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**Roma Class Struggle: Domestic Vs. International Law**

Here in the United States of America, from a young age we as children through our education system are taught some of the nation’s most patriotic songs: National Anthem, Proud to be an American, and God Bless America. In each of these songs, lyrics provide such a deep passion for American patriotism and citizenship. One such song, Proud to be an American takes a flavor of the patriotism as the songwriter pens, “ I’m proud to be an American, where at least I know I’m free” as well as “I thank my lucky stars to be living here today, ‘cause the flag still stands for freedom, and they can’t take that away” From this music, we as children are instilled with values of American exceptionalism and security of a life of prosperity. Yet in the last decade the United States had faced a rocky time with a recession, job cuts, and housing foreclosures. These economic indicators demonstrate that the prosperity often looked for in coming to America is not as clear as desired. Unfortunately, this American Dream is simply that, a dream. Around the world there is present today a series of human rights violations against a group of people, the Roma. Of these human rights violations, the most egregious and commonly understood problem plaguing these people is their lack of a national identity. Under the United Nations’ *Universal Declaration of Human Rights[[1]](#footnote-1)*, under Article 15, which states, “Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.” Examining this declaration, causes one to question, does it guarantee a person’s right to ANY nationality? Or only certain ones? While a human being is guaranteed the right to a nationality, there is no clear indication of whether any nationality may be taken or only specific states. Understanding that there is not a clear distinction, it is essential to look to the domestic law of the states themselves, to understand what rights, if any, Roma migrants are given to a nationality and citizenship. This prompts the question, "How do the political rights of Roma people get enforced through different domestic laws?" In order to best answer this question, I will direct attention to three states where there currently is a mass of Roma people who are experiencing struggle in obtaining political rights: France, Romania, and the United States of America.

**Differentiating Laws**

Before taking a detailed focus on the political rights case study across multiple nations, it is pivotal to understand the overarching school of thought on the differentiation between domestic law and international law. Currently international charters and declarations, such as the *Universal Declaration of Human Rights* as well as the *Convention on the Elimination of All Forms of Racial Discrimination* provide a baseline for global policy that is followed, and ratified by the United Nations. In the *Convention on the Elimination of All Forms of Racial Discrimination[[2]](#footnote-2)* states that, “This convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this convention between citizens and non-citizens” Furthermore, the article also states, “Nothing in this convention may be interpreted as affecting in any way the legal provisions of State Parties concerning nationality, citizenship, or naturalization, provided that such provisions do not discriminate against any particular nationality” While only one of the many international documents that legally affirm the values of citizenship, this provides an essential backbone to formulating the argument to follow that domestic law dependent upon the individual state can take precedent and is at times a more enforceable law. With an understanding of the importance and legality of domestic law in comparison to international human rights law, now we must focus on the cases taking place currently in: France, Romania, and United States of America.

