**Explaining Lustration in Eastern Europe:
'A Post-communist politics approach'**

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ABSTRACT

Lustration, the vetting of public officials in Eastern Europe for links to the Communist-era security services, has been pursued most systematically in the Czech Republic, Hungary and Poland. Prior attempts to explain the pursuit or avoidance of lustration focused on the differing experiences of Communist rule or transition to democracy. A closer examination finds that although the three countries in question had very different histories, there were identical demands for lustration in the early 1990s. These demands were translated into legislation at different times, and varied considerably in the range of offices affected and the sanctions imposed. This article offers an explanation of this variation by focusing on the dynamics of post-Communist political competition. We find that the passage of a lustration bill depended on the ability of its most ardent advocates to persuade a heterogeneous plurality of legislators that the safeguarding of democracy required it.

The question of how to deal with a previous non-democratic regime's functionaries and collaborators has been an important source of political divisions in post-Communist Eastern Europe. This issue is, of course, not unique to the region. All emerging democracies face what Huntington has called the 'torturer problem'[1] and various forms of transitional justice have accompanied most great transformations.[2] However, the matter has had a particular salience in the former Communist states. Owing to the Communist system's homogenizing socio-economic legacy and seemingly pervasive informer networks, plus the continued prominence of largely unrepentant former ruling parties, many of the political divisions in newly-democratizing East European societies were expressed by reference to the old regime. Consequently, attitudes to the past developed into an issue on which parties cooperate and compete.

East European states had several standard options available when deciding how, if at all, to pursue transitional justice. These included criminal prosecution of prominent or representative officials, the restitution of property and, most recently, declassifying secret files for public inspection. None of these options, however, fully answered the questions that most exercised the media and public opinion: Who aided the security services in spying on neighbours, colleagues and family members? What fair penalty could be devised for this collaboration, which technically was not in breach of any positive law? How should a society embracing liberal ideology and the rule of law deal with those of its members who 'without being guilty, cannot be called innocent'?[3] Given the practical and legal constraints on the use of criminal proceedings,[4] the controversial response to these questions was lustration - the systematic vetting of public officials for links to the Communist-era security services.

Although a large, often normative literature has arisen on the merits of prosecution, truthtelling and reconciliation,[5] relatively little comparative analysis has been devoted to explaining why post-Communist politics produced its own alternative. This article examines how lustration has been handled in the Czech Republic, Hungary and Poland. After the new German *Länder*, these are the three post-Communist states that have most pursued lustration, but they also adopted lustration legislation at different

times and in different forms, so offer especially appropriate cases for comparative study.[6] We begin by testing three frameworks that have been developed to account for why and how emerging democracies deal with their non-democratic past. As we shall show, none of these approaches on its own explains the development of lustration in the three chosen states. In developing our own explanation of the *timing* and the *form* of lustration adopted in each of these countries, we argue that previous approaches unduly stressed each state's history of Communism and mode of transition to democracy, treated countries as unitary actors and overlooked the discourse and parliamentary politicking that in each case allowed lustration to be enacted with the support of only a minority of the legislators. The key variables we emphasize are the ability to build a coalition around a compromise, centrist vision of lustration and the relative strength of that coalition. The explanation of lustration we offer therefore privileges the dynamics of post-Communist politics over the historical variables emphasized by other studies.

A terminological note: Although the terms 'lustration' and 'decommunization' are often used interchangeably, it is important to distinguish between measures directed against former officers of and collaborators with the state-security apparatus and broader attempts to purge former Communist-party members (generally above a certain rank) from public life. For the purposes of this paper, we follow the Polish convention of understanding *lustration* as ascertaining whether an occupant of or candidate for a particular post worked for or collaborated with the Communist security services.[7] *Decommunization*, on the other hand, refers to the wider removal and exclusion of people from office for having been functionaries of the Communist party or related institutions.[8] It is also important to draw a distinction between simply vetting or screening individuals for past associations and excluding them automatically on the basis of such links; this article will explain the variation in severity of sanctions adopted in the three cases.

How Well Do Existing Frameworks Explain Lustration?

Three political scientists have offered explanations of why and how new democracies deal with the past. Huntington, extrapolating from other regions' experiences as the East European revolutions were just beginning, sought a link between policy and the non-democratic regime's 'mode of exit', particularly the role of élite bargains. If the last leaders of the non-democratic regime had to be ousted, then there would be a desire for retribution. If they gave up peacefully following revolts or initiated reform themselves and stepped down once those reforms went beyond the initial intention, then persecution would be eschewed. On the basis of his understanding of how Communism ended, Huntington forecast that among the states of Eastern Europe only Romania and East Germany would pursue transitional justice while the rest would forgive and forget.[9]

Moran, writing four years later, took issue with Huntington but similarly based his framework on an historical variable reflecting the conduct of the old regime, namely, how liberal it was in permitting dissent. If a regime did not allow citizens to voice discontent or emigrate, then there would be more pressure for settling scores. If a country allowed its citizens some scope for self-organization, protest or exit, then there would be little desire for retribution.[10] On these grounds, Moran did not expect Poland and Hungary to revisit the past in the way that Czechoslovakia, East Germany and Bulgaria already had.[11]

More intricate is Welsh's multi-causal model. Like Huntington and Moran, Welsh argues that whether the Communist regime remained consistently severe until its demise and whether the Communists were willing to bargain a transition to democracy were critical. However, she also factors in the 'politics of the present'. Central to this was whether or not the Communists or their successor parties performed well in the first free elections, a synecdoche for élite turnover in the early post-Communist period. According to Welsh, the necessary conditions for a radical approach to the past were the refusal of an orthodox Communist regime to relax and bargain with the opposition until faced with mass protests, *and* the Communists' loss of influence on the policy agenda after failing in the founding elections. Even more importantly, Welsh also distinguished between factors that accounted for an *early* pursuit of transitional justice and those that may make it arise as an issue *subsequently*. As time passed, she argued, dealing with the Communist past could become a tool in the struggle for political power and be exploited by some politicians to undermine their opponents, especially if former Communists were able to reinvent themselves in the eyes of the public, as they were in much of Eastern Europe.[12]

So, how helpful are these comparative frameworks in helping us understand the emergence and development of lustration in the Czech Republic, Hungary and Poland? Only the Czech Republic fits the explanations that focus on the nature of the Communist regime, mode of exit and outcome of the first democratic elections. The regime that emerged in Czechoslovakia during the so-called 'normalization' after the interrupted 1968 liberalization was harsh, orthodox, and allowed little scope for dissent. In their comparative typology of Communist regimes, Linz and Stepan characterize it as a case of 'frozen post-totalitarianism'.[13] Similarly, in his typology Kitschelt categorizes Communist Czechoslovakia as a 'bureaucratic-authoritarian'

regime that allowed little criticism or involvement in policy-making.[14] Consequently, it was unable to initiate any kind of preemptive reform until it collapsed under the pressure of popular protests in November 1989. The opposition movements Civic Forum and Public Against Violence then scored an overwhelming victory in the first free elections in June 1990.

We should, therefore, not be surprised that the new Czechoslovak regime took an early interest in lustration and adopted a radical version of it. The 1991 Czechoslovak lustration law was the most systematic example of this kind of action and combined elements of both vetting and exclusion from certain public offices for secret-service functionaries and Communist-party officials. All those who served as officers and agents of the Communist security services or as party officials from district level upwards (except in 1968) were automatically excluded from around 9,000 posts in government and public administration, the military, the security services, the state media, state-owned enterprises, senior academic posts and the judiciary. The lustration law was applied subsequently in the Czech Republic (but not Slovakia) following the break-up of the Czechoslovak state in 1993, extended for a further five years in 1995 and then indefinitely in 2000. More than 400,000 people have been screened, and about 3 per cent told that their names appeared in the informer rolls.[15]

The Hungarian and Polish cases, in contrast, represent a lethal challenge to explanations that privilege background factors, because according to such approaches these states should never have pursued lustration. The 'goulash Communism' that developed in Hungary after the 1960s was a relatively liberal one, exemplified by leader János Kádár's inclusive axiom of 'He who is not against us, is with us'.[16] Linz and Stepan describe the Hungarian Communist regime as an extremely advanced case of 'mature post-totalitarianism'.[17] There was significant change in all the dimensions of a Leninist regime - the role of the official ideology, the nature of the leadership, the degree of permitted pluralism and the importance of mobilization - except that the party's power monopoly remained sacrosanct. Kitschelt likewise characterized Hungary as a 'national-accommodative' regime that tolerated some dissent and permitted a degree of specialist involvement in policy-making.[18] Moreover, the Hungarian transition to democracy was initiated by reformists within the Communist élite. Although they did not originally expect to have to do so, the Communists surrendered power through a process of compromise and negotiation with representatives of the democratic opposition that culminated in constitutional reform in October 1989 and competitive elections in March-April 1990 that were won by the opposition Hungarian Democratic Forum (MDF).[19]

