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**LUSTRATION IN EASTERN EUROPE: THE KEY TO
BREAKING FREE FROM RUSSIAN INFLUENCE**

by

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**LUSTRATION IN EASTERN EUROPE: THE KEY TO BREAKING FREE
FROM RUSSIAN INFLUENCE**

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ABSTRACT

This research investigates some of the factors behind Georgia's failure to adopt an effective lustration law that may have aided Georgia's democratic growth by excluding communists and Moscow-influenced entities from the nation's sovereign political development. This thesis argues for lustration law as essential for the country's further democratization and integration into the family of Western liberal democracies. This research employs a comparative case-study analysis of lustration in the Czech Republic and Poland to demonstrate that both post-communist nations encountered similar hurdles in adopting this transitional justice practice. The Czech Republic pursued more proactive measures of lustrating its public sector without giving known collaborators a chance to return to the public service. By contrast, Poland developed a rather tolerant lustration statute, which gave communist collaborators the option to remain in office in exchange for revealing the truth and compliance. By eradicating old Soviet ties from their respective public sectors, the Czech Republic and Poland have been able to pursue democratic reforms, resulting in stronger government structures and an easier accession to membership in NATO and the European Union.

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LIST OF ACRONYMS AND ABBREVIATIONS

EU	European Union
GNU	Georgia's National Unity
KGB	Committee for State Security
KSC	Communist Party of Czechoslovakia
MIA	Ministry of Internal Affairs
MOD	Ministry of Defense
NATO	North Atlantic Treaty Organization
PUSG	Public Union of Socialist Georgia
PZPR	Polish United Workers' Party
SB	Security Service of Poland
SSSG	State Security Service of Georgia
StB	State Security of Czechoslovakia
TRC	Truth and Reconciliation Committee
UOP	Office of the Protection of the State
USSR	Union of Soviet Socialist Republics

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I. INTRODUCTION

As with most post-communist countries, Georgia has battled hard to break free from old Soviet links and to maintain independence from Russian influence in the name of successfully managing Georgian government institutions and political processes in a more democratic way. To increase Georgia's chances of success and accelerate the process of integration into the family of liberal democracies, this thesis begins with the assertion that Georgia must enact and commit to implementing a so-called lustration law. The aim of lustration laws is to minimize the participation of or exclude former communists and their collaborators from nascent democratic governments.¹ Georgia has tried but failed to enact a lustration law, which could have potentially accelerated its democratic transition and integration into the European Union (EU) and the North Atlantic Treaty Organization (NATO), leading to the incomplete de-communization of institutions and society and a failure to substantially eradicate pro-Russian players from Georgian politics. The process of lustration implementation has been jeopardized by the internal forces of the country, as well as by the involvement of external influences. As this thesis reveals, successful cases of de-communization and implementation of lustration statutes in the Czech Republic and Poland offer lessons learned for Georgia.

A. MAJOR RESEARCH QUESTIONS

This thesis explores the following questions: In light of the experiences of two former communist states, the Czech Republic and Poland, what are the challenges of implementing a lustration law in Georgia? How might the Georgian intelligence services, as well as other government institutions, benefit from lessons learned from successful lustration in the Czech Republic and Poland?

¹ Roman David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland* (United States: University of Pennsylvania Press, 2011).

B. SIGNIFICANCE OF THE RESEARCH QUESTIONS

The Republic of Georgia, as a post-Soviet state, has undergone numerous phases of political development since the demise of the Soviet Union, whether it was the civil war in 1991, the assassination of President Gamsakhurdia in 1994, or the Rose Revolution of 2003. All of the upheaval indicates the vibrancy and the commitment of Georgian society for the democratic transitions. For instance, in the last three decades, Georgia has distanced itself from Russian politics and signed an Association Agreement with the EU.² Moreover, Georgia has predominantly represented itself as a leading ally of NATO in global affairs, which continues to bother the Kremlin.³

At the same time, Georgia has struggled to overcome its past and, especially, to evolve freely without Russian interference. The Russian Federation has waged two wars with Georgia—the War in Abkhazia (1992) and the War in South Ossetia (2008). The frozen conflicts in two regions of Georgia⁴ have drastically slowed the country’s integrations into the EU and NATO by giving Russians the leverage to manipulate Georgia’s population and its sovereign politics.⁵ Additionally, Georgia’s political structure and the functionality of the government services have been under constant threat from Russia’s crawling occupation and its massive presence on the Georgian soil.⁶

Arguably, the political crises and the slow pace of democratization in Georgia have been aided by political actors and groups of people who were presumed to be in close

² “Georgia - Trade - European Commission,” European Commission, June 27, 2014, <https://ec.europa.eu/trade/policy/countries-and-regions/countries/georgia/>.

³ Amanda Paul and Iana Maisuradze, “NATO and Georgia 13 Years on: So Close, yet so Far,” *European Policy Center*, May 31, 2021, <https://www.epc.eu/en/publications/NATO-and-Georgia-13-years-on-So-close-yet-so-far~3f974c>.

⁴ The frozen conflicts encompass two Russian-fueled “ethnic wars” between the Abkhaz and Georgian populations as well as between the inhabitants of South Ossetia and Georgia, when Russia engaged militarily to “liberate” ethnic minorities speaking Russian. Russia developed a very similar scenario during the invasion of Ukraine.

⁵ James Jackson, “What’s behind Russia’s Disinformation Campaign in Georgia?,” DW.COM, November 24, 2020, <https://www.dw.com/en/whats-behind-russias-disinformation-campaign-in-georgia/a-55708502>.

⁶ Giorgi Shaishmelashvili, “Russia’s Permanent War against Georgia - Foreign Policy Research Institute,” *Foreign Policy Research Institute*, March 3, 2021, sec. Analysis, <https://www.fpri.org/article/2021/03/russia-permanent-war-georgia/>.

contact with the Russian Federation.⁷ This thesis identifies these political actors and groups as current collaborators with the post-Soviet communist/Russian regime. Arguably, they existed during the Union of Soviet Socialist Republics (USSR), and they aim today to carry out Russia's designs on Georgia even after the collapse of communism.⁸ The continued persistence of such "Muscovite" influence informed the enactment of lustration laws in such post-communist countries as the Czech Republic and Poland, where the remaining recruits of the communist intelligence services continued to threaten the democratic transitions after the collapse of communism in continental Europe.⁹

Georgia, as a post-Soviet state, has tried to pursue a similar path of decommunization by implementing lustration statutes, but these laws were never enacted—arguably to the detriment of the country's democratic consolidation, as well as its accession to NATO or the EU.¹⁰ Therefore, this thesis will be relevant to Georgia's decision makers and to those who are committed to the democratization of Georgia's politics, because it identifies the causes and mechanisms that proved effective in the Czech Republic's and Poland's battles to disband communist authoritarianism after the collapse of the USSR. Additionally, it will benefit decision makers in other countries from the former Soviet Bloc who want to continue similar democratic transformations and decrease Russian meddling in their sovereign politics.¹¹ This research identifies lustration as a facilitating mechanism for dismantling a pro-Russian status quo in Eastern Europe, which can create for the West

⁷ Natia Seskuria, *Russia's "Hybrid Aggression" against Georgia: The Use of Local and External Tools* (Tbilisi, Georgia: CSIS, 2021), <https://www.csis.org/analysis/russias-hybrid-aggression-against-georgia-use-local-and-external-tools>.

⁸ Collaborators of the communist regime were the secret agents of Russia's secret services, who were recruited and employed within all spheres of government services of the Soviet Republics. In numerous instances, collaboration meant following the illegal procedures and orders of the KGB, which violated rights of ordinary citizens on a massive scale.

⁹ Roman David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)," *Law & Social Inquiry* 28, no. 2 (2003): 387–439, <https://www.jstor.org/stable/1215775>.

¹⁰ Institute for Development of Freedom of Information, "Failed Lustration Process in Georgia," Institute for Development of Freedom of Information, January 25, 2016, <https://idfi.ge:443/en/failed-lustration-in-georgia>.

¹¹ Oren Dorell, "Alleged Russian Political Meddling Documented in 27 Countries since 2004," *USA TODAY*, September 7, 2017, <https://www.usatoday.com/story/news/world/2017/09/07/alleged-russian-political-meddling-documented-27-countries-since-2004/619056001/>.

a more democratic, stable, and secure partner in the case of Georgia, which is essential to the regional security for the Black Sea region and Eastern Europe.

C. POTENTIAL EXPLANATIONS AND HYPOTHESES

This thesis examines four potential obstacles to a successful lustration process in Georgia. First, the great majority of the documents about the collaborators of the regime were transported to Russia during the breakdown of the Soviet Union.¹² The remaining files in the Georgian ex-KGB archives were destroyed in a fire that broke out amid the Tbilisi Civil War.¹³ Second, almost 31 years have elapsed since the demise of the Soviet Union. Contemporaries may have died or moved away. Younger people today might not appreciate the importance of de-communization and the need to transparently confront past oppressors, who are arguably still in prominent positions within the society. The third potential obstacle is the internal political resistance to the implementation of the statute. The Georgian Constitutional Court has ruled against lustration cases, where the clear evidence was presented on the violations of the de-communization laws.¹⁴ Fourth, Russian influence over Georgian politics and Moscow have no particular interest in light being shone on past or even present sympathizers in prominent or sensitive positions in Georgia. As such, Russia may be actively working against lustration in Georgia.

