conduct the census over the next two years, while violence against Roma and Sinti escalated.⁵⁶ Legislation was introduced enabling the expulsion of Roma migrants, without reference to the obligations in

the Citizenship Directive.⁵⁷ Scores of illegal settlements were closed, with residents evicted without any alternative accommodation.⁵⁸

Surprisingly, the European Commission adopted a different position to that of the parliament, finding that the census had not been carried out on ethnic grounds.⁵⁹ Yet only two months earlier, the commission had warned prime minister Silvio Berlusconi against expelling Roma.⁶⁰ Furthermore, the Italian Red Cross, which had assisted with data collection, was clear that almost all camp inhabitants were of Romani origin and that the procedure was uniformly applied, irrespective of residence permits or nationality. The OSCE had concluded that the census was disproportionate to the scale of the alleged security threat and that it had fueled “stigmatization of the Roma and Sinti community in Italy.”⁶¹

The lack of strong condemnation and follow-up action from the European Commission did little to prevent similar initiatives elsewhere, and reports of expulsions from Portugal, Germany, and Denmark soon appeared. Lacking a unified political voice, the Roma are easy scapegoats in times of economic uncertainty. Removal of migrants and denial of Union citizenship rights enables governments to portray themselves as tough on immigration while responding to public fears about security and crime.

Such demonization is, of course, unlikely to yield the desired results. President Berlusconi described foreign criminals in Italy as “an army of evil,” yet crime statistics did not support his analysis of Roma criminality.⁶² Meanwhile, increased security measures provoke ethnic tension by fueling misconceptions and pandering to an extremist, racist agenda.⁶³ Anti-Roma and antforeigner rhetoric is no longer exclusively the prerogative of the European far right as the Italian public have come to view their lives as threatened by the Roma. Discriminatory attitudes and intolerance are, thus, legitimised as commonsense responses to the perceived threat.⁶⁴

The security rhetoric targets nomadism, which appears at odds with the settled, sedentary lifestyle of most Europeans.⁶⁵ The focus on nomadism allows the question of

ethnicity to be obscured.⁶⁶ Roma migrants are assumed to be nomadic and dangerous, with criminality and poverty seen as cultural characteristics of a transient lifestyle. Media stories of Roma criminality, begging, and petty theft are common, although such stories are rarely substantiated by evidence and the ethnicity of perpetrators is seldom recorded. An Italian opinion poll from 2008 revealed that 92 percent of respondents believed that Roma exploit minors, making their living from petty crimes; 83 percent believed that Roma choose to live in temporary camps.⁶⁷ Yet the vast majority of Europe's Roma are no longer nomadic and do not seek a nomadic lifestyle.⁶⁸ Interviews with Italian camp inhabitants indicate that most Roma desire settled accommodation where their children can attend school and they can find stability.⁶⁹ In 2002, about one-third of Italian Roma and Sinti occupied temporary camps, typically characterized by poverty and deprivation.⁷⁰ Repeated complaints to the European Committee of Social Rights suggest that there is no political will to address these problems, and the latest arrivals of Roma migrants have only worsened the situation.⁷¹

These migrants present a challenge for international human rights law. Unlike the Czech Roma, they do have a country of nationality. They are technically neither *de jure* nor *de facto* stateless, yet they do not wish to avail themselves of the protection of their nationality. This is largely because the protection offered by that nationality, where it exists at all, is negligible. This leaves thousands of Roma again in legal and political limbo.

Collective Expulsions from France

In August 2010, the collective removal of several hundred Roma from France drew widespread condemnation from humanitarian organizations, prompting calls in some sectors for France to be expelled from the EU.⁷² Apparently responding to security concerns, the government authorized the destruction of unauthorized encampments and the expulsion of over 1,000 Roma to Bulgaria and Romania. The deportees were reportedly offered 300 euros per adult and 100 euros per child for their "voluntary" repatriation.⁷³ International criticism intensified when a leaked government circular revealed that the expulsions were based on

ethnicity rather than any proven security concerns. President Nicolas Sarkozy's objective was clear: "300 illegal camps or settlements should have been evicted within 3 months, with Roma ones as a priority."⁷⁴ The circular was quickly rescinded and was subsequently declared to have violated the principle of equality before the law by the French Council of State.⁷⁵ Yet Sarkozy reportedly gained revived electoral support after embarking on his security crackdown: polls published in *Le Figaro* revealed that between 69 percent and 79 percent of the public were in favor of the demolition of the camps, with 65 percent in favor of Roma deportations.⁷⁶

