

# Memory as Justice? (In-)Capable Subject and the (Im-)Possibility of Justice

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## Abstract

Ricœur 's account of justice rests upon the concept of a capable subject, able to speak and act on their own behalf, accountable for their own actions, and recognized by others and by neutral institutions of justice as an equal—a citizen. However, is justice possible when the subject is not capable—when they are not able to voice their claims, recognized as equal, or when their suffering is not acknowledged by the other and by the institutions of the state?

Justice encompasses the principle of fairness, which can be extended into the past or to those unable to speak on their behalf. The “duty of memory” emanates from it. The question is whether *justice* can be achieved through memory work outside the courts of justice and across the distance of time.

The possibility of memory as justice is explored in the context of unpunished crimes from the communist era and the systemic discrimination of the Roma people in Central Europe today. The chapter finds that justice is not attainable in the absence of an inclusive and equitable narrative of citizenship and social and economic justice, the lack of which also violates the autonomy of the individual as a capable subject. Memory work thus serves as a precondition for a just society, but cannot replace justice as such.

*Keywords:* justice, capable subject, Ricœur , Roma, communism

“We have nothing better than memory to signify that something has taken place, has happened, has occurred before we declare that we remember it.

Ricœur (2006, p. 52)

### *Duty to Remember and Duty to Justice*

This reflection was inspired by mentions of “memory as justice” in the works of I. Bitton and M. Duffy. Maria Duffy explores the role of forgiveness in Ricœur’s work on memory and justice (Duffy, 2009). In speaking about the narrative nature of identity, composed of many sources, including memory, Duffy points out that “[Ricœur] rightly alerts us to the necessity of dealing with memory as a potential source of justice and reconciliation and even of the duty to remember (*devoir de mémoire*) not only out of a deep concern for the past but in transmitting the meaning of past events to the future generations, a task that carries a moral weight” (Duffy, 2009, p. 82). Israel B. Bitton, in his comprehensive and multidisciplinary look at the concept of memory, offers a summary of deontological justice, which he equals to the “memory as justice” approach where justice is pursued “for its cosmic, metaphysical, inexplicable quality, and specifically for the other, on behalf of the collective” (Bitton, 2022, p. 190). Ricœur himself, in *Memory, History, Forgetting* (2006), discusses the duty of memory as a duty of justice (p. 89).

Memory is not usually the first thing that comes to one’s mind when thinking about justice. Justice may recall a courtroom with judges, plaintiffs, advocates, and an audience. That is juridical justice, which follows a code of laws, customs, and norms surrounding this profession. There is a specific claimant who asserts that they are a victim, a defendant who is accused of being a perpetrator of harm, and a neutral institution bound by laws and rules. However, is such justice possible when the claimant cannot speak for themselves? Can another speak on their behalf and, if not in the courts of justice, then where? Paul Ricœur has devoted much attention to memory and justice in his works. Concerning memory, he speaks of society’s duty to remember. Does this mean that remembering facilitates justice? Or that it merely serves as one of the preconditions for justice?

To explore these questions, Ricœur’s analysis of juridical justice, founded on the precondition of a *capable subject*, will be considered against two cases where the wronged cannot meet the conditions of being capable subjects. One is distant in time and relates to the people who experienced oppression, imprisonment, and mistreatment by the totalitarian communist regime in Czechoslovakia. The other—the Roma of Slovakia—pertains to a community that is part of society here and now but that is distanced from

the possibility of justice by the marginalization of their voice and by their experience of discrimination and relegation to the margins of society. Naturally, the chapter does not provide sufficient space to elaborate on both cases in depth; instead, they serve as illustrations of distance from the “mainstream” society and of voicelessness. In the absence of a possibility of juridical justice for subjects who do not meet the criteria of a capable subject, this paper considers whether and how mourning and memory work can move society in the direction of deontological justice, justice enshrined in fair institutions and serving the end of attaining a “good life.”

### *The Capable Subject*

When Ricœur considers justice in the juridical sense, he describes it as a process of restoration of civil peace that should have the components of the application of a penalty and the rehabilitation of the perpetrator through carrying out the punishment (Ricœur, 2000, p. XXIII). It applies to persons, institutions, and actions. To explore the possibility of justice, this chapter will first look at Ricœur’s conceptualization of the bearer of juridical justice—the *capable subject*, the autonomous individual that decides to entrust the claim of their rights being violated to the hands of the representative of neutral institutions of justice. This conceptualization follows the speech act theory, using a framework similar to his conceptualization of identity in *Oneself as Another* (Ricœur, 1990). The fundamental question is who—individual or collective—the bearer of rights is and who has committed something and is responsible (Ricœur, 2000, p. 23).