**Origins of Roma Migration**

The migration of Roma is not entirely clearly laid out; Roma people historically are believed to be descendants from India[[3]](#footnote-3). Professor Judith Oakley asserts that Gypsies are unable to reach economic self-sufficiency.[[4]](#footnote-4) This lack of economic self-sufficiency provided travellers with a desire and need to seek economic sufficiency, in order to try and obtain this sufficiency, they had began migrating towards Western Europe where it was thought there were better chances of economic sufficiency. Beginning with the current struggle of Roma people in France, it is necessary to take a focused look at what has caused there to be a problem and negative stigma against the Roma. Commonly, as often perceived through the media, a large number of Roma people are migrants, as part of this element of their lifestyle, they in turn are received as undesirables that cannot establish a permanent infrastructure. Often, these people are forced to migrate due to inhabitable conditions and destruction of the settlements that they assimilate into. The British Broadcasting Corporation in an article titled, “France’s Unwanted Roma[[5]](#footnote-5)” claims, as of 2014, Roma make as little as $70 per week this minimalist level of payment is barely enough for these migrants to survive and sustain their families. To understand the severity of French hostility towards Roma, the following interview with a migrant in the same article as before highlights the tension, “They said: Everybody out; we’re going to smash this camp. They gave us half an hour to collect our things.” Many Roma people migrate from their homelands, often Romania and Bulgaria due to unemployment or unequal opportunity in the job sector. Upon their migration, they come to Western Europe as an “American Dream” type movement in the hopes of gaining valuable employment that allows for them to support themselves and their families so that they can live a comfortable lifestyle outside of camps. In a 2010 report, the BBC provides an update of the Roma job crisis[[6]](#footnote-6) under the new law. They write that “The Roma are EU citizens, mostly from Romania or Bulgaria, but French law requires them to have a work permit and prove they have the means to support themselves if they plan to stay more than three months. They claim the permits are hard to obtain and often are forced to live illegally.” As previously mentioned, one of the reasons that Roma flee from Romania to Western Europe is in hopes of finding a better job where they can support themselves and their families. Romania is a state filled with massive levels of poverty; this is understood through a self-reported poll asking Romanians “In the last 12 months, have you ever been short of money for food?”[[7]](#footnote-7) Across the board all Romanian respondents came back at 67% answering in the affirmative, upon a further breakdown and analysis based off of ethnic groupings separating Transylvanian Romanians from Roma people, the Roma respondents had answered 88% in the affirmative. While there have been many different contributions to what lead to the migration of Roma people, one of the strongest reasons that has been displayed is the lack of economic self-sufficiency and opportunity for work. Due to these roadblocks, many Roma decide to migrate in search of better economic opportunity and prosperity. However upon arriving to a new state, they are often met with harsh domestic laws making it difficult to find employment and political voice.

**France**

Addressing these concerns, a thorough examination of the French national law regarding migrant, particularly Romani migrants is in order. In July of 2006, France had implemented a new law regarding immigration and labor[[8]](#footnote-8) referred to as the July 24, 2006 Law. Under this law which was proposed by then Minister of the Interior Nicolas Sarkozy encompasses four main objectives that place a burden on the migrant Roma problem: 1) Recruiting skilled workers, 2) Facilitating foreign students’ stays, 3) Tightening the rules on family reunification, and 4) Limiting access to residence and citizenship. Viewing the plight of Romani people as being a labor-based migration, this new French law places a hindrance upon the rights that are being given to Roma people both socio-econically as well as politically. Providing an update to the implementation of the law, it presents itself rather clearly that the law proves more of a burden on the Romani to obtain work permits to legally reside in France. In turn these economic roadblocks that are placed before the Roma lead to the creation of political rights struggle. Under French law, the requirements to vote in national elections are as follows: must be eighteen years of age, a resident of France, if an EU resident one may be required to register on supplementary election rolls. Registration is automatically done at the coming off age in the domicile where the voter resides[[9]](#footnote-9). Having gained an understanding that in order to vote one must be a French citizen at a registered household, provides a problem for migrant Romani rights: how to become a French citizen, and have a domicile. Currently the requisite of gaining French citizenship requires a living in France component. In order to qualify for French citizenship through naturalization you must: have lived in France for five continuous years, as well as prove you have assimilated into French community by speaking the language as well as knowing of French culture and rights. Additionally, if after four years of continuous residence in France through marriage to a French citizen will citizenship be bestowed. With an understanding of these requirements laid forth for citizenship, it provides a rather fascinating paradigm as to the rights that Romani people are to receive. While they are “eligible” to earn their citizenship through living in France for five years time, they lack the means of seeking meaningful employment long enough to remain in France to earn their citizenship. France has taken their domestic laws regarding immigration and solidified the way they are structured to allow for political rights to be earned by any who are able to meet the requisites, yet make the requirements difficult enough that migrants to France will be unable to actually make it through the process of staying in France, either by self determination or forcible deportation to their homeland.