Again the European Parliament condemned the actions.⁷⁷ It expressed deep concern that the measures specifically targeted Roma and travelers and that the rhetoric of many French politicians had contributed to the stigma faced by these groups. It also concluded that the measures were prohibited by the Citizenship Directive and established case law, which makes no provision for collective expulsions. On this occasion, the parliament went further in criticizing the Commission as "guardian of the Treaties" for its failure to take decisive action by preparing a European Strategy on Roma inclusion.⁷⁸ The head of the Commission, Jose Manuel Barroso, was accused of appeasing President Sarkozy by suggesting that freedom of movement should not be interpreted as an absolute right.⁷⁹ The EU justice commissioner was, however, notably outspoken in her criticism when she compared the expulsions to the Vichy regime's deportations in World War II.⁸⁰ Eventually, the commission issued a formal notice requesting compliance with the Citizenship Directive, but further enforcement action was not forthcoming.⁸¹ Despite the revelation of the government circular, the commission found that the policy had not been intentionally directed toward an ethnic group. Meanwhile, the European Roma Rights Centre successfully intervened to challenge the collective deportation of ten Roma by the Danish Immigration Service, and the German government denied rumors of a similar expulsion initiative.⁸²

In their ruling under the European Social Charter, the ECSR found that both migrant Roma and French travelers had been denied rights to effective housing, resulting from absence of sufficient halting places, conditions of deprivation, and lack of security of tenure.⁸³ They found evidence of discrimination resulting from policies that failed to take specific account of the culture and values of French travelers, and the Committee upheld the complaint that migrant Roma had been treated less favorably than nationals of the host state.⁸⁴

The French government responded to the concerns of the European institutions with new immigration legislation.⁸⁵ However, there remain serious concerns, as the new law allows a removal notice for those whose stay constitutes an “abuse of rights.” This “abuse” will apply where the citizen is intending to stay in France with the “fundamental purpose of benefitting from the social assistance system.” This appears to be incompatible with the EU Citizenship Directive, which requires removal to be proportionate and to be based firmly on public policy, security, or health. Human Rights Watch examined 198 orders to quit served on Romanian Roma, finding that only two contained evidence that state assistance had actually been sought.⁸⁶ There is further concern that article 65 of the law allows removals to be based on suspicion of criminality when there is no proof that the individual constitutes a “genuine, present and sufficiently serious threat,” as required by the directive. The offenses that attract this power are particularly surprising, as they include illegal land occupation and the exploitation of begging. In 2010, the Lille Administrative Court annulled eleven orders based on illegal land occupation as the conduct did not constitute a threat to public order. The requirement of proportionality appears to be overlooked in the legislation, and much of the evidence collected by Human Rights Watch suggests that the procedural safeguards of the directive are routinely ignored in expulsion orders.⁸⁷

There remain significant questions as to whether the European Commission is able to act independently of the interests of the big players from “old” Europe. While there have

been some efforts to address the challenge of Roma inclusion across Europe, these projects have had limited effect to date.⁸⁸ French expulsions to Romania and Bulgaria were still being reported as of 2012, despite president François Hollande's electoral commitment to address the problem.⁸⁹ Such strategies cannot be seen as a substitute for clear and decisive enforcement action when the citizenship provisions are breached in such a flagrant manner.