The capable subject is explored through a set of four questions/conditions:

1. *Speech: Who is speaking?* This question relates to the author of utterances, the speaker, who is presumably the carrier of the burden of the suffered harm (pp. 3–4).
2. *Action: Who did this or that action?* This question refers to the authorship of action and identification of responsible individuals who will eventually be forced to incur a penalty or compensate the victim. Capacity here resides in acting freely and accepting, on the basis of the law, the consequences of the deed they authored in the face of the law (p. 16).
3. *Narrative: Whose story is being told?* This is a question of narrative identity, the story being told and its emplotment, and the story being told about those involved.
4. *Ethical and moral predicates: Who is worthy of self-esteem and self-respect?* This question adds the moral evaluation of the *good* and the *bad*, and a sense of *obligation* derived from that.

It is apparent that the fourth question links Ricœur's conception of juridical justice with the broader framework of a just society. It implies the context of the storied self within a web of relations with others, which are mediated through impartial institutions. The institutions provide for a neutral perspective of a third party and facilitate equitable treatment, where any person can be replaced by another (Ricœur, 2006, p. 28).

Without institutional mediation, individuals are only the initial drafts of human persons. Their belonging to a political body is necessary to their flourishing as human beings, and in this sense, this mediation cannot be revoked. On the contrary, the citizens who issue from this institutional mediation can only wish that every human being should, like them, enjoy such political mediation, which, when added to the *necessary* conditions stemming from philosophical anthropology, becomes a sufficient condition for the transition from the capable human being to the real citizen. (Ricœur, p. 10)

Citizenship in this sense is the realization of a capable subject. For Ricœur as for Kant and Rawls, personal autonomy, is tied to citizenship, understood as "the freedom one has insofar as one is rational to give oneself the law as the rule for the universalization of one's own maxims of action" (Ricœur, 2000, p. 37). Juridical justice and its practice in the realm of institutions guided by impartial rules produces byproducts resulting in civic solidarity and social cohesion as it facilitates one of the most prized features of democratic societies, and a rare commodity today: trust in institutions and interpersonal trust. For that leap of faith, there has to be a willingness of the community to uphold shared norms and values, which in turn requires solidarity and acceptance of equality before the law.

The capability approach further develops the idea of equitability by placing the responsibility for securing conditions for each individual's human development and capabilities on the state. "If a decent society is to remain stable not just as a grudging *modus vivendi*, but, as John Rawls puts it, stable 'for the right reasons,' it needs to generate attachments to its principles, and attachment brings vulnerability. This vulnerability would be unendurable without trust. Producing trust must therefore be a continual concern of decent societies" (Nussbaum, 2016, p. 173). The "right reasons" for stability are the protection and promotion of central human capabilities and opportunities for development—ultimately, conditions for the flourishing of human dignity. This idea goes hand in hand with Ricœur's treatment of Rawls's principles of distributive justice, especially the second principle that emphasizes maximizing the minimal share in a situation of unequal shares (Ricœur, 2000, p. 38)—that is, providing some modicum of dignified living to those most vulnerable in society. It is also linked to the original position,

where participants know what every reasonable being wants to possess—“primary social goods without which the exercise of liberty would be an empty demand. In this regard, it is important to note that basic self-respect belongs to the list of primary goods (Ricœur , 2000, p. 43) and the veil of ignorance assures their fair starting position (Ricœur , 2000, p. 44). Nussbaum emphasizes that the dignity threshold—her term for the minimum conditions society needs to secure for each individual to live a dignified life—requires not just basic civil liberties and political rights but economic and social rights—material empowerment—as well (Nussbaum, 2011). This, in turn, means the recognition of individuals by one another and by the institutions of the state as capable subjects, their equitable treatment, and the provision of opportunities for the development of their own capabilities.

The neutral realm of institutions facilitates the equitable conditions of the application of justice. However, the rules and laws they are inscribed in would not be worth the paper they are written on if there was no basic consensus on shared values. Ricœur speaks about the *will* to live together in a community and a shared sense of responsibility and reciprocity. “You are responsible for the consequences of your acts, but also responsible for others’ actions to the extent that they were done under your charge or care, and eventually far beyond even this measure. At the limit, you are responsible for everything and everyone” (Ricœur , 2000, p. 12). The responsibility is not limitless. It is mediated by *phronesis*, moral judgment, which aids in “recognizing among the innumerable consequences of actions those for which we can legitimately be held responsible” (p. 35). Nussbaum emphasizes that trust in a society does not merely mean reliance on institutions to “do their job,” for that often happens in situations where institutions are corrupt (we expect them to behave in a certain way). Trust includes vulnerability because the flourishing of the capabilities of others is partially in the hands of the other (Nussbaum, 2016, p. 173).

