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PUBLIC CONTESTATION AND POLITICS OF TRANSITIONAL JUSTICE:
POLAND AND ALBANIA COMPARED

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*Public Contestation and Politics of Transitional Justice:
Poland and Albania Compared*

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Abstract

This article explores the role of politics and public debates in the pursuit of transitional justice after communism. Our analysis of Albania and Poland enables a variation of both explanatory factors and results. The two cases feature different arrays of political actors who have picked up the issue and made it a part of the political contest, but they have also opted for different models and recorded different degrees of success in dealing with the past. The paired comparison follows a similar structure, proceeding from the actors involved and the unfolding debates, to the analysis of the models adopted, and the process of implementation in each of our cases. The paper finds that political interests have permeated the entire process of ensuring transitional justice but, concentrated public contestation proved important to restrain political strategies and usage of transitional justice at the service of narrow political agendas.

Keywords Transitional justice, post-communism, public debates, Poland, Albania

Introduction

Most societies coming out of communist repression have experienced a broad quest to ensure transitional justice for the crimes of the past. The rationale and aims of transitional justice have evolved around both normative demands to reveal the truth and make justice against communist wrongs, but also more pragmatic concerns of getting rid of former communist legacies and founding a new democratic order clean of remnants of the past. The urge for justice was arguably proportional to the degree of past abuses – countries that experienced harsher regimes would demand a severe line of justice, whereas those subject to liberalized forms of communism would be more apt to tolerate former abuses and embrace moderate models (Linz and Stephan, 1996: 38). However, the dominant explanations that build on the role of historical factors, be it the type of communist regime or timely liberalization, can often fail to explain the variety of models and results of pursuing transitional justice, across the post-communist world.

Both Albania and Poland are two cases that defy simple historical explanations. Despite different communist pasts and the common urge to punish the perpetrators of communist-era crimes, both countries have recorded politicized and meagre results in their efforts to do justice for communist crimes. In Albania, the process was effectively used by ruling majorities to fortify their position in power rather than deal with remnants of the past. The Polish model has also become subject to political exploitation, raising suspicions on its effectiveness. Two decades after the fall of communism, both cases face broad dissatisfaction with the results of their respective models and transitional justice remains an unsettled issue. Yet, whereas Albania has done virtually nothing to open the accounts of the past and now faces the same questions all over again, Poland has managed to institutionalize a ‘truth revelation procedure’ and moved to debate how to improve the procedure. What explains the unsatisfactory results, but also the substantial differences, in the two cases, especially the wholesale failure in Albania and the relative success in Poland?

Our analysis adheres to the increasing body of literature which stresses the role of political factors, including the shifting balances and the strategic interests of those with sufficient power to negotiate new rules, to explain success of ensuring justice. The precept here is that with the passage of time, transitional justice becomes increasingly politicized and instrumental to the interests of key political actors (Welsh, 1996; Szczerbiak, 2003; Kiss, 2006; De Greiff, 2007). Yet, we assume that in the political field, the advancement of political interests goes hand-in-hand with the ability to provide explanations and/or justifications for a given policy. We thus posit that public debates are a crucial and often omitted complementary factor when explaining the shape of transitional justice. In our understanding, public debates consist of public ideational contestation, on a specific subject, among relevant elites (Ask, 2006: 27; Ferec et al., 2002: 9). We argue that the intensity and quality of the public exchange of arguments, which stems from the plurality of actors involved, can temper the role of political interests in the pursuit of transitional justice. However, we contend that the role of debates and when and where they become sufficiently important to structure and moderate the impact of political interest is a question of detailed empirical research seeking to determine how interests and ideas play out at a certain point in time.

The comparison between Poland and Albania follows a most-different cases research design, which enables a variation of both explanatory factors and results. Both countries feature different arrays of political actors, with their own interests, who have picked up the issue and made it a part of public contestation. In Albania, transitional justice became almost the exclusive property of a few anti-communists forces and gained momentum in moments when it was deemed beneficial for those political actors that could monopolize the debate. In Poland, the plurality of the actors involved has enabled a heated debate on the virtues and drawbacks of transitional justice and any possible amendments to curtail the politicization of the process. At the same time, both countries have chosen different models and have recorded different degrees of success to achieve the goals of transitional justice. It is exactly this variation which enables us to analyze whether and how different forms of public debates might influence the different shapes of transitional justice in our two cases. We opt for a broad definition, whereas transitional justice designates a catalogue of political, social, and legal responses to the past human rights abuses and their legacy (Teitel, 2002: 3). Accordingly, we analyze the pursuit of justice in terms of both the models adopted and the degree to which its implementation has satisfied the goals of the model and the broad social and political quest for justice.

The analysis proceeds in three parts. The first part outlines the main strands of explanation in the growing literature on transitional justice while emphasizing the crucial, but often omitted, role of public debates for explaining the shape of transitional justice. The rest of the paper analyzes the process in our two cases, Albania and Poland. The empirical analysis of each case follows a similar structure – the unfolding debates on transitional justice; the specifics of the models chosen; the intricate process of implementation; and the degree to which the results have met the goals set in the laws and/or have contributed to revealing the truth about the communist past. The paper confirms that, in both of our cases, political interests have permeated the process of ensuring transitional justice, including public debates, the models chosen, and especially the intricate implementation of the legal acts. Yet, the plurality and intensity of public debates in Poland proved to restrain the expression of political interests or at least obliged political actors to package them in a form that would be acceptable to the wider political scene and an engaging public. The lack of a sophisticated and pluralist public debate in Albania left the process vulnerable to pure political considerations and the process apt to be used for political advantage by those forces that were able to do so. In the final analysis, the intensity and quality of public contestation on the issue proved important to moderate political incentives to use the issue at the service of narrow political agendas and short term interests.

Transitional Justice after Communism

Quest for Justice, Different Models, and Varying Results

Transitional justice has been an issue of concern and center of heated debates in most societies coming out of communist repression (Teitel, 2002: 15 – 18; Elster, 2004: 245 – 272; González-Enríquez, 2001: 218). Initially, the rationale and aims of transitional justice evolved around both normative demands to reveal the truth and to ensure justice for the communist wrongs, claims which increasingly gave place to more pragmatic issues related to the

founding of the new democratic order. Efforts to control the impact of communist legacies and the role of former nomenclatura upon the new democracies became increasingly important as it became obvious that former communists were able to regenerate themselves as respected politicians, while previous communist networks continued to profit from corrupt privatization schemes. All too often, old apparatchiks were circulated in high ranks of the new political leadership and post-communist governing structures, dominating the new political landscape, most notably in Southeastern Europe (Ponds, 2006: 275), and to a lesser degree in Central and Eastern Europe (Grzymala-Busse, 2007).