However, in spite of the nature of its Communist regime and its negotiated transition to democracy, there were immediate demands for lustration in Hungary and there had been no fewer than ten legislative initiatives by late 2002. The first of these, the unsuccessful 1990 Demszky-Hack bill, was sponsored by two members of the liberal opposition Alliance of Free Democrats (SZDSZ). Before it, in June 1990, members of the radical right of the governing Hungarian Democratic Forum had submitted their *Justitia* plan, an 11-point programme sent to Prime Minister József Antall that called for the suspension and assessment of leading figures at all public institutions and the bringing to account of those responsible for the country's 'catastrophic situation'.[20]

A more restrained proposal was tabled by the government in May 1991, which almost

three years later resulted in a screening law that required the occupants of between 10,000 and 12,000 posts to be vetted for their past links with the Communist domestic secret police, the 'counter-insurgency squads' that suppressed the 1956 revolution and the fascist Arrow Cross. The list of posts affected, as comprehensive as in Czechoslovakia, included parliamentarians; government ministers, state secretaries and deputy secretaries, ministry department heads, ambassadors and other senior civilian and military officials; the heads, deputy heads and editors of the state television, radio and news agency and editors of daily and weekly papers with print runs of more than 30,000; all judges and prosecutors; mayors and county assembly presidents; the heads of department of state universities and colleges; and the heads of state-owned companies.[21] In 1996 a parliament now dominated by the Socialist (ex-Communist) party passed a new law that narrowed the scope of the screening legislation so that it covered only 500-1,000 posts including parliamentarians, ministers and the most senior officials in the public administration, judiciary and state institutions and media. In 2000 the next government, led by the right-wing, anti-Communist FIDESZ-Hungarian Civic Party (FIDESZ-MPP),[22] expanded the scope of the legislation again to encompass all radio, television and internet news editors, 'influential' print-media editors and staff, all judges and prosecutors and the members of the national and county presidia of political parties entitled to state funding. This amounted to some 7,000-8,000 posts in total. The legislation was also extended from its original expiry date of 2000 to 2004. Finally, following the revelation in summer 2002 that the new prime minister, Péter Medgyessy of the Communist successor Hungarian Socialist Party (MSZP), had worked with Communist counter-intelligence, both the government and the opposition FIDESZ came forward with alternative proposals for a new, tougher, lustration regime.[23]

The Communist regime in Poland was also a relatively liberal one that allowed its citizens some scope for dissent and protest. Kitschelt categorizes Poland alongside Hungary in the more relaxed 'national-accommodative' category,[24] while Linz and Stepan argue that it was the only Communist state that never experienced true totalitarianism, so they place it in the milder 'authoritarian' category.[25] The transition to democracy in Poland was also a negotiated one. Following the round-table talks held in March-April 1989, the Solidarity movement won all but one of the openly contested seats in the semi-free elections in May and June. When the Communists' allies in minor satellite parties defected to the opposition, a coalition government was assembled in August 1989 under Solidarity intellectual Tadeusz Mazowiecki. Precisely because the Polish transition was based on a high-level bargain and the founding election was only partially free, there was less élite turnover during the transition than in Czechoslovakia or Hungary.

The first post-Communist Polish government did, it is true, explicitly reject a policy of lustration, exemplified by Mazowiecki's famous inaugural pledge to draw a 'thick line' under the Communist past. However, calls for a more radical approach were already growing louder in 1990-91 and came from Solidarity's right wing, which felt excluded from the Mazowiecki government. Meanwhile, with little fanfare, considerable personnel changes were being made in a number of important spheres of public life. For example, verification commissions were set up all levels of the legal system to examine individual service records and removed 10 per cent of prosecutors and 33 per cent of the staff in the office of the General Prosecutor.[26] The short-lived, more radically right-wing government of Jan Olszewski then decided in 1991 that the

interior ministry should vet all elected officials for links to the Communist secret services, and prepare a bill for a more encompassing lustration.[27] This process culminated in the denunciation of 64 members of parliament (including many veterans of the democratic opposition) by Interior Minister Antoni Macierewicz. The furore that followed led directly to the downfall of the Olszewski government.

Lustration, however, did not disappear from the political agenda; later that year, six proposals were under consideration in the Polish legislature, the most substantial of which was a bill drafted by the Congress of Liberal Democrats. Other centrist and liberal parties were not ready to support it, so it died along with the other bills in committee.[28] Lustration then resurfaced throughout the 1990s as Polish politics polarized around attitudes towards the past following the ex-Communists' victories in the 1993 parliamentary and 1995 presidential election.[29] The matter's periodic resurgence peaked in December 1995 with allegations that the ex-Communist premier, Józef Oleksy, had been a Soviet and Russian spy. In response, Poland adopted a lustration law in June 1997, which covered all elected state officials from the president downwards, including parliamentary candidates, together with all ministers and senior state functionaries above the rank of deputy provincial governor; judges and prosecutors; and leading figures in the public electronic and print media. As a result of amendments passed in 1998, the law's scope was stretched to include all barristers, bringing the total number of officials subject to lustration to approximately 20,000.

This overview shows that the variables highlighted by Huntington and Moran - the nature of the non-democratic regime and the mode of exit from it - do not explain the fact that these three states have all adopted lustration, although at different points in their transitions. Given that it stresses the make-up of the first post-Communist administration, and admits that the issue may not simply fade away, Welsh's multi-causal model better explains the evolution of the political debate and policy regime. However, this 'post-Communist politics' approach, implicit in Welsh's analysis, needs to be elaborated in two ways. First, it wants more precision regarding the circumstances in which lustration, and attitudes towards the past more generally, can be instrumentalized as part of the political game in some countries and not in others and can, therefore, continually resurface as a salient political issue. Second, the motives and tactics of lustration's advocates need to be factored into any attempt to account for variations in post-Communist lustration. The main objective of the rest of this article, therefore, is to build upon and modify Welsh's framework. We will develop an analytical approach that emphasizes post-Communist political competition to explain why lustration was adopted in all three countries but at different times and in different forms.

WHY WAS LUSTRATION ADOPTED IN EACH CASE BUT AT DIFFERENT TIMES?

In accounting for the adoption of lustration legislation in all three states, but at different times, it is useful to distinguish between the emergence of demands for lustration, and the development of political conditions allowing lustration legislation to be passed. In all three states, there were ardent proponents of lustration from the outset despite the different nature of their Communist regimes, modes of transition and degree of early élite turnover. These forces were small but articulate liberal and conservative groupings, often with impeccable dissident credentials and not (unlike some who later jumped on the lustration bandwagon) opportunists compensating for embarrassing moments in their own biographies.

What is striking about these lustration advocates is their rhetorical success in making a purge that could easily be deplored as retribution for bygones into a matter of the present and future of the new political order, in effect securitizing democracy.[30] Indeed, notions of transitional justice were conspicuous by their almost complete absence from the parliamentary debates. Instead, three overlapping, prospective lines of argument were used to sell lustration.[31]

1. Prophylactic arguments

The new democracies were, it was argued, extremely fragile. New institutions were not yet consolidated, and the public was uneasy about the covert continuation of old networks (both political and socio-economic) rooted in the Communist *nomenklatura*, especially when it was widely reported that party barons and secret-police operatives were profiting from the privatization of state enterprises. Such arguments may have had particular resonance in post-Communist states, given their inter-war history of democratic failure from within, aided by interference from without. Lustration was, therefore, presented as a means of safeguarding the state and democracy either by compelling thousands of candidates and officials to disclose their personal histories, or by installing a discreet bureaucratic procedure to filter such people out of the state sector.

2. Blackmail arguments

In all three countries there was a sense of alarm at the lack of control over Communist security-service files. Thousands of classified documents were destroyed or stolen in late 1989, and no one knew for sure who might use them to learn the identities of police collaborators. Advocates of lustration warned that individuals with past associations with the security services who now held important public offices were open to blackmail. Conceivably, these people could be forced by their erstwhile case officers to act against the public interest and subvert democracy; if they did not cooperate, their histories would supposedly be divulged to an unforgiving public and their lives ruined. Lustration was thereby presented as a necessary means to protect public safety and democracy by ensuring that occupants of prominent and sensitive positions were not vulnerable to such duress.

