

Chapter 2

Civil Society and Post-communist Transitional Justice in Romania

Lavinia Stan

Introduction

In the only text that examined the impact of state-free groups on the process of reckoning with the communist past in Romania, Grosescu (2007) argued that civil actors “were unable to build coherent methodologies and long-term projects” regarding transitional justice (p. 183). The statement rings true when applied to judicial methods. Nevertheless, Romanian civil society groups have been instrumental in maintaining the need to come to terms with the communist past in the public eye and on the policy agenda, and in proposing key methods designed to redress communist human rights violations. True, during the first two decades of post-communism, these groups faced a general public mainly concerned with its economic survival and political elites preoccupied with their narrow group interests (*Atitudini și opinii despre regimul comunist din România. Sondaj de opinie publică*, 2012). In addition, as Grosescu (2007) noted, these groups were unable to come together and support common projects, and often criticized each other as much as they criticized state authorities.

This chapter provides an overview of civil society efforts to promote Romanian post-communist transitional justice since 1989 by surveying methods such as lustration (the banning of communist decision-makers from post-communist public life), court trials launched against communist perpetrators, ordinary citizens’ access to the files compiled by the secret political police, the Securitate, the presidential history commission, the citizens’ opinion tribunal, property restitution, and memorialization. Whereas most authors working on Eastern Europe have assumed that civil society generally promotes transitional justice, this chapter also discusses state-free groups that have opposed any meaningful reckoning with the recent past.

L. Stan (✉)

Department of Political Science, St. Francis Xavier University,
PO Box 5000, Antigonish, NS, Canada, B2G 2W5
e-mail: lstan@stfx.ca

Civil Society Groups Involved in Transitional Justice

Most of the crimes perpetrated by the Romanian communist regime occurred from 1945 to 1964, when many pre-communist political leaders and industrialists, anticommunist opponents, disgruntled army officers, students attempting to illegally cross the border, peasants resisting collectivization, and disgraced communist leaders were arrested and imprisoned often without observing minimal due process requirements (Deletant 2000; Judt 2005). The regime of Nicolae Ceaușescu (1965–1989) was restrictive even by Eastern European standards, although repression took the form of widespread surveillance by the Securitate more than outright killings, torture, and disappearances (Deletant 1996; Tismăneanu 2003). Decades of communist policies limiting freedom of speech, religion, and association, together with Ceaușescu's own brand of sultanism-cum-totalitarianism (Linz and Stepan 1996), decimated the civil society, and brought most churches, labor unions, and voluntary associations under the regime's firm control.

As such, when the communist regime collapsed in 1989, there were few state-free groups (Howard 2003; Ignatieff 1995). These groups lacked strong leadership and financial resources, and were mostly confined to the town where they originated, having weak representation in the country and constituting a “retarded civil society” facing an inefficient and incompetent state (Carothers 1999, p. 20). Groups created around pre-communist political and union leaders could draw on these leaders' expertise, but were also disadvantaged by their leaders' advanced age and serious health problems acquired in communist jails. By comparison, the most successful state-free groups have been constituted along the lines of communist-era associations and unions, but those were also the closest to the state and the least likely to confront it or propose policies that could hurt the interests of the new post-communist rulers. Transitional justice was among those policies because the new rulers were former second echelon Communist Party officials like Ion Iliescu, who got a new lease on political life in the 1989 revolution (Stan 2010).

A number of state-free groups constituted after 1989 have supported transitional justice. Some of them represent former political prisoners and owners of abusively confiscated property. Others include humanistic intellectuals concerned with the quality of the new democracy, the persistent legacies of communism, and the collaboration of post-communist politicians with the Ceaușescu regime. Both former victims and the intellectuals have called for resolute transitional justice in the form of property restitution, lustration, court trials against communist officials, the public identification of former Securitate part-time informers, access to secret archives, commemoration of victims, and research on and publications about communist repression. As public debates on the need to honor the victims and identify the perpetrators of communist crimes unfolded in the 1990s, civil society actors inimical to transitional justice started to organize.

Three main types of civil society groups are relevant in this context. The first includes former victims of communist human rights violations, who support resolute, prompt, and comprehensive transitional justice. The Association of Former

Political Prisoners in Romania (Asociația Foștilor Deținuți Politici din România), constituted in 1990 in Bucharest, has branches throughout the country and a membership that reportedly diminished from 98,700 in 1990 to 45,000 by 2009 (Asociația Foștilor Deținuți Politici din România 2009). It has been the most important group of communist-era political prisoners, deportees, and their relatives. In the mid-1990s, the smaller Association of Former Political Prisoners and Anticomunist Fighters (Asociația Foștilor Deținuți Politici și Luptători Anticomuniști) was created by communist-era political prisoners with ties to the inter-war fascist Iron Guard, which subscribed to nationalism, Orthodoxy, and anti-semitism. It commemorates mostly Iron Guard members imprisoned, tortured, or killed by the Securitate, keeping silent on the crimes in which the Guard engaged during pre-communist times. The Association of Owners of Property Abusively Confiscated by the State (Asociația Proprietarilor Deposezați Abuziv de Stat) was set up in 1999 in Bucharest by property owners, their descendants, and legal representatives to fight for property restitution and equitable compensation. With an initial membership of 11,000 and a current membership of 1,500, the Association is Romania's most important and vocal organization of initial homeowners (Oțoiu 2006; 2009). Constituted in 1991 in Bucharest, the ICAR Foundation provides medical rehabilitation for victims of communism. Besides the Bucharest clinic, it opened centers in Iași in 1995, and Craiova in 1998 (ICAR Foundation 2010a).