The main ideas and policy options that fed the intricate debates and pushed forward the process came from those whom suffered from communist repression, be it intellectuals or anti-communist political fractions with dissident credentials. The wider public and media have also shown interest in the fervent debates about various modes of dealing with the communist past. Yet, the widespread demands for truth and justice met with the resistance of an important section of the political spectrum, especially political figures whose careers cut across the old and the new regimes (Letki, 2002: 537; Los and Zybortowicz, 2000: 152). Whether they were genuine democrats reluctant to disclose their communist-era sins, or opportunists hiding embarrassing moments in their biographies, many of the political fractions in the emerging post-communist scene resisted a meaningful and transparent process of uncovering the crimes of the past (Welsh, 1996: 414). Not surprisingly, most students of transitional justice came to agree that a good deal of the genuine demands for justice was lost in the real politics of shifting balances and strategic interests of those with sufficient power to negotiate, adopt, and implement the new rules in their respective countries (Szczerbiak, 2003: 72; Kiss, 2006: 940). Even when opponents did not dare to position themselves openly against the idea of transitional justice, which had become a dear issue to post-communist societies, political resistance became obvious in the intricate process of negotiating the models, scope, and the nature of punishment involved, as well as the slow and problematic implementation processes (Calhoun, 2004; Zolkos, 2006; Baranska, 2002).

In fact, post-communist countries have opted for different models to condemn perpetrators of communist crimes. The wide array of models ranges between different measures of lustration and/or de-communization, whose mixture determines the degree of moderation or extremeness of the system (Sadurski, 2003). We define lustration as a process of screening, for evidence of involvement with the communist crimes, of all persons seeking to occupy certain public positions. Lustration is typical of moderate models, which aim at the disclosure, not necessarily condemnation, of the perpetrators of communist abuses. De-communization, instead, is explicitly aimed at the banning of defined categories of former officials from holding certain public positions in the new system. De-communization is thus the hallmark of a 'wild' system that aims to cleanse the new system of those found guilty. In addition, accumulated evidence from the post-communist world shows that not only models, but also practices and results, of pursuing transitional justice vary hugely among different countries. Students of transitional justice seem to agree that, despite a similar urge to deal with the past, post-communist countries have recorded different results in the long and difficult process of condemning communist perpetrators. This paper analyzes the pursuit of transitional justice in terms of both the models adopted and the degree to which its implementation has satisfied the broad quest for transitional justice.

Explaining Transitional Justice

The wide range of policy options, goals and achievements has generated a wealth of research on the factors that might help explain such differences across various cases in the post-communist world. The wide range of explanations can be collapsed into three main strands: one focusing on the role of genetic or historical factors; one on the role of politics; and one on the role of ideas. The most typical explanation emphasizes the significance of history. Accordingly, historical factors, especially the previous regime type and the mode of extrication from the old system have a crucial role in explaining the different ways of dealing with the past in a specific country. In this line of argument, the higher the degree of liberalization of the ancient regime, the higher the tendency to tolerate former abuses and embrace a moderate model of transitional justice (Linz and Stephan, 1996: 38). The historical strand of explanation also takes into account the nature of the exit from the old regime as a critical juncture relating the old and the new polity. In countries where the exit from communism took some kind of revolutionary action with a forced overthrow of the old caste, the new regimes would tend to opt for a harsher line of transitional justice, whereas in cases where the exit involved negotiations between the communist forces and the emerging opposition, the spirit of talks would tend to guarantee a rather lenient form of policy towards the past (Huntington, 1991: 228; Moran, 1994: 96).

Another strand of explanation of the scope and nature of transitional justice focuses on the role of the political actors and the interests involved. The politics approach tends to emphasize major actors' political strategies in a competitive environment featuring both anti-communist and post-communist groupings, both striving for power in the context of the new pluralist system (Williams et al., 2005). The general precept is that, with the passage of time, transitional justice becomes increasingly politicized and instrumental to the strategic interests of those with sufficient power to negotiate new rules (Welsh, 1996: 421; Calhoun, 2004: 16; De Greiff, 2007: 527). Accordingly, as transition advances, both lustration and de-communization tend to be subjected to political attempts to use and manipulate the idea in order to fortify a group's own position and marginalize political opponents. Transitional justice can be a potent political tool, especially for the anti-communist groups, who can effectively use the past to gain advantage vis-à-vis regenerated former socialist networks, hampered by their relations to the former regime. The anti-communists, because of their antagonist relation to the previous regime, are more apt to play the transitional justice card to discredit their opponents, but this can be used by all groups of the political spectrum, including former communists that have occasionally turned into fervent anti-communists.

The third current of explanations underlines the significance of ideas in the debates and choices involving transitional justice (Calhoun, 2004). Accordingly, power politics alone cannot provide exhaustive explanations to the phenomenon, because, in the political field, the advancement of political interests goes hand in hand with the ability to provide explanations and/or justifications for a given policy. Even though sometimes helpful in explaining the timing of transitional justice, power politics alone can often fail to explain why certain actors, who one would expect to promote or reject reckoning with the past, abstain from it (Calhoun, 2004: 17). Ideas and political debates can be seen as complementary factors that help to explain why some political actors advocate choices that don't fit simple explanations of

power politics. Additionally, this current of reasoning stresses the crucial importance of borrowing both concepts and solutions from other country's experiences, which are then transplanted and adopted to the local context. However, the explanations around the significance of ideas are less developed and usually fail to elaborate on when and how ideas can become important to inform political results.

Our paper posits public debates as a crucial and often omitted factor in the literature. In our understanding, the role of public debates is very similar to the role of ideas, in the sense that they contribute to shape the political bargaining process and the resulting models in the transitional justice field. Yet, we assume that it is not ideas per se, but the way they are screened, used, and exchanged by the crucial actors in the unfolding public debates, that affects political outcomes. Debates become possible due to the existence of a multitude of actors with different interests who search and provide argumentation for the solutions they put forward. Public debates consist of public ideational contestation of a specific subject, among relevant elites (Ask, 2006: 27; Feree et al., 2002: 9). The debate gains a public character when it involves various actors occupying functionally differentiated domains of the social world (political, cultural, and religious), and are able to set and control the content of debates. Such actors, including political elites, journalists, judges, religious authorities, intellectual authorities, etc, have the power to set the agenda, frame, and prime debates, thus influencing wide audiences and affecting the distribution of opinions in a society (Entman, 1989; Zaller, 1992).

Although interest-driven elites are often responsible for initiating and controlling the direction of exchanges, the outcomes of public debates might escape their control (Ask, 2006: 14). All too often, public debates bring unexpected, and even unwelcome, results for their creators. Debates can lead to a change of ideas and/or interests compared to the point of departure, while increasing awareness about other actors' expectations and strategies. During the debate, actors may also learn what the limits of legitimate debate are, develop or refine certain arguments, and recognize that certain argumentation strategies are less popular or convincing. The exchange of ideas in the political market can create new frames of interpretation and thus restructure the field of political struggle as well as the relations between actors. Altogether, the exchange of arguments, forces respective actors to take into account new ideas and information, but also the interests of opponents, which are all made public in the course of ongoing debates (Los, 1995: 120; Calhoun, 2000).

The argument here is that the intensity and quality of the public exchange of arguments, which stems from the plurality of actors involved, can temper the role of political interests in the pursuit of transitional justice. Indeed, not all forms of public discussion have the same effect. Following Ask's analysis of public debates, we distinguish between ordinary exchange of ideas and concentrated public contestation, with the last one including both breadth (wide range of actors, not only politicians), duration (longer than one year), and intensity (frequent contributions to the national discussion by the elites expressed through media coverage and parliamentary debates) (2006: 30). We claim that a concentrated public contestation around transitional justice can moderate the inclination of some political actors to use and, if necessary, manipulate, transitional justice tools at the service of narrow political interests and

respective agendas. However, the role of debates and when and where they become sufficiently important to moderate the impact of political interest is a question of detailed empirical research analyzing how interests and exchange of ideas play out at a certain point in time.