Moreover, lustration in Georgia, as elsewhere, could be essential for the intelligence community because the cleansing of the governmental services has not been done properly due to interrupted reorganization of the secret services of Georgia amid the Soviet collapse.¹⁵ It is highly likely that many of the ex-KGB officers and collaborators have remained untouched in the law enforcement or intelligence sector of the country. Without lustration, identifying those most likely to have continuing ties with Moscow is

¹² Giorgi Kldiashvili, "Lustration in Georgia," Idfi.ge, 2016, http://www.idfi.ge/archive/?cat=read_topic&topic=143&lang=en.

¹³ Giorgi Molodinashvili and Mikheil Basiladze, "Lost History," video, 2014, <https://www.youtube.com/watch?v=5vYIBOxhBj4>.

¹⁴ Isajanyan Nerses, "Georgia: Constitutional Court Rules Against Part of De-Communization Law," Library of Congress, 2015, <https://www.loc.gov/item/global-legal-monitor/2015-11-23/georgia-constitutional-court-rules-against-part-of-de-communization-law/>.

¹⁵ Kldiashvili, "Lustration in Georgia."

difficult, as is eradicating loyal networks of the Kremlin, both of which may be working actively or through inaction to slow democratization efforts.

D. RESEARCH DESIGN

This thesis relies on lessons learned from its examination of two successful case studies, the Czech and Polish lustrations, framed largely by the analytical structure of Roman David's *Lustration Laws in Action*.¹⁶ Specifically, the author discusses the rationale behind the enactment of lustration laws in Central and Eastern European countries as an effective method to overcoming their communist past by expelling the communist collaborators from positions of power and, at times, from society and the country itself.¹⁷ Second, it touches on the limits to the lustration, for example, the shortcomings that come with targeting low-level collaborators of the regime, as well as the mechanisms involved with the implementation of lustration laws. Third, this thesis reviews how the defined objectives of lustration were implemented into legislation and what effect these laws had on democratic transitions. Notably, David's comparison of the cases of Poland and the Czech Republic helps to identify similarities, differences, and gaps that could exist when applying those countries' lustration processes to the case of Georgia.

This thesis also seeks to analyze whether it is still possible for Georgia to successfully implement lustration by using the Czech and Polish lustrations as models and what obstacles Georgia must overcome to realize lustration, a key tool for cutting ties with Moscow. While the Czech Republic and Poland were in the Eastern Bloc but not members of the SSR like Georgia, both countries have been broadly comparable in dealing with their communist past.¹⁸ Their lustration acts have facilitated the democratic processes that got both countries in the EU and NATO. Therefore, as an aspiring state to the family of liberal democracies, Georgia could seize the opportunities that might be delivered by

¹⁶ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

¹⁷ David.

¹⁸ David.

implementation of a lustration bill, and Georgia could possibly escape the Russian sphere of influence. Hence, lustration seems like a promising place to start.

Additionally, this research derives lessons learned from the Czech and Polish cases due to their successful implementation of the law and their unique approaches to its implementation. Generally, both the Czech and Polish lustration statutes intended to minimize or prohibit the participation of communists and their collaborators from the democratic government with different methods. The Czech lustration retained harsher methods by not giving a second chance to those public servants who had collaborated with the oppressive communist regime and excluded them from the public offices.¹⁹ By contrast, Poland, a post-communist state which took more than a decade to enact lustration, decided to adopt a softer method of sanctioning the communist collaborators or even keeping them in public office in exchange for the acknowledgment of their collaboration.²⁰ Hence, in their own unique ways, both lustrated states have minimized the number and influence of the communist collaborators within their governmental services who were once directly subordinate to Moscow.²¹ Accordingly, the results of both models of lustrations were examined to estimate which model of the statute was better suited to Georgia and under what conditions would implementation be more likely to succeed.

Moreover, this thesis examines how the lustration law could potentially contribute to the work of the Georgian intelligence and other governmental services, which are constantly involved with preventing and countering incoming threats from the Russian intelligence services. Arguably, these services continue to handle assets of all profiles in post-Soviet states, as well as in Georgia, and are successfully subverting the Georgian democracy. Hence, the comparison of the cases of the Czech Republic and Poland with that of Georgia help illuminate the implications for Georgia implementing its own

¹⁹ David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*.

²⁰ David.

²¹ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)," 399.

lustration bill, because these states have suffered the same or even more presence of Russian-backed entities within their governmental services.

E. THESIS OVERVIEW

Chapter I has proposed the main research questions as well as the significance of the thesis. Additionally, this chapter introduces the possible explanations and proposes hypotheses for addressing the research question. Chapter I also presents the research design of thesis.

In Chapter II, this thesis explores different mechanisms of transitional justice after authoritarian rule, notably the Truth and Reconciliation Committees (TRC), archive openings, and lustration. It also introduces the problems that existed during communism within Eastern Bloc countries amid democratic transition and estimates lustration as one of the most effective solutions implemented by various post-communist countries amid their democratic consolidation.

Accordingly, Chapter III proceeds with the case studies of the Czech Republic and Poland, which this thesis identifies as exemplars of successful lustrations in the post-communist realm as both countries, each adopting different approaches, ended up minimizing communist/Russian influences over their sovereign politics. Appropriate subchapters within Chapter III discusses the respective cases separately to better illustrate their differences and methods of implementation of the lustration statute. The chapter continues with highlighting the lustration objectives and outlines the challenges that came along with the process, for example, dealing with the *Nomenklatura* and eradicating the communist cadres from prominent positions in government.²² Additionally, Chapter III describes the measures of management lustrations in both states and concludes with a comparative analysis of their outcomes to generate lessons learned for other post-communist states seeking to transition to democracy.

²² David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

Chapter IV covers the lustration processes in Georgia. By giving the historical background of post-Soviet Georgia, the chapter provides examples and explanations of the failed attempts of implementing lustration in Georgia. Further, this chapter analyzes the failed attempts of lustration and provides arguments for what was behind their failures. In Chapter IV, the research discusses the Freedom Charter of Georgia, a law-like lustration that was enacted in 2011, but failed to prove its efficiency.²³ Hence, this chapter explores the possible reasons behind the failures of de-communization.

Chapter V provides a comparative analysis of the Czech, Polish, and Georgian lustrations with an emphasis on applying lessons learned from the first two cases to the Georgia case. It also provides suggestions for the avenues that Georgian decision makers could take to accelerate and further facilitate democratic consolidation of the processes. With that, this chapter explores the challenges that exist for the Georgian intelligence services and argues the importance of the lustration, since lustration bolsters the democratization processes within the governmental services as well as reinforces the sovereignty of the country by eradicating pro-Russian security networks. Finally, this chapter presents recommendations and presents the study's main conclusions, which add to our understanding of de-communization and democratization.

²³ Salome Chukhua, "Freedom Charter and the International Practice of Lustration," February 4, 2014, <https://idfi.ge:443/ge/research-48>.

II. CHALLENGES AND STRATEGIES FOR TRANSITIONING FROM POST-COMMUNIST AUTHORITARIANISM TO DEMOCRACY

This chapter highlights some significant problematic legacies generated by communist rule in the republics of the Eastern Bloc and the USSR—as well as some potential avenues for their remediation. To emphasize the primary factors for lustration in a number of post-communist republics, the analysis first presents a broader picture of the anti-democratic communist repressions in the Soviet realm. In this part of the study, a few groups of elites who were responsible for communist oppression across the continent are discussed. These groups include the *Nomenklatura*, agents of the communist secret services (KGB or its partner secret police), and the collaborators who worked with the regime. Then this chapter provides potential solutions to address the problems caused by various anti-democratic regimes in the face of transitional justice mechanisms.

A. PROBLEMS OF AND IN COMMUNIST RULE

During the reign of Soviet communism in 20th century Europe, the USSR relied heavily on its security services, for example the KGB, to maintain dictatorial rule within the Soviet states as well as to influence politics in the independent socialist states of the Soviet flank in East Central Europe.²⁴ In general, communist intentions remained to oppose any liberalizing processes that threatened its undemocratic rule, especially amid the Cold War era when the adjacent countries of the European communist states started to democratize at a faster pace and evolve economically or socially.²⁵

In order to retain their totalitarian momentum, communist states sought to maximize their coercive power against their own citizenry by the means of law enforcement, secret services, and the military as a way to maintain control over any sphere of public or government life; this method was most effectively exercised within the

²⁴ Lavinia Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past* (United Kingdom: Taylor & Francis, 2009).