Other associations have local, not national, membership or represent smaller victims' groups. Created in 2009, the Association of Owners Abusively Deprived of Their Property, Former Deportees and Refugees (Asociația Persoanelor Deposedate Abuziv Foștilor Deportăți Refugiați din România) represents property owners, deportees, and refugees seeking compensation and redress for the injustices they suffered. In mid-2009, it had 210 members, exclusively drawn from the town of Craiova (Asociația Persoanelor Deposedate Abuziv Foștilor Deportăți Refugiați din România 2009). Former owners are also represented by the Association for Private Property (Asociația pentru Proprietate Privată) and the Community of Legitimate Owners and Descendants in Romania (Comunitatea Moștenitorilor și Proprietarilor Legitimi din România), both headquartered in Bucharest, and the more obscure Association of Victims of the Bolshevik Communist System and Its Legacy (Asociația Victimelor Sistemului Comunist Bolșevic și a Sechelelor Sale) in Râmnicu-Vâlcea. Since 1997, the Bucharest-based Association of the Victims of Magistrates (Asociația Victimelor Magistraților din România) represents those who believe they suffered as a result of court decisions handed down by corrupt communist and post-communist judges. Former owners residing in France and Germany are represented by the French Association for Defending Property Rights in Romania (Asociația Franceză pentru Apărarea Drepturilor de Proprietate în România) of Paris and the Restitution in Romania (Interessenvertretung Restitution in Rumanien) of Munich.

To these voluntary associations, add the Gheorghe Ursu Foundation (Fundația Gheorghe Ursu), set up by relatives of the engineer who was murdered in the Bucharest Militia jail in 1986. Ursu was arrested after being denounced by two workmates for keeping a journal critical of the communist leadership and policies. The Ion Gavrilă Ogoranu Foundation (Fundația Ion Gavrilă Ogoranu) was set up in

2008, 2 years after Ogoranu's death, to commemorate the leader of the Făgăraș anticommunist fighters group, active between 1947, when Romania became part of the communist bloc, and 1956, when the Securitate arrested most of the group's members.

The need to adopt transitional justice methods in view of addressing the legacy of communism has also been underscored by organizations uniting the victims of the 1989 revolution, which nonetheless remain preoccupied primarily with finding the truth about the revolution, publicly unmasking the involvement of post-communist leaders in those events, and securing financial benefits for their members. Best known among these groups has been the Association 21 December 1989 (Asociația 21 Decembrie 1989), set up in 1990 in Bucharest by some of those protesters who, during the revolution, took to the streets and defied the police and army forces deployed by the Ceaușescu regime. The Association has advocated in favor of resolute transitional justice, including radical lustration.

Last, this category further comprises the country's main religious denominations, especially the dominant Orthodox Church and the minority Greek Catholic Church. Compared to victims' groups, these denominations had been constituted well before 1989. Similarly to victims' groups, they faced persecution, confiscation of property, discrimination, and surveillance at the hands of the communist authorities. During the first decade of communist rule, many Orthodox leaders, priests, faithful were imprisoned, and the state requisitioned church property (Leuștean 2009). Afterward, the Orthodox Church was placed under extensive surveillance by the Securitate, which recruited some priests as secret agents (Stan and Turcescu 2005). In 1948, the communist state dismantled the Greek Catholic Church, imprisoned its bishops who refused to convert to Orthodoxy, and transferred the Greek Catholic churches, chapels, parish houses, and cemeteries to the Orthodox Church.

The second category includes the country's humanistic intellectuals and former anticommunist dissidents, who have lent support to some transitional justice methods (the truth commission, lustration, and access to secret files), but have mostly rejected efforts to unveil collaborators from among their members, the intelligentsia, and the political parties close to them. The Group for Social Dialogue (Grupul pentru Dialog Social) of Bucharest and the Timișoara Society (Societatea Timișoara), located in the town where the revolution first started, were both created immediately after December 1989 to "promote real democracy" by providing viewpoints alternative to those proposed by the former communists turned into the country's first post-communist rulers (Ștefănescu 1995, p. 47). While few in number and elitist in view, the intellectuals have been very vocal and able to propose some of the most coherent political programs advanced by the civil society. This category also includes the Civic Alliance (Alianța Civică), created in 1990 by 216 respected writers, philosophers, and anticommunist dissidents in order "to channel social energies supporting faith, humanism and democracy" (Ștefănescu 1995, p. 104). The Alliance was most active during the early 1990s, when some of its members gained seats in Parliament, as representatives of the Civic Alliance Party. Most of its transitional justice programs have been run through the non-profit Civic Academy Foundation, led by two Alliance leaders, poet Ana Blandiana and writer Romulus Rusan.