Failure of Transitional Justice in Albania: Too Much Politics, Too Little Debate

On the eve of regime change in the late 1990s, Albania had most historical and political credentials to pursue a sweeping and radical model of transitional justice. The communist establishment (1945-1991) had built a particularly repressive security apparatus, which destroyed all forms of dissidence and affected as much as one-quarter of the population (Prifti, 1978; Biberaj, 2000). Moreover, the regime insisted on defending the main tenets of the dictatorial system, and refused any meaningful liberalization, until forced out by radical protests, which took over the big cities and clashed with regime forces in the period between 1990 and 1992. The Democratic Party (DP), an umbrella organization, bringing together different anti-communist forces asking for regime change, emerged as a political force espousing a radical anti-communist program. The DP's decisive victory in the first really free elections of March 1992 brought the anti-communist agenda to the very heart of the governing program, which would lead one to think that Albania was about to embark on a massive and unprecedented drive for justice (Austin and Ellison, 2008: 382). Indeed based on historical factors, Albania was to be a frontrunner of transitional justice compared to Poland, which had experienced a liberalised form of communism and negotiated regime change.

Contrary to the expectations, and despite the few efforts to legalize a wild model of transitional justice, Albania has done very little to disclose and/or condemn communist crimes. Short-term political interests marked all of the major initiatives to legalize some form of transitional justice. The lack of a sophisticated public debate, able to provide options and screen various ideas, has condemned transitional justice to an elitist and selective process, which is, more often than not, used as a political instrument to gain advantage over opponents.

Timid Political Debates – Weak Actors and Limited Alternatives

Most initiatives related to transitional justice in post-communist Albania have evolved separate of the intense public debates that characterized the process in other post-communist countries, including Poland, which featured intense public contestation of the issue. At the beginning of the transition, the country lacked the multiplicity of actors displaying different views, intensity of discussion expressed through media coverage and parliamentary debates, as well as duration of the debate (Hatschikjan, 2000). Instead, transitional justice became almost exclusive property of a few anti-communists forces and gained momentum when deemed beneficial for the political actors that were able to monopolize the debate.

Being subjected to one of the most totalitarian regimes in the communist world, post-communist Albania lacked the organized political, social, and economic dissidence including independent and intellectual groups that had provided much of the policy options elsewhere in the post-communist world (Chiodi, 2007). Former communists, regenerated under a new

organization, Socialist Party (SP), were widely perceived as close collaborators of the ancien regime, with limited credibility to suggest their own options, at least initially (Duffy, 2000:75). The DP, which was an umbrella organization representing anti-communist groups, but also an important section closely related to the old regime, proved divided on the project for a fast and transparent process of transitional justice.

The most articulate single lobby advocating for the opening up of communist secrets were political prisoners and other dissidents, some of whom were represented in the ranks of the DP's first government. If there was any debate on the model of justice to be pursued in Albania, it was within DP circles – dissident groups within the DP asked for a radical anti-communist campaign while another group closely related to the former regime advocated a milder approach towards the past (Biberaj, 2000). Very few within the decision-making core in the DP, especially those sharing solid links with the past regime, were willing to dig deep into the past, and even fewer had the reason to call for a transparent process of opening up the secrets of the security files. The main DP leaders, arguably, played an important role in moderating early demands for a tough policy line against former communists (Austin and Ellison, 2008: 382). The wide post-communist political scene, characterized by a fierce polarization between former communists and anti-communists forces, weak civil society, fragile media, a weak parliament and almost non-existent independent institutions, floppy rule of law, huge migration, and unstable political situation did not augur well for the development of constructive debates on the policy options in the new democratic order (Vickers and Pettifer, 2000). Much too often, the circulating ideas and concrete legal initiatives bore the mark of few DP leaders who linked their careers to a loud, but selective and politicised anti-communist program.

Late-coming and Politicised De-communization Acts

The anti-communists, despite of harsh tones, proved too slow and ambiguous to formulate the promised de-communization policies. The initial campaign consisted of a broad, but unorganized, crusade against communist-era symbols including the removal of the communist symbols, confiscation of SP's accounts, banning of the very small communist party left from the previous era, and the prohibition of all parties of a Stalinist or Hoxhaist nature (Duffy, 2000: 75). Afterwards, the government undertook a large-scale indiscriminate cleansing of the administration from communist-era personalities (Elbasani, 2009). In 1993, the government adopted the first de-communization law, targeting advocates working in the previous regime, but this was annulled by the Constitutional Court. Soon afterwards, the DP targeted important communist leaders, who were taken to showy trials and condemned for petty economic profits for which little evidence was produced in the courts (East and Joylon, 1997: 217-218). These loud, but selective, initiatives, especially the judgment of a couple of former communist leaders on economic charges, seemed to overshadow the real abuses of the uniquely totalitarian communist regime and blur the goals of ensuring justice for the real crimes committed in the past.

The DP majority moved to adopt a comprehensive de-communization package only in 1995, arguably after the failure of the constitutional referendum in 1994, which showed the loss of the initial public support for the anti-communist alternative (Biberaj, 2000). The new

package included both lustration and de-communization measures. The law on ‘Genocide’ inserted that ‘crimes against humanity’, committed under the communist regime, were to be persecuted under the criminal code and those convicted could not be elected to certain categories of office until 2002 (article 3). The new law did not have a legal impact, given that genocide and crimes against humanity were already indictable offences under the penal code, but it served as a bold political move to show that the Democrats were intent to move ahead with the anti-communist policies, especially with an eye on the forthcoming elections in 1996. Another law on ‘Verification of the Officials’ provided the legal instruments to screen and ban from democratic office a wide array of former communist officials. Accordingly, a Verification Committee, having full access to security files, would undertake the screening of enlisted categories. If the persons found guilty refused to step down voluntarily, the government institutions could remove them until the expiration of the law in 2001.

At first glance, the verification law opted for ‘wild’ measures to the extent that it regulated the screening of an exceptionally wide list of positions in the old regime and employed radical measures of banning from public office of all of the listed categories. Yet, at a closer look, the new law proved to be loose and defective enough to allow the enacting majority ample political discretion on the working of the Verification Commission and the final results of screening. First, the provisions that enabled the government to appoint six out of seven members of the Verification Committee (article 4), cast doubts on the impartiality of the only institution in charge of managing the process. Provisions of exception for persons who ‘worked against the official line or distanced itself publically’ (article 3) would allow the committee to shield anyone at its wish. Other provisions asserting that already employed individuals could be investigated only if required by the respective institution, and those appointed would have the option of requesting a review, seemed all tailored to protect current government employees from legal scrutiny (Austin and Ellison, 2008: 388). In addition, the law shielded from possible banning all party leaders, who were automatically excepted from the verification process, but in cases when it was ‘required by other members of the party leadership’ (article 12). Finally, the article concerned with files (Article 16), provided for their total closure to the public until 2025, while it also made sure to isolate the working of the Commission and the implementation of verification procedures from any forms of public scrutiny and control. More problematically for the transparency of the process, both Committee meetings and its screening decisions were to be taken behind closed doors. Their decisions would not become public, unless the person concerned asked for a public hearing (article 11).