²⁵ Eric Li, “The Rise and Fall of Soft Power,” *Foreign Policy* (blog), August 20, 2018, <https://foreignpolicy.com/2018/08/20/the-rise-and-fall-of-soft-power/>.

constituent republics of the USSR.²⁶ For instance, during the 1980s, the KGB staff of the Soviet Union exceeded 720,000 employees, with three million active collaborators, or the assets recruited by the secret services, who were vigorously involved with informing on anti-communist minded individuals or groups who might have threatened the communist political ideology.²⁷

In addition to the great number of spies, the communist ideology was heavily supported and enhanced by its *Nomenklatura*, or the communist government loyalists who were assigned to prominent posts in both the corporate and public sectors.²⁸ The *Nomenklatura* were responsible for maintaining the undemocratic status quo within the Soviet realm, as they were the communist ruling class who were interconnected in every communist state, and whose primary job was to enhance the communist rule in Europe by orders from Moscow.²⁹

Even outside the Soviet Union proper, spies and the Moscow-influenced *Nomenklatura* remained the most powerful opponents of democratic reforms in such states as the Czech Republic and Poland.³⁰ Notably, the Prague Spring of 1968, which culminated in all-out invasion of Czechoslovakia by the Soviet and Warsaw Pact armies, demonstrated Moscow's readiness to use violence and repression rather than accepting any liberalizing moves among the still-communist states on the Western flank of the USSR.³¹ The specter of the Soviet crackdown on Czechoslovakia in 1968 loomed over communist central Europe for decades; by the 1980s, the communist Polish government imposed martial law domestically to suppress the Solidarity movement—with sufficient force to

²⁶ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

²⁷ Stan, 6.

²⁸ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

²⁹ David.

³⁰ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

³¹ *Encyclopedia Britannica*, s.v. "Prague Spring - Czechoslovak History," Accessed August 8, 2022, <https://www.britannica.com/event/Prague-Spring>.

keep the Red Army from invading.³² Therefore, the communist political oppression and the Muscovite persistence in both states collectively pushed social uprising against communism and the need for democratic reforms.³³

B. SOLUTIONS TO PROBLEMS CAUSED BY THE NON-DEMOCRATIC COMMUNIST REGIMES

The periodic liberalizing impulses that swept the Eastern Bloc ultimately displaced and deposed communist rule. The democratic governments that emerged from this process by the early 1990s then had to work out how to deal with the totalitarian past—both as a matter of popular experience and as a practical requirement of political reform. This section examines three of the most prevalent transitional justice mechanisms—the Truth and Reconciliation Committees (TRC), archive openings, and lustration—that were employed by governments throughout their democratic consolidation and transitional phases from autocratic into democratic governance. Notably, this section highlights lustration as the most frequently employed mechanism of transitional justice in the former Soviet Union and other post-communist countries, and it explores the motives behind its implementation.

Transitioning to democratic rule has been unique and challenging for many countries. Some emerging democracies have confronted fewer obstacles—most notably by uncovering the truth behind past human rights abuses and pursuing the rule of law. The transition process in those cases was less fraught due to the history, severity, and length of rule of the previous non-democratic regimes. For those new democracies that succeeded in overcoming obstacles, transitional justice has been an effective tool in advancing democratic consolidation.³⁴

Transitional justice is a process that includes legal and non-judicial policies and methods that address the issues requiring resolution during the implementation of

³² Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

³³ Stan.

³⁴ Florina Cristiana Matei and Andrés de Castro García, “Transitional Justice and Intelligence Democratization,” *International Journal of Intelligence and CounterIntelligence* 32, no. 4 (October 2, 2019): 717–36, <https://doi.org/10.1080/08850607.2019.1621106>.

democratic processes.³⁵ Amid democratic transition, most emerging democracies have pursued various mechanisms of dealing with their illiberal pasts—in an attempt to acknowledge, remember, and push past human rights abuses committed by the previous non-democratic regimes. Typically such mechanisms—broadly categorized as transitional justice—comprise TRCs, the opening of secret archives, and lustration.³⁶ For instance, countries like South Africa pursued the delivery of justice to its citizenry through TRCs, which strictly intended to rebuild the polarized society by reintegrating perpetrators of the past regime.³⁷ By contrast, most of the post-communist Eastern and Central European states adopted a more retributive agenda against communists by lustrating all collaborators of the regime who occupied prominent posts in the previous government and presumably were orchestrators of major human rights violations.³⁸ To some extent, the eradication of the communist cadres and the socialist ideology served as key facilitating factors of democratization in post-communist societies.³⁹

1. Truth and Reconciliation Committees

More than 40 TRCs have been established around the world to uncover atrocities committed by military and government forces against minorities and civilians.⁴⁰ Namely, TRCs have been administered in such countries as South Africa, Honduras, and El Salvador, where the great majority of their respective populations have suffered political repression by the government and military forces and were followed by genocides or

³⁵ Matei and de Castro García.

³⁶ Matei and de Castro García.

³⁷ *Encyclopedia Britannica*, s.v. “Truth and Reconciliation Commission, South Africa - South African History,” Accessed May 18, 2022, <https://www.britannica.com/topic/Truth-and-Reconciliation-Commission-South-Africa>.

³⁸ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

³⁹ Aleks Szczerbiak, “Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland,” *Europe-Asia Studies* 54, no. 4 (2002): 553–72, <https://www.jstor.org/stable/826424>.

⁴⁰ Mark Vasallo, “Truth and Reconciliation Commissions: General Considerations and a Critical Comparison of the Commissions of Chile and El Salvador,” *University of Miami Inter-American Law Review* 33, no. 1 (April 1, 2002): 153, <https://repository.law.miami.edu/umialr/vol33/iss1/6>.

massacres.⁴¹ Because they vary from country to country, each TRC employs its own unique process for achieving its goals; they are not built or run on a fixed model.⁴² The common features of all TRCs are the intention to uncover both sides of the story and to gather and ultimately publicize as much information as possible whether from the victim or the perpetrator.⁴³ TRCs differ from other transitional justice mechanisms in that they do not act as independent prosecuting bodies; rather, they serve as an additional tool to the legal processes of uncovering the past.⁴⁴

Priscilla Hayner observes that TRCs focus on the past to investigate an overall picture of human rights abuses and question what went wrong in terms of violating international law.⁴⁵ Per her assessment, this method of transitional justice facilitates reconciliation of the nation by acknowledging the truth and answering every action that occurred.⁴⁶ Similarly, Mark Vasallo notes that the commissions are established during a country's political transition with the purpose of demonstrating an end to a history of human rights violations by promoting reconciliation among the populace.⁴⁷

Despite the severity of the actions and enormity of the casualties brought by the past perpetrators of the regime, almost every nation that employed a TRC has agreed to forgive the past crimes in exchange for a full revelation of the truth.⁴⁸ The revelations, which in most cases have been made by the perpetrators in exchange for amnesty, have largely facilitated the reconciliation between victims and perpetrators because certain

⁴¹ Mike Kaye, "The Role of Truth Commissions in the Search for Justice, Reconciliation and Democratisation: The Salvadorean and Honduran Cases," *Journal of Latin American Studies* 29, no. 3 (1997): 693, <https://www.jstor.org/stable/158356>.

⁴² Matei and de Castro García, "Transitional Justice and Intelligence Democratization."

⁴³ *Encyclopedia Britannica*, "Truth and Reconciliation Commission, South Africa - South African History." Accessed May 18, 2022

⁴⁴ Kaye, "The Role of Truth Commissions in the Search for Justice, Reconciliation and Democratisation: The Salvadorean and Honduran Cases."

⁴⁵ Priscilla Hayner, "Commissioning the Truth: Further Research Questions," *Third World Quarterly* 17, no. 1 (1996): 19–29, <https://www.jstor.org/stable/3992990>.

⁴⁶ Vasallo, "Truth and Reconciliation Commissions: General Considerations and a Critical Comparison of the Commissions of Chile and El Salvador."

⁴⁷ Vasallo.

⁴⁸ Matei and de Castro García, "Transitional Justice and Intelligence Democratization."

countries have chosen this path to end existing polarization in society.⁴⁹ Because of their reconciliatory nature, TRCs are largely incompatible with the individual will to punish a perpetrator; however, they intend to serve a greater cause on a larger scale where both perpetrators and victims are plentiful. Such a mechanism acts to minimize the risks of polarization in order to democratically consolidate the society.⁵⁰

The TRC of South Africa is an excellent illustration of how and why TRCs are administered. South Africa's TRC was initiated after the apartheid era, mostly driven by the racial segregation and oppression of indigenous Africans.⁵¹ The South African government established a "Truth and Reconciliation" committee to rebuild national unity, once Nelson Mandela initiated the dismantling of South Africa's apartheid government.⁵² The history of apartheid was marked by widespread violence, including government-sponsored state terrorism that sparked anti-apartheid parties and organizations to employ guerrilla tactics, sabotage, as well as countless political assassinations.⁵³ In the event that apartheid fell and the first democratic elections were held, there was a high probability that civil war would break out and the Republic of South Africa would, at best, disintegrate.⁵⁴ The white minority, which comprised just 14 percent of the country's population at the time, anticipated that Africans, if triumphant, would respond by utilizing the same oppressive tactics they had experienced for decades.⁵⁵ Nelson Mandela, on the other hand, facilitated peace and forgiveness between both sides of the conflict, and he personally met

⁴⁹ Vasallo, "Truth and Reconciliation Commissions: General Considerations and a Critical Comparison of the Commissions of Chile and El Salvador."

⁵⁰ Vasallo.

⁵¹ John Dugard, "Convention on the Suppression and Punishment of the Crime of Apartheid," Legal.un.org, November 30, 1973, <https://legal.un.org/avl/ha/cspca/cspca.html>.