The third type of civil society groups includes the tenants who occupied confiscated dwellings with the authorities' permission before and after 1989. While some tenants were poor workers who moved from village to town in order to work in the new industrial factories built throughout Romania, many others were privileged Communist Party leaders and nomenklatura members who had access to special food stores, medical clinics, and holiday resorts. Until 1989, all these tenants rented dwellings from the state, paying extremely low rents that did not reflect the real market value of the property. Most of these dwellings were large historical houses, located in leafy residential areas (Stan 2006). The Association of Tenants Living in Nationalized Dwellings (Asociația Chiriașilor din Casele Naționalizate) has branches in the country's most important towns. The Association of Tenants Who Acquired Ownership through Law 112/1995 (Asociația Proprietarilor pe Legea 112/1995) represents tenants who bought the confiscated dwelling in which they lived in virtue of Law 112/1995 (Benea 2008).

Tenants and secret agents were not the only ones to benefit from the communist-era infringement of other people's rights. Since 2003, the Motherland and Honor Solidarity Foundation (Fundația Solidaritatea Patrie și Onoare) has provided financial help to former Securitate officers and post-communist information service agents, and protected their interests (Andreescu 2003). Former Communist Party leaders, party activists, political officers, militia officers, and communist prosecutors and judges have not created civil society associations, since they could face public condemnation as a result and after 1989 they have retained enough political clout to advance their personal interests without feeling the need to create new political vehicles. In addition, former communist perpetrators have gained a public voice as members of formations successor to the Communist Party and the Communist Youth League: the Social Democratic Party (which formed the government in 1990–1996 and 2000–2004), the Democratic Party (which has ruled the country in 2004–2012), and the Greater Romania Party (represented in Parliament in 1990–2008). Both tenants and former perpetrators have consistently blocked transitional justice attempts.

Transitional Justice Methods

In Romania state actors have generally blocked, and civil society actors have supported, transitional justice. At the same time, after 1989 former perpetrators have retained considerable political influence, exerting far more leverage over the political process than former communist-era victims. This is why victims have promoted mostly non-judicial, and often local, reckoning processes of limited impact, Romania failed to enact radical lustration, and court trials have been few in number and deficient in procedure. The wavering and self-interested position of the intellectual groups and the dishonesty of some prominent civil society actors, who hid their own former collaboration (Grosescu 2007, p. 190), explain why the Romanian transitional justice program has been politicized and delegitimized in the eyes of the general public.

Lustration

The civil society has promoted lustration without convincing political elites to fully implement it. On 11 March 1990, the Timișoara Society made public its Declaration, whose Article 8 called for the adoption of electoral law amendments banning Communist Party leaders, state dignitaries, and Securitate agents from running in presidential elections and from being included on party lists for the first three consecutive legislative cycles, that is, 12 years (The Timișoara Declaration 1990). The Declaration was the first Romanian document to urge for the adoption of a method considered key to working through the communist past. It indelibly set the parameters of the lustration debate in Romania by promoting radical lustration. The German and Czech lustration programs, launched immediately after the collapse of the communist regime, were radical because they targeted many people and involved job loss (David 2011). By contrast, Poland and Hungary, which implemented lustration later, allowed former decision makers, party leaders, and secret agents to retain their post-communist public posts if they admitted to their past in written, signed declarations. While in the Czech Republic 10,000 people lost their positions because of lustration, in Hungary and Poland less than 500 were affected (Stan 2009). The Timișoara Society has always understood lustration as radical lustration, and has called for lustration even after Romanian public officials were repeatedly asked to disclose their tainted past, signaling that Hungarian-type lustration was not what the Society envisioned for Romania. Almost all the above-mentioned associations representing victims and intellectuals have shared this view.

Lustration came to the forefront on 7 December 1993 when senator Constantin Ticu Dumitrescu, the Association of Former Political Prisoners chairman, introduced in Parliament a simple motion on secret informers that amounted to a lustration proposal allowing “nobody to be blackmailed or smeared by false accusations” of collaboration with the Securitate (Ședința Senatului din 25 martie 1992, p. 2). Compared to the Timișoara Declaration, this proposal targeted only the Securitate part-time informers, but not the full-time officers who recruited them or the party leaders who masterminded repression and surveillance. While 74% of senators and 46% of deputies supported it, the motion had no effects, because the Senate leaders forbade the Romanian Information Service, heir to the Securitate domestic repression branch, to disclose the identity of former Securitate agents for fear of endangering national security (Ședința Senatului din 3 februarie 1994, p. 4).

Afterward, Dumitrescu promoted lustration through his Bill on Access to Files and Unveiling the Securitate as a Political Police which, in its original version, permitted citizens to read the secret files compiled on them by the Securitate and asked public officials and electoral candidates unveiled as former secret agents to give up their posts or renounce the electoral race. After bitter debates, Parliament stripped the bill of its lustration stipulations. When the bill was adopted as Law 187/1999, Dumitrescu was so dissatisfied with the changes operated by the house that he refused to accept the text’s paternity (Stan 2000).