What ought to follow is a widespread sense of responsibility, accepting the consequences of breaking the established rule, and a sense of solidarity and ethic of care within the society. Juridical justice is historically perceived as retributive justice—responsibility is related to the willingness to comply with punishment for wrongdoing or compensation to the victim. At the same time, it is, for Ricœur , underwritten with the ethic of care for the other. A capable subject, authoring their claim of wrongdoing vis-a-vis an identifiable counterpart accused of causing harm, both agrees to delegate the dispute’s resolution to a neutral third party and accepts the consequences, trusting the judgment to be morally justified. For its implementation, a cohesive and trust-based community of will is needed. The individuals are partners of equal worth and recognition.

*The In-Capable Subjects: Distanced by Time and Peripherality*

Two cases will be used to illustrate the applicability of the concept of juridical justice and the capable subject it rests upon. In one, the subjects incurring the harm are removed in time: they are the many victims of the totalitarian communist era that have not received any compensation or seen any punishment for the crimes of that era—and will not receive it as many are no longer alive. For those still alive, the statute of limitations has since expired. The second collective subject, the Roma minority in Slovakia, is distanced by their marginalization, pushed out into the periphery of the society. Naturally, several other case studies could be imagined; these two have been selected merely to enable imagination of this distancing in time and in “space.”

Over the four decades of communist rule, the victims of the communist regime are counted in their hundreds of thousands, from those who lost property due to the forceful nationalization of private property, to those who lost their lives or loved ones as a result of political show trials—especially the “Monster Trials” of 1950. Thousands were incarcerated or sentenced to labor in inhumane working conditions, and thousands more lost their freedom to work in a field of their choosing or pursue education. The list is long, and it is difficult to draw a line between crimes that should have been prosecuted at the onset of the transition to democratic rule and those that can be left as bygone. Although some portion of those disowned could reclaim their property after 1989, and some political prisoners received a symbolic sum as a recognition of their suffering, the vast majority of those harmed have seen neither compensation nor penalty, at least for the top layer of the former political leadership. Not a single political leader from the communist era was sentenced after 1989. More than thirty years have passed since then, and the statute of limitations on most of the crimes from that era has elapsed. Many victims died under the communist regime, and many more have died since then. The chance that those remaining, or their descendants, could live to see compensation or penalty take place is dim to nil.

The Roma have been ostracized in Slovak society, physically removed, segregated, and discriminated against for centuries. During the Slovak State’s fascist interwar period, they were removed into segregated areas, often a mile or two away from the nearest village. During the communist regime, the nomadic Roma were forcefully settled, moved into cement apartment blocks, and sent to work in factories. They were only recognized as a national minority after 1989. Still, the living situation of many Roma in fact worsened, owing to high unemployment caused by racial profiling and social issues that plague the segregated townships, from intergenerational poverty to broken families and high substance abuse. Roma live on average ten years fewer than the majority population and suffer infectious diseases at a much higher rate than the national average (Hudák, 2021). Roma chil-

dren have been and still are sent to schools for the mentally disadvantaged at alarming rates, and it is nearly impossible for them to gain access to higher education. Roma women have been subjected to forced sterilizations, a practice widespread during communism but continuing well into the 21<sup>st</sup> century (Centrum pre reprodukčné práva, 2003). Roma have also been subject to police brutality and incarcerated disproportionately. The list of harms committed against the Roma resembles that committed against the African American community. However, in the U.S., a sense of shared responsibility was awakened through the Black Lives Matter movement in at least a sizeable part of the national community. Such a movement is nearly impossible to imagine in Slovakia. One of the key reasons for that is the incapability of the subjects in this relational constellation.

### *Who is Speaking? The Sounds of Silence*

The notion of a capable subject becomes immediately problematic when thinking through these two case studies. Going step by step through the traits of a capable subject, we stumble from the first step to the last. The voice of the harmed in these two cases is largely silent due to a lack of awareness, acknowledgment, and sense of responsibility.

The victims of the communist regime do not have a strong identifiable voice in the present-day discourse. It would be more meaningful to speak about several categories of the harmed, where a responsible culprit could be identified. Several feeble attempts have been made—for example, the one-time compensation of political prisoners in 2003 or the restitution of nationalized or confiscated property. Even here, several thousand were unsuccessful in their claims for compensation or felt a lack of closure due to the complete absence of criminal prosecutions or at least symbolic acknowledgment of the crimes committed by the leaders of the pre-November '89 regime. Furthermore, most crimes went unpunished and were not compensated for at all. Over 400 people were killed on the Czechoslovak border as they tried to flee across the Iron Curtain. Their relatives have never been vindicated in a symbolic, juridical, or economic sense. There have been attempts to try the political leadership that issued the orders to shoot at those fleeing in Germany and the Czech Republic. Still, they failed to touch any Slovak member of the top ranks of the communist regime. Former communist potentates are living in comfortable retirement and gradually perishing without bearing any consequences for their actions. In relation to the crimes of the communist regime, we can think in terms of individual subjects, each person that has been harmed, separately. But the subject is also collective, as the traumatic experience, enhanced by the lack of closure, provides for a certain sense of shared identity.