3. Public-empowerment arguments

Finally, it was argued that not only did the public expect openness in public life, but also that transparency and public knowledge about the Communist period were good in themselves. The people could not be fully sovereign, and the democratic transition thus not fully realised, if they were denied relevant information. By making public institutions more transparent, lustration would empower citizens and increase public confidence in (and, thereby, enhance the credibility of) the new political institutions. In other words, in reply to the accusation that it represented a possible infringement of citizens' rights (by denying groups access to certain jobs), lustration was presented as a measure to safeguard the very exercise of such rights.

Given that no hard evidence was presented to support these statements, what developments made them credible for a sufficient share of the political élite and public?

Five closely-linked factors, all concerning the progress of the democratic revolution, prompted the emergence of demands for lustration couched in present and future-oriented terms.

1. Revolutionary jitters

In all three countries, specific incidents or generally increased knowledge of the Communist-era security services and their files provoked fears about the services' possible continued influence, and the potential damage that could be wrought by uncontrolled use of the files. In Czechoslovakia, such ideas were encouraged by a parliamentary inquiry in 1990 into the beginnings of the Velvet Revolution. In its report, the parliamentary commission hinted that the state security service (StB), factions of the Czechoslovak Communist Party and the Soviet KGB had instigated the police violence against student demonstrators in November 1989 that sparked the uprising.[32] This spurious account was joined by the discovery in spring 1990 of a scheme launched in 1986 by the StB to infiltrate agents into the dissident movement, whose members now dominated the new post-Communist élite. Both revelations spread the idea that the StB remained in a position of influence.[33] Meanwhile, it also became known that a large share of the StB's files had disappeared at the turn of 1989-90, and suspicions rose that they had been pilfered rather than destroyed.[34] This stoked the speculation that members of the new élite who had been informers or targets of the StB might be blackmailed by residual StB elements.[35]

In Hungary, the 'Danubegate' scandal at the turn of 1989-90 fuelled awareness of the potential conflict between the new democracy and the Communist security services. A secret-police officer revealed to the opposition that security-service files were being destroyed and that opposition figures were still subject to covert surveillance, *after* the October 1989 institutional reforms that should have guaranteed civil and political rights and the holding of free and fair elections.[36] The scandal made the Alliance of Free Democrats (SZDSZ), in particular, much more receptive to policies designed to curb secret-service influence, and appeared to drive several individuals' long-term pursuit of greater public knowledge about the services. The specific spur to the autumn 1990 SZDSZ lustration bill was a closed meeting of parliament's National

Security Committee in June of that year, at which the interior minister spoke of the existence of a list of former secret police informers which included members of the new legislature.[37] Until that occasion, little attention had been paid to the post-Communist fate of the service's files or to the possibility that former collaborators might appear in the new élite.

In Poland, in turn, a key event which helped to precipitate the 1997 lustration law was the accusation made in December 1995 that the prime minister, Józef Oleksy, of the Communist successor Democratic Left Alliance (SLD), had been a Soviet and Russian spy.[38] The claim was made in a special parliamentary statement by outgoing Interior Minister Andrzej Milczanowski on the heels of Lech Wałęsa's defeat by the SLD candidate in the presidential election. Although the allegations were not proven, Oleksy was forced to resign in January 1996. Across the region, all events of this type made the issue of the new post-Communist élite's links with the former Communist security services a recurring one, and the engine of security- and transparency-based demands for lustration.[39]

2. The limits of the revolution

Broader post-Communist developments encouraged the view that Communist-era political and socio-economic networks in general retained or could regain inimical influence. The failed Soviet coup of August 1991 was one moment that intensified the drive for lustration on these grounds. In Czechoslovakia, the coup occurred during the drafting of the 1991 lustration bill and sparked (vague) claims that Communist-era networks had been stirring during the brief time when it looked like Moscow might revert to a hard line. In Hungary, an interpretation of the coup was a key element in a text published by the parliamentary group leader of the main governing centre-right Hungarian Democratic Forum (MDF), Imre Konya. An important marker of the advance of more radical pro-lustration right-wing views within the mainstream of the party, Konya's text argued that the Soviet coup would make the West more sympathetic to anti-Communist measures.[40]

Calls for lustration in terms of its beneficial economic and political effects were, unsurprisingly, often made by those most dissatisfied with the outcomes of transition. Lustration might be demanded as a means of tackling '*nomenklatura* capitalism', the 'unfair' distribution of new wealth and widening income disparities, for example. In Poland, calls for lustration from more radical right-wing post-Solidarity groups excluded from the first post-Communist government, such as Centre Agreement (PC) and the Christian National Union (ZChN), rose in 1990-1991 in tandem with discontent at the effects of Finance Minister Leszek Balcerowicz's economic shock therapy. In Hungary, some advocates of tough lustration within the MDF after 1990 argued that government policy must be subject to sabotage by holdover Communist networks within the economy and public administration, since the post-Communist outcome could not possibly be what the government had intended. Lustration was thus presented as a means by which the troubled administration might rescue the revolution and, indirectly, its own popularity.[41]

3. The (re)definition of the right

The emergence of varying attitudes to the Communist past as the basis for general political identities and alignments increased the likelihood of demands for lustration. Both general fears about the ongoing or resurgent influence of Communist-era networks, and the politicization of attitudes to Communism, were most likely to occur where Communist successor forces re-emerged as significant political players. Relatedly, in all three states, proponents of the toughest lustration regimes have been on the political right, at both élite and mass level, while centrists and centre-left forces have had far more difficulty with the issue.[42] In all three countries, the prospective or actual electoral success of former Communist figures suggested that democratic competition alone would not suffice to bar such persons from public life.[43]

In the Czech Republic, where the semi-reformed Communist party is a lesser electoral force than its Hungarian and Polish counterparts and permanently excluded from office, right-wing defenders of the legislation relocated the perceived threat from ex-Communists in the mainstream leftist party, the Social Democrats, to justify the permanent renewal of the law in 2000.[44] The politicization effect operated most strongly, however, in Hungary and Poland, where the main Communist successor parties emerged as dominant political forces. In both states, calls for lustration (or tougher variants of it) have been used by post-opposition forces both as an element in political competition against the Communist successor parties, and as a means of carving out distinct identities and pursuing leverage *within* the post-opposition camp, against other post-oppositionists who were more 'Communist-forgiving'. The latter phenomenon was seen in the early 1990s, where, in both Poland and Hungary, the first post-Communist administrations did not implement explicit lustration policies. In Poland, Lech Wałęsa and the more radical Solidarity forces used calls for lustration against Tadeusz Mazowiecki's moderate post-Solidarity government, while in Hungary, 'dealing with the past' became a key element in the struggle between Prime Minister József Antall and his more radical right-wing opponents over the identity of the MDF and the nature and mandate of his government.

The salience of anti-communism within the Hungarian political élite, and therefore the potency of lustration demands, was ratcheted up with each harbinger of the Communist successor party's return to or consolidation of power. After the Communist successor party, the Hungarian Socialist Party (MSZP), won a sweeping victory in 1994 and SZDSZ joined it in government, anti-(post-)communism was a key element in the crafting of a new right wing that culminated in FIDESZ's 1998 election triumph.[45] In Poland, a similar division into 'Communist-purging' and 'Communist-forgiving' camps arose in the aftermath of the ex-Communist SLD's October 1993 parliamentary election landslide.[46] However, the bipolar tendency was intensified by presidentialism, specifically the bitter and closely fought November 1995 contest between the incumbent Wałęsa and SLD leader Aleksander Kwaśniewski, in which Wałęsa again deployed sharp anti-Communist rhetoric.