Civil society groups also brought lustration into the public eyes in 2005–2007, when the country was ruled by the Truth and Justice Alliance, which included the Liberals and the Democrats. Inspired by Bulgarian efforts, in 2006 Romanian journalists launched a Clean Voices campaign to identify secret agents from among television reporters, press contributors, and talk-show hosts. In response, Liberal legislators presented a lustration bill, the opposition lodged its own anti-nomenklatura legislative proposal, intellectuals, academics, and civil society representatives called on former and current spies to unveil their ties to communist and post-communist intelligence services, and many politicians admitted to past collaboration or were unmasked as former spies. More importantly, civil society groups convinced the Chamber of Deputies leaders to jointly organize a public debate on “Lustration: Principle or Instrument” on 25 May 2006. Besides legislators and ordinary citizens, representatives of 10 civil society groups—including the Timișoara Society, the Civic Alliance, and the Association of Former Political Prisoners—stated their position on this important transitional justice practice (Stan 2011).

Court Trials

Court proceedings related to communist human rights abuses have been few in Romania. Since 1989, civil society actors have repeatedly called for former Securitate officers, prison guards, and Communist Party leaders to be indicted, and for the “Trial of Communism” to be organized. Press campaigns, street demonstrations, and roundtable talks have been used to promote court trials. The civil society has also endeavored to collect the information needed to indict some of the most notorious communist crimes, to locate former perpetrators, and to bring them to justice. In 1991, the Association of Former Political Prisoners submitted to prosecutors a list of notorious communist perpetrators, including deputy head of the Securitate Alexandru Nicolschi and Minister of State Security Alexandru Drăghici. In 1998, the name of Gheorghe Crăciun, former head of the Aiud prison (1958–1964), was added to the list. All three accused died before the courts heard their cases (Muraru 2011). The Gheorghe Ursu Foundation collected evidence and applied pressure on the judiciary to indict Marian Clita, Ursu’s assassin (Macovei 1999). In July 1999, Clita was sentenced to 20 years in jail, but his jail term was halved in virtue of a 1988 amnesty decree. When his sentence was handed down, Clita had already served 8 years in jail. As such, he was released in September 1999 (Artene 1999).

Since 1989, 20 different complaints have been submitted to military prosecutors by civil society representatives against former communist perpetrators, primarily Securitate officers, heads of detention centers, and prison guards. All these complaints were included in the so-called Case File 35 (titled the “Trial of Communism”), together with seven other complaints filed between 2006 and 2008 by the Bucharest-based Institute for the Investigation of Communist Crimes in Romania (Institutul pentru Investigarea Crimelor Comunismului în România), a transitional justice

governmental agency. None of these formal complaints and the evidence they brought forth have been used to launch any court proceedings against human rights violators (Grosescu and Ursachi 2009; Muraru 2011). Unfortunately, few perpetrators are still alive today and most of the surviving ones are very old, so their future prosecution is highly improbable.

In Romania, the scarcity of court trials launched against communist perpetrators resulted not only from the constant opposition of the judiciary to hear such cases promptly and to recognize communist human rights violations as crimes for which the statute of limitations did not apply, but also from the support the civil society has provided to the generic “Trial of Communism” more than to specific court cases. The preference for an all-encompassing “Trial of Communism” was first voiced on 29 November 1990 by the Civic Alliance, which “in the name of the people, asks for a trial of the leftist ideology of communism, which inspired, generated and covered up crimes, protecting the perpetrators” (Ștefănescu 1995, p. 110). The call had little legal value, since only individuals, not abstract concepts such as an ideology or a political regime, can be put on trial. The Civic Alliance recognized this point in its March 1991 Declaration on National Reconciliation, which stated that “the Communist Party leaders, not all of the four million party members, should be considered morally responsible” for communist crimes. Whereas “any reference to a person should include his/her actions, not mere party membership,” “former Central Committee members, party activists and Securitate agents should be banned from occupying public positions until year 2000” (Ștefănescu 1995, pp. 130–131). The preference for the generic “Trial of Communism” as opposed to specific cases stemmed from the civil society representatives’ lack of legal expertise (Grosescu and Ursachi 2009, p. 182).

Access to Secret Files

Access to secret files was the brainchild of Dumitrescu, who almost singlehandedly convinced Parliament to legislate it. In his quest, Dumitrescu drew resources and support from the Association of Former Political Prisoners, the Group for Social Dialogue, and several other victims’ groups. In 1997, the Senate amended the above-mentioned Bill on Access to Files and Unveiling the Securitate as a Political Police to include three changes not present in Dumitrescu’s original proposal. First, personal files were made public only if their contents did not endanger national security, which was exclusively defined by the Romanian Information Service, recognized for its vested interest in keeping as many files as possible out of the public eye. Second, the leadership of the governmental agency in charge of file access (the National Council for the Study of Securitate Archives, Consiliul Național pentru Studierea Arhivelor Securității) included no longer prominent citizens, but nominees of the political parties represented in the Senate. Last, the archives remained with the institutions that produced them and wanted to keep them under lock to avoid exposing their links to the institutions and agencies of the communist regime (Stan 2000).