The silence in the case of the Roma is also related to the absence of an identifiable public voice that would air these grievances, successfully capturing the attention and sympathy of broader audiences. The Roma are perceived the most negatively out of all minorities in Slovakia, and Slovaks perceive the Roma almost the most negatively out of all of the EU countries (EU Special Eurobarometer survey, 2019). The majority population in fact prefers Roma to be treated negatively in public discourse. The voice is also absent as a result of the systemic, long-term discrimination and segregation, resulting in the absence of a “critical mass” of educated leadership among the Roma and a lack of awareness among the Roma themselves, as most do not have equal access to education and survive on the margins of the society. Roma are also a culturally heterogeneous community, which prevents successful political mobilization. From the speech act theory perspective, the speaker is largely absent or invisible to the audience.

### *Who is the Author of the Harmful Action?*

The authorship of the harm in our two cases is difficult to pin down to specific individuals. In relation to the communist past, concrete perpetrators have been identified in the context of transitions from the authoritarian past in other countries, but it depends on the prevailing narrative of that past. In relation to the Roma community, there have been important court trials that can serve as symbolic markers of broader responsibility. There have been far too few successful trials. Still, there were court decisions that ruled against segregation within the school system, recognized and compensated victims of police brutality, recognized violence against the Roma as a hate crime, and more. However, as in the first case, the author of the harmful action is not only an individual. The capable subject here would have to be recognized as the shared societal and state responsibility for the systemic harm against these communities.

Society, however, cannot stand on trial, and responsibility would have to be claimed in arenas other than the juridical. There is resistance towards that in both cases. The communist regime and the era of Normalization after the invasion of the Warsaw Pact armies in 1968 established a totalitarian ideology that required widespread conformity, if not collaboration, from the vast majority of the population. The handful of those who resisted thus is not perceived with sympathy by many, as they are walking reminders of the bent backs of the obedient majority. The criminalization of the regime by law (The Act on Immorality and Illegality of the Communist System from 1996) removes the perception of individual responsibility and places it on the criminal regime itself. Therefore, there is a lack of demand for opening public discussions about the responsibility for the crimes of the



communist regime, and open resistance in the rare instances when that may be attempted.

A shared sense of responsibility, not to mention a felt obligation to compensate the Roma for unequal opportunities, economic hardships, impacted health, and overall, comparatively smaller chances of fulfilling their potential in life, is all but non-existent in society. Suppose the capable subject is anyone who has the power to inflict harm, as Ricœur states in *The Just*, even by condoning the pervasive structure of oppression. In that case, we can expect most Slovaks to be those who ought to feel responsibility on behalf of the vulnerable community. But they mostly do not. Stereotypes are so pervasive, even among the most educated in society, that it is difficult to imagine what would have to happen for the discourse to shift and the “circle of empathy” to enlarge and embrace the plight of the Roma as our own. Singular cases of allies and advocates of Roma rights are exceptions to the rule, lone voices in the sea of silence and blindness.

### *Whose Narrative is Being Told?*

The incapability of the subjects in these two situations is not born of some innate malevolence. It is embedded in the narratives that are being told about the marginalized communities and the dominant community. That narrative is insecure towards otherness, seeped in victimhood, mistrust, and care, but only for one’s own kind. The communist era reinforced closedness and exclusivist identities. As the Czechoslovak philosopher Milan Šimečka aptly described in his *Circular Defense* (1985), for thirty years (at the time of the writing), “we were thrown as a nation into patheticness, and we bragged when someone was accidentally lifted out of it. For the vast majority, the world had shrunk to the reality of domestic space, domestic language, and domestic troubles. In social and political dimensions, this devastatingly impacted the statistical average of national thought.... We are now a quiet corner of Europe, we have enough to eat and that, they say, is not a thing to be taken for granted in today’s world” (pp. 97–98, transl. by author). Much in the same vein, Kundera (1984) and István Bibó before him (2010/1944) ponder the insecure and mistrustful nature of the small (meaning vulnerable, afraid of perishing at any moment) nations of Eastern Europe, prone to “political hysteria,” conspiracy theories, and suspicion of anything that is not our own.