<A>Justifying Exclusion: The Security Rhetoric

The Czech citizenship law denied automatic citizenship to thousands of resident Roma due largely to concerns about the economic prosperity and security of the new republic. These concerns are now used to deprive the same group of European Union citizens of their full citizenship rights under European law, undermining equality before the law. Concerns about Roma exclusion and marginalization are not confined to central and eastern European states. The French and Italian deportations cannot be dissociated from their treatment of native travelers. Ministers have consistently bundled the two groups together in various news items that refer to the problems posed by nomadic people. Native travelers and Roma migrants are constructed as outsiders with different and opposing values to those of the settled population. For example, French MP Jacques Myard argues that the Besson Act, which provided stopping places for traveling people, prevented integration by enabling the continuation of a different, 'Asian' and 'medieval' lifestyle.⁹⁰ He went on to suggest that there was no place in France for nomadism with its inherent criminality.⁹¹

This rhetoric of security means that the expulsion of Roma does not conform to typical understandings of racism. As Aradau has argued, the Italian measures are part of the ordinary fabric of modern liberal society whereby "insidious and entrenched racism...have been largely neutralized by the rhetoric of security."⁹² This may explain in part the European Commission reluctance to condemn such policies decisively, but it cannot excuse it. Following criticism from the European Parliament regarding the Italian measures, the Commission issued a statement informing the Berlusconi government that the security

package might be incompatible with the Citizenship Directive and threatening enforcement proceedings. Yet the census was regarded as consistent with European law, as it applied to all persons of nomadic origin, even though the evidence demonstrates its target to be Roma and Sinti camp residents.⁹³ The parliament made repeated calls to the Commission to commence enforcement action against both member states. This action would have served as an expedient reminder that repeated breaches of European law will not be tolerated. It might also have prevented the proliferation of such policies elsewhere. Unfortunately, however, the opportunity to take decisive action may well now have passed. The Commission is perhaps more constructively deployed in developing its pan-European Roma strategy, “the platform for Roma inclusion,” to address the comparative disadvantage of Roma across Europe and to promote genuine equality of treatment. Citizenship, both *de jure* and *de facto*, must be one of the key focuses of this policy.⁹⁴

<A>Conclusion

There can be no doubt that the Roma are a heterogeneous people whose diverse migratory experiences have influenced their cultural values. The absence of a defined, representative political voice presents particular difficulty in assessing the values and needs of the Roma diaspora. It has also made it comparatively easy for states to ignore their legal and moral obligations through the enactment of discriminatory citizenship laws in the Czech Republic and the denial of Union citizenship privileges in the EU.

Just as the situation of Czech Roma caught the attention of the European media following a significant rise in asylum applications, so migration following European enlargement has focused attention on the significant disadvantage experienced by the Roma of former Communist states. It has simultaneously highlighted the degree of entrenched, structural discrimination that pervades many of the “old” European states. When considering typologies of statelessness, it is easy to view the Czech Roma as victims of ill-defined nationality laws following state succession.⁹⁵ However, the experience of the Czech Roma

cannot be divorced from that of today's Roma migrants. Their experience transcends the typologies of statelessness.⁹⁶ In addition to denial through state succession, they experience denial and deprivation of citizenship through discriminatory practices; the withdrawal and loss of European citizenship and associated privileges; and lack of access to the full range of rights afforded to full citizens. Modern conceptions of citizenship require both non-discrimination and equality before the law. Yet the Roma remain "outsiders in urban society," rarely benefitting from such luxuries.⁹⁷

The problem of Roma inequality cannot be overstated. It is quite possibly Europe's biggest human rights challenge. Part of that challenge requires real and effective citizenship in addition to the full realization of human rights norms. A European strategy for Roma integration and equality is now on the table,⁹⁸ but it is unclear whether the platform for Roma inclusion will be just the latest in a long line of well-intentioned but poorly executed initiatives. The indications from the European Commission's preliminary findings reveal, unsurprisingly, serious shortcomings in the responses of national governments.⁹⁹ The commission's focus on economic and social issues, such as education and housing, while laudable, will be fundamentally flawed if it does not address the overarching civil and political rights of non-discrimination, equality, and citizenship.