The Senate amendments provoked the ire of former victims and intellectuals. Before the Chamber of Deputies was scheduled to discuss the amended bill, in September 1998 the civic organizations and victims' groups collected signatures on a petition that called on deputies to consider Dumitrescu's original draft, as they believed that the amendments made it impossible for the truth about communism ever to be known. The petition was ignored, as the deputies decided to consider the Senate's modified version, not Dumitrescu's original proposal, and to ask two of their standing committees, not one, as it was customary, to review the bill. While unsuccessful, the petition clearly showed that civil society actors were able to come together in support of a transitional justice project, if and when they wanted.

The Presidential History Commission

Undoubtedly, the civil society scored its greatest success in the field of transitional justice in 2006, when it convinced Democrat-Liberal President Traian Băsescu to create the Presidential Commission for the Study of the Communist Dictatorship in Romania (Comisia Prezidențială pentru Analiza Dictaturii Comuniste din România), better known as the Tismăneanu Commission after its chair, the University of Maryland political science professor Vladimir Tismăneanu. In December 2006, weeks before the country's accession into the European Union on 1 January 2007, President Băsescu officially condemned the communist regime in front of the Romanian Parliament in a speech broadcast live by television stations. The condemnation was based on the Commission's 660-page-long final report, which detailed the mechanisms of repression in communist Romania, the ties between the Securitate and the Communist Party, as well as the continuity between the regimes of Ceaușescu and his predecessor, Gheorghe Gheorghiu Dej (Tănășoiu 2007; Tismăneanu 2008). The Commission was created in response to civil society calls to renew the self-interested and corrupt political elites by legislating radical lustration. Under pressure from the Timișoara Society, the Association 21 December, and different victims' groups, President Băsescu declared that his ruling Democrat-Liberal Party could not support lustration without first condemning the communist regime as criminal and repressive. That was because those who had collaborated with the communist regime did nothing wrong, as they obeyed an internationally recognized regime and the laws in effect at the time. Only the exposure of the regime's repressive character could lay down the moral ground for a blanket policy like lustration. To condemn communism, President Băsescu needed a scientific expert report detailing the crimes of the 1945–1989 period in a systematic and dispassionate manner. As Parliament was divided between supporters and opponents of lustration, the civil society called on President Băsescu to create the commission as a presidential, not parliamentary, body. This is how the Tismăneanu Commission, which included representatives of the Association of Former Political Prisoners (Dumitrescu) and the Group for Social Dialogue (Radu Filipescu, Sorin Iliesiu, and Horia Patapievici), appeared.

The Citizen's Opinion Tribunal

Frustrated with the judiciary's unwillingness to organize a Nuremberg-type trial to condemn communist criminals, on 7 September 2006 civil society groups organized an opinion tribunal in Cluj-Napoca. This domestic tribunal, resembling opinion tribunals created in other parts of the world (Klinghoffer and Klinghoffer 2002), was composed of nine former victims of communist repression representing different Romanian counties, one councilor each for the prosecution and defense, and 150 audience members who acted as jurors. Charged with genocide and crimes against humanity (including premeditated murder, extermination, forced deportation, arrests, torture, disappearances, and ethnic and religious persecution), crimes not protected from prosecution by the statute of limitations, the communist regime was found guilty of all charges after the opinion tribunal discussed a summary of communist human rights abuses (Curtea Penală de Condamnare Juridico-Morală a Crimelor Regimurilor Comuniste 2006).

The opinion tribunal had little public echo inside and outside Romania, and was disregarded by the public, the political elite, the local press, and the main associations representing communist-era victims and intellectuals. Not only has the public remained reluctant to support a "Trial of Communism" that would indirectly implicate the four million ordinary party members, but former communist-era victims have argued that the post-communist state—the legal successor to the communist state that perpetrated those atrocities—should acknowledge responsibility for communist crimes through its regular courts of justice. The Romanian judiciary has ignored these demands, pointing to the statute of limitations applicable to those cases.

Victims' and intellectual groups challenged the legitimacy of the opinion tribunal, calling instead for a "Trial of Communism" in the courts of law, although the judiciary cannot indict an ideology or a political regime *in toto*, as already mentioned. In 2003, the ICAR Foundation filed with the Bucharest Court a complaint asking the government to acknowledge the "communist Holocaust" of 1945–1989, to officially apologize to the victims for the abuses they suffered, and to admit that the Securitate was a political police. According to the Foundation, the "Trial of Communism" is "a duty to the victims who died with the hope that justice would be done and to those who survived and are still waiting for this justice to be done," "a necessary and expected acknowledgement of the state abuses of the past, and a sign of maturity for the Romanian democracy" (ICAR Foundation 2010b). President Iliescu and the Social Democrat government ignored the request. After the 2004 elections, President Bănescu received ICAR representatives at Cotroceni, the Bucharest-based presidential offices. During the meeting, the representatives convinced the president of the power of an official apology, coming from the country's most important state dignitary, for communist crimes addressed to the victims and the Romanian society at large. Bănescu agreed to deliver the apology, after an expert commission attested to the crimes of the communist regime, which the Tismăneanu Commission later did (see above). The apology never came, and the work of the presidential commission became a substitute for the "Trial of Communism" advocated by the civil society.