The emergence of lustration policies as a touchstone of broader political identities and appeals has helped to shape the afterlife of original lustration laws. As noted, this featured to some extent even in the Czech Republic, in the politics of the indefinite extension of the lustration regime in 2000. In Hungary, as FIDESZ attempted to

consolidate its leadership after 1998 against what was still perceived as a powerful Communist-successor rival, the party adopted elements of the more traditionally radical-right approach when in 2000 the government toughened and, as in the Czech Republic, extended the validity of the lustration law.[47] In Poland, Kwaśniewski's narrow 1995 victory reinforced the perception that former Communists dominated public life, which encouraged post-Solidarity parties again to stress the need for a more complete break with communism as part of their successful 1997 parliamentary campaign. As the existing lustration system was proving unworkable, the parties of the new centre-right government were obliged by the nature of their electoral appeal to amend the law to ensure its implementation.[48]

4. Too mild? Too wild?

Closely related to the previous factors was the fact that earlier stances and actions regarding lustration helped to prompt later calls for legislation. This effect operated in one of two ways, and occasionally across national borders. Sometimes, early lustration efforts were felt to have been too lenient, provoking demands for tougher action. As we have seen, where governments rejected an explicit lustration policy, as in Hungary and Poland after 1990, they unwittingly encouraged opponents to demand lustration in the process of creating a distinct political identity for themselves while addressing a perceived cause of post-Communist ills. In Hungary, in spring 1991 deputies of the junior governing Independent Smallholders' Party (FKGP) asked Antall for their own lustration, as a means of banishing the suspicion that prevailed as long as there was no wholesale vetting; the government tabled its first lustration bill four days later. In the Czechoslovak case, parties were asked to submit their candidates to lustration in the run-up to the 1990 parliamentary elections, but many relevant files were later found to have been inaccessible at the time, and the Communist Party refused to comply. This experience of incomplete lustration helped to prompt the 1991 lustration law, with the ex-dissident Jiří Ruml, for example, arguing that deputies from parties which had not been lustrated 'might still be misused for acts that would be able to destabilize our state and...its republics more than lustration itself would'.[49] After the Czechoslovak law had been passed and put into operation, some right-wing advocates of lustration in Hungary then pointed to the Czech Republic, which was seen as the 'star pupil' of post-Communist transition in the early and mid-1990s, and attributed its success and Western acclaim partly to its thorough lustration.[50]

On other occasions, the problem with early lustration efforts was that they were unregulated, based on dubious evidence and seen to be politically motivated and deeply disruptive and damaging to public life. 'Wild lustration' of this sort created a demand that those accused unfairly should be able to clear their names. This consideration seems to have weighed especially heavily in Poland,[51] but may also have figured behind FKGP pressure for a lustration law in Hungary, after Antall cast suspicion on the FKGP leader. 'Wild lustration' in some cases also drew further attention to the lack of control that existed over the files of the Communist-era security services, heightening fears about their blackmail uses. In Hungary in 2002, the fact that Medgyessy was exposed for counter-intelligence activities - which were not covered by the original lustration law - was the key factor prompting the MSZP to

back an expansion of the Communist-era activities brought within the lustration regime; preventing the abuse of personal data in the files became the prime official rationale for the MSZP's new approach. Overall, the concerns raised by 'wild lustration' prompted calls for a law-based, bureaucratic or judicial process to replace it.

This was a major factor behind the development of the 1991 Czechoslovak law. In spring and summer 1990, in the run-up to the parliamentary elections, members of the new post-Communist élite on several occasions accused each other either of being StB informers, or of ransacking the StB files to identify informers among rivals. This experience helped to prompt liberal and Christian democrat ex-dissidents outside the main governing Civic Forum to launch an initiative in January 1991 for a more systematic process. The preferred options of this group were the publication of the names of all collaborators listed in the StB registers, and the public exposure of any elected to the new legislature; they were not, in fact, interested in a rolling purge of the entire state sector, which they feared would prolong the ordeal for 10-15 years.[52] Civic Forum and its Slovak equivalent, Public against Violence, dreaded the countless quarrels and damage to privacy rights that printing thousands of names would cause. The two main parties agreed only to confront members of the federal assembly who had been StB informers and name them should they refuse to resign. This initiative, however, ended in fiasco. Although some parliamentarians took the opportunity to leave quietly, ten others denied collaboration and appeared on the floor of the assembly to reject the charges.[53] This damaging débâcle spurred the centrist initiative, which was to become the 1991 lustration law, for a statutory bureaucratic process removed from the public eye.

Whether earlier lustration efforts were seen as too mild or too wild, therefore, they kept the issue on the political agenda and generated expectations that a more satisfactory lustration regime should be adopted. It must be added that, in Poland, an early lustration effort – the Macierewicz list of names - operated in a third way, to discredit the idea of lustration and impede compromise. Given that the minister's lists included the names of many former dissidents now in prominent official positions (including President Wałęsa), that even Macierewicz cast doubt on their reliability, and that the lists were delivered the day before the government faced a no-confidence vote which it was set to lose, it was widely suspected that the minority government was attempting to use lustration as a means to remain in power by discrediting political opponents.[54] Macierewicz's behaviour caused the government's fall, was declared unconstitutional by the Constitutional Court, and for some time made it impossible for advocates of lustration to make an effective case.

5. The people's will

Purges in post-Communist Eastern Europe never arose spontaneously as the demand of a mass movement, like the *saneamentos* conducted in Portugal in 1975 by workers' commissions.[55] Although an élite-driven process, lustration nevertheless enjoyed considerable public support in all three states, regardless of the nature of the preceding Communist regime. Although public opinion data are patchy and often not comparable, there were some grounds for the claim made consistently by proponents of lustration in each state that they were meeting a societal demand. The most extensive data available are for Poland, where support for the vetting of key public

officials stood at 57 per cent in a June 1994 poll and again in December 1996, and rose to 76 per cent in December 1997 before falling back to 56 per cent in September 1999.[56] A PBS survey, also in September 1999, found that 52 per cent of Poles felt that lustration should proceed and only 27 per cent that it should stop.[57] Similarly, in an August 2000 poll conducted as the presidential candidates were being lustrated, PBS found that 52 per cent of voters viewed the process as essential, while only 36 per cent disagreed.[58] In May 1999, CBOS found that 53 per cent of respondents supported removing from public office those who had admitted to past collaboration with the security services (23 per cent were against),[59] and in October that year the same organization even found a majority (52 per cent to 33 per cent) agreeing with the proposition that anyone who was *under suspicion* of having concealed such links should resign from office while their lustration trial was in progress.[60]

In Hungary, in a small 1992 telephone poll, 53 per cent of respondents wanted to see published the names of those who had 'persecuted people on the basis of opinions'.[61] In 1995, half of the respondents in another survey viewed it as important that a past as a secret-police agent should become known where the person concerned was a public figure.[62] At the time of the 2002 Medgyessy affair, taken together, supporters of three alternative possible regimes for publishing information about Communist security-service links just outweighed those preferring to let the matter rest (48 to 47 per cent).[63] As noted above, according to Gallup polling around the same time, 61 per cent thought that the names of all those who had worked for the domestic secret police should be published, and 51 per cent the names of post-Communist office-holders who had worked for any branch of the Communist security services.[64]

In the Czech Republic, a survey conducted in July 1991 (three months before the lustration law was enacted) found that 54 per cent of respondents concurred that lustration was necessary for the development of democracy, and a full 80 per cent welcomed the prospect of a public sector rid of StB collaborators. Equally noteworthy, however, was that two-thirds of respondents felt lustration to be a means of political competition between parties and a distraction from more pressing matters.[65] Polls in Hungary and Poland similarly found that a majority of citizens regarded lustration as positive but not nearly as important as other socio-economic challenges, and that parties could not campaign on lustration alone.[66]

None of these five sources of the demand for lustration - specific security service-related incidents, disillusionment with broader post-Communist outcomes among some élites, the political needs of the post-Communist right, the impact of earlier lustration efforts, or a public demand for information - had much to do with the nature of the preceding Communist regime or the exit from it. Equally, none need necessarily fade in potency over time. It has never been difficult to make a case that post-Communist socio-economic outcomes are unsatisfactory, or that the legitimacy, transparency and effectiveness of post-Communist institutions could be improved. Indeed, demands for lustration as a means of tackling post-Communist ills, or in reaction to unsatisfactory earlier lustration efforts, may be likely to *increase* in strength over time as frustration rises. For its part, politics based on a division into 'Communist-forgiving' and 'Communist-purging' camps can, as suggested above, develop its own dynamic. Meanwhile, as the Oleksy and Medgyessy affairs demonstrated, scandals connected with Communist-era security-service personnel and files can erupt at almost any time.

To summarize so far: In Czechoslovakia, the combination in 1990 of revelations and speculations about the Communist-era security services, with sharply politicized collaborationist accusations, prompted the demand for a lustration law by early 1991. In Hungary, security and transparency concerns among some liberals, and the pursuit of an anti-Communist agenda by malcontents on the radical right, generated pressures for a lustration law from 1990. In Poland, the Oleksy affair at the end of 1995 decisively revived the demand for a lustration law on security and transparency grounds, in a receptive political environment marked by the politicization of attitudes to communism, the perception of former Communist dominance and exhaustion from repeated 'wild lustration'.