⁵² *Encyclopedia Britannica*, "Truth and Reconciliation Commission, South Africa - South African History." Accessed May 18, 2022, <https://www.britannica.com/topic/Truth-and-Reconciliation-Commission-South-Africa>

⁵³ State Interest Archive, "აპარტეიდი," [Apartheid] State Interest Archive, November 9, 2013, <https://stateinterest.wordpress.com/tag/%e1%83%90%e1%83%9e%e1%83%90%e1%83%a0%e1%83%a2%e1%83%94%e1%83%98%e1%83%93%e1%83%98/>.

⁵⁴ Vasallo, "Truth and Reconciliation Commissions: General Considerations and a Critical Comparison of the Commissions of Chile and El Salvador."

⁵⁵ State Interest Archive, "აპარტეიდი"

and talked with every representative of the Apartheid, as well as the black majority's militarist organizations, and persuaded them to reject violence, retaliation, arrests, and sabotage.⁵⁶ As a result of lengthy processes of societal consolidation, South Africa managed to employ the TRCs in favor of rebuilding society and reconciling the two sides without further polarization.⁵⁷ In 1994, Mandela was elected as the president of South Africa and his primary objectives were to maintain national unity, avoid mass violence, and strengthen democratic consolidation among all public spheres.

2. The Opening of Archives

Archive openings increase transparency amid the transition process by revealing materials on documented atrocities and individuals involved with the past non-democratic rule in a country.⁵⁸ Similar to TRCs, archive openings intend to answer questions about the extent and specifics of past official wrongdoings, to further facilitate a democratic consolidation on a more transparent footing. This mechanism of transitional justice has been largely employed in the late 20th century, and notably after the collapse of communism in continental Europe.⁵⁹

Pursued mostly by the Central and the Eastern European countries that were affected by communist rule—notably countries of the Eastern Bloc, Lithuania, and Germany—archive openings in post-communist states have served as the database of evidence which included affidavits and documents of secret police and intelligence services largely responsible for human rights abuses, political assassinations, and repressions.⁶⁰ Florina Cristiana Matei and Andrés de Castro Garcia argue that the archive openings have

⁵⁶ State Interest Archive.

⁵⁷ State Interest Archive.

⁵⁸ Matei and de Castro García, “Transitional Justice and Intelligence Democratization.”

⁵⁹ Adam Michnik and Vaclav Havel, “Confronting the Past: Justice or Revenge?,” *Journal of Democracy* 4, no. 1 (January 1993): 20–27, <https://www.journalofdemocracy.org/articles/confronting-the-past-justice-or-revenge/>.

⁶⁰ Paul Maddrell, “The Opening of the State Security Archives of Central and Eastern Europe,” *International Journal of Intelligence and CounterIntelligence* 27, no. 1 (March 1, 2014): 1–26, <https://doi.org/10.1080/08850607.2014.842794>.

served as a prerequisite to de-communization.⁶¹ This curated transparency stands in stark contrast to the opacity of the communist state and thus establishes the post-communist order on a clearly democratic footing. For instance, Paul Maddrell argues that Germany has facilitated democratic consolidation by uncovering atrocities committed by the German Stasi.⁶² In fact, Lavinia Stan emphasizes the severity and scale of illegal spying on citizenry by the Stasi and references the 2005 transcripts released by the German government which include 7,000 pages of transcribed conversations from tapped telephones.⁶³ Stan highlights the effectiveness of archive openings as she attests that hundreds if not thousands of ordinary citizens have identified themselves being violated by the Stasi agents, and the revelation and accountability of the agents delivered a sense of justice.⁶⁴

Archive openings have been challenging to implement due to the problems inherent in collections of documents on the past atrocities.⁶⁵ Adam Michnik, for instance, believes the process that followed the archive openings has been corrupted in numerous instances because the documents on secret police activities could have been falsified.⁶⁶ He questions the notes that the affidavits were issued by the communists “themselves, and he asks: ‘can we uncritically trust reports written by agents of Stasi?’”⁶⁷ For example, in 2000, Michnik stated that the famous case of Lech Walesa, a former Polish president who was wrongly accused of being a former security service collaborator in archive materials, had been fabricated.⁶⁸

⁶¹ Maddrell.

⁶² Maddrell.

⁶³ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 20.

⁶⁴ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

⁶⁵ Matei and de Castro García, “Transitional Justice and Intelligence Democratization.”

⁶⁶ Michnik and Havel, “‘Confronting the Past: Justice or Revenge?’.”

⁶⁷ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 423.

⁶⁸ David, 423.

Another challenging aspect of archive openings is the scarcity or absence of documented materials. As recounted in Giorgi Molodinashvili and Mikheil Basiladze's *Lost History*, Vakhtang Kutateladze, the ex-Minister of Security Service of Georgia, confirms that the great majority of the secret archives within the post-communist states, notably from Georgia, Azerbaijan, and Armenia, have been transported to the KGB vault in Smolensk by the communists amid the Soviet collapse.⁶⁹ In his statement, Kutateladze identifies the ex-director of the Georgian Security Service (KGB)—Igor Giorgadze—as personally responsible for supervising the Red Army trucks full of secret documents leaving Georgian government archives.⁷⁰

3. Lustration

The word “lustration” originates from the Latin *lustratio*, which translates as “purification by sacrifice.”⁷¹ The term connotes a ceremonial cleansing of the bloodguilt or collective wrongdoings that have varied from culture to culture.⁷² In modern times, some scholars define lustration as “the purification of state organizations from their ‘sins’ under the communist regimes.”⁷³ Similar to the TRC and archive openings, lustration intends to establish the identities of the past perpetrators responsible for human rights violations. But lustration takes one more step in the form of a law or laws requiring the dismissal of individuals responsible from public posts or other sensitive positions and the prosecution of those guilty of mass atrocities.⁷⁴ Therefore, lustration differs from TRCs because it is not, in the first instance, about reconciliation. Additionally, while lustration often depends on archive openings as a tool for investigating past misdeeds of certain

⁶⁹ Molodinashvili and Basiladze, “Lost History.”

⁷⁰ Molodinashvili and Basiladze.

⁷¹ *Encyclopedia Britannica*, s.v. “Lustration - Ancient Ritual,” Accessed July 22, 2022, <https://www.britannica.com/topic/lustration>.

⁷² “Lustration | Ancient Ritual | Britannica.”

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 1998): 357–82, https://doi.org/10.1163/9789004479579_019.

⁷⁴ Kldiashvili, “Lustration in Georgia.”

individuals, its ultimate aim—removing compromised individuals from positions of power and influence—goes beyond transparency and publicity.⁷⁵

Mostly, the process of lustration is studied within the former Soviet Bloc, notably in the Czech Republic and Poland, but also Hungary.⁷⁶ Since 1989, lustration in the post-communist realm has come to mean reviewing and examining people, more importantly, the politicians, public and government officials, or servants of the public sector, to determine the possibility of their collaboration with the secret services of the repressive totalitarian regime.⁷⁷

In most cases of lustration, motives behind its enactment are relatively common across the European countries: uncovering the truth, getting rid of the high-ranking collaborators of the communist intelligence services, and enhancing the rule of law.⁷⁸ Still, lustration has been administered differently, at different times, across different countries. David suggests that certain states that have accepted the lustration law in the early stages after the Soviet demise, as did the Czech Republic, have struggled less with the democratic transition thanks to the effective management of their government institutions.⁷⁹ In contrast, he argues that the ones who had belated lustrations, including Poland, have remained in political crisis with slower democratic processes.⁸⁰

Moreover, David suggests that a delay in implementing lustration changes the nature and intensity of the problems, which itself complicates further solutions caused by

⁷⁵ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 111.

⁷⁶ Jason Sharman, “Repression and Resistance in Communist Europe,” Routledge & CRC Press, 2003, <https://www.routledge.com/Repression-and-Resistance-in-Communist-Europe/Sharman/p/book/9781138371019>.

⁷⁷ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

⁷⁸ Kldiashvili, “Lustration in Georgia.”

⁷⁹ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

⁸⁰ David.

past collaborators.⁸¹ For example, David describes the Polish collaborators who have managed to transfer from the public to the private sector, making lustration almost ineffective in many cases, because the law targets only those in public positions.⁸² Cynthia Horne, who agrees with David, argues that the effectiveness of lustration relies heavily on the timing of its implementation, as early lustration measures have targeted only political elites, while late lustrations have had to challenge the public and private sectors that have been exploited by the communist collaborators due to the elapsed time.⁸³ She argues that in the Polish and Romanian cases, late lustrations have broadened the scope of entities to lustrate, which itself has become more challenging due to the enormity of the numbers of people at issue and the complexity of procedures that have followed.⁸⁴

In Giorgi Kldiashvili's "Lustration in Georgia," Goshovsky conveys the same criticism of belated implementation, suggesting that the delayed lustration entrapped some states, notably Georgia, into the Russian sphere of influence for much longer, making it more difficult for Georgia's sovereign governance to fully escape Russia's interference.⁸⁵ He identifies the failure of the belated lustration by analyzing the history of political and economic crises of such non-lustrated post-Soviet countries as Georgia, which took 30 years to achieve a free-trade agreement with the EU due to extensive battles with corruption and corrupt entities associated with the Kremlin.⁸⁶ Hence, this group of scholars

⁸¹ Most scholarly works define collaborators as secret agents of the communist intelligence services who were recruited and employed in all public spheres, and their lists included such positions as ministers, ambassadors, journalists, and civil society representatives who largely influenced the communist ideology and anti-democratic governance. Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 171.