Property Restitution

The restitution of dwellings is an area where groups supporting the process have publicly clashed with groups opposing it. Since 1989, organizations representing the initial owners (most notably the Association of Owners of Property Abusively Confiscated by the State) have asked for the return of the property they lost to communist authorities or for fair compensation, when restitution in kind was not possible. They have been opposed by the Association of Tenants Living in Nationalized Dwellings and the Association of Tenants Who Acquired Ownership through Law 112/1995, which represents the tenants who rented the confiscated dwellings from communist authorities. All these groups have tried to influence public policy through street demonstrations, open letters addressed to the government, and press campaigns.

In 2000, Eugen Pleșa, the leader of the Association of Tenants Living in Nationalized Dwellings, joined the opposition Greater Romania Party in the hope of influencing legislation. That year, he entered Parliament, where he championed the interests of his Association, and convinced the house to accept as valid and legal the contracts through which tenants bought nationalized dwellings from the state. As a result, Law 10/2001 on the Legal Status of Property Abusively Taken Over by the Communist State during 6 March 1945–22 December 1989 allowed for the return of all dwellings except those bought by tenants in “good faith.” The Association of Owners of Property Abusively Confiscated by the State warned that all tenants knew that the houses they occupied had been illegally confiscated by the communist state, in nationalization drives that ran counter even to the 1948 communist Constitution, which guaranteed the right to property. However, Law 10/2001 did not annul the provisions of Law 112/1995 which allowed tenants to buy nationalized property. In 1999, the Association addressed an open letter to all political parties represented in the Chamber of Deputies, but its plea for recognizing the property rights of initial homeowners remained unanswered (Oțoiu 2009, p. 70). The Association continues to monitor the activity of the Property Fund (Fondul Proprietatea), set up in 2005 to provide compensation to initial owners, and the cases lodged by Romanian owners with the European Court for Human Rights.

In Romania, property restitution also extended to ecclesiastical property, including the churches, chapels and cemeteries transferred in 1948 by the communist state from the minority Greek Catholic Church to the majority Orthodox Church. The Orthodox-Greek Catholic property dispute has been one of the bitterest disputes of post-communist times (Stan and Turcescu 2007). Since 1989, the two churches have behaved as latent interest groups that have mobilized to lobby the political establishment and to engage in high-profile public campaigns each time when their interests dictated such actions (Dickerson and Flanagan 2006). While their main institutional goals remain religious, both churches launched media campaigns against each other, wooed the public in support of their restitution demands, and lobbied the government for legislation and political action aimed at protecting their interests and hurting those of the other denomination.

At the pressure of the Orthodox Church, throughout the 1990s the post-communist authorities refused to get involved in the property dispute on grounds that it was a purely religious issue and denied the Greek Catholics their right to seek justice through the Romanian courts. In turn, the Greek Catholics complained to the Vatican and foreign governments sympathetic to their plight, and approached the European Court of Human Rights, which recognized the infringement of their rights. That decision obliged the Romanian state to allow the courts to hear cases of Greek Catholic church restitution starting in 2006. As it commands the loyalty of as much as 86% of the population and remains a key electoral ally for all political formations, the Orthodox Church has become the most important civil society actor shaping the politics of the past.

Memorialization

In the absence of a museum dedicated to the victims of the communist regime, the Sighet Memorial of the Victims of Communism and of the Resistance (*Memorialul Victimelor Comunismului și al Rezistenței*) remains the most significant memorialization project in post-communist Romania and the country's only museum opened in a communist-era political prison. Created in 1993 by the Civic Academy, the Memorial includes the Museum located in the Sighet prison (a small town in Northern Romania) and the International Center for the Study of Communism (*Centrul Internațional de Studii asupra Comunismului*) located in Bucharest. Through them, the Civic Academy seeks "to promote civic education and revise the country's history falsified by the communist regime" (Ciobanu 2008, p. 60). Since 1997, the Memorial has received some funding from the Romanian government, but its most important donors have remained the Romanian diaspora, foundations such as the Konrad Adenauer Stiftung, and the Council of Europe. Besides a series of ongoing oral history programs, the Memorial organizes a yearly summer school for pre-university teachers and students, publishes a scholarly journal, and commemorates each year on the day of the Ascension a Day of Memory, dedicated to all those who opposed communism and suffered in communist prisons (*Fundația Academia Civică* 2009).

Victims' groups have also funded a large number of memorials. By 2004, for example, the Association of Former Political Prisoners had helped to erect hundreds of monuments, crosses, and commemorative plaques in every Romanian county (*Asociația Foștilor Deținuți Politici din România* 2004). Some of these memory projects mark the site of former political prisons or murders of anticommunist fighters, others remember the struggle of prominent local anticommunist heroes, while still others are dedicated to the Romanian people's opposition to the communist regime. Given the reluctance of successive post-communist governments to honor the victims and condemn the communist perpetrators, most important have been the Association's efforts to mark each and every political prison, regardless of whether it has remained a prison, was converted to some other use, or was demolished.