LEGISLATING LUSTRATION

How were these demands for lustration translated into successful legislation in Czechoslovakia in 1991, Hungary in 1994 and Poland in 1997? The timing of the developments discussed above goes some way towards explaining the patterning of the laws, but is inadequate alone. As discussed in the first section of the article, the existing literature identifies only the nature of the Communist regime and transition, and the make-up of the first post-Communist government - former Communists or former oppositionists – as explanatory factors. The Hungarian case shows most clearly that these alone cannot do the job: Neither the nature of the Communist regime and transition nor the purely post-oppositional make-up of the government changed between 1990 and the passage of the lustration law in March 1994. Moreover, the nature of Communism and transition in Hungary did not prevent some former opposition forces - the ex-dissident liberals in SZDSZ – from already pressing for a lustration law from autumn 1990. Rather, different former opposition groups in a single post-Communist state had different stances on lustration. The key variable across the three countries is these groups' differing access to political power, and their ability to assemble a pro-lustration coalition in the legislature. Features of the general political and institutional environment shaped these forces' ability to determine the outcomes.

In Czechoslovakia, the forces which proposed a statutory lustration process, in May 1991, were heavily represented in the government - the Slovak Christian democrats and Civic Movement, the centre-left strand of the defunct Civic Forum. The lustration bill was prepared under the direction of a federal deputy premier, Pavel Rychetský, and tabled as a government draft. Moreover, Civic Movement was the second-largest parliamentary faction, and the formation closest to President Václav Havel. However, Civic Movement commanded only 34 of the 300 seats in the highly fragmented federal assembly. Advocates of lustration had to assemble a shaky coalition behind the bill, which they were able to do by using effective rhetoric and by accepting elements of the 100 amendments that were proposed in 14 committees and on the floor. The changes toughened up the bill enough to secure the support of the entire Czech right while hanging on to some votes from the centre-left. The law was eventually backed by 148 deputies (49.3 per cent of all legislators) from twelve parliamentary groups, comprising successor parties to Civic Forum and Public Against Violence, Moravian autonomists, the Hungarian minority parties, and the Slovak Christian democrats. The law passed only because the absence of 70 deputies lowered the required majority in one of the assembly's chambers.[67]

A key feature in Hungary was that a relatively clear pattern of party government was established from the outset of its democratic politics. The former oppositionist liberals in SZDSZ who were to favour lustration lost the founding elections and went into opposition, where they were excluded from power on issues not requiring a supermajority in parliament. As lustration had not arisen when the list of issues requiring a supermajority was defined, the governing alliance was able simply to vote down the 1990 SZDSZ lustration bill.

After that, the key developments determining the fate of a lustration law in Hungary took place within the MDF and its three-party right-wing governing coalition. As already noted, Prime Minister Antall opposed a lustration law, partly owing to his ideological principles and practical considerations, but also because members of his own party were likely to be damaged, and because he wanted to retain the opportunity to make politically-motivated accusations of secret service collaboration himself. Meanwhile, the more radical pro-lustration elements within the MDF were marginalized from power. Antall's aim was to dangle enough of a prospect of a lustration law in front of the radical right to keep his coalition together, while delaying implementation of any legislation until after the 1994 parliamentary elections.

Thus, the government presented its own, poorly-drafted lustration bill in 1991, but took the unusual step of withdrawing it completely a year later, officially in response to the large number of proposed amendments. The government tabled a second bill in February 1993, but then allowed it to idle in the legislature for over a year before being passed. By March 1994, the second of Antall's aims had been achieved. Antall's coalition, however, had suffered serious damage, and by the end of 1993 had virtually lost its majority through defections and expulsions. Those radical elements still within the MDF were thus able to exert leverage in favour of a lustration law (as well as over amendments shaping its final form, to be discussed below), in an environment in which the MDF, following Antall's death, was increasingly turning to anti-Communism to energize its election campaign. The lustration law was ultimately backed by 177 deputies from the three governing parties plus FIDESZ, with twelve votes against from the MSZP. Thanks to 50 abstentions - which was the aggregate position of the SZDSZ – and the decision of well over 100 deputies not to vote at all, lustration was enacted with the support of only 46 per cent of the legislators.

In Poland, as we have seen, more radical right-wing post-Solidarity elements were able to gain government power as early as 1991, unlike their counterparts in Hungary, but their lustration efforts discredited the policy and helped to allow back into office representatives of the 'Communist-forgiving' post-Solidarity groups, under Prime Minister Hanna Suchocka in 1992-93. 'Communist-purging' post-Solidarity groups, such as the PC and Olszewski's Movement for the Republic, failed to win seats in the legislature elected in September 1993. The idea of a legally-regulated lustration regime was resurrected in early 1996 from a surprising quarter: President Kwaśniewski.[68] Immediately following the forced resignation of Prime Minister Oleksy, Kwaśniewski proposed the creation of a Commission of Public Trust, comprising senior judges ultimately appointed by himself, to vet public officials for their security service links. To some, Kwaśniewski's initiative appeared simply as an attempt to deflect attention from the SLD's troubles,[69] but it also highlighted the new president's ability to shape the political agenda.

Kwaśniewski's move spurred an alternative proposal which was to overtake the president's initiative completely and become the 1997 lustration law. The key factor allowing this was - in contrast to the Hungarian case - the willingness of some Polish parties to cooperate across the government/opposition divide. The alternative to the president's proposal was drawn up by a centrist coalition comprising the opposition Freedom Union (UW) and Labour Union (UP) and, crucially, the Polish Peasant Party (PSL), the junior governing partner. These centrist parties wanted a lustration regime that was, overall, tougher than that supported by Kwaśniewski, although still to be 'moderate' and 'civilized'.

Together, these parties had the parliamentary strength (214 votes) to be able to resist amendments demanded by SLD. Ultimately, SLD voted against the lustration bill but, as in Czechoslovakia and Hungary, abstentions and absences enabled its passage with the support of a minority (47 per cent) of all legislators. They plainly lacked the two-thirds majority that would have been required to overturn a presidential veto, but Kwaśniewski signed the bill into law. While he may have been reckoning on the unworkability of the statute in practice, Kwaśniewski's decision also accorded with his political strategy at the time, namely, to move away from a partisan identity and cut across the government/opposition divide, like the members of the centrist lustration coalition themselves.

WHY WAS LUSTRATION ADOPTED IN DIFFERENT FORMS?

The passage of lustration statutes thus began as initiatives on the new right of the post-Communist party spectrum that were modified to become acceptable to a sufficiently large minority (46-49 per cent) of legislators. The modifications that produced the centrist compromises entailed a number of additions and subtractions, which, along with other contextual factors and learning from neighbours' experiences, explains why the three cases varied in their sanctions and range of people affected.

As sanctions go, those imposed by lustration are restrained. Unlike the states of Europe liberated from German occupation in 1944-45, post-Communist democracies did not resort to the mass internment or summary execution of suspected collaborators, suspend their civil and political rights, or seize their property.[70] The Czechoslovak law is the most severe, in that it makes exclusion from the specified offices automatic. Originally, the law was to be in effect for five years, whereafter those affected could return if they met all the other prerequisites; the renewals of the law to run until 2000 and then indefinitely in effect introduced a life ban.

Only one of the lustration initiatives presented in Hungary since 1990 provided for compulsory exclusion - the bill drafted by FIDESZ deputies in summer 2002 in the wake of the Medgyessy affair. The preferred Hungarian model, that instituted in 1994, rests on public exposure with discreet pressure placed on individuals to resign if they are found to have been agents or to belong to one of the other sanctioned categories; if they refuse, their names are published in the official gazette. This approach was largely that first attempted in Czechoslovakia and abandoned there in spring 1991, as it was resulting only in acrimonious exchanges of accusations. An attempt to push Hungary toward automatic sanctions, through a motion annexed to the 1996 MSZP-SZDSZ bill by the Smallholder deputy Ottó Sándorffy, failed to win the backing of a single parliamentary committee, and received the support of only 40 deputies in a

floor vote. Similarly, the 2002 FIDESZ initiative seemed set to be squashed by the government majority.

The Polish model represents an intermediate case, between the Czech and Hungarian laws. Officials are required to submit an affidavit stating whether or not they consciously worked for or collaborated with the Communist security services. The veracity of each statement is checked by the Public Interest Spokesman (a kind of lustration prosecutor) and, if there are grounds to suspect dishonesty, referred to a special lustration court, against whose verdicts it is possible to appeal. Any official found to have submitted a false declaration is excluded from public office for ten years.