⁸² In his book, David defines the transition of secret collaborators into the private sector as a risky act, since most of the recruited assets of the communist secret services "were trained in covert activities, infiltration, bribing, misinformation, blackmail, and so on remained connected to all levels of power within the post-communist state." David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)," 401.

⁸³ Cynthia M. Horne, "Late Lustration Programmes in Romania and Poland: Supporting or Undermining Democratic Transitions?," *Europe-Asia Studies* 16, no. 2 (April 1, 2009): 344–76, <https://doi.org/10.1080/13510340902732581>.

⁸⁴ Horne.

⁸⁵ Kldiashvili, "Lustration in Georgia."

⁸⁶ Kldiashvili.

encourages states that are still struggling with implementation to pursue it, no matter the amount of elapsed time.⁸⁷

Other scholars identify national security as a prime motivator⁸⁸ when implementing lustration for strengthening democracy.⁸⁹ As the law itself intends, no past collaborators with the communist intelligence services must remain in high ranks in public office.⁹⁰ David, for one, identifies similarities within the states—for example, the Czech Republic and Poland—that have pursued lustration, and criticizes the majority of them because they only targeted the high-ranking collaborators of the KGB or its subordinated services.⁹¹ His critique stems from the fact that both lustration models disregard the low-level collaborators of the communist regime.⁹² David recognizes the danger posed by middle- or low- level collaborators, who may be hired in critical positions in government services of NATO countries and constitute a significant threat to the cohesion of democratic alliances.⁹³ Similarly, Kldiashvili attests that most states that have implemented lustration have had somewhat identical demands and *modus operandi* when dealing with the high-ranking collaborators and the *Nomenklatura*,⁹⁴ for example,

⁸⁷ Matei and de Castro García, “Transitional Justice and Intelligence Democratization.”

⁸⁸ David speaks of the importance of thorough lustrations in the EU and NATO member countries, since they are the most vulnerable to be targeted by adversarial Russia or the remnants of the KGB collaborators. David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 421.

⁸⁹ Stan outlines the case of Lithuania, where the lustration process was under direct control of the National Security committee, due to the secrecy and importance involved with lustrating high-ranking collaborators of the Soviet regime. Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 233.

⁹⁰ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

⁹¹ David.

⁹² David, 422.

⁹³ David criticizes both lustration acts, because they only affect high-ranking positions in security departments, and states that “given that the secret services of communist countries were subordinated to the KGB and that Russian security services still perform activities in the territory of Central Europe, the question is whether their narrow scopes are sufficient for the new member states of NATO.” David, 421.

⁹⁴ *Encyclopedia Britannica*, s.v. “Nomenklatura - Politics,” Accessed July 28, 2022, <https://www.britannica.com/topic/nomenklatura>.

identifying the high-ranking collaborators and dismissing them.⁹⁵ Therefore, some scholars in this group advocate for wider lustration scopes when striving for the eradication of the communist affiliates, because harmful collaboration with the adversarial Russia has existed on all levels of the government, not only in high ranks.⁹⁶

Lastly, some experts in the field identify the political will of the governing parties as the real cornerstones of the successful implementation of lustration. Anton Vatcharadze suggests that in Georgia, the internal political resistance to lustration has affected the slow pace of democratization of certain government services, which in return did not provide the robust government institutions to pursue lustration process.⁹⁷ Similarly, in a 2007 interview with Radio Free Europe/Radio Liberty, Joachim Gauck, who is often referred to as the “architect of German lustration,” spoke of the high probability of the past perpetrators of the communist regime still being in prominent positions in the public sector and presumably jeopardizing lustration processes in various non-lustrated states.⁹⁸ Isajanyan Nerses supports Gauck’s assertion by pointing to the existing internal resistance in the judiciary systems of certain states, notably in the Georgian Constitutional Court, that ruled against the de-communication law.⁹⁹

C. CONCLUSION

For an effective implementation of the lustration law, some scholars identify several prerequisites that could accelerate processes in a positive direction. Matei and de Castro Garcia identify intelligence democratization to be an effective tool for transitional justice by employing such mechanisms and resources as the establishment of the new security institutions, the transformation of a legal framework, opening the archives of the

⁹⁵ Kldiashvili, “Lustration in Georgia.”

⁹⁶ David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*, 273.

⁹⁷ Institute for Development of Freedom of Information, “Failed Lustration Process in Georgia.”

⁹⁸ Giorgi Gvakharia, “Georgia: ‘Architect of German Lustration’ Discusses Georgian Archive,” *Radio Free Europe/Radio Liberty*, March 27, 2007, <https://www.rferl.org/a/1075535.html>.

⁹⁹ Nerses, “Georgia: Constitutional Court Rules Against Part of De-Communication Law.”

totalitarian regime, and pursuing lustration.¹⁰⁰ They also note the contribution that transitional justice, including lustration, can have to democratization.¹⁰¹

Additionally, the democratization of the government services strictly implies the importance of openness to its public, and Maddrell speaks specifically of the benefits delivered by open access to secret-police archives, which enlightened the transitional process and aroused public awareness of East Germany's totalitarian regime.¹⁰² By contrast, Stan identifies the interrupted democratization of the services in multiple post-Soviet states due to such political elites as Putin, Lukashenko, Nazarbayev, Karimov, and many more of the communist KGB affiliates, who have facilitated the pro-Russian status quo within their services.¹⁰³ Overall, Kldiashvili speaks of the importance of the recruitment of an effective commission or an independent legal entity devoted to implementing the principles of the lustration bill.¹⁰⁴ For the extraordinary cases where the internal political resistance preexists, however, Kieran Williams and Dennis Deletant suggest the establishment of entirely new institutions with executive power over the lustration processes, where the external influences on these processes are minimized.¹⁰⁵

Despite their varied techniques of delivering justice, all three methods have the same objective: revealing the truth and establishing responsibility for past misdeeds. Notably, lustration has been seen as the primary and most frequently pursued legal instrument for combating communism in Europe. Eastern Bloc and post-Soviet governments, in particular, have pursued it vigorously owing to their previous experiences with repressive communist regimes.

¹⁰⁰ Matei and de Castro García, "Transitional Justice and Intelligence Democratization."

¹⁰¹ Matei and de Castro García.

¹⁰² Maddrell, "The Opening of the State Security Archives of Central and Eastern Europe."

¹⁰³ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

¹⁰⁴ Kldiashvili, "Lustration in Georgia."

¹⁰⁵ Kieran Williams and Dennis Deletant, *Security Intelligence Services in New Democracies: The Czech Republic, Slovakia and Romania* (United Kingdom: Palgrave Macmillan UK, 2000).

III. CASES OF SUCCESSFUL LUSTRATION IN TWO POST-COMMUNIST STATES

This chapter analyzes the respective Czech and Polish efforts to implement lustration. These case studies are presented individually, as they present their own unique cases of lustration. Both states, through their unique methods for implementation of the lustration statute, have managed to expel and bar communist collaborators from their respective public sector and minimize Soviet/Russian interference amid their democratic transition. The Czechs began to cleanse their public offices of the relics of earlier communist regimes based on any signs of earlier collaboration, leaving the alleged spies without a chance to return to the office.¹⁰⁶ In the meantime, Poland developed far more tolerant ways of dealing with collaborators of the communist regime, relying on truth disclosure and confession as prerequisites to forgive alleged spies and allow them to remain in office.¹⁰⁷ Scholars like David differentiate the two methods by their nature, labeling them as “semi-retributive lustration” (Czech) and “semi-reconciliatory” (Polish).¹⁰⁸ The Czech case is relevant because it was founded on the notion of collective guilt and enforced collective punishment,¹⁰⁹ which although somewhat controversial,¹¹⁰ seemed more effective in comparison to the Polish case, which allowed communists to influence sovereign politics up until 1999.¹¹¹

¹⁰⁶ David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*.

¹⁰⁷ David.

¹⁰⁸ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 426.

¹⁰⁹ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 46.

¹¹⁰ When ratifying the Czech lustration statute, President Havel prioritized common good over personal liberties, stating “the value of the truth is greater than anything else” and added that “his signature was a step toward the purification of the nation.” According to the Czech Ministry of the Interior, these processes have uncovered at least 100,000 StB spies and informants within the public sector. Stan, 52.

¹¹¹ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

This chapter begins by examining the late stages of communism in both countries, and it highlights some specific events that pushed both states to abandon communism and further democratize. Moreover, it addresses the specific concerns that were caused by the communist rule, discusses individual differences of how lustration was conducted in both countries, and provides analysis of their effects.