Mockery Transitional Justice

If there were any doubts on the political discretion inserted in law, the implementation process revealed even more clearly the political agenda behind the legal initiatives. The list of those who were screened in the period between 1996 and 1997 was never disclosed, but estimates suggest that around 140 people were banned from participating in forthcoming elections. The banning included only three members of the ruling party, while the rest belonged to opposition parties. In addition, the ban covered a disproportionately high number of opposition leaders, including 7 out of 12 members of SP board and a quarter of current opposition MPs (Biberaj, 2000: 290; Vickers and Pettifer, 2000: 276). The banning, thus, worked to disqualify from electoral competition most SP leaders and current MPs, thus

damaging its chances in the forthcoming national election. In fact, the 1996 elections, which developed among numerous accusations of rigging, recorded an exceptional victory of 87% of seats for the ruling party.

One can only be surprised at the lack of public contestation on such a politicised process of dealing with the past. Even the opposition parties, which were the primary target, did not contest the de-communization law, at least not openly, because they could be seen as usual suspects and feared heavy attacks. However, the opposition took their chances in pushing for their own agenda once the government came under attack by popular protests in late 1996. The rising protests, often incited and controlled by the Socialists, forced the government to concede to opposition's demands for relaxing de-communization provisions (Biberaj, 2000). A package of amendments agreed upon between the two major forces in March 1997 cut down the banned categories and permitted members of the opposition to run for office in the fresh elections of 1997. The SP majority, after the 1997 elections, pushed new amendments, which ultimately turned the law into a meaningless letter without any real significance. The amendments ensured that all of the communist leaders accused under the 'genocide law' were waved from all charges (Biberaj, 2000: 353). In January 1998, the socialists voted to further restrict the categories of former communist collaborators to include only 'senior officers', 'leading functionaries' of security services, and 'collaborators' in political trials, while holding on to the previous provision of total secrecy of the Committee's decisions and the public disclosure of the files. In May 1998, a new Verification Committee appointed by the socialists claimed that it had reviewed 3,000 people working in the state administration and found 84 guilty, without ever disclosing who they were and what happened to their careers (Austin and Ellison, 2008). Suspiciously enough, only four parliamentarians were found guilty of collaboration, but even then did not have to give up their posts, as the revised law excluded the banning of elected officials. Afterwards, the Committee declared that the new administration was clean of all communist remnants.

Facing the Past All Over Again

Two decades after the fall of communism, Albania faces the same questions regarding communist abuses all over again. Despite the harsh anti-communist rhetoric and a number of concrete trials to open the accounts of the past, the country has done very little to disclose former communist collaborators and condemn those responsible. Given the biased, selective and secretive process, one would not be surprised that former communists are present on all sides of the political spectrum and often occupy the highest echelons of political and economic power. Meanwhile, the failed attempts to condemn communist abuses and the secretive nature of the process have further alienated an already passive public. The country still lacks both individuals and/or organized groups lobbying for a new project of transitional justice independently and beyond specific political agendas. The often quoted lack of rule of law and independent institutions necessary to implement the process, when added to the plausible concerns on the destruction of files throughout the disorderly Albanian transition, have added to the lethargic mode of the public. Indeed, many doubt that the country can ever find the force to manage the intricate questions of the past (Austin and Ellison, 2008: 397).

Political elites, however, especially those capitalizing on anti-communist ideas, have persisted in calling the issue for the sake of immediate political agendas. The last initiative to 'tackle the past' in 2008, much like the previous one, concurred with the start of the electoral campaign for the forthcoming 2009 elections. In addition, the initiative coincided with the prosecution of one of the biggest corruption charges, the so called Gerdec affair, which exposed several current ministers. The adoption of a resolution on lustration by the Council of Europe in 2005 had already pushed forward the issue in the political agenda. Different parties, including the socialists, had proposed as many as four draft laws in the Albanian parliament. That the governing party decided to push forward its own draft without any political consultation with other political forces, precisely in 2008, was probably no coincidence. The new law adopted unilaterally by the ruling majority was presented to the public as 'a major moral obligation to condemn communist crimes' (Perndoj, 2008) and 'respect for the moral standard of the country' (Perndoj, 2009). However, the opposition, the emerging civil society, and different actors of the international community joined to criticize the draft law regarding its content, timing, and mode of adoption. This time the new de-communisation initiative became centre of heated debates featuring different actors and occupying important coverage in the daily media. The most open critics emphasized that the new campaign targeted independent institutions, especially the office of the public prosecutor involved in the investigation of high-level corruption cases. In fact, the prosecutor in charge of Gerdec, had to resign as soon as the law entered into force in January 2009.

The Constitutional Court, at the request of the socialists and the association of the prosecutors, suspended the law while asking an opinion from the Venice Commission. Meanwhile, the ruling majority engaged in an aggressive pro-law campaign. The Speaker of the Parliament sent memos to the Court 'asking' it not to suspend the law. The DP parliamentary group declared it would not recognize the Court's decision because some of its members had a 'conflict of interest', as former employers of the previous communist regime. The lawyer of the Council of Ministers requested the Court to bar four out of its seven members, who had served as lawyers during the previous regime, from participating in the decision on the new law. Finally, it was the opinion of the Venice Commission stating that the law infringed with constitutional rights and guarantees, which informed the final decision to rule the law unconstitutional (Venice Commission, 2009). The revitalized civil society, differentiated media outlets, the alert international community, but also regenerated socialists, and the strengthened constitutional court have all contributed to nourishing a more diversified debate on the policy options prepared at the political level. This time, the plurality of the actors involved proved essential not only to trigger a concentrated public contestation of the issue, but also to disclose the faults of the new de-communization package and also neutralize the last initiative to use transitional justice at the service of narrow political agendas.

However, the debate, as much as ongoing initiatives on dealing with the past, have yet to get over political divisiveness and particular interests of the day to jump start a proper process of transitional justice. The issue turns all over again in the public discourse, but it remains both an exclusive domain of political initiatives and a political instrument in crucial moments of transition. The anti-communists have persistently turned to the argument of 'collaboration with the former regime' to downgrade members of the opposition. The anti-communist majority has also used the criteria of 'collaboration' to rule out many of the presidential nominations for the Constitutional Court and High Court of Justice. Such accusations for

‘serving the dictatorship’ which still dominate the political scene have raised concerns on the possible (mis)use of the past (Braushi, 2010). The random ‘judgement’ of politicians on the bases of undisclosed ‘past accounts’ shows that crimes of the past continue to be politicized, while political actors have failed to agree on an impartial model and even more so to realise a neutral process of transitional justice.