**Romania**

It is equally necessary to focus in upon a few key areas: employment legality, citizenship requisites, and formation of civil-political rights. Romania has a rich history and therefore unfortunately one filled with many negative stigmas and stereotypes from the rest of Europe and the world due to the migration of Gypsies. One such stigma comes from within the government itself, the European Roma Rights Center states[[10]](#footnote-10)a Romani representative in the Romanian Parliament had said:

Our gypsies are stupid. At least be crafty, but they aren’t. They are just primitives and they manage to irritate the entire society which is already watching them closely. They run through the country and Europe barefoot, slimy, and dirty, wearing clothes, which are more likely to disgust you than make you feel sorry for them. Begging, soliciting, and being disorganized will never bring them any advantages.[[11]](#footnote-11)

Often, this stigma is not only perceived inside Romania but also worldwide. Having gained a basic understanding of the abject poverty that is seen in Romania, I focus deeper in trying to grasp a rationale as to why the poverty is so large, as well as how the government can express such displeasure in their own citizens. Yet still contributing to the problem of a Roma migration is a lifestyle that is chosen by these migrants. Prior to the 1990’s, Romania was a socialist republic, and therefore adopted socialist policies that bettered the Roma while exploiting the fruits of labor of the more productive Romanian citizen. Through provision of equal education and job training skills, Roma had little to do and reap the benefits. Romania faces a statement addressing the role of the European Union in creating this “Gypsy Problem” expounds on the fall of Romanian socialism and a new approach to ascension in the European Union, through this- the requirement to provide equal schooling for Roma is no longer required, and the Roma are not necessarily fighting to send their children to school. When national law transitions and removes the requirement to equally educate all children, much like the United States’ No Child Left Behind Program, the social equity of the people becomes infringed upon as they have been passed up from equal education, but rather second class citizens. Shifting to the citizenship requirement in Romania, there are three mediums of obtaining citizenship[[12]](#footnote-12): birth, adoption, on request. For the sake of this argument, understanding that most Roma migrate from Romania, I will focus in upon the natural birth citizenship requirements. Under this provision all that is required is a child be born to Romanian citizens, this may be either in Romanian territory or abroad. Additionally, if a child is birthed and found in Romanian territory they are deemed a Romanian unless the parents can be found and prove otherwise. With this understanding of a rather simple requisite to become a Romanian citizen, many Roma that are in Romania are in fact citizens, although the government is still persecuting them. These citizenship requirements lead to examining the voter registration requirement; through this it is clear where the political rights of Roma lie in their own state. Under the current Constitution of Romania, voting rights are given to all citizens. According to Article 36 of the Romanian Constitution, “every citizen having turned eighteen up to or on the day of election shall have the right to vote.” citizens are eligible to vote in national and European Union elections through casting their ballot. Little exclusion is enforced, two of which are: mental disability or criminality.[[13]](#footnote-13) Citizens that have mental disability are ineligible to vote, and forfeit their rights, this is due to the requirement that voting rights equate ability to run for political positions, and Romanian positions deem mentally handicapped to be unqualified, and thus ineligible to vote. The second provision deals with criminality, this means “persons who have been disenfranchised by a final decision of the court cannot vote.” The role of a criminal background plays a large role when considering the migration patterns of Romani. With Roma that migrate to the United Kingdom, inspectors have found that one in twenty, or 5% of prisoners are of Romani or traveller background[[14]](#footnote-14) what this means is that due to the domestic law of Romania disqualifying these citizens of political rights to vote for positions they are being disenfranchised and given the notion of third class citizens. Having grasped the national laws regarding Roma people, it is clear that the domestic law of the state plays a vital role in the segregation and disenfranchisement of Romani in other states across the European Union.