A. THE CZECH REPUBLIC

Czechoslovakia was one of the very last countries to overthrow communism in 1993, but the first one to commence the implementation of a lustration statute in 1989.¹¹² During the four decades of communist oppressions in the country, Czechs suffered extensively under the non-democratic government and the repressive security apparatus of communists, which forced hundreds of thousands of Czechs to comply with the authoritarian structure of governance in which political freedoms and liberties simply did not exist.¹¹³ Those individuals who failed to comply with the communist regime were imprisoned or executed.¹¹⁴ Hence, this case study explores the communist past of the Czech Republic and highlights some of the major historical events that pushed Czechs to implement lustration and successfully democratize.

1. Communist Legacy in the Czech Republic

Ever since the communists seized power in 1948 in the Czech Republic (formerly Czechoslovakia), their primary goal was to strengthen the status quo and secure communist power among the leadership, which relied heavily on its political police, or *Statní bezpečnost* (StB).¹¹⁵ From day one, the communist StB exerted its extensively oppressive political control over its citizenry by “undermining the communist competitors, planting informers in their offices, gathering compromising materials on their members, and using

¹¹² David.

¹¹³ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

¹¹⁴ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

¹¹⁵ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 39.

agents to act as provocateurs”¹¹⁶ at any anti-communist gatherings or rallies, and sought to demolish the free civil society.¹¹⁷ During the 41 years of their rule, the communist severity remained at its peak until the death of Stalin in 1953, presumably because totalitarian politics were largely dictated by Moscow across all communist states of Europe.¹¹⁸

Despite Stalin’s death, the communist regime of the Czech Republic continued to oppress the normal citizenry, who demanded reforms, democratization, and less ideological/political pressure by the communist intelligence services.¹¹⁹ One of the pivotal points for de-communization occurred with the Prague Spring of 1968, when people went out in the streets and, with massive protests, demanded reforms in the state, in the press, in literature, and other spheres of public life.¹²⁰ The mass demonstrations resulted in changes in the government, and Alexander Dubcek was appointed as the First Secretary of the Communist Party of Czechoslovakia (KSC).¹²¹ Dubcek’s intentions, which were perceived as reformative and largely threatening to other communist states, especially to the USSR, were quickly shut down by the armies of the USSR and the Warsaw Pact countries which invaded Czechoslovakia, killing dozens of protestors and forcing almost half a million people into exile.¹²² The communist repressions carried on up until 1989, and this process in history is remembered as the “normalization” of Czechoslovakia.¹²³

¹¹⁶ Stan, 39.

¹¹⁷ Stan, 39.

¹¹⁸ Stan, 39.

¹¹⁹ Stan, 40.

¹²⁰ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

¹²¹ Antonin Bencik et al., *The Prague Spring, 1968* (Budapest, Hungary: Central European University Press, 2006), <https://doi.org/10.7829/j.ctv280b7ch>.

¹²² Bencik et al.

¹²³ During the “normalization” period, 70 percent of the StB’s top leaders were fired, as they failed to avert the Prague Spring of 1968. At the same time, the sections charged with fighting political and ideological infiltration in religious and cultural institutions as well as scientific research were quickly put back to work. Williams and Deletant, *Security Intelligence Services in New Democracies: The Czech Republic, Slovakia and Romania*, 32.

Stan describes three of the most repressive periods of Czechoslovakia's communist reign, which ultimately led to the Velvet Revolution, democratization, and the collapse of communism in the country—the Stalinist terror of the 1950s, the Prague Spring of 1968, and the normalization period, which resulted in thousands of casualties and an oppressed society.¹²⁴ Up until the collapse of communism, the campaign of repressions was largely administered by StB agents, whose numbers typically ranged between 10,000 and 15,000, and an estimated 30,000 regime collaborators, who were actively employed by their StB handlers to spy and inform on ordinary citizens who might have caused trouble for the communist rule.¹²⁵ During their totalitarian reign, the communists of Czechoslovakia sentenced more than 250,000 people for political reasons, sent another 22,000 to labor camps, and executed some 243 civilians.¹²⁶

With the demise of the Soviet Union and the outbreak of the country's Velvet Revolution, communist oppression began to crumble, eventually leading to the state's first democratic elections.¹²⁷ Unfortunately, the revolution of 1989 did not facilitate democratic changes within the government institutions instantly, as many communists remained in charge of critical branches of the government, notably the Communist General—Lorenec of the StB—and its subordinates, who maintained control over collaborators in all spheres of government and who themselves posed a threat to democratic reforms in the country.¹²⁸ Therefore, in order to progress democratically and eradicate any remaining communists from the government services, the Czech Republic decided to pursue a method of transitional justice in the form of lustration, which promised further facilitation of democratic governance by removing communists from the public sector.

¹²⁴ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 58.

¹²⁵ Stan, 41.

¹²⁶ Stan, 41.

¹²⁷ Lavinia Stan, "Vigilante Justice in Post-Communist Europe," *Communist and Post-Communist Studies* 44, no. 4 (2011): 319–27, <http://www.jstor.org/stable/48610335>.

¹²⁸ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 43.

2. Background on the Lustration in the Czech Republic

The collapse of the Soviet Union expedited the country's evolution from the Czechoslovak Socialist Republic to the Czech and Slovak Federative Republics in 1990, and at the start of 1993, the Czech and Slovak Republics divided into two sovereign nations.¹²⁹ The split between the two countries was largely encouraged by the fact that the Czech Republic was committed to fighting communism on its soil and implementing the appropriate laws to do so; however, Slovakia was unable to commit to democratic reforms or implement the same statute.¹³⁰

Despite the commitment to democratic reforms, the Czech Republic still suffered from the existing communist opposition within its government, which remained heavily supported by Moscow.¹³¹ For instance, within the democratically elected cabinet many key figures were communists, with numerous years of experience working with the totalitarian communist government.¹³² For example, the acting Prime Minister at the time was Marian Calfa, who opposed lustration and was a communist; similarly, several influential government services, for example, the Ministry of Interior and Security Services, remained under communist control.¹³³ Furthermore, Petr Toman, one of the co-authors of the Czech lustration, delivered the findings of the lustration panel and the screening results at a televised special session of the Federal Assembly where he claimed that while StB collaborators remained in office, the democratization of government

¹²⁹ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

¹³⁰ Initially, the Czechs and Slovaks diverged politically during the Prague Spring, which contributed significantly to the rift. Slovak leaders were more focused on strengthening Slovak national sovereignty via federalization, which in reality, corresponded to the Soviet model, in contrast to Czech reformers, who aimed to liberalize and democratize the state, a long-standing objective that was considerably more dangerous to communist rule. Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 42.

¹³¹ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

¹³² Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

¹³³ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)," 391.

services was unachievable.¹³⁴ According to Toman's assessment, the only option for avoiding blackmail, the continuous activity of StB collaborators, and a succession of political scandals that might emerge amid democratic transition was to purge the administration and legislative bodies of these collaborators.¹³⁵

Similarly, almost a year after the Velvet Revolution, President Havel delivered a speech in which he stated, "We had free elections, we elected a free parliament, we have a free press, we have a democratic government. Yet, there still exist and work the powerful structures of the former regime. The old bureaucracy persists at all levels."¹³⁶ With his speech, President Havel implied the need to take action in the face of lustration, which potentially guaranteed the discontinuation of communist influence. As such, the Czech Republic needed to rapidly expel communist collaborators and the *Nomenklatura*.¹³⁷ A number of prominent communist *Nomenklaturas* were orchestrators of human rights violations on massive scales during their communist reign in the 20th century,¹³⁸ and their removal from government posts was a primary objective, as no collaborators of the tyranny were suitable for office.¹³⁹

Polls conducted in 1991 revealed that more than half of the Czechoslovak respondents supported lustration, as they believed in the expulsion of collaborators as an effective method of setting things right.¹⁴⁰ On October 4, 1991, Czechoslovakia approved

¹³⁴ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 44.

¹³⁵ Stan, 44.

¹³⁶ David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*, 1.

¹³⁷ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

¹³⁸ The communist repressions have imprisoned more than 250,000 people on political charges, forced another 110,000 into exile, and executed hundreds of its citizens.¹³⁸

¹³⁹ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)," 396.

¹⁴⁰ "The Public Reaction to the Lustration - Centrum pro Výzkum Veřejného Mínění," IVVM, May 19, 2000, <https://cvvm.soc.cas.cz/en/press-releases/political/other/3890-attitudes-of-public-to-lustrations-october-2000>.

its first lustration law as Act n. 451/991 Sb.¹⁴¹ The majority of the existing political parties, including the Civic Democratic Party, the Christian Democratic Movement, and the Christian Democratic Union supported the bill, and 148 deputies voted in its favor while 31 rejected it and 22 abstained.¹⁴²

On paper, the Czech Lustration Act applied to the senior state administration posts in the Ministry of Defense (MOD), the State Security Services (StB), and the police.¹⁴³ Additionally, it included such prominent positions in the public sector as those in the Constitutional Court, the Supreme Court, public media, and the administrations of the state-run companies.¹⁴⁴ Despite the ratification of the legislation, however, there was no immediate push for its implementation, not least because the instruments for its execution were severely restricted by the leftover communist sympathizers inside the government services and, more importantly, within the Czech Parliament.¹⁴⁵

The parliamentary election of 1996 changed the Czech Republic when the center-right coalition won the majority of the seats and acquired the political power to pursue lustration.¹⁴⁶ The center-right parliament successfully implemented the lustration law, in no small part because the societal commitment to de-communization was high and such democratic reforms required swift and proactive support from the legislative branch.¹⁴⁷ As a result, the Czech Republic ended up implementing de-communization quickly, as well as commenced to wrest its public sector from the communist collaborators who served the anti-democratic objectives in the country.