‘Reveal and Forgive’ Model in Poland –Politics amidst Fervent Debates

Researchers working on truth-revealing processes in Central and Eastern Europe find the Polish model profoundly intricate (Williams and Fowler and Szczerbiak, 2005: 25). This is not only because of the abundant draft laws, or the permanent leakage of lists of alleged collaborators revealed to a disoriented public, but also due to fervent political debates concerning the most appropriate ways to deal with former collaborators and files of secret services in the new political context. In line with its liberalized shape of communism and negotiated transition, Poland has opted for a very mild version of merely screening and disclosing to the public those who collaborated with the security services during the communist regime. The agreed procedure was often exploited for political advantage, raising suspicions on the efficiency of the Polish model of transitional justice. Yet, the case of Poland is strikingly different from that of Albania to the extent the process and the demonstrated defects became subject of an intense debate on how to improve the model, a debate that definitely took the process forward and limited the scope of politicization.

The Polarizing Potential of Lustration – Key Actors and the Dynamics of Debate

To understand lustration policies undertaken in Poland, one needs to look at the different positions of the multiple actors involved in the debate, the turning moments that forced these actors to reconsider and restructure their positions on the issue, as well as the key arguments that have been put forward by both opponents and supporters of transitional justice.

The most important actors who triggered a debate on the ways to deal with the past came from the rounds of the anti-communist opposition, whose split was decisive for the subsequent course of events (Friszke, 1990). The friction between the broad Solidarity Camp and its parliamentary representation following the first pluralist elections in 1989 incited a debate on transitional justice. The broad Solidarity Camp contested the ‘thick line’ policy supported by the first Mazowiecki government, which right wing circles equated with ‘forgive and forget’ approach towards the past. The election of Lech Walesa to the presidency of the country in December 1990 contributed to turn the issue into a political priority. A long term dissident persecuted by the communist regime, Walesa, in the run-up to the presidential elections articulated harsh attacks on Mazowiecki’s ‘thick line’ policy, a position which sparked polarized debates on the issue (Spiewak, 2005: 78 – 103).

Transitional justice finally entered the political agenda and became subject to a highly concentrated public contestation process following two critical moments – the Macierewicz Affair (1992) and the Oleksy Affair (1996). In the first case, the Minister of Internal Affairs shocked the public when accusing a couple of high-level state officials, including President

Walesa and two Marshalls, for being secret service collaborators. In the second case, the Minister of Internal Affairs accused the Prime Minister Oleksy of spying for the Russian intelligence services (Lipinski, 2002: 63 – 72; Sadurski, 2003: 27; Dudek, 2006: 431 – 433). Both scandals were extremely important to show that secret security archives could be (mis)used for political blackmailing and upset the political scene, strengthening those advocating the necessity of regulating access to security files and establishing a standard for those found guilty.

The concentrated public contestation that followed these two critical moments forced political actors from all sides of the political spectrum to position themselves on the issue and possible institutional solutions that could prevent the political use of the files. Both liberal and leftist groups within the Solidarity movement rejected a possible adoption of harsh de-communization measures, but perceived that some form of lustration was necessary to prevent political blackmailing. Even post-communists, who until then were not interested in the issue, started advocating some institutionalization of the process, which could help to keep the process under control. In fact, the Macierewicz Affair triggered six news draft laws, and the Oleksy one another four (Grzelak, 2005: 89, 110). The debates that followed not only put the issue high on the agenda and legitimized a problem that had been, up till then, neglected, but it also helped to marginalize opponents of the process.

The value of critical moments lay also in the dynamics they added to the debate. Some of the debates were narrowly concerned with the above affairs themselves, but they quite often expanded to analyze different models and the merits of the concrete drafts acts. The long debates that followed raised different concerns ranging from the quest for truth to pragmatic concerns on the workings of the democratic system and the technicalities of realizing transitional justice. Normative strands of argument insisted that the country needed to learn what had happened in the past in order to avoid similar mistakes in the future. Arguments on the technicalities of achieving the truth, delved into more practical issues, such as the status of communist archives and their current state (the degree of their destruction, their reliability, biased facts which could lead to unjust accusations, etc.). More pragmatic strands of argumentation emphasized the need of lustration for building a free market and liberal democracy. Accordingly, a regulated process would depoliticize the question, constrain the leakage of files, and also reduce blackmailing and political costs of accusations. Finally, a legal strand of argumentation, drawing attention to the idea of the democratic rule of law, elaborated on citizens' right to be informed on the biographies of their officials (Los, 1995; Zolkos, 2006; Sojak and Wincenty, 2005: 93 – 144).

The First Lustration Act

The special Parliamentary Commission on lustration, created after the Oleksy Affair, came up with a Lustration Act, approved by the Sejm on 11 April 1997. The main logic of the law was most accurately captured by Nalepa as a 'confession-based truth revelation procedure' (Nalepa, 2008: 225). The Lustration Act established that candidates for certain public offices must confess their past connections with the secret services, which would then be disclosed to the wide public. However, it was not the collaborations revealed, but lies about the past that were to be sanctioned (David, 2003: 388). The procedure would be effective even in the case

the files were destroyed, because under conditions of uncertainty about what was included the files, candidates would be more willing to reveal the past, than risk sanctions for a lie (Nalepa, 2008: 226).

In contrast to the vague exclusions in the case of Albania, the law includes a precise although narrow definition of those subject to examination. Article 2 stipulates that those officials employed or collaborating with – the intelligence, counterintelligence, military, and civil institutions of foreign countries – between 1944 and 1990 were obliged to announce it publicly. Article 3 then provides a list of key public offices in the democratic regime that were to be subject to the procedure. Finally, Article 4 defines collaboration as ‘the conscious and secret collaboration with operational or investigative units or organs of the state security as a secret informer for gathering information’. Additional provisions explained that the collaboration should not be understood as cooperation with state security institutions when imposed by law.

The Polish case is radically different from the Albanian case also in terms of arranging for a neutral judicial procedure, which was to be carried out by two institutions: The Spokesperson of Public Interest and his office and the Lustration Court. Both institutions had access to secret service files, which, after 2000, were gathered in the Institute of National Remembrance. The procedure demanded that people holding or running for the positions enumerated in Article 3 had to provide an affidavit disclosing their collaboration with security organs stipulated in Article 2. In the case of a positive statement revealing collaboration, the relevant information was to be published in the government gazette, *Monitor Polski*. In the case of candidates for Sejm, the Senate, and the Presidency, the relevant information was to be included next to their name in the electoral ballots.

In the case of negative information denying any collaboration, the affidavit could be taken as true or verified by the Spokesperson of Public Interest, who could then forward the case to a lustration court (Czarnota, 2007: 236). After the 1998 amendments, the Parliament could also request the Spokesman to initiate the procedure against a suspicious person. In addition, the judicial procedure could be initiated by the Lustration Court when a person petitioned that he/she was forced to collaborate with the state security organs, or simply wanted to be acquitted of public accusations (Articles 8 and 18). The role of the court is confined to verifying the veracity of an affidavit, or to decide on the suspension of the case. The law stipulated that the lustrated person was in the position of an accused person, according to the criminal law (art. 20) and they could appeal the judgment (art.23). The only sanction provided for those guilty of lying in the affidavit was a loss of moral qualification to hold public office and a ban on holding it for ten years (David, 2003: 416).

Efforts to Hollow Out Lustration Procedures

The adoption of the Lustration Act in Poland, contrary to the initial objectives, has not limited the inclination towards ‘informal lustration’ and/or its exploitation for political interest. The Lustration Act proved to be satisfactory for none of the key political groupings.