There is also one major difference in the offices covered by the statutes: the Hungarian and Polish laws require vetting of government ministers and parliamentarians (before their election in Poland, afterwards in Hungary), while the Czechoslovak does not. Even though the original central concern of the Czechoslovak debate was the legitimacy of the legislature, the federation's three parliaments were not put off-limits to representatives of the old regime. A onetime informer could not run a state enterprise or work in the upper echelons of the railways or be a clerk in the parliamentary library, but could be a legislator and, conceivably, serve as a government minister or even as president. In all likelihood, this loophole had to be offered to avoid a clash with the constitutional right to stand for election, as set out in the new charter of rights and freedoms adopted nine months before the lustration act.[71] The otherwise encompassing reach of the Czechoslovak law was driven by the basic principle adopted when ministers and officials prepared the bill in June 1991, that it would apply to all public positions for which a university education was a normal prerequisite.[72]

The lesser severity of the Hungarian and Polish sanctions can be explained in part by their better fit with the main ideas of pro-lustration discourse, which stressed transparency and empowerment of citizens. Advocates who wanted to see those compromised exit public life overestimated the shaming power of public opinion, not anticipating that determined, thick-skinned politicians would wager on the enduring support of their voters. This miscalculation was proved most clearly in Hungary in 1997, when Socialist Prime Minister Gyula Horn, who belonged to the group of former Communist officials sanctioned for having received secret police reports and who had also been a member of a counter-insurgency squad in 1956, simply brushed off calls for his resignation when the vetting committee confirmed these past links.

Czechoslovakia's experience also compelled restraint. Although, as the pioneers in the field, Czechoslovak legislators did not feel that they were enacting a particularly severe regime, their lustration law was savaged by the International Labor Organization, which objected to the *per se* treatment of individuals based on their past associations, with insufficient regard to mitigating circumstances and present activity.[73] Although the Czechoslovak Constitutional Court upheld the essence of lustration in a 1992 case, there may well have been an expectation among Hungarian legislators that the more assertive Hungarian court would reject a comparable sanction schedule out of concern for conformity with international rights standards. Finally, as the Czechoslovak vetting process was highly confidential, handled by a special bureau of the interior ministry, it was impossible to ensure that it was having its intended

effect of improving the quality and safeguarding the security of the young democracy. This led Zbigniew Bujak, at the time a parliamentary deputy from Poland's Labour Union, to argue against emulation of the Czechoslovak model on the grounds that 'the way it has been conducted there [means that there are] a large number of positions in various places and offices of the state are [still] occupied by these kind of people [agents and Communist functionaries] and in spite of a great deal rhetoric about decommunization, in reality, after studying the details, it transpires that this is not an effective path'.[74]

CONCLUSION

Close analysis of the legislative history of lustration reveals the limited power of the macro-variables commonly cited to explain why and when certain post-Communist states have adopted it. The urge to purge, or at least to name names, was expressed quickly throughout the region, regardless of how Communism had operated or ended, although it was usually the identity-defining sentiment of relatively small anti-Communist factions and mini-parties. The breakthrough in these three countries was the conversion of the original, very demanding vision into something more acceptable to a heterogeneous plurality of the political élite large enough to pass law.

We have shown that this breakthrough was achieved through rhetorical devices that removed lustration from the context of transitional justice, and thus relieved it of the expectations that accompany and often paralyse conventional judicial approaches to the past. The discourse of lustration was convincing because it responded to major events of the transition, such as the discovery of chaos in the archives, the extent and possible survival of surveillance networks, the hardship and confusion caused by profound economic change, and the return of former Communists to power. The passage of each lustration bill, and the sanctions contained therein, similarly reflected not the country's political history but rather the parliamentary arithmetic of fluid party systems, the actual or anticipated response of veto players such as the presidency and constitutional court, trial and error, and learning from neighbours' recent experiences. The story of lustration, therefore, is one of post-Communist political competition and legislative coalition-building, and should be told with emphasis on the rhetoric, moves and compromises that competition and coalitions require.

[1] Samuel Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1991), p.211.

[2] Neil J. Kritz, ed., *Transitional Justice: How Emerging Democracies Reckon with Former Regimes*. 3 vols (Washington, D.C.: United States Institute of Peace Press, 1995); Jon Elster, 'Coming to terms with the past. A framework for the study of justice in the transition to democracy', *Archives européenes de sociologie*, 39 (1998), 7-48; and Aviezer Tucker, 'Paranoids may be persecuted: post-totalitarian retroactive justice', *Archives européenes de sociologie*, 40 (1999), 56-100.

[3] Ved P. Nanda, 'Civil And Political Sanctions as an Accountability Mechanism for Massive Violations of Human Rights', *Denver Journal of International Law and Policy*, 26 (1998), 391.

[4] Adrienne M. Quill, 'To Prosecute or Not to Prosecute: Problems Encountered in the Prosecution of Former Communist Officials in Germany, Czechoslovakia, and the Czech Republic', *Indiana International and Comparative Law Review*, 7 (1996), 165-91.

[5] A small selection of recent (often legal or ethical) scholarship includes Miriam J. Aukerman, 'Extraordinary Evil, Ordinary Crime: A Framework for Understanding Transitional Justice', *Harvard Human Rights Journal*, 15 (2002), 39-97; Thomas Buergenthal, 'Proliferation of International Courts and Tribunals: Is it Good or Bad?', *Leiden Journal of International Law*, 14 (2001), 267-75; Audrey R. Chapman and Patrick Ball, 'The Truth of Truth Commissions: Comparative Lessons from Haiti, South Africa, and Guatemala', *Human Rights Quarterly*, 23 (2001), 1-43; Jaime Malamud Goti, 'Dignity, Vengeance, and Fostering Democracy', *University of Miami Inter-American Law Review*, vol. 29 (1998), no. 417-50; Mark Osiel, 'Why Prosecute? Critics of Punishment for Mass Atrocity', *Human Rights Quarterly*, 22 (2000), 118-47; Elin Skaar, 'Truth commissions, trials – or nothing? Policy options in democratic transitions', *Third World Quarterly*, 20 (1999), 1109-28; Ruti G. Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000); Charles Villa-Vicencio, 'Why Perpetrators Should Not Always Be Punished: Where the International Criminal Court and Truth Commissions Meet', *Emory Law Journal*, 49 (2000), 205-222. See also the thorough survey of earlier literature in Alexandra Barahona de Brito, Carmen Gonzaléz-Enríquez, and Paloma Aguilar, eds. *The Politics of Memory: Transitional Justice in Democratizing Societies* (Oxford: Oxford University Press, 2001), pp. 315-51.

[6] On the former GDR, see A. James McAdams, 'Communism on Trial: The East German Past and the German Future', in A. James McAdams, ed. *Transitional Justice and the Rule of Law in New Democracies* (Notre Dame and London: University of Notre Dame Press, 1997), pp. 239-68, and Donald Kommers, 'Transitional Justice in Eastern Germany', *Law and Social Inquiry*, 22 (1997), 829-48. Versions of lustration have been mooted in Albania, Bulgaria and Lithuania, but have not matched the expanse of the Czech, Hungarian and Polish efforts. See Natalia Letki, 'Lustration and Democratisation in East-Central Europe', *Europe-Asia Studies*, 54 (2002), 545.

[7] The term 'lustration' has long been used by Slavophone archivists simply to refer to the compilation of an inventory or register. To lustrate someone was to check whether his name appeared in a database. The term was more widely adopted *not* because, as is commonly alleged, of its etymological association with ancient Roman rites of purification, but because politicians and the public heard it used by bureaucrats during battles for control of Czechoslovak files in early 1990. The word does not even appear in the text of the paradigmatic Czechoslovak law (451/1991 Sb.), which is blithely titled 'On some further prerequisites for the discharge of some functions in state organs and organizations of the Czech and Slovak Federative Republic, Czech Republic and Slovakia'.

[8] For a similar distinction, see Mark Gibney, 'Decommunization: Human Rights Lessons from the Past and Present, and Prospects for the Future', *Denver Journal of International Law and Policy*, 23 (1994), 87; C. Charles Bertschi, 'Lustration and the Transition to Democracy: The Cases of Poland and Bulgaria', *East European Quarterly*, 28 (1995), 437; and Letki, 'Lustration and Democratisation in East-Central Europe', 550, fn. 6.