<N-1>Chapter 9: How Citizenship Laws Leave the Roma in Europe's Hinterland

¹ This chapter will use the term "Roma" for simplicity to encompass Roma, Sinti, and British Gypsies who have inherited particular cultural practices and a seminomadic lifestyle (although most are no longer nomadic) and whose ancestry can be traced back to India around the tenth century. The term "travelers" may be used when referring also to more recent traveling communities and specifically to Irish travelers who share many of the problems encountered by the Roma but form a distinct ethnic group. "Gypsy" is, in fact, a pejorative term used to identify the darker skin of migrants arriving from southern Europe

and North Africa in the sixteenth century, although many British traveling people are happy to accept the designation. The Sinti are a particular group of Romani origin who speak a particular dialect influenced by their residence in Germany and surrounding areas. It is estimated that 200,000 to 1.5 million Roma died in the Porrajmos (Romani holocaust). See Ian Hancock, *We Are the Romani People* (Hatfield: Interface University of Hertfordshire Press, 2002).

² Helen O’Nions, *Minority Rights Protection in International Law: The Roma of Europe* (Aldershot: Ashgate, 2007).

³ Amnesty International, *Human Rights on the Margins of Europe, Briefing Paper* (London: Amnesty International, 2010).

⁴ Network of Independent Experts on Fundamental Rights, *Report on the Situation of Fundamental Rights in the European Union and Its Member States in 2002*, EU CFR-CDF (Brussels: European Commission, 2002).

⁵ EU Agency for Fundamental Rights (FRA), *The Situation of Roma EU Citizens Moving in and Settling in Other Member States* (Brussels: Fundamental Rights Agency, 2009); Amnesty International, *Treated like Waste: Roma Homes Destroyed and Health at Risk in Romania*, 39/001/2010 (London: Amnesty International EUR, 2010); Amnesty International, *Violent Attacks Against Roma in Hungary: Time to Investigate Racial Motivation*, 27/001/2010 (London: Amnesty International EUR, 2010).

⁶ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the Right of Citizens of the Union and Their Family Members to Move and Reside Freely Within the Territory of the Member States, 30.4.2004 OJ L158/77.

⁷ Council of Europe, “Recommendation of the Committee of Ministers to Member States on Policies for Roma and/or Travellers in Europe, CM/Rec (2008)5 (Strasbourg: Council of Europe, 2008).

⁸ *DH v. Czech Republic*, 2008, App. 57325/00.

⁹ European Commission, *Discrimination in the EU*, Special Eurobarometer Survey 296 (Brussels: European Commission, 2006).

¹⁰ European Commission, *Community Instruments and Policies for Roma Inclusion*, COM (2008) 420 (Brussels: European Commission, 2008).

¹¹ Jose-Maria Arraiza and Linda Öhman, "Displaced Kosovo Roma and Property Rights," *Forced Migration Review* 32 (2009): 43.

¹² Aidan McGarry, *Who Speaks for the Roma? Political Representation of a Transnational Minority* (London: Continuum, 2010).

¹³ Will Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995).

¹⁴ Stephen Castles and Alastair Davidson, *Citizenship and Migration* (Basingstoke: Palgrave, 2000), 11.

¹⁵ Will Guy, "The Czech Lands and Slovakia: Another False Dawn?" in *Between Past and Future: The Roma of Central and Eastern Europe*, ed. Will Guy (Hatfield: University of Hertfordshire Press, 2002).

¹⁶ Chris Powell, "Time for Another Immoral Panic? The Case of the Czechoslovak Gypsies," *International Journal of the Sociology of Law* 22, 22 (1994): 117.

¹⁷ Robyn Linde, "Statelessness and Roma Communities in the Czech Republic: Competing Theories of State Compliance," *International Journal of Minority and Group Rights* 13 (2006): 349.

¹⁸ UNHCR, Expert Meeting, "The Concept of Stateless Persons Under International Law," expert meeting, Prato, Italy, 27-28 May 2010.

¹⁹ Brad Blitz, *Statelessness, Protection and Equality*, Forced Migration Policy Briefing 3 (Oxford: Refugee Studies Centre, University of Oxford, 2009), 7.

²⁰ Jirina Siklova and Marta Miklusakova, "Law as an Instrument of Discrimination: Denying

Citizenship to Czech Roma,” *East European Constitutional Review* 7, 2 (1998): 4.