Both sides, proponents and opponents, criticized the model and put forward different amendment proposals, encouraging a fresh round of debate on the issue.

Post-communists, who controlled the majority in the coalition government between 2001 and 2005, were most keen to resist and obfuscate the process. Afraid of the public opinion reaction, however, post-communists translated their battle into a series of proposals, which aimed to hollow out the whole process. Initially, they proposed to narrow down the lustrated categories by excluding those who cooperated with the intelligence and counter-intelligence services, as most communist apparatchiks had collaborated with them (Grzelak, 2005: 179 – 184; Stan, 2006: 19 – 20). Second, the post-communists tried to loosen the legal definition of ‘collaboration’ by including only spying actions that harmed the Church, the independent trade unions, the nation, or more generally the civil liberties or property of others. In addition, they included a set of provisions which would put a burden of proof on the Court judging the lustration case. In order to sentence anyone for the lustration lie, the Court would have to prove that the collaboration was ‘conscious’ and really ‘harmed’ the chosen categories. Such stipulations, if implemented, would condemn the Court to analyze the state of mind of collaborators as ‘conscious’ or not, and uneasy relationship between the information given to the secret services and the actual harm done to the people, making it almost impossible to sentence anyone. On May 28th, 2003 and after few attempts to restrict the already lenient law, The Constitutional Tribunal ruled the amendments unconstitutional (Banaszkiewicz, 2003).

The proponents of lustration, on the other hand, proved inclined to exploit all of the opportunities provided by the procedures in service of their political agendas. Unsatisfied with the moderate character of the law, they actively used the so-called ‘parliamentary denunciation’ provision, which allowed parliamentarians to ask the Spokesperson to initiate lustration against a public official. Although resorting to a legal mechanism, initiation of such procedures caused serious image damage to the subject under screening. The most prominent cases of misuse of the parliamentary denunciation were those involving the Prime Minister Buzek and Deputy Prime Minister Tomaszewski in 1999. A group of parliamentarians petitioned the Spokesman to verify the affidavit that the two submitted before the elections. Although the Spokesperson did not find evidence of collaboration, both the Deputy Prime Minister and Interior Minister were forced to resign. The coalition to which they belonged, the Solidarity Electoral Action, had approved a resolution which obliged an official to step down once the lustration procedure had started and until the matter had been resolved by the court (Paradowska, 1999).

The (mis)use of the procedure included also the timing in which the documents were passed to the institutions in charge of lustration. This was rather clear in the case of left-wing presidential candidate Kwasniewski during his run for the presidency in 2000. Kwasniewski’s campaign team insisted that the Office for the Protection of State, which then controlled secret service archives, had deliberately passed the documents to the Spokesmen of Public Interest during the election campaign in order to give the impression that something might be wrong with his affidavit and thus influence voters. The manipulation of time was also obvious in the sequence of cases analyzed by the Spokesman of Public Interests -whether he took up certain cases earlier or later, whether he dealt with the cases faster or slower and, ultimately, the moment at which he decided to pass the case to the Lustration Court were extremely

important for the political careers of the people involved and daily politics in the country (Grzelak, 2005: 174). The problem was finally solved through an amendment, which stipulated that the sequence of lustration should be guided by the sequence of the public functions as enumerated in Article 7. In addition, the gathering of all secret service archives within a new institution – the Institute of National Remembrance – was effective in reducing the linkage and misuse of information.

The tense debate around lustration has raised founded suspicions concerning the efficiency of technical aspects of the process, as well as the overall general model adopted in Poland. Obvious cases of political interference and usage of the procedure for political ends do not exhaust the long list of critiques against the work of the Spokesman and/or general technicalities of the procedure. Most importantly, the assumption of innocence, interpretation of facts in favor of the accused, and the very specific definition of the collaboration made the sentences of the Lustration Court very debatable. Overall, many people were unhappy with the modesty, the slow pace, and the limited outcomes of lustration (Horne and Levi, 2002: 353).

Inefficient Lustration and Reforming Efforts

The issue of transitional justice in Poland, much like in Albania, is still an open account that pops up in the public discourse and political agenda again and again. Yet, differently from Albania the issue proved of interest to both political elites and non political actors alike. Especially the decision in 2005 to allow open access to all of the files held at the Institute of National Remembrance triggered a new wave of accusations and renewed the debate on the efficiency of the Polish model to deal with the past. Access to the archives, initially restricted only to researchers and victims of the secret police, was incrementally broadened to include even accused secret service collaborators. Allowing wide access to the archives practically neutralized the 1997 Act, which was built on the presumption of ignorance of what was left in the files. Once the accused could check the files, the whole idea of condemning a lie became superfluous.

Dissatisfaction with the limited outcomes of lustration and the relatively unrestricted access to the files accelerated a new wave of lustration cases, this time affecting not only politicians, but also important public personalities, such as journalists, priests, scholars, etc.. The well-documented accusations against Maleszka, a journalist from the influential Polish daily *Gazeta Wyborcza*, Father Hejmo, close associate of John Paul II and many other clergymen, gave new momentum to concentrated public exchanges on the topic of dealing with the past (Terlikowski, 2007). The publication of the so-called ‘Wildstein’s list’, an internal document of the Institute of National Memory, finally lit the fuse of an already vivid public debate. Although the journalist who published the list lacked evidence that it provided a list of collaborators, it was interpreted as such by the public and most of the media (Kosc, 2005). The debates that followed involved not only politicians, but also journalists, the church, academics, and civil society organizations. Again, the debates developed around a mixture of narrow political interests, practical concerns, and ideational exchanges on ways of dealing with the past. A growing number of corruption scandals involving post-communist politicians during the last years of the post-communist coalition (Rywin, Starachowice, and

Orlen affair) paved the way to the radical claims of general cleansing and a moral revolution connected with the right wing idea of the Fourth Republic (Jasiewicz, Jasiewicz – Betkiewicz, 2005: 1151).

The electoral rivalry between two main right wing parties – Civic Platform and Law and Justice – both supporting radical versions of lustration, facilitated the bid for a radical approach against the past. During the 2005 electoral campaign, both parties promoted new ideas of lustration and full opening of the archives. The permanent public presence and the intensity of the issue, coupled with the window of opportunity opened by the corruption scandals, enabled right wing parties to capitalize on those issues. Suddenly, the claims for deeper lustration, which were for a very long time considered as a ‘witch hunt’ and a convenient tool to attack their originators, became part of legitimate political discussion. Both political, media, and religious opponents of the lustration started to accept its necessity. Yet, this rehabilitation of anti-communist language, named by Matyja as ‘the semantic revolution’, should not be reduced to simple power game of the right-wing parties against post-communists (Matyja, 2009). The internal split within the Law and Justice party over a new radical draft of lustration designed by younger politicians reveals that even those who opted for lustration took into account counterarguments appearing in public debates.

Between 2006 and 2007, Law and Justice as well as the Civic Platform voted for an Amending Act, which expanded the definition of security agencies and the categories of individuals required to undergo the lustration process. An individual’s refusal to submit the required ‘vetting statement’, which was to be issued by the Institute of National Memory at the request of the individual, would result in the same consequence as a lustration liar – the loss of moral qualification to hold a given position for ten years. The new lustration law, which for the first time obliged also the journalist, academics, and a range of professional groups to submit to the process, met with widespread resistance (Kurski, 2007). Not surprisingly, the Constitutional Tribunal ruled it unconstitutional and the law was blocked in the drawers of strong interests that lobbied against it. However, the issue still remains open and subject to a wide debate on how to further the slow and halting process of dealing with the past.