To be a democrat means, above everything else, not to be afraid: not to be afraid of people with a different opinion, a different language or race, of revolutions, of conspiracies, of the enemy’s unknown and wicked intentions, of hostile propaganda, of disdain, and more generally of

all the imaginary perils that become real perils by the very fact that we are afraid of them. Central and Eastern European countries were afraid because they were not finished and mature democracies, and since they were afraid, they could not become one... (Bibó, 2010, pp. 19–20)

The fall of the communist regime failed to shift the dominant identity narrative towards more openness and inclusiveness. Instead, economic and social reforms, carried out under external pressure, brought in “predatory neoliberalism” and “nationalist conservatism” (Červínková & Rudnicky, 2019), which conserved survival-oriented materialism and social distance from minorities.

When extending the moral responsibility in time, or its possibility, we also have to consider how narratives, or as Heidegger called them, “public interpretations” (Heidegger, 2001) are sustained. We are thrown into them as we experience our being in the world. The dominant narratives can be imagined as narratives of the *longue durée* through a historical narrative arc, configured in the time of one generation, passed on to the next, and reconfigured by the next generation (Ricoeur, 2006). We attune to public interpretations, and if they are not at odds with our personal values and if they successfully make sense of the world, we fall into a state of oblivion, unaware of their mediation of our understanding of the world (Heidegger, 2001). This thrownness and possibility of falling prey to public interpretations is also mediated by the predominant ideologies. Ricoeur reconceptualizes them through their integrative function in society. Ideologies are political narratives, and imaginative practices, sustained by those in power, for the purpose of legitimating the political status quo. They can be pathological but are not always so. They mediate meaning and justify political institutions and their occupants (Ricoeur, 1986). Ricoeur counterposes ideology with utopia, as the latter challenges the status quo and gazes into the future into what ought to be. As shown, the current dominant way of interpreting the world and one’s own past is steeped in the present inward-looking, protective, exclusivist, other-phobic frame of mind, nestled in the tradition of victimhood and mistrust and emphasized by the prevailing ideology. What is entirely missing, however, is a vision, a utopia shared by a critical mass of the members of society, that would challenge this interpretive frame and open the possibility for solidarity and care. As Milan Šimečka declared forty years ago, and is still true today: “The world is in such a shape today that it needs utopias. No challenge of today can be resolved by the pragmatism of day-to-day politics... A person almost doesn’t have a choice whether to reconcile with a utopia or not. To live without it is to live without human dignity” (Šimečka, 2018, p. 33–34, transl. by author).

### *Who is Worthy of Self-Esteem and Self-Respect?*

In the cases under consideration, the subjects are not capable. As self-esteem stems from mutual vulnerability, solicitude, and care for one another, it falls through in cases where the harmed is distant and absent from the publicly audible narrative.

In *The Just* (2000), Ricœur connects “the juridical form ‘Who is the subject of rights?’... with the question with a moral form ‘Who is the subject worthy of esteem and respect?’” (p. 23), linked to responsibility and solidarity in a society. The proper focus, according to Ricœur, should be placed on the moral responsibility of individual and collective capable subjects. We can then speculate that in cases of crimes committed in the past or on the periphery of society, this would then mean voicing this responsibility publicly, acknowledging the harm suffered and its consequences on behalf of the injured. But the subjects are not capable and do not perceive the other as capable and worthy of respect. In turn, as this violates the principle of fairness and equitability, it also thwarts the conditions for self-esteem and self-respect.

Mira Erdevički’s recent documentary *Leaving to Remain*, on Roma emigrées who experience success in school and professional life in Great Britain although they were treated as second-rate citizens at home, subject to physical attacks or sent to school for mentally disadvantaged children or unable to find any work despite qualifications, is an accurate portrayal of the problem of lack of capability, lack of care, solidarity, and even of awareness of these lacks. In the documentary, a State Secretary of the Ministry of Education of Slovakia visits a school in London and asks the school officers why Roma children thrive in their school while they mostly fail in the Slovak school system. “Because we expect them to,” says the principal. “Considering the education they received before, they are doing incredibly well. They are very smart.” In Slovakia, nothing positive is expected of the Roma, not even by themselves. In turn, for the majority, their lives are severely impacted by this incapability, from the probable shorter lifespan and poorer health to the lack of available opportunities and lack of empathy with the gross and systemic unfairness levied against them.

### *Just Institutions*

Justice, for Ricœur, resides in just institutions. The “just” in just institution is the Aristotelian equitability, which corrects the possible defects of the law (Taylor, 2014, p. 574). In such a way, this institutional framework provides for a “civic minimum,” the “equitable (as distinguished from egalitarian) distribution of basic goods required by citizens to live a free life” (Mann,

2009, p. 45) serving as the entry ticket into the society, making justice into a social virtue. Justice rests on the principle of reciprocity “which prohibits the victimization of other by oneself” (Mann, 2009, p. 46).