Conclusion

In the South African case, civil society efforts at redressing the past have been “undercut by the existence of a new democratically elected government that had high levels of legitimacy [and] served to discourage the need for active and unified action” by non-governmental organizations part of the civil society (Hamber et al. 1997, p. 1). By contrast, Romanian civil society efforts to ensure that victims have the right to reparation and redress (what the Germans call *Wiedergutmachung*, making right again) have been instrumentalized by successive post-communist governments interested in short-term electoral gains and largely indifferent to the victims’ plight. Civil society groups have been listened to, and their projects have been supported, only when and for as long as political parties have anticipated possible gains from reevaluating the communist past. These groups have been promptly abandoned, ignored, or even silenced when their demands for justice threatened the careers of powerful political gate-keepers, the relative electoral advantage of the ruling party, its policy priorities, legitimacy, or popularity.

The Romanian civil society groups with a stake in the transitional justice process are quite diverse, spanning groups that support, groups that oppose, and groups that are indifferent to the politics of the past. The groups discussed in this chapter represent only a fraction of all civil society organizations in the country, most of which show no interest in decommunization. The numerous groups indifferent to transitional justice face similar difficulties related to organization, leadership, and resources as do groups interested in the politics of the past. Organizations that oppose de-communization, while much fewer, have benefited from convergence of goals with powerful post-communist politicians and parties. The challenge facing the pro-transitional justice civil society groups is to find common ground, a common voice, and a common platform to promote various methods, processes and practices of coming to terms with the past as new generations with no direct experience with the communist regime and its crimes come on the political stage. This implies more concerted action, a redesigned agenda and tool kit, and the political acumen needed to bring the public and the political elite behind the larger decommunization project.

References

- Andreescu, G. 2003. Cazul Grigore Oprea: A început vânatoarea zăpăciților și a aiuriiților. *Observator Cultural*, 180, August. http://www.observatorcultural.ro/Cazul-Grigore-Oprea-a-inceput-vinatoarea-zapacitilor-si-a-aiuriiților*articleID_8835-articles_details.html. Accessed 22 March 2012.
- Artene, A. 1999. Asasinul inginerului Gheorghe Ursu a fost condamnat la 20 de ani de închisoare, *Ziua*, 1 July. <http://www.halbjahresschrift.homepage.t-online.de/radu.htm>. Accessed 19 July 2011.
- Asociația Foștilor Deținuți Politici din România. 2009. *Memoriul Asociației Foștilor Deținuți Politici din România*. <http://www.bumbacari.net/news.php?extend.3>. Accessed 23 June 2011.
- Asociația Foștilor Deținuți Politici din România. 2004. *Album memorial. Monumente închinat jertfei, suferinței și luptei împotriva comunismului*. Bucharest: Ziua.

- Asociația Persoanelor Depozitate Abuziv Foștilor Deportați Refugiați din România. 2009. *Știri, Legea 290/2003, Legea 10/2001, Legea 247/2005*, 7 August. <http://caritas-craiova.piczo.com/stiri,legea2902003,legea102001,legea2472005,?cr=5&linkvar=000044>. Accessed 23 June 2011.
- Atitudinii și opinii despre regimul comunist din România. *Sondaj de opinie publică*. 2012. Bucharest: Institutul de Investigare a Crimelor Comunismului și Memoria Exilului Românesc, 23 January. http://www.crimelecomunismului.ro/pdf/ro/sondaj/raport_iicmer.pdf. Accessed 22 March 2012.
- Benea, Daniela. 2008. Musceleni, la ședința pentru modificarea Legii Chiriașilor. *Evenimentul Muscelan*, 28 October. <http://www.evenimentulmuscelan.ro/index.php/Actualitate/789-musceleni-la-sedinta-pentru-modificarea-legii-chiriașilor.html>. Accessed 19 July 2011.
- Carothers, Thomas. 1999. Civil society. *Foreign Policy* 117: 18–29.
- Ciobanu, Monica. 2008. Democracy and education—Teaching history and building a democratic future: Reflections from post-communist Romania. *Democracy and Education* 17(3): 58–62.
- Curtea Penală de Condamnare Juridico-Morală a Crimelor Regimurilor Comuniste. 2006. *Procesul Comunismului*, October. <http://redholocaust.org/procesul.html>. Accessed 29 March 2011.
- David, Roman. 2011. *Lustration and transitional justice. Personnel systems in the Czech Republic, Hungary and Poland*. Pennsylvania: University of Pennsylvania Press.
- Deletant, Dennis. 1996. *Ceausescu and the securitate: Coercion and dissent in Romania, 1965–89*. London: C. Hurst.
- Deletant, D. 2000. *Communist terror in Romania: Gheorghiu-Dej and the Police State, 1948–1965*. London: Palgrave MacMillan.
- Dickerson, Mark, and Thomas Flanagan. 2006. *An introduction to government and politics. A conceptual approach*. Toronto: Nelson Thomson Learning.
- Fundația Academia Civică. 2009. *Memorialul Victimelor Comunismului și al Rezistenței*. http://www.memorialsighet.ro/index.php?option=com_content&view=frontpage&Itemid=1&lang=ro. Accessed 20 July 2011.
- Grosescu, Raluca. 2007. The role of the civil society and anticommunist political actors in the Romanian transitional justice partial failure. In *Lustration and consolidation of democracy and the rule of law in Central and Eastern Europe*, ed. Vladimira Dvorakova and Anđelko Milardovic, 183–195. Zagreb: Political Science Research Center.
- Grosescu, Raluca, and Raluca Ursachi. 2009. *Justiția penală de tranziție: De la Nurenberg la postcomunismul românesc*. Iași: Editura Polirom.
- Hamber, B., Mokofeng, T., and Simpson, G. 1997. Evaluating the role and the function of civil society in a changing South Africa: The truth and reconciliation commission as a case study. Presented at the seminar *The role of southern civil society organizations in the promotion of peace*. Catholic Institute of International Relations, London, 10 November.
- Howard, Marc Morje. 2003. *The weakness of civil society in post-communist Europe*. New York: Cambridge University Press.
- ICAR Foundation. 2010a. *Who is ICAR foundation*. <http://www.icarfoundation.ro/>. Accessed 1 September 2011.
- ICAR Foundation. 2010b. *Communism trial*. http://www.icarfoundation.ro/index.php?option=com_content&task=view&id=29&Itemid=44. Accessed 1 September 2011.
- Ignatieff, Michael. 1995. On civil society: Why Eastern Europe's revolutions could succeed? *Foreign Affairs* 74(2): 128–136.
- Judt, Tony. 2005. *Postwar: A history of Europe since 1945*. London: Penguin.
- Klinghoffer, Arthur, and Judith Klinghoffer. 2002. *International citizens' tribunals: Mobilizing public opinion to advance human rights*. London: Palgrave Macmillan.
- Kligman, Gail. 1990. Reclaiming the public: A reflection on creating civil society in Romania. *East European Politics and Societies* 4(3): 393–438.
- Leuștean, Lucian. 2009. *Orthodoxy and the Cold War. Religion and political power in Romania, 1947–1965*. New York, NY: Palgrave Macmillan.
- Linz, Juan, and Alfred Stepan. 1996. *Problems of democratic transition and consolidation: Southern Europe, South America and post-communist Europe*. Baltimore: Johns Hopkins University Press.