Conclusions

Ensuring justice against communist crimes proved to be an extremely long, complicated, and polarized process across both our cases. Twenty years after, transitional justice remains an open issue, which has recorded merely incomplete and highly criticized results. Yet, one can clearly differentiate between the varying models and results of dealing with the communist past in our two cases. On the one hand, Albania has experimented with a wild de-communization model, but has actually done very little to deal with crimes of the past, and now faces the same questions all over again. On the other hand, Poland has institutionalized a mild and transparent ‘truth revelations procedure’, while going on to debate aspects of the process and issue amendments of the procedure.

Evidence from the case studies supports the crucial role of post-communist politics to explain the difficult, long and ambiguous process of transitional justice. In both our cases political interests permeated all stages of the process -the unfolding debates and related arguments; the specifics of the models chosen; the hazy implementation of the rules in practice; and the ongoing trials to change the procedure and reopen issues of the past. Both models, despite of the differences, have bent under the weight of political interests of political groups and individuals with sufficient power to negotiate and push forward new rules. Some of the legal stipulations were from the start designed to favor those with the power to negotiate the legal acts and some were manipulated during the implementation process. The process was first and foremost (mis)used by its strong adherents who did not loose a chance to use the procedure against political opponents. Meanwhile former communist forces, regenerated as new political groupings, have often resisted and manage to slow down the established procedures.

Yet, both cases bring ample evidence that public debates proved important to restrain strategies of using transitional justice at the service of narrow political agendas. Heated debates in Poland took shape in a complex argumentation structure and rich political landscape offering different arguments on the issue. The institutionalization of lustration procedure led to new debates on improving the technicalities and amending the procedure. Concentrated public contestation of the issue proved an important factor to moderate the expression of political interests while forcing political actors to take into account the arguments of the opposite side or at least frame them in a form that would be acceptable to the political scene and the wider public, even when political interests did pull the strings of each side. By contrast, the debate in Albania was from the start monopolized by few anti-communist groups, which proved able to push forward the issue when deemed beneficial to timely political agendas. The institutionalization of de-communization package proved an effective tool to damage political opponents and turned into a dead letter as soon as former communists turned in power. The lack of sophisticated public debates featuring different actors, able to provide different arguments and screen the options thrown in the political market, have further condemned transitional justice to an elitist process which is more often than not used as an instrument of political advantage.

Bibliography

- Appel, H., 2005. *Anti-Communist justice and founding the post-communist order: lustration and restitution in Central Europe*. *East European Politics and Societies* 19, 379–405.
- Ask, D., 2006. *The politics of the Nazi past in Germany and Austria*. Cambridge University Press, Cambridge.
- Austin, R., Elisson J., 2008. Post-Communist Transitional Justice in Albania. *East European Politics and Societies* 22, 373 - 401.
- Banaszkiewicz, B., 2003. Rozrachunek z Przeszłością Komunistyczną w Polskim Ustawodawstwie i Orzecznictwie Trybunału Konstytucyjnego. *Ius et Lex* 2, 441 - 486.
- Baranska, M., 2002. Zasada Państwa Prawnego Jako Argument Przetargowy w Dyskursie Politycznym na Temat Lustracji. *Studia Socjologiczne* 2, 83 - 116.
- Biberaj, E., 2000. *Shqipëria në Tranzicion [Albania in Transition]*. Ora botime, Tirane.
- Braushi, F., PD Kunder Vendimit të Kushtetueses: Të Hapen Dosjet. *Shekulli*, 18 February 2010, 3.
- Braushi, F., Withers: Rrezimi i Kostes nga Kuvendi i Cuditshem. *Shekulli*, 20 May 2010, 2.
- Calhoun, N., 2004. *Dilemmas of Justice in Eastern Europe's Democratic Transitions*. Palgrave Macmillan, New York.
- Chilton, P., 1987. Metaphor, Euphemism, and the Militarization of Language. *Current Research on Peace and Violence* 10, 7-19.
- Chiodi, L., 2007. The Profession of Civil Society in Post-Communist Albania. *Albanian Journal of Politics* 3, 1-32 .
- Cholewa, A., 2005. *Lustracja w Państwach Bałkanów Zachodnich. Raport OSW*. OSW, Warszawa.
- Czarnota, A., 2007. The politics of the lustration law in Poland, 1989–2006. In: Mayer-Rieckh, A., Greiff, P.D. (Eds.), *Justice as Prevention: Vetting Public Employees in Transitional Societies*. Social Science Research Council, New York, pp. 222–259.
- David, R., 2003. Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989–2001). *Law and Social Inquiry* 28, 387 – 439.
- David, R. 2004. Transitional Injustice? Criteria for Conformity of Lustration to the Right to Political Expression. *Europe Asia Studies* 56: 789 - 812.
- De Greiff, P. D., 2007. Vetting and Transitional justice. In: Mayer-Rieckh, A., Greiff, P.D. (Eds.), *Justice as Prevention: Vetting Public Employees in Transitional Societies*. Social Science Research Council, New York, pp. 222–259.
- Dudek, A., 2006. *Historia Polityczna Polski 1989 – 2005*. Arcana, Krakow.

- Duffy, T., 2000. Albania: Beyond the Hoxha's Legacy. In: Kostecki, W., Zukrowska, K., Goralczyk, B. (Eds.), *Transformations of Post-Communist States*. Macmillan Press LTD, London, 37-52.
- East, R., Pontin, J., 1997. *Revolution and Change in Central and Eastern Europe*. Creative Print, London.
- Elbasani, A., 2009, Enlargement Instruments and Domestic Constraints: Public Administration Reform in Post-Communist Albania. *Südosteuropa* 57, 70-90.
- Elbasani, Arolda., 2008. *Political Transformation and Implementation of EU Democratic Requirements in Albania*. Centre for EU Enlargement Studies, Budapest.
- Elster, J., 2004. *Closing the Books. Transitional Justice In Historical Perspective*. Cambridge University Press, Cambridge.
- Entman, R., 1989. *Democracy without citizens. Media and the decay of American politics*. Oxford University Press, New York, Oxford.
- Ferree M. M, Gamson, W. A., Gerhards, J., Rucht, D., 2002. *Shaping Abortion Discourse. Democracy and the Public Sphere in Germany and the United States*. Cambridge University Press, Cambridge.
- Friszke, A., 1990. The Polish Political Scene (1989). *East European Politics and Societies* 4, 305 - 341.
- Goldman, M. F., 2000. *Revolution and Change in Central and Eastern Europe*. Sharpe, New York and London.
- Gonzalez-Enriquez, C. 2001. De-communicization and Political Justice in Central and Eastern Europe. In: Barahona De Brito, A., Gonzalez Enriquez, C., Aguilar, P., (Eds.), *The Politics of Memory: Transitional Justice in Democratizing Societies*. Oxford University Press, Oxford, pp. 218 – 247.
- Graczyk, M., 2008. 'Platforma nie ma czasu na lustracje' *Dziennik*. Available at: <http://wiadomosci.dziennik.pl/polityka/artykuly/125005,platforma-nie-ma-czasu-na-lustracje.html>. (accessed on 7th of April, 2010).
- Grzelak, P., 2005. *Bitwa o lustracje*. Wydawnictwo TRIO, Warszawa
- Grzymala-Busse, A. 2007. *Rebuilding Leviathan: Party Competition and State Exploitation in Post-Communist Democracies*. Cambridge University Press, Cambridge.
- Hatschikjan, M. (ed.) *Manual on Lustration, Public Access to Files of the Secret Services and Public Debates on the Past in the Western Balkans*. CDRSEE: Thessaloniki, 2000. Available at: www.lustration.net. (accessed on 7th of April, 2010).
- Horne, C., Levi, M. 2002. *Does Lustration Promote Trustworthy Governance? An exploration of the Experience of Central and Eastern Europe*'. Available at <http://www.colbud.hu/honesty-trust/horne/pub01.doc>. (accessed on 7th of April, 2010).
- Horne, C., 2009. Late Lustration Programmes in Romania and Poland: Supporting or Undermining Democratic Transitions? *Democratization* 16, 344 - 376.
- Huntington, S., 1991. *The Third Wave. Democratization in the late twentieth century*. University of Oklahoma Press, Norman, OK.