Institutions, themselves narrative structures, are configured with a specific vision, the “spirit” of the institution, which impacts its functioning and gives it energy (Taylor, 2014). The institution’s spirit is, in turn, prefigured before the institution’s founding in human thought, values, and actions. In the world, thus also under the influence of the prevailing ideology or public interpretations. However, as much as the founding spirit can work for justice, it may, it seems, also work for injustice and in fact serve not as a corrective to the possible defects of the laws, but as a defect in the application of the law.

### *Justice as Obligated Memory?*

In reformulating the juridical concept of responsibility, Ricœur looks beyond retributive justice—the obligation to comply with punishment and compensation of the victim—and turns his gaze on the idea of a “fault” (Ricœur, 2000, p. 24) in the civil law, where the author of a deed knows the rules, acts freely, and “is in control of [their] acts to the point of having been able to have acted differently.” The fault here is divorced from the punishment, “yet it remains attached to that of an obligation to give compensation” (Ricœur, 2000, p. 24). This is a crucial point in considering the possibility of justice in cases where the subjects that incurred and inflicted wrongdoing are not capable. He warns against the increasing focus placed on victims that has been taking place over the years, pointing out that victimization in fact harms solidarity and leads to witch hunts for perpetrators or to the relativization of responsibility, which comes with an inflated sense of entitlement to indemnification. Responsibility ought to take the central stage—responsibility for the action as well as for its effects, including any harm caused (Ricœur, 2000, p. 28).

This responsibility for what is fragile and vulnerable—for all fellow citizens—begs the question that is of core interest to this chapter. How far does this responsibility extend in time and space? How far is one responsible for the consequences of their own actions or for the consequences of the actions of those before them? Here, Ricœur takes leave of juridical justice and outlines the consequences of adding the moral dimension of responsibility. Ricœur tells us that the gaze must deliberately turn from the past of the committed harm to the future to prevent harm from occurring again (Ricœur, 2000, p. 31). He also broadens responsibility from those who acted wrongfully to each subject who has the power to generate harm—highlighting the “indivisibly individual persons and systems in whose functioning

individual acts intervene in a sort of infinitesimal and ‘homeopathic’ way”. This extends individual responsibility for harm to those who are vulnerable as a result of systemic discrimination and oppression just by conforming or standing by and not speaking out loud against injustice. Furthermore, it extends solidarity beyond our present time, bearing responsibility for the effects of our actions as far as they are foreseeable and it is under our control to avoid them (Ricoeur, 2000, p. 33). The future gaze is then oriented towards securing the end of a good life, with and for others, in just institutions. The reciprocal bond of equitable citizenship also extends solidarity to the past, bearing responsibility for the suffering of others as members of the same community.

### *The Missing Trauma of Racism and Communism*

Extending time into the past and future, responsibility, as Ricoeur understands it, can be approached through the work of memory and mourning. Grieving for losses caused by violence and oppression allows a healing process to begin and empathy to spring and flourish, as the emotional process touches the hearts of those who have not personally incurred this loss. Is mourning necessary in order to reach justice? In cases of a distanced or absent subject, it would appear so. If the lack of responsibility, due to a lack of empathy and recognition of the other as self, is a major stumbling block for reaching equitable access to justice in society, a process that taps the emotional core of individual persons is needed. Jeffrey Alexander contended that, without a trauma narrative that allows for mourning, it is impossible to foresee an open, tolerant, cohesive, and kind democracy (Alexander, 2014). He describes it as a speech act, which is carried by a specific subject, aimed at a particular audience (in this case, society at large), with an identifiable victim and harm that was committed, and responsibility for it that it attributes to concrete actors, individual or collective. In this sense, it bears a resemblance to the tenets of juridical justice. But here, the aim is not the punishment of the harmful action or tangible compensation of the harmed. Mourning seeks to enlarge the circle of empathy and open imagination to include the other inside, as someone like me, enabling empathic connection through the perception of the other as oneself, which aligns with Ricoeur’s revised conception of justice.

The work of memory, Ricoeur contends, when successful, transforms mourning into joy. “[I]nasmuch as the work of mourning is the required path for the work of remembering (*souvenir*), joy can also crown with its grace the work of memory (*mémoire*). On the horizon of this work: a ‘happy’ memory, when the poetic image completes the work of mourning” (Ricoeur

, 2006, p. 77). In *Memory, History, Forgetting* (2006), Ricœur raises the idea of a duty of memory and links it to the idea of justice:

Extracting the exemplary value from traumatic memories, it is justice that turns memory into a project; and it is the same project of justice that gives the form of the future and of the imperative to the duty of memory. (Ricœur , 2006, p. 88)

Such memory and mourning work combine the truthful and the pragmatic aspect of memory—documenting the facts of the past in combination with how that memory is put to work in a society. He introduces the notion of debt, linked to the concept of heritage (Ricœur , 2006, p. 89)—in other words, responsibility for the other across the horizon of time. Here Ricœur places the moral priority on the victim—not in the sense of seeing the self as a victim claiming reparation but focusing on the other as a victim—enlarging the circle of empathy to include the other as oneself. This, for him, is the “legitimation of the duty of memory as a duty of justice” (Ricœur , 2006, p. 89). The emotional charge linked to the traumatic past makes it easy prey for possible abuse of memory as well, which is indeed our case.