²¹ Linde, “Statelessness and Roma Communities,” 349.

²² O’Nions, *Minority Rights Protection*, 18.

²³ Zoon and Siroka, *The Non-Czech Czechs* (Prague: Tolerance Foundation, 1995), 18

²⁴ O’Nions, *Minority Rights Protection*, 120.

²⁵ Council of Europe, *Report of the Experts of the Council of Europe on the Citizenship Laws of the Czech Republic and Slovakia and their Implementation* (Strasbourg: Council of Europe, 2 April 1996), 10.

²⁶ See article 18, European Convention on Nationality, 1997, European Treaty Series/166, Council of Europe.

²⁷ Tolerance Foundation, *Report on the Czech Citizenship Law* (Prague: Tolerance Foundation, 1994).

²⁸ Helen O’Nions, “Bona Fide or Bogus? Roma Asylum Seekers from the Czech Republic,” *Web Journal of Current Legal Issues* 3 (1999).

²⁹ Ibid.

³⁰ Czech Government, “Report on the Situation of the Romani Community in the Czech Republic,” July 1997, cited in European Commission “Regular Report on Czech Republic’s Progress Towards Accession” (Brussels: European Commission 1998).

³¹ U.S. Department of State, “Czech Country Report 2000,” February 2001; Council of Europe, *Report of the Experts*, 15.

³² European Roma Rights Centre (ERRC), “Statement of the ERRC on the Occasion of the Acceptance into NATO of the Czech Republic, Hungary and Poland,” (Budapest: ERRC, July 1997).

³³ Bella Edginton, “To Kill a Romany,” *Race and Class* 35 (1994): 80.

³⁴ “TV Show Sparks Immigration Rush,” *Globe and Mail*, 13 August 1997.

³⁵ "Czech Gypsies Fear Ghetto Wall," *Guardian*, 20 June 1998, 16.

³⁶ "Gypsy Accuses 'Arrogant' Canada," *Toronto Star*, 24 August 1997, A2; TV NOVA 1997 *Na vlastní oči* [With your own eyes], 5 August 1997.

³⁷ Judith Tóth, "The Incomprehensible Flow of Roma Asylum-Seekers from the Czech Republic and Hungary to Canada," CEPS Paper in Liberty and Security in Europe (Brussels: CEPS, November 2010).

³⁸ CERD UN Committee on the Elimination of All Forms of Racial Discrimination, General Recommendation XXVII, Discrimination Against Roma adopted at 57th session, 16 August 2000.

³⁹ Law 193/1999; O'Nions, *Minority Rights Protection*, 122.

⁴⁰ Andrea Baršová, "Country Report: Czech Republic," EUDOC Citizenship Observatory, Robert Schumann Centre for Advanced Studies, European University Institute, 2010.

⁴¹ European Council, "Council Directive 2004/38/EC on the Right of Citizens of the Union and Their Family Members to Move and Reside Freely Within the Territory of the Member States," 30 April 2004, Official Journal L158-77 30/04/2004, articles 27 and 28.

⁴² Joseph Weiler, "The Selling of Europe," working paper, Jean Monnet Center, New York University School of Law, 1996.

⁴³ European Council, "Council Directive 2004/38/EC," article 7.

⁴⁴ Ibid.

⁴⁵ *Criminal Proceedings Against Donatella Calfa*, C-348/96, press release 1/99, 1 January 1999.

⁴⁶ UN Development Programme, *At Risk: Roma and the Displaced in South-East Europe* (New York: UN, 2006).

⁴⁷ Decreto del Presidente del Consiglio dei Ministri" 21 maggio 2008 (in Gazzetta Ufficiale n. 122 del 26.5.2008, "Dichiarazione dello stato di emergenza in relazione agli insediamenti

di comunita nomadi nel territorio delle regioni Campania, Lazio e Lombardia” [“Nomad Emergency Decree,” Decree of the President of the Council of Ministers,” n. 122 of 21 May 2008, in the Official Journal, 26 May 2008, “Declaration of a State of Emergency in Connection with the Settlements of Nomadic Communities in the Territory of Campania, Lazio, and Lombardy”].