[9] Huntington, *The Third Wave*, p. 228.

[10] John P. Moran, 'The Communist Torturers of Eastern Europe: Prosecute and Punish or Forgive and Forget?', *Communist and Post-Communist Studies*, 27 (1994), 95-109.

[11] Moran, 'The Communist Torturers of Eastern Europe', 101.

[12] Helga A. Welsh, 'Dealing with the Communist Past: Central and East European Experiences after 1990', *Europe-Asia Studies*, 48 (1996), 419-28.

[13] Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-Communist Europe* (Baltimore and London: The John Hopkins University Press. 1996), p.42.

[14] Herbert Kitschelt, Zdenka Mansfeldová, Radosław Markowski and Gábor Tóka, *Post-Communist Party Systems: Competition, Representation and Inter-Party Competition* (Cambridge: Cambridge University Press, 1999), p**.** 40.

[15] Kieran Williams and Dennis Deletant, *Security Intelligence Services in New Democracies: The Czech Republic, Slovakia and Romania* (Houndmills: Palgrave Macmillan, 2001), pp. 74-75. As of November 2002, the precise total is 402,788, according to Hana Lachová, head of the Czech Interior Ministry's department for personnel security and lustration (communication to authors, 26 November 2002).

[16] See for example Rudolf Tőkés, *Hungary's Negotiated Revolution* (Cambridge: Cambridge University Press, 1996), especially ch. 4.

[17] Linz and Stepan, *Problems of Democratic Transition and Consolidation*, p. 42.

[18] Kitschelt et al., *Post-Communist Party Systems*, pp. 21-42.

[19] Tőkés, *Hungary's Negotiated Revolution*, pp. 332-47.

[20] Reprinted in Sándor Kurtán, et al., eds, *Magyarország politikai évkönye 1991* (Budapest: Ökonómia Alapítvány/Economix Rt., 1991), pp. 762-3.

[21] Law 1994: XXIII, 'Egyes fontos tisztségeket betöltő személyek ellenőrzéséről', *Magyar Közlöny*, 1994 No. 36, 5 April.

[22] Until 1995, this party was called the Federation of Young Democrats with the simple acronym FIDESZ. This is used in the rest of this article.

[23] The incriminating document was published by the main opposition daily, *Magyar Nemzet*, 18 June 2002. Medgyessy's admission came in parliament the following day.

[24] Kitschelt, et al., *Post-Communist Party Systems*, p. 40.

[25] Linz and Stepan, *Problems of Democratic Transition and Consolidation*, p. 255.

[26] S. Podemski, 'Lustracja zlustrowana', *Polityka*, 13 September 1997.

[27] Noel Calhoun, 'The Ideological Dilemma of Lustration in Poland', *East European Politics and Societies*, 16 (2002), 503.

[28] Calhoun, 'The Ideological Dilemma of Lustration in Poland', 506-8.

[29] Aleks Szczerbiak, 'Interests and Values: Polish Parties and their Electorates', *Europe-Asia Studies*, 51 (1999), 1401-32.

[30] Welsh, 'Dealing with the Communist Past', 423; Claus Offe, *Varieties of Transition: The East European and East German Experience* (Cambridge: Polity Press, 1996), p. 93. There are affinities here with the doctrine of *streitbare Demokratie* (militant democracy) devised in West Germany after 1945, in that democracy was assumed both to be vulnerable to internal threats and entitled to means of self-defence. See Kenneth Dyson, 'Anti-Communism in the Federal Republic of Germany: The case of the "Berufsverbot"', *Parliamentary Affairs*, 28 (1974), 51-67; Peter Graf Kielmansegg, 'Von der Notwendigkeit und den Schwierigkeiten streitbarer Demokratie', in Wulf Schönbohm, ed., *Verfassungsfeinde als Beamte? Die Kontroverse um die streitbare Demokratie* (Munich: Günter Olsog Verlag, 1979), pp. 39-68; Eckhard Jesse, *Streitbare Demokratie: Theorie, Praxis und Herausforderungen in der Bundesrepublik Deutschland* (Berlin: Colloqium Verlag, 1980), pp. 10-25; Johannes Lameyer, 'Streitbare Demokratie', *Jahrbuch des öffentlichen Rechts der Gegenwart,* 30 (1981), 147-96.

[31] Our generalizations are derived from dozens of contributions to the parliamentary debates on lustration laws. The key Czechoslovak debates took place in January, March, May and October 1991, and are transcribed in Knihovna Parlamentu České republiky, E517, inv. č. 1331/91, 11. společná schůze SL a SN; inv. č. 983/91, 14. společná schůze SL a SN; inv. č. 1357/91, 15. společná schůze SL a SN; inv. č. 1510/92, 17. společná schůze SL a SN. The major Hungarian debates occurred in October-November 1991, October-November 1993, February-March 1994, December 1995, February-March and June 1996, and April and May 2000, and are on-line at www.mkogy.hu. The autumn 2002 debates on the amendment of the lustration regime, ongoing as this article was completed, were not taken into account. The Polish debates took place in July 1996, March 1997, March and June 1998, the transcripts of which can be found at www.sejm.gov.pl.

[32] Knihovna Parlamentu České republiky, E517, inv. č. 1279/90, Tisk 430 [p. 9, 26-7].

[33] On the impact of the alleged 17 November conspiracy, see Václav Bartuška, *Polojasno* (Prague: Ex Libris, 1990); Alojz Lorenc, *Ministerstvo strachu? Neskartované vzpomínky Generála Lorence* (Bratislava: Tatrapress, 1992), pp. 8-11; Jiří Ruml, 'Šest roků', *Lidové noviny*, 17 November 1995.

[34] Karel Pacner, *Osudové okamžiky Československa* (Prague: Thermis, 1997), p. 552; Jaroslav Spurný, 'Poznej svého udavače', *Respekt*, no. 52, 30 December 1996; Pavel Žáček, *Boje o minulost: Deset let vyrovnávání se s komunistickou minulostí – pokus o předběžnou bilanci* (Brno: Barrister & Principal, 2000), p. 42.

[35] Jan Ruml, 'Kdo koho kryje?', *Respekt*, no. 6, 18 April 1990; *Mladá fronta Dnes*, 21 December 1990; Jana Šmídová, 'Spisy nebyly zničeny', *Lidové noviny*, 3 January 1991; Ivan Trefulka, 'Vidím, co vidím', *Lidové noviny*, 3 April 1991.

[36] On 'Danubegate', see Vladimir Kusin, 'The Secret Police', *RFE Report on Eastern Europe*, 1 (1990) no. 6, pp. 36-39; Zoltán Barany, 'Scandal in the Ministry of Internal Affairs', *RFE Report on Eastern Europe*, 1 (1990), no. 10, pp. 27-32. For an account by one of the figures involved in breaking the scandal from the Federation of Young Democrats (FIDESZ), see József Végvári and Zoltán Lovas, 'Szomorújaték', *Magyar Narancs*, 5 February 1990, reprinted in András Bozóki, ed., *Tiszta Lappal. A FIDESZ a magyar politikában 1988-1991* (Budapest: FIDESZ, 1992), pp. 250-7.

[37] See the interview with Gábor Demszky, chair of the committee and one of the authors of the SZDSZ bill, *168 Óra,* 11 September 1990. Another SZDSZ member of the committee, Ferenc Kőszeg, similarly recollected the meeting as the origin of the bill, in a much later interview; see *168 Óra,* 15 September 1997.

[38] *Rzeczpospolita*, 22 December 1995.

[39] In Poland, for example, the Oleksy affair seems to have been responsible for a rise from 34 per cent of respondents regarding lustration as 'urgent' in April 1994 to 44 per cent in February 1996; see Aleks Szczerbiak, 'Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland', *Europe-Asia Studies,* 54 (2002), 561.

[40] Reprinted in Sándor Kurtán, et al., eds, *Magyarország politikai évkönyve 1992* (Budapest: Demokrácia Kutatások Magyar Központja Alapítvány/Economix Rt., 1992), pp. 759-66.

[41] See, most famously, the tract published in August 1992 by MDF Vice-President István Csurka, 'Néhány gondolat a rendszerváltozas két esztendeje és az MDF új programja kapcsán', reprinted in Sándor Kurtán, et al., eds, *Magyarország politikai évkönye 1993* (Budapest: Demokrácia Kutatások Magyar Központja Alapítvány/Economix Rt., 1993), pp. 516-39, especially at p. 535.