- Jasiewicz, K., Jasiewicz-Betkiewicz, A., 2005. Poland. *European Journal Of Political Research* 44, 1147–1157.
- Kiss, C., 2006. The Misuses of Manipulation: The Failure of Transitional Justice in Post-Communist Hungary. *Europe Asia Studies* 58, 925 - 940.
- Kosc, W., 2005. Poland: Wildstein's List. Transitions Online. Available at: <http://www.cceol.com/aspx/issuedetails.aspx?issueid=1df2849b-4265-46e7-a26c-ac3446f2b853&articleId=b6c5bb01-5372-4ead-9283-0c5aca1b7454>. (accessed on 10th of January, 2009).
- Kurski, J., 2007, Nawet dziennikarz ma sumienie, *Gazeta Wyborcza*. Available at: <http://wyborcza.pl/1,79328,3971377.html>. (accessed on 10th of January, 2009).
- Letki, N., 2002. Lustration and Democratisation in East Central Europe. *Europe Asia Studies* 54, 529 - 552.
- Linz, J., Stepan, A., 1996. *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe*. John Hopkins University Press, Baltimore.
- Lipinski, A., 2002. Recepcja tzw. sprawy Macierewicza w polskiej prasie opiniotwórczej, In: Kosman, M. (Ed.) *Na obrzeżach polityki*. Wydawnictwo INPiD, Poznań, pp. 63 - 78.
- Los, M., Zybertowicz, A. 2000. *Privatizing the Police State. The Case of Poland*. Palgrave Macmillan, Basingstoke, Hampshire.
- Los, M., 1995. Lustration and Truth Claims: Unfinished Revolutions in Central Europe. *Law and Social Inquiry* 20, 117 - 161.
- Moran, J. P., 1994. The Communist Torturers of Eastern Europe: Prosecute and Punish or Forgive and Forget? *Communist and Post-Communist Studies* 27, 95 - 109.
- Nalepa, M. 2008. To Punish the Guilty and Protect the Innocent: Comparing Truth Revelation Procedures. *Journal of Theoretical Politics* 20, 221 - 245.
- Paradowska, J., 1999. Trafiony teczka. *Polityka* 37.
- Perndoj, N., 2008. Berisha kunder SHBA: Do Miratoj Dosjet. *Shekulli*, 22.12.2008. **Available at:** www.shekulli.com.al/news/45/ARTICLE/38322/2008-12-22.html (accessed on 7th of April, 2010).
- Perndoj, N. 2009. Dosjet, Berisha Sulmon Kushtetusen. *Shekulli*, 17.01.2009. Available at: <http://www.shekulli.com.al/2009/01/dosjet-berisha-sulmon-kushtetuesen.html>. (accessed on 7th of April, 2010).
- Pond, E., 2006. *Endgame in the Balkans: Regime Change European Style*. Brookings, Washington D.C.
- Prifti, P., 1978. *Socialist Albania Since 1944: Domestic and Foreign Developments*. MIT press, Cambridge.
- Ruzikowski, T., 2005. Agenci. *Biuletyn Instytutu Pamięci Narodowej* 3, 36- 48.
- Sadurski, W., 2003. "Decommunization", "Lustration" and Constitutional Continuity: *Dilemmas of Transitional Justice in Central Europe*. European University Institute Working Paper LAW, no. 15, 1 - 50.

- Schwartz, H., 1995. Lustration in Eastern Europe. In: Kritz, N. (Ed), *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*. United States Institute of Peace Press, Washington, DC, pp. 461 – 483.
- Siegelman, P., 1995. The Problems of Lustration: Prosecution of Wrongdoers by Democratic Successor Regimes. *Law and Social Inquiry* 20, 1 - 6.
- Smolar, A. 1994. The dissolution of Solidarity. *Journal of Democracy* 5, 70 - 84.
- Sojak, R., Wincenty, D. 2005. *Zagubiona Rzeczywistość. O Społecznym Konstruowaniu Niewiedzy*. Oficyna Naukowa, Warszawa.
- Spiewak, P., 2005. *Pamięć po komunizmie*. Słowo/obraz Terytoria, Gdansk.
- Stan, L., 2006a. The politics of memory in Poland: lustration, file access and court proceedings. *Studies in Post-Communism Occasional Paper* 10, 1–56.
- Szczerbiak, A., 2002. Dealing with the Communist past or the politics of the present? Lustration in post-communist Poland. *Europe-Asia Studies* 54, 553–572.
- Teitel, R., 2002. *Transitional Justice* Oxford University Press, Oxford.
- Terlikowski, T., 2007. *Odwaga prawdy. Spor o lustracje w polskim Kościele*. Prószyński i Ska, Warszawa.
- Vickers, M., Pettifer, J., 2000. *Albania from Anarchy to a Balkan Identity*. Hurst and Company, London.
- Walicki, A., 1997. Transitional justice and the political struggles of post-communist Poland. In: McAdams, A.J. (Ed.), *Transitional Justice and the Rule of Law in New Democracies*. University of Notre Dame Press, Notre Dame, IN, pp. 185–238.
- Welsh, H., 1996. Dealing With The Communist Past: Central And East European Experiences After 1990. *Europe Asia Studies* 48, 413 - 428.
- Williams, K., Fowler, B., Szczerbiak, A. 2005. Explaining lustration in Central Europe: a 'post-communist politics' approach. *Democratization* 12, 22 - 43.
- Venice Commission. 'On the Law on the Cleanliness of the Figure of High Functionaries of the Public Administration and Elected Persons of Albania.' Opinion no 524/2009. Strasbourg, 13 October 2009.
- Zaller, J., 1992. *The nature and origins of mass opinion*. Cambridge University Press, New York.
- Zolkos, M., 2006. The conceptual nexus of human rights and democracy in the Polish lustration debates 1989–1997. *Journal of Communist Studies and Transition Politics* 22, 228–248.