¹⁴¹ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 408.

¹⁴² David, 408.

¹⁴³ David, 409.

¹⁴⁴ David, 409.

¹⁴⁵ František Turnovec, “Votes, Seats and Power: 1996 Parliamentary Election in the Czech Republic,” *Communist and Post-Communist Studies* 30, no. 3 (1997): 289–305, <https://www.jstor.org/stable/45302034>.

¹⁴⁶ Turnovec.

¹⁴⁷ Bilkova, Veronika, “*Lustration: The Experience of Czechoslovakia - The Czech Republic*,” CDL-PI(2015)028 (Prague, Czech Republic: Venice Commission, Council of Europe, 2015), [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2015\)028-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2015)028-e).

3. Implementation of Lustration in the Czech Republic

The implementation process of lustration law in the Czech Republic was unique because there was no practice of lustration in the history of communism, and so Czechs remained largely responsible for shaping this method of transitional justice.¹⁴⁸ At the early stage of dealing with the remaining communist collaborators, as observed by David, lustration in the Czech Republic intended to give the old collaborators of the regime an opportunity to leave their posts voluntarily without further investigations.¹⁴⁹ Yet, the communist resistance to lustration remained in the government ranks, and no one left voluntarily as the first draft of law did not force immediate expulsion of collaborators.¹⁵⁰ Therefore, the Czechoslovakian commitment to and effort for change accelerated the implementation of a harsher version of the statute, which adopted more severe methods for identification and expulsion of the former *Nomenklaturas*, with the lustrated individual being threatened with public identification if he or she refused to leave office voluntarily.¹⁵¹ Ladislav Kvasnicka identifies this phase of lustration as “the rotation of cadres,” or the phase of *Nomenklaturas* losing their positions in public posts.¹⁵²

Moreover, one of the primary objectives of lustration in the Czech Republic remained the minimization of the security threats posed by communist intelligence agencies amid the country’s democratic transition.¹⁵³ Hence, the investigation and expulsion of legacy staff were imperative because of such individuals’ access to important government agencies and information.¹⁵⁴ The secret agents remained in control of the Czechoslovakian Ministry of the Interior, where their access to the secret files remained

¹⁴⁸ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

¹⁴⁹ David, 396.

¹⁵⁰ David, 397.

¹⁵¹ David, 398.

¹⁵² David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*, 115.

¹⁵³ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

¹⁵⁴ Stan.

unrestricted.¹⁵⁵ It is probable that the agents, who had unrestricted access to classified information, took advantage of the transitional process to penetrate state secrets by copying restricted files and discarding the bulk of them.¹⁵⁶ By doing so, the collaborators are believed to have use of the copies of sensitive documents during the later stages of Czechoslovakian political developments, when KGB affiliates reportedly blackmailed and influenced the security policies of the Interior Ministry.¹⁵⁷

The accomplices of the communist secret agencies also remained active in significant public areas. It is estimated that 262 secret operatives maintained or obtained prominent posts in the Czechoslovakian media.¹⁵⁸ For instance, amid the disintegration of Czechoslovakia into two separate states, the post-Soviet collaborations were successfully conveyed in Slovakia, where the government-subsidized newspaper—*Narodna Obroda*—was run by the StB officer Igor Cibula, the mastermind of Soviet misinformation in the region, who later became chief of the Slovak Press Agency.¹⁵⁹ Keeping such individuals in essential public positions obstructed democratic progress as they continued to spread misinformation and slowed the process of democratic consolidation.¹⁶⁰ Similarly, it was not only the print media but the state-run television and radio stations, trade unions, and other strategic institutions that were run by the communist collaborators who were directly subordinate to Moscow.¹⁶¹

¹⁵⁵ Oldrich Hromadko, “Krach Jedné Koncepce,” [The Collapse of the Concept] Respekt.cz, 1990, <https://www.respekt.cz/tydenik/1990/4/krach-jedne-koncepce>.

¹⁵⁶ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 401.

¹⁵⁷ Pavel Žáček, *Boje o minulost: deset let vyrovnávání se s komunistickou minulostí - pokus o předběžnou bilanci* [The Collapse of the Concept] (Michigan, USA: Barrister & Principal, 2000).

¹⁵⁸ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 401.

¹⁵⁹ Hugh LeCaine Agnew, “New States, Old Identities? The Czech Republic, Slovakia, and Historical Understandings of Statehood,” *Nationalities Papers* 28, no. 4 (2000): 619–50, <https://www.cambridge.org/core/journals/nationalities-papers/article/abs/new-states-old-identities-the-czech-republic-slovakia-and-historical-understandings-of-statehood/928188E7BBDA3A87D991C7257DED69CD>.

¹⁶⁰ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 400.

¹⁶¹ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 83.

Nevertheless, the process of implementing lustration was not without challenges for the Czech Republic, arguably due to the absence of similar past cases as models; therefore, the procedural decisions of expelling the collaborators remained strictly up to the acting government and its institutions. As a result, the process was done arbitrarily, with communists resisting the legal proceedings that followed the lustration in the majority of instances, which itself complicated further advancements in the implementation process and raised political tensions.¹⁶² For instance, the Minister of Foreign Affairs Dienstbier required the lustration of every employee of the ministry at every level, which resulted in the disclosure of 50 ambassadors who had secretly collaborated with the communist intelligence services.¹⁶³ Similar proactive measures were taken by the Czech media sector, when the head of the Czechoslovak Press Agency, Petr Uhl, forced a total of 23 confirmed agents to abandon their posts willingly.¹⁶⁴ Even though such proactive measures have violated the basic individual rights of the communist collaborators, such a swifter approach for the greater common good has facilitated democratization at a faster pace.¹⁶⁵

In the late 1990s, the Czech lawmakers decided to update the definition of collaboration in the law and strictly define which parts of the repressive apparatus and which positions should be the subject of lustration.¹⁶⁶ This change was motivated by the vast number of people who qualified as communist collaborators to some extent although they had not necessarily committed any crime. It was important to come up with an exact definition of collaboration and to describe the nature of secretive work to prove the accused's involvement—tasks which remained quite challenging.¹⁶⁷ President Havel once

¹⁶² Kieran Williams, “Lustration as the Securitization of Democracy in Czechoslovakia and the Czech Republic,” *Journal of Communist Studies and Transition Politics* 19, no. 4 (December 1, 2003): 3, <https://doi.org/10.1080/13523270300660026>.

¹⁶³ Petr Janyska, “Pět Minut Po Dvanácté,” [Five Minutes to Twelve] Respekt.cz, November 4, 1991, <https://www.respekt.cz/tydenik/1991/44/pet-minut-po-dvanacte>.

¹⁶⁴ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 398.

¹⁶⁵ Michnik and Havel, ““Confronting the Past: Justice or Revenge?.””

¹⁶⁶ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

¹⁶⁷ David, 399.

stated that “we are all through naturally and to differing extents responsible for the operation of the totalitarian machinery. None of us is just its victim. We are all also its co-creators.”¹⁶⁸ President Havel’s remark served as a signal to the Czechoslovakian judiciary that not everyone born in communism collaborated with the regime. Thus, the Czech lawmakers have had to effectively distinguish the difference between the “passive non-resistance and the systematic collaborators who were on a communist payroll.”¹⁶⁹

4. Analysis

The Czech lustration method is seen as being relatively punitive in character, because it depends exclusively on the firing of collaborators from public positions without giving them a chance to appeal.¹⁷⁰ David has observed that during the establishment of collaboration, the Czechs did not provide the accused any chances of reintegration in the services.¹⁷¹ Such a method of expulsion proved to be an effective strategy, as the exclusion of collaborators facilitated democratic changes in the country faster than it did in any other Eastern Bloc nation.¹⁷²

According to the Czech Ministry of the Interior, 451,000 lustration certificates were issued since October 4, 1991, when the Lustration Law took effect, and approximately 3 percent of these findings were positive, indicating that an individual was in fact registered for collaboration.¹⁷³ The first triumphs of the lustration included making previous oppressors accountable for their misdeeds. In 1990, former Communist Party leader

¹⁶⁸ Vaclav Havel, “New Year’s Address to the Nation by V. Havel,” Old.hrad.cz, January 1, 1990, http://old.hrad.cz/president/Havel/speeches/1990/0101_uk.html.

¹⁶⁹ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 399.

¹⁷⁰ David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*.

¹⁷¹ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

¹⁷² Susanne Y. P. Choi and Roman David, “Lustration Systems and Trust: Evidence from Survey Experiments in the Czech Republic, Hungary, and Poland,” *American Journal of Sociology* 117, no. 4 (2012): 1177, <https://www.jstor.org/stable/10.1086/662648>.

¹⁷³ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 49.