⁴⁸ Office for Democratic Institutions and Human Rights (ODIHR), *Assessment of the Human Rights Situation of Roma and Sinti in Italy* (Warsaw: OSCE, 2009).

⁴⁹ BBC News, “EU Nations and Roma Repatriation,” 17 September 2010; Amnesty International, “Italian Authorities Urged to Stop Forced Evictions of Roma,” press release, 11 March 2010.

⁵⁰ “Nomad Emergency Decree,” 2008; Pacchetto Sicurezza, Legge GU. 170 no. 94, 24/07/2009.

⁵¹ Amnesty International, *The Wrong Answer: Italy’s ‘Nomad Plan’ Violates the Housing Rights of Roma in Rome*, 39/001/2010 (London: Amnesty International EUR, 2010).

⁵² Piero Colacicchi, “Ethnic Profiling and Discrimination Against Roma in Italy: New Developments in a Deep-Rooted Tradition,” *Roma Rights Journal* 2 (2008): 35–44.

⁵³ *ERRC v. Italy*, Complaint No 27/2004, 7 December 2005, Budapest, ERRC.

⁵⁴ Institute of Race Relations, press briefing, 4 May 2004, <https://www.irr.org.uk/cgi-bin/news/open.pl?id=6812>. **{AU: This is not a secure site. Remove link}**

⁵⁵ European Parliament, “Resolution on the Census of the Roma on the Basis of Ethnicity in Italy,” P6_TA-PROV (2008)036, 10 July 2008.

⁵⁶ Henry Scicluna “The Life and Death of Roma and Sinti in Italy: A Modern Tragedy,” *Roma Rights Journal* 2 (2008): 9–29.

⁵⁷ Gabriella Binannchi and Guy Dinmore, “Italy Pushes Law Driven by Roma Influx,” *Financial Times*, 10 September 2010.

⁵⁸ European Roma Rights Centre (ERRC), “Security al a Italiana: Fingerprinting, Extreme Violence and Harassment Against Roma in Italy,” press release, 2008; Amnesty International, *The Wrong Answer*.

⁵⁹ Lucia Kubosova, “EU Gives Blessing for Italy’s Roma Fingerprint Scheme,” *EU Observer*, 5 September 2008.

⁶⁰ *EurActiv News*, “Commission Warns Italy Not to Expel Roma,” 21 May 2008.

⁶¹ ODIHR, *Assessment of the Human Rights Situation*, 8.

⁶² Claudia Aradau, “The Roma in Italy: Racism as Usual?” *Radical Philosophy* 153, 2 (2009): 2; Tom Kington, “68% of Italians Want Roma Expelled—Poll,” *The Guardian*, 17 May 2008.

⁶³ ODIHR, *Assessment of the Human Rights Situation*.

⁶⁴ Paul Iganski, *Hate Crime and the City* (Bristol: Policy Press, 2008).

⁶⁵ Thomas Hammarberg, “Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Following His Visit to Italy on 13-15 January 2009,” CommDH(2009)16, Strasbourg, Council of Europe, 16 April 2009.

⁶⁶ Robbie McVeigh, “Theorising Sedentarism: The Roots of Anti-Nomadism,” in *Gypsy Politics and Traveller Identity*, ed. Thomas Acton (Hatfield: University of Hertfordshire Press, 1997).

⁶⁷ Istituto per gli Studi sulla Pubblica Opinione, “Italiani, Rom e Sinti a confronto: Una ricerca qualitativa,” Conferenza Europea sulla popolazione Rom, Rome 22-23 January 2008.

⁶⁸ UN Committee on the Elimination of Racial Discrimination, “Concluding Observations-Italy,” CERD/C/54/Misc.32/Rev.3, 18 March 1999.

⁶⁹ Amnesty International, *The Wrong Answer*; European Union Agency for Fundamental Rights (FRA), “The Situation of Roma in 11 EU Member States: Survey Results at a Glance,” May 2012.

⁷⁰ European Commission Against Racism and Intolerance, "Second Report on Italy," Strasbourg, Council of Europe, 23 April 2002.