The movement towards enlarging empathy and opening the imagined community to include the previously excluded other can, of course, fail. And often it does. It must successfully convince the audience that the subject of injustice is worthy and “like us.” Narratives are mediated in institutional arenas—media, culture, academia, legal arena—which may be unfavorably attuned to the attempts of the work of mourning and letting the “other” in. In such cases, the trauma narrative may fall on deaf ears or be actively suppressed—abuses of memory that Ricœur describes as blocked memory, manipulated memory, or commanded forgetting (Ricœur , 2006). Manipulated memory is “the level where the problematic of memory intersected with that of identity to the point of converging with it, as in Locke: everything that compounds the fragility of identity also proves to be an opportunity for the manipulation of memory, mainly through ideology” (Ricœur , 2006. p. 448). The abuses of memory are at the same time the abuses of forgetting, as the authorized account of the narrative prescribes that which is to be forgotten. It is active rather than passive forgetting.

There are narratives of trauma—the trauma of racism and the trauma of communism—that have evolved more or less successfully after similar historical experiences in other countries. The trauma of racism is the narrative that successfully fueled the Black Lives Matter movement in the U.S. and gained valuable allies for the movement among the mainstream white population. The trauma of racism refers to the “cumulative negative impact of racism on the lives of people of color. Encompassing the emotional, psychological, health, economic, and social effects of multigenerational and histor-

ical trauma, the trauma of racism relates to the damaging effects of ongoing societal and intra-social-group racial microaggressions, internalized racism, overt racist experiences, discrimination and oppression within the lives of people of color. When repetitive and unresolved, these experiences rooted in racism can create severe emotional pain and distress that can overwhelm a person's and community's ability to cope, creating feelings of powerlessness" (LeBron et al., 2015, p. 10). The trauma of communism is described for example as the "deprivation of political and personal freedoms, the silencing of certain discourses and even disciplines, the control of culture, forms of epistemological violence, and the suppression of religion. The private sphere and the lifeworld were colonized by the system; interpersonal trust was made difficult because of a system of denunciation and control" (The Trauma of Communism, 2021).

In the cases of victims of the communist regime and the systemic discrimination of the Roma, neither of the trauma narratives—that of racism and that of of communism— took hold in Slovakia. Instead, the narrative of the trauma of social change after 1989 is more successful, and a widespread Romaphobia effectively blocks the "success" of the trauma of racism. As Alexander emphasizes, trauma is a current successfully performed narrative of a past event perceived as traumatic (from the point of view of the present), which has to succeed in rallying an emotional response from the audience through institutional arenas and their channels (Alexander, 2004, p. 10). The Roma fail to be accepted as a credible victim, as potentially "one of us," as someone the mainstream community members could empathize with. The trauma of racism is not subscribed to even by the Roma community itself, as the discrimination is so widespread and so embedded in institutions and culture that it does not even arise on the plane of possibilities. The more successful social trauma narrative of the transition from communism is, however, not inclusive of the whole community but rather builds on the victimhood of the "losers" of the economic transformation and often melts in with the corresponding polarizing narrative of the globalization crisis. The overwhelming narrative frame into which public interpretations mold is exclusivist, clan-minded, inward-looking, protectionist, and antagonistic towards otherness. This narrative frame provides for an environment hostile to the creation of a just "spirit" of institutions.

Instead of the work of mourning that can build bridges and potentially heal wounds through empathy and forgiveness, public interpretations fall prey to the abuses of memory, which are not forward-looking. As Heidegger points out, inauthentic accounts of the past motivated by current political agendas instead look to the present (Heidegger, 2001). "I did not know the link between the past, the present, and the future, which I gained later from Orwell and which sheds light on the reasons for historical lies I see around myself: He who controls the past, controls the future. Who controls the pres-

ent, controls the past...Today, I know for certain that a falsified past cannot but lead to a falsified future, which will become, sooner or later, a pitiful present" (Šimečka, 2018, p. 36).

### *Mourning and Enlarging the Circle of Empathy Through Small Histories*

The capacity to share in the pain of the other through mourning can only take place within the realm of imagination of personal narratives, or what Šimečka called the small histories. By imagining the other as oneself, one can tap into the emotional pool and share in the same pain, joy, pride, or shame felt by the other. The solicitude requires this personal emotional interconnection through the textures of "small histories."