- Macovei, Monica. 1999. Procesul Gheorghe Ursu, 22, no. 9. <http://www.halbjahresschrift.homepage.t-online.de/radu.htm>. Accessed 19 July 2011.
- Muraru, A. 2011. Ne mor torționarii, doamnă Kovesi! *Observatorul Cultural* 583, 15 July. http://www.observatorcultural.ro/2-comentarii.html*articleID_25608-articles_details. Accessed 19 July 2011.
- Oțoiu, Damiana. 2009. Negocier la (re)constitution de la proprietate privată în România postsocialistă. (Nouveaux) acteurs, (anciennes) stratégies. *Options Méditerranéennes* A92: 65–75.
- Oțoiu, D. 2006. La (re)construction de la propriété privée en Roumanie post-communiste. “Anciens” vs. “nouveaux” propriétaires?, paper presented at the At the Frontier of Land Issues: Social Embeddedness of Rights and Public Policy international workshop, 17–19 May 2006, Montpellier, p. 6. http://www.mpl.ird.fr/colloque_foncier/Communications/PDF/Otoiu.pdf. Accessed 26 July 2011.
- Ședința Senatului din 3 februarie. 1994. *Monitorul Oficial al României, partea a II-a*, 4 February 1994.
- Ședința Senatului din 25 martie 1992, *Monitorul Oficial al României, partea a II-a*, pp. 2–10, 26 March 1992.
- Stan, Lavinia. 2011. Witch-hunt or moral rebirth? Romanian parliamentary debates on lustration, *East European Politics and Societies*, April. <http://eep.sagepub.com/content/early/2011/04/05/0888325411403922.abstract>. Accessed 1 August 2011.
- Stan, L. 2010. Romania: In the shadow of the past. In *Central and Southeastern European politics since 1989*, ed. Sabrina P. Ramet, 379–400. Cambridge: Cambridge University Press.
- Stan, L. 2009. *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the communist past*. London: Routledge.
- Stan, L. 2006. The roof over our head: Property restitution in Romania. *Journal of Communist Studies and Transition Politics* 22(2): 180–205.
- Stan, L. 2000. Access to securitate files: The trials and tribulations of a Romanian law. *East European Politics and Societies* 16(1): 55–90.
- Stan, Lavinia, and Lucian Turcescu. 2007. *Religion and politics in post-communist Romania*. New York: Oxford University Press.
- Stan, L., and Lucian Turcescu. 2005. The devil’s confessors: Priests, communists, spies and informers. *East European Politics and Societies* 19(4): 655–685.
- Ștefănescu, Domnița. 1995. *Cinci ani din istoria României. O cronologie a evenimentelor decembrie 1989-decembrie 1994*. Bucharest: Editura Mașina de Scris.
- Tănăsoiu, Cosmina. 2007. The Tismaneanu report: Romania revisits its past. *Problems of Post-Communism* 54(4): 60–69.
- Timișoara Declaration. 1990. *Report on Eastern Europe*, 6 April 1990.
- Tismăneanu, Vladimir. 2008. Democracy and memory: Romania confronts its communist past. *The Annals of the American Academy of Political and Social Science* 617: 166–180.
- Tismăneanu, V. 2003. *Stalinism for all seasons: A political history of Romanian communism*. Berkeley: University of California Press.