**United States of America**

Shifting across the globe, the United States is a nation that is often perceived by its own citizens as having no real problem with gypsies. Coming from a nation where our television programming consists of “My Big, Fat Gypsy Wedding” it provides a segue to examining the truth behind gypsies in the United States, and what rights, if any, they are politically afforded. Starting with the legality of the job system of the United States, one of the simplest ways to be qualified for employment in this country is to be a United States citizen, short of that all others are required to apply for a job permit in the United States to become eligible to enter and not be forced out.[[15]](#footnote-15) Of these immigrants there are two separate types of work: temporary and permanent; temporary workers are issued a visa to do only the specific task they applied to enter the country for, while permanent immigrant visas allow the immigrant to permanently live and work in the United States legally. Knowing that Roma often migrate for the sake of seeking better employment opportunities for their families to live better lives, it now is important to look at how to legally assimilate and immigrate into the United States to gain political rights. Starting here, the domestic law on employment legality is a strict one, which minimizes the ease and accessibility of a non-citizen migrant from simply finding menial labor to better them. In the United States currently the requirements mandated to be a registered voter, and therefore have a voice in the election are as follows: must be 18 years old, be a United States citizen, live in the district one is voting in. This law clearly infringes upon the rights that Roma hope to gain upon seeking a new better life through moving here to the United States. While for many the United States is seen as the land of opportunity, it truly is—yet a better name would be “Land of Opportunity-with a 5 year waiting list” Presuming the Romani are able to make their way into this land of opportunity, there are quite a few roadblocks they must overcome in order to qualify for US citizenship and therefore their political right to election. The United States Customs and Immigration Service[[16]](#footnote-16) lists the requirements of citizenship as: Be at least eighteen (18) years old at time of filing application, be a permanent resident for at least 5 years, demonstrate continuous residence for 5 years prior to application, prove you’ve been physically present in United States for at least 30 month of last 5 years, prove you have lived in the state you are applying in for at least 3 months, be able to read/speak/write English, take a Civics test, take an Oath of Allegiance to the United States. Having examined the requirements of citizenship in the United States with a comparison to the requisites of being a registered voter, there is an overlap that requires citizenship in order to gain the right to vote. This provides the argument of the United States providing for its citizenry, yet not providing adequate political rights and responsibilities to those who are not citizens, yet still living within its borders.

**Comparative Evaluation**

Through each of the previous three case studies, there was a similar analysis, focusing on the laws regarding: employment and citizenship. Both of those subcategories are of mass importance as they often coincide with one another usually with citizenship being a requisite to applying and qualifying for employment. Likewise, the importance of employment law in all three states is essential to fostering an understanding of the Roma migrant problem, as previously stated; Roma migrants lack economic self-sufficiency, and therefore is claimed to be one of the driving forces behind the migration. Seeing that economic self-sufficiency, or lack thereof is a driving factor, the employment law of each state in the above studies is essential to seeing where the problem has transformed. With regard to France, the implementation of the July 24, 2006 law draws a similarity to the United States and their strong requirements of labor requiring either United States citizenship, or a work permit created by being a permanent resident of the United States. Additionally, across the board all three states in the cases presented above have a core requirement of needing employment or proof of steady income to remain in the nation long enough to make it through the citizenship application process. Within each state, the political requirements of becoming a citizen differentiate by a bit, but overall have a few key requirements that were seen in all situations: must be eighteen years old, live in the state for a predetermined amount of time (France and United States being five years), and a cultural understanding (France with a language/history, and United States with Civics exam) The similarities across the three states discussed above showcase that there does appear to be a “standard” of requirements to be a citizen, perhaps it is time for the international community to come together and utilize one standard definition of being a global citizen.