What connects us across the canyon of time is the small history of human life, marked by birth and by death. It, too, is full of turning historical events, struggles, aggressions and coups, victims and treasons, victories and losses, altogether events that shine so glamorously in history books. Only, in small history, we don't explain them as results of artificial abstractions but as results of impulses that forever accompany human life, love and hate, faith and hopelessness, modesty and pride, ambitions and weakness, and of all that which magnificently stands out in human stories that are preserved and that we tell again and again." (Šimečka, 1985, pp. 5–6)

It is the small histories that can move us, not the sterilized, official big histories. But this sort of imagination is possible only in a broader frame of acknowledging the other as oneself and thus allowing for the responsibility for the other.

### *Work of Memory and Work of Mourning as Preconditions for a Just Society*

The work of memory and the work of mourning certainly serve as preconditions for justice. Consequently, they also facilitate the restoration of dignity and social solidarity, hence contributing towards developing a stronger and kinder democratic society. But do they actually achieve *justice* as such?

The first and final question of this chapter, "Can memory serve as justice?" still cannot be given a straightforward answer, as it seems to allow for both a "yes" and a "no." Ricœur, Nussbaum, and Heidegger encourage the moral ethos of responsibility, which is forward-looking, and restorative



rather than punitive, focusing on mending the social fabric of society. In this sense, opening up research, holding public discussions on the remnants of the past, developing the networks of collaboration, rethinking how we teach about the subjects of the communist past, and reflecting on the lessons learned, including tolerance, refusal of racism and exclusivist identities in schools, are all indeed a part of the work towards a just society. Similar responsibility fails to address the injustices inflicted on the Roma by the systemic oppression in the past, acknowledging its existence and lingering impact on the current ability of many of the Roma to fulfill their potential in a system where their starting line in life is far behind that of the majority of the people in the society. The freedom to research and publish enables the pragmatic side of the memory work—establishing and documenting facts. Although not nearly enough is done on that plane, it is more successful than the second part of memory—its use in the work with the public. Šimečka already anticipated this difficulty in the late years of Normalization:

Despite all odds, I don't believe in the final destruction of history. ...the past, by the weight of its years, is always in the advantage against the present, and no establishment has enough resources to quash it permanently. History wasn't erased, only suspended. It continues to exist, as do its sources. It won't be difficult to fill in those black holes in more favorable times and evoke life in them once again. Historians of the nations which don't have black holes in their past will envy those historians whose task it will be to shed light on it. It will be more difficult to make the knowledge of history the property of the people again to open history again for its entry into the national consciousness. Only then will there be a lively flow between the past and present, which will inspire the thought that permanently transgresses the status quo. (Šimečka, 2018)

Ricœur's expression of the culmination of an addressed memory is forgiveness. Nussbaum has labeled such forgiveness "transcendental forgiveness" (Nussbaum, 2016) as its goal is neither to seek revenge nor turn a blind eye to the past wrongdoing, but to address the roots of injustice and translate that effort into the establishment of just institutions. Such forgiveness stems from acknowledgment, responsibility, though not necessarily punishment or compensation. Such forgiveness provides release, a closure and is associated with healing and restoration. It is a precondition for just institutions, but is it, in itself, justice?

There is a simple story of a stolen bicycle that is often used in conflict transformation practice. A high school boy encounters a bully who steals his bicycle. A kerfuffle ensues, and both are called into the principal's office and reprimanded for the ruckus. Both boys give their account of the story. The

principal just wants to see peace restored in the school. The boys are made to apologize for hitting and shouting at each other and to shake hands. The peace may be restored temporarily. But the bullied boy still does not have his bicycle back.

Perhaps the bicycle is not needed anymore once the boy has grown into a man and is now more concerned about his integrity and dignity. In that case, perhaps a sincere apology and acknowledgment from the bully and the school principal would in fact mean more than the bicycle itself. However, it is also possible that he might want and feel entitled to the bicycle even after all that time. For the Roma, the bicycle is, however, still being stolen again and again.

Ricœur concludes that Rawls's understanding of justice is both distributive and holistic. Justice resides in a fair structural arrangement of society, in which the citizens are partners—"they take *part* inasmuch as society distributes *parts* or shares" (Ricœur, 2000, p. 45). The solicitude that justice depends on stems from the narrative frames that nourish the spirit of institutions. However, seeing *oneself as another* today belongs more among utopias than into the value framework, the ideology, that sustains the current practice of citizenship in Slovakia. And it is not a widely shared utopia. This utopia, however, is absolutely necessary in order for a just society, a liberal democracy, to thrive.

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