⁷¹ *ERRC v. Italy*, Complaint No 27/2004, 7 December 2005 (Budapest: ERRC).

⁷² Louise Doughty, "France Deserves to Be Kicked Out of the EU for Deporting Roma People," *Guardian Unlimited*, 1 September 2010.

⁷³ Valentina Pop, "EU Questions Legality of French Roma Deportations," *EU Observer*, 2 September 2010; Ian Traynor, "EU Says Roma Deportations by France a Disgrace," *The Guardian*, 14 September 2010.

⁷⁴ Kim Wilsher, "Orders to Police on Roma Expulsions from France Leaked," *The Guardian*, 13 September 2010; Human Rights Watch, "France's Compliance with the European Free Movement Directive and the Removal of Ethnic Roma EU Citizens: A Briefing Paper Submitted to the European Commission" (New York: HRW, July 2011).

⁷⁵ Le conseil d'état, "Campements illicite de Roms," press release, 7 April 2011.

⁷⁶ "Sarkozy's Roma Deportations Backed by 69% of French Voters," *Business Week*, 27 August 2010; "Expulsions of Roma Get Public Nod in Sarkozy's France," *Business Week*, 13 August 2010.

⁷⁷ European Parliament, Resolution P7_TA-PROV(2010)0312, 9 September 2010.

⁷⁸ *Ibid.*, paragraph 13.

⁷⁹ Ricardo Martínez de Rituerto, "La libertad de circulación en la UE no es absoluta," *El País*, September 9, 2010.

⁸⁰ Viviane Reding, "Statement on the Latest Developments on the Roma Situation," press release, speech 10/428, 14 September 2010, http://europa.eu/rapid/press-release_SPEECH-10-428_en.htm.

⁸¹ European Commission, "Commission Assesses Recent Developments in France, Discusses Overall Situation of the Roma and EU Law on Free Movement of EU Citizens," press

release, IP/10/1207, 29 September 2010; ERRC, “Danish Authorities Reverse Decisions in Roma Expulsions,” press release, 18 April 2011.

⁸² ERRC, “ERRC challenges Danish expulsion of EU Roma,” press release, September 6, 2010.

⁸³ European Committee on Social Rights, *Decision on the Merits ERRC v. France*, complaint no. 51/2008, 19 October 2009.

⁸⁴ *Ibid.*, paragraph 119.

⁸⁵ Immigration, Integration and Nationality Law 2011-672.

⁸⁶ Human Rights Watch, “France’s Compliance.”

⁸⁷ *Ibid.*

⁸⁸ European Commission, “The Social and Economic Integration of the Roma in Europe,” Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, 7.4.2010 COM (2010) 133 final (Brussels: European Commission, 2010).

⁸⁹ ERRC, “Hollande Should Keep His Election Promises Regarding Roma,” press release, 22 August 2012.

⁹⁰ Huub van Baar, “Expulsion Fever in Europe: The Case of the Roma,” Association for the Study of Nationalities, Nationalities Blog, 26 September 2010.

⁹¹ France 24, “Stigmatizing Travelling People?” (interview, 2010). **{AU: This might require a URL – I cannot find one for this precise interview}**

⁹² Aradau, “The Roma in Italy, Racism as Usual” 27

⁹³ Scicluna, “The Life and Death of Roma and Sinti in Italy,” 27.

⁹⁴ European Commission, “Roma in Europe: The Implementation of European Union Instruments and Policies for Roma Inclusion—Progress Report 2008-2010,” COM (2010)133, Brussels, 7 April 2010.

⁹⁵ Blitz, *Statelessness, Protection and Equality*, 16.

⁹⁶ Ibid.

⁹⁷ David Sibley, *Outsiders in Urban Society* (Basingstoke: Palgrave, 1981).

⁹⁸ European Commission, "Roma in Europe."

⁹⁹ European Commission, Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "National Roma Integration Strategies: A First Step in the Implementation of the EU Framework (SWD(2012) 133 final) Brussels, 21 May 2012 COM(2012) 226 final (Brussels: EC, 21 May 2012).