**Conclusion**

Following the examination of a case study of three separate nations with their own national constitution and political structure, it appears that the rule of domestic law across the board provides a hindrance of Roma political rights rather than enforcement. Taking a global approach to the Romani migration struggle as well as more modern and urgent migrant shifts, it demonstrates while an internationally ratified document, the individual states hold too much power themselves. Many would argue that this argument of states being too sovereign is not appropriate, however sovereignty of the state can provide negatives. Each individual state ought to remain autonomous and retain their own individual law and rulings on requirements of citizenship, yet at the same time the infringement of international declarations such as the Universal Declaration of Human Rights warrant a concern. Likewise, there are additionally negatives to the individual state having sovereignty in cases like this; it provides an increase in states barring immigration and intake of new citizens. Overall, the issues present are that of state sovereignty versus an international declaration. I propose an alternative to the argument of state versus international sovereignty, states ought to be engaged in regional cooperative agreements with one another using organizations such as the European Union to create and utilize a standardized policy on the rights given to migrants, after all if a migrant is to move into France, and become an EU citizen, ought the states have a unified European Union requisite for citizenship. As an American when travelling to Europe, many of the Western European states are a party to the Schengen Zone Agreement, where there are “no borders” but rather once in the zone, eligible to travel within it without constantly needing to go through border crossing inspections. Could an agreement such as this be applied to matters such as migration into Western Europe? Perhaps it is achievable, however will require a great deal of regional cooperation and negotiation to better the overall environment and attitudes shown of migrants, particularly Roma migrants. While we as a nation may be proud to be American where we have less fear of losing political rights, it is devastating to see that the rights, which are so desired by these Romani migrants to seeking a better life are so difficult to achieve and lack any international enforcement to provide them a better life politically.

1. United Nations, *Universal Declaration of Human Rights*, 1948: Article 15, http://www.un.org/en/universal-declaration-human-rights/ [↑](#footnote-ref-1)
2. United Nations Office of the High Commissioner for Human Rights, *Convention on the Elimination of All Forms of Racial Discrimination*, 1965: Article 1, http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx [↑](#footnote-ref-2)
3. Oakley, Judith; *The Traveller-Gypsies*, Cambridge Press: New York, 1983, pp. 3-4 [↑](#footnote-ref-3)
4. Ibid, p. 9 [↑](#footnote-ref-4)
5. Astier, Henri; British Broadcasting Corporation, *France’s Unwanted Roma*, February 13, 2014: http://www.bbc.com/news/magazine-25419423 [↑](#footnote-ref-5)
6. British Broadcast Corporation, *France sends Roma Gypsies Back to Romania*, August 20, 2010: http://www.bbc.com/news/world-europe-11020429 [↑](#footnote-ref-6)
7. Nicolae, Valeriu, European Roma Rights Centre, *Life in My Hometown: Romani Poverty in Craiova, Romania*, May 7, 2002: http://www.errc.org/article/life-in-my-hometown-romani-poverty-in-craiova-romania/752 [↑](#footnote-ref-7)
8. Murphy, Kara: Migration Policy Institute, *France’s New Law: Control Immigration Flows, Court the Highly Skilled*, November 1, 2006: http://www.migrationpolicy.org/article/frances-new-law-control-immigration-flows-court-highly-skilled [↑](#footnote-ref-8)
9. Assemblée Nationale, *Questions About Voting*, http://www.elections-legislatives.fr/en/voting.asp [↑](#footnote-ref-9)
10. Nicolae, Valeriu & Slavik, Hannah, European Roma Rights Centre, *Being a “Gypsy”: The Worst Social Stigma in Romania*, May 10, 2003: http://www.errc.org/article/being-a-gypsy-the-worst-social-stigma-in-romania/1385 [↑](#footnote-ref-10)
11. Ibid [↑](#footnote-ref-11)
12. Migrant in Romania, *Romanian Citizenship Law*, 2009: http://www.migrant.ro/citizenship-law [↑](#footnote-ref-12)
13. European Union Institute, *Access to Electoral Rights Romania*, June 2013, pg. 2-10: http://eudo-citizenship.eu/admin/?p=file&appl=countryProfiles&f=139-RO-FRACIT.pdf [↑](#footnote-ref-13)
14. The Guardian, *One in 20 Prisoners of Gypsy, Romany or Traveller Background, says HMIP*, March 11, 2014: http://www.theguardian.com/society/2014/mar/11/gypsies-roma-travellers-over-represented-jails-england-wales-prisons [↑](#footnote-ref-14)
15. U.S. Customs and Immigration Services, *Working in the US*: http://www.uscis.gov/working-united-states/working-us [↑](#footnote-ref-15)
16. U.S. Customs and Immigration Services, *Learn about Naturalization*: http://www.uscis.gov/citizenship/learners/learn-about-naturalization [↑](#footnote-ref-16)