[42] The Czech centre-left Civic Movement divided over the final form of the 1991 lustration law, as did the similarly centre-left Social Democrats on its extension in 2000. This was, by contrast, unanimously supported by the deputies and senators of the right. Likewise, the liberal SZDSZ was divided over the 1994 lustration law in Hungary. At mass level, in the Czech Republic in May 2000, 59 per cent of supporters of the neo-conservative Civic Democratic Party wanted lustration continued, against a national average of 36 per cent; see Institut pro výzkum veřejného minění, 'Veřejnost k lustračnímu zákonu', press release dated 29 May 2000. In Poland, in an October 1999 survey, 66 per cent of supporters of the right-wing Solidarity Electoral Action supported decommunization, against 25 per cent of SLD supporters, while supporters of the centrist Polish Peasant Party and Freedom Union were more evenly divided - although it should be noted that even 43 per cent of SLD voters supported vetting only; see Szczerbiak, 'Dealing with the Communist Past or the Politics of the Present?', 559, 571 note 21. In a May 1999 CBOS survey, SLD voters were the only ones who opposed automatic exclusion of former Communist agents, by 50 per cent to 39 per cent; see *Polacy o lustracji i ustawie lustracyjniej* (Warsaw: CBOS, June 1999). In Hungary, according to Gallup polling at the time of the Medgyessy affair in June 2002, 75 per cent of supporters of the right-wing FIDESZ and MDF wanted the names of all those who had worked for the domestic secret police published, against a national average of 61 per cent, 56 per cent of MSZP supporters and 67 per cent of SZDSZ voters. Support for the publication of the names of post-Communist public figures who had worked for *any* branch of the Communist security services stood at 67 per cent, 51 per cent, 43 per cent and 52 per cent, respectively, among the same four groups; data at www.gallup.hu as of 7 December 2002.

[43] For example, seven Communist-era officials who were publicly named in a report into Hungary's 'Danubegate' scandal as having continued to receive secret police reports after October 1989 won parliamentary seats in the 1990 elections, two in individual constituencies; see *HVG*, 7 January 1995. Survey and electoral evidence is often ambiguous regarding the impact on voting behaviour of candidates' links with the Communist regime.

[44] See the remarks by Václav Krása, a member of the right-leaning Freedom Union, in Digitální knihovna PČR, PS 1998-2002. 25. schůze. Středa 24. května 2000, located at http://www.psp.cz/eknih/1998ps/stenprot/025schuz/s025233.htm. See also remarks by a leading Christian democrat, Cyril Svoboda, at http://www.psp.cz/eknih/1998ps/stenprot/025schuz/s025236.htm.

[45] According to analysis by the Medián polling agency, by the time of the 2002 parliamentary elections former Communist party membership, views on the Communist period and a wish to remove former cadres from office were among the strongest predictors of party choice; see *HVG*, 29 March 2002.

[46] The SLD's victory was probably responsible for a rise from 27 per cent to 34 per cent between February 1993 and April 1994 in the share of Poles regarding lustration as 'urgent'; see Szczerbiak, 'Dealing with the Communist Past or the Politics of the Present?', 561.

[47] The amended law was Law 2000: XCIII, 'Az egyes fontos tisztségeket betöltő személyek ellenőrzéséről és a Történeti Hivatalról szóló 1994. évi XXIII. törvény módosításáról', *Magyar Közlöny*, 2000 No. 65, 24 June. The justification attached to the bill (T/2298) emphasized that it would require lustration of the parliament and government elected in 2002.

[48] For the text of the amended law, see *Rzeczpospolita*, 23 October 1998, and for details see Szczerbiak, 'Dealing with the Communist Past or the Politics of the Present?', 569.

[49] Knihovna Parlamentu České republiky, E517, inv. č. 1331/91,11. společná schůze SL a SN 10.1.1991 [p. 535].

[50] See, for example, György Sándorfi, 'Az igazságtétel és Európa', MS, remarks delivered at Lakitelek, 8 April 1995. In the debates over the 2000 amendment to the lustration law, and again in 2002 following the revelation of Prime Minister Péter Medgyessy's past as a Communist-era counter-intelligence agent, right-wing advocates of a tougher lustration regime have continued to argue that Hungary's standing in the West and 'Europe' is damaged by having compromised Communist-era figures as national leaders.

[51] Consider the justification attached to the 1997 Polish lustration bill: the legislation 'provides an opportunity, in a manner that is open to appeal, to repair the damage caused to a person unjustifiably suspected of collaborating with the [Communist-era security] services'; see *Projekt Ustawy o ujawnienia pracy w organach bezpieczenstwa panstwa lub wspólpracy z nimi w latach 1944-1990, osób pelniących funkcje publiczne* (Warsaw: Sejm RP, 1996).

[52] Knihovna Parlamentu České republiky, E517, inv. č. 1331/91, 11. společná schůze SL a SN 10.1.1991 [pp. 564-68, 615-17].

[53] The public was unimpressed by this approach, with only one-third of respondents to a spring 1991 poll trusting the information that underpinned the accusations. See *Rudé právo*, 19 April 1991.

[54] Louisa Vinton, 'Olszewski's Ouster Leaves Poland Polarized', *RFE/RL Research Report,* 1 (1992), no. 25, 1-10.

[55] Antonío Costa Pinto, 'Settling Accounts with the Past in a Troubled Transition to Democracy: The Portuguese case', in Barahona de Brito, Gonzaléz-Enríquez, and Aguilar, eds, *The Politics of Memory*, p. 73. Popular pressure was greater in Portugal because the founding election was not held until two years after the transition commenced, and the Communist Party of Portugal was agitating in the workplace.

[56] Szczerbiak, 'Dealing with the Communist Past or the Politics of the Present?', 559.

[57] *Rzeczpospolita,* 5 October 1999.

[58] *Rzeczpospolita,* 11 August 2000.

[59] *Polacy o lustracji i ustawie lustracyjniej* (Warsaw: CBOS, June 1999).

[60] *Ocena Procesu Lustracjnego* (Warsaw: CBOS, October 1999).

[61] Medián poll in *Magyar Hírlap*, 21 October 1992, cited in Heino Nyyssönen. *The Presence of the Past in Politics. '1956' after 1956 in Hungary* (Jyväskylä, Finland: SoPhi, University of Jyväskylä, 1999), pp. 223-4.

[62] TeleMedia poll in *Magyar Hirlap*, 26 January 1995. As well as secret police agents, the question referred to members of the armed units that helped put down the 1956 revolution and to members of the fascist Arrow Cross.

[63] Medián poll in *Népszabadság*, 12 August 2002. It should be noted that only 20 per cent of respondents wanted to know if anyone *among their own acquaintance* had been an informer.

[64] Gallup polling, 19-20 June 2002, at www.gallup.hu as of 7 December 2002.

[65] *Rudé právo*, 3 September 1991.

[66] For Hungarian data, see Béla Marián, 'A politikai közvélemény a Medián kutatásainak tükrében', in Sándor Kurtán, et al., eds, *Magyarország politikai évkönye 1993* (Budapest: Demokrácia Kutatások Magyar Központja Alapítvány, 1993), p. 650. As the aftershocks of the Medgyessy affair continued, 49 per cent of respondents reported themselves entirely uninterested in the issue; Medián polling in *Népszabadság*, 24 September 2002.

[67] František Cigánek, *Kronika demokratického parlamentu 1989-1992* (Prague: Cesty, 1992), p. 188.

[68] *Rzeczpospolita*, 2 February 1996.

[69] Barbara A. Misztal, 'How Not to Deal with the Past: Lustration in Poland', *Archives européennes de sociologie*, 40 (1999), 42.

[70] Gibney, 'Decommunization: Human Rights Lessons from the Past and Present, and Prospects for the Future', 95-97.

[71] This is implied by Pavel Rychetský, the deputy federal premier who oversaw preparation of the lustration bill, in an interview in *Rudé právo*, 17 May 1991. The charter, and European human-rights standards, also stopped efforts to lustrate editors in private media (*Rudé právo*, 2 July 1991).

[72] *Rudé právo*, 26 June 1991.

[73] Roman Boed, 'An Evaluation of the Legality and Efficacy of Lustration as a Tool of Transitional Justice', *Columbia Journal of Transnational Law*, 37 (1999), 386-95. Presenting the government's 1991 bill to parliament on 8 October of that year, the Hungarian Interior Minister, Péter Boross, cited the international reaction to Czechoslovak lustration to support his argument for moderation.

[74] Speaking in the debate on the first reading of the lustration bill on 4 July 1996, at www.sejm.gov.pl.

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