Miroslav Stepan was convicted of abuse of power and sentenced to prison, as were the former Interior Minister Frantisek Kincl, former Counter-espionage Chief Karel Vykypel, and former Deputy Minister Alojz Lorenc, who were largely responsible for major human rights violations in the state.¹⁷⁴

Moreover, the Czech judiciary swiftly declared the Communist regime as “criminal, illegal, and contemptible” and the Czechoslovak Communist Party as “a criminal and contemptible organization.”¹⁷⁵ Presumably, by formally banning communism in the country, the Czech Republic has fully committed itself to providing a more fertile ground for the democratic reforms that leave no room for communism. In his statement, Zdeněk Jičinský, one of the co-writers of the Czech constitution, argues that lustration has facilitated the disappearance of the communist threat as it enabled the Czech Republic to become a member of the EU and NATO; additionally, it linked the Czech market to the global economy, which was purely impossible during communism.¹⁷⁶

The impacts of lustration in the Czech Republic remain visible even in the 21st century. In February of 2007, the chief of the Czech Republic’s Interpol was exposed as an StB accomplice.¹⁷⁷ His longtime espionage on behalf of the communists, which later continued for the Russian intelligence services, was uncovered by means of intensive investigations, which also generated leads to the discovery of 15 former collaborators at the Czech police headquarters.¹⁷⁸ Therefore, lustration has proven to be an effective tool not only for eradicating the communist threat within the Czech Republic, but also the threats that continue to flow from the Kremlin, which ultimately never ceased even many years after the demise of the Soviet Union.

¹⁷⁴ Stan, 57.

¹⁷⁵ Stan, 58.

¹⁷⁶ Stan, 61.

¹⁷⁷ Coilin O’Connor, “Check Uncovers 15 Former Secret Police Collaborators at Czech Police Headquarters,” Radio Prague International, April 18, 2007, <https://english.radio.cz/check-uncovers-15-former-secret-police-collaborators-czech-police-headquarters-8472728>.

¹⁷⁸ O’Connor.

B. POLAND

Poland took more than a decade to finally commence implementation of its lustration statute. Ultimately, however, Poland pursued a much more tolerant way of lustrating its public sector which permitted past collaborators of the regime to remain in the office in exchange for revealing the truth. Although it shared the same gruesome history of communist oppressions as the Czech Republic, Poland developed different methods and tactics to overcome its communist past and further democratize. Therefore, it is important to study Poland's communist legacy and unique techniques of gradual de-communization by its approach to lustration in its public sector.

1. Communist Legacy in Poland

Generally, Poland's de-Stalinization phase started in 1956, when the Polish people sought political rights and freedoms from their communist government, driving workers to strike and fostering an anti-communist revolt throughout the community.¹⁷⁹ Dozens of anti-communist demonstrators were executed on the instructions of Minister of Defense Konstantin Rokossovsky, who spearheaded the communists' swift suppression of the rebellion.¹⁸⁰ Soon after, Vladislav Gomulka was appointed as the first secretary of the Polish United Workers Party (PZPR), and in exchange for not implementing democratic reforms that could threaten the communist status quo, Gomulka maintained peaceful relations with Moscow, while Khrushchev promised Gomulka not to intervene militarily.¹⁸¹

In the meantime, the Polish leading party, PZPR, maintained strong communist rule over its people, and similar to the Czech tactics, the Polish government heavily relied on its secret police, the *Sluzba Bezpieczenstwa* (SB). SB agents were predominantly the representatives of the PZPR party, which indicated the force's politicized ideology.¹⁸² Stan

¹⁷⁹ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

¹⁸⁰ Andrzej Werblan, "Wladyslaw Gomulka and the Dilemma of Polish Communism," *International Political Science Review* 9, no. 2 (1988): 143–58, <https://www.jstor.org/stable/1601112>.

¹⁸¹ Werblan.

¹⁸² Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 77.

has depicted SB's methods of operation as oppressive as those of any other communist intelligence service, as the SB "maintained an active network of secret collaborators for the information gathering and as an instrument of terror, because people were recruited to be broken ... to create an aura of fear and keep people dependent."¹⁸³ According to some accounts, 65 percent of informers were recruited by using compromised materials against them, to control them through fear.¹⁸⁴ By 1968, the SB had 10,000 agents; however, with the numbers of uprisings against communism within the Polish society, the numbers of recruited collaborators rose drastically.¹⁸⁵ For instance, several major events pushed the SB to increase the number of their collaborators—the Church's Millennium celebrations, the 1968 protest by students, and the Workers' Strike of 1970—which ultimately led to further enhancement of the SB's control over the citizenry.¹⁸⁶

Additionally, historians highlight 1981 as the pivotal point for the communist rule in Poland, as communist oppressions culminated in the imposition of martial law¹⁸⁷ to "avert anarchy of the Solidarity Movement."¹⁸⁸ The tight lockdown of Poland and the oppression continued until 1988, and according to the Ministry of Internal Affairs of Poland (MIA), the number of SB collaborators skyrocketed to an extra 100,000.¹⁸⁹ Notably, the informers were planted in all spheres of the public arena—the clergy, judiciary, social elites, and the opposition, in order to reveal any anticommunist movements and individuals.¹⁹⁰ According to the Polish MIA, during the communist reign, more than

¹⁸³ Stan, 77.

¹⁸⁴ Stan, 77.

¹⁸⁵ Stan, 77.

¹⁸⁶ Stan, 77.

¹⁸⁷ General Wojciech Jaruzelski and his army collaborators gained increasing influence in the party-controlled political system after the imposition of martial rule in December 1981. Also, the military and secret service personnel took over the state government, and the military council became in charge of the country. Stan, 78.

¹⁸⁸ Richard Nelsson, "Poland Imposes Martial Law 'to Avert Anarchy' – Archive, 1981," *The Guardian*, December 8, 2021, <https://www.theguardian.com/world/2021/dec/08/poland-imposes-martial-law-jaruzelski-1981>.

¹⁸⁹ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 78.

¹⁹⁰ Stan, 78.

300,000 people were imprisoned on political charges, another 500,000 were forced into exile, and hundreds were executed, notably during the anti-communist demonstrations of Nowa Huta, the 1968 student strike, and the Baltic Coast demonstrations.¹⁹¹

With the demise of the Soviet Union, the collapse of communism in Europe, and 1989's electoral defeat of the PZPR, the repressive political regime in Poland started to recede.¹⁹² Nonetheless, the communist influence still posed a threat to democratic reforms in the country, as SB personnel destroyed a significant volume of sensitive materials from the SB archives,¹⁹³ and according to the MIA's records, the SB still continued to handle 52,000 collaborators within the government services.¹⁹⁴ Therefore, the Polish government committed itself to implementing reforms and initiating methods of transitional justice through lustration to help Poland dismantle the collaboration networks within the public sector and abandon its communist past.¹⁹⁵

2. Background on the Lustration in Poland

Similar to the Czech Republic, the public discourse on lustration in Poland dates back to 1989 when Poland's government institutions were still under heavy communist influence.¹⁹⁶ Yet, the nature of lustration seemed to remain rather reconciliatory from the very beginning of the discussion, since the first democratically elected Prime Minister Mazowiecky called for roundtable negotiations with the communists and declared his intention to "reassure Moscow that his government sought no revenge against communist

¹⁹¹ Stan, 78.

¹⁹² Stan, 78.

¹⁹³ Under the commands of the Deputy Premier and the Minister of the Interior amid the transition of the government, SB officers removed, copied, and destroyed most of the sensitive files from the archives. Stan, 78.

¹⁹⁴ Stan, 78.

¹⁹⁵ David M. Dastych, "No 'Zero Option' But a Shake Up: The Reform of the Polish Secret Services," *Irp.fas.org*, August 31, 2002, <https://irp.fas.org/world/poland/dastych.html>.

¹⁹⁶ David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*.

leaders.”¹⁹⁷ The reconciliatory rhetoric from Mazowiecki did facilitate Poland’s transition to democracy without bloodshed; however, many of the unaddressed past violations and violators remained intact within public spheres, which upset the Polish citizenry.¹⁹⁸

Despite the roundtable negotiations and the intentions to reconcile society democratically, there were still several major factors impeding the country’s democratization. As in the case of Czechoslovakia, the Polish *Nomenklatura* remained heavily present in the Polish government sector. During the mid-1990s, approximately a quarter of the senior public posts were held by communist collaborators.¹⁹⁹ Andrej Walicki has highlighted the resistance from the communist *Nomenklatura* and revealed their intentions as “clever communist manipulation, serving the interest of the *Nomenklatura* who wanted to enrich themselves while continuing to rule the country indirectly behind the scenes.”²⁰⁰ Unlike the proactive actions undertaken by the Czechs, the Polish public sector could not accelerate the lustration processes to dismiss the collaborators because the power sharing was largely unbalanced amid the country’s democratic transition.²⁰¹

Despite the appointment of the first pro-democratic cabinets,²⁰² some government branches were still under communist control.²⁰³ For instance, General Wojciech Jaruzelski, a Polish Communist Party member, remained as an acting president, and the security institutions were under the rule of General Czeslaw Kiszczak, another communist

¹⁹⁷ In his speech of 1989, Mazowiecki voiced his wish to maintain a ‘thick line’ between the past and present, and called for communists reintegration in state building as long as they would embrace “the new democratic order.” Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 79.

¹⁹⁸ Stan, 79.

¹⁹⁹ M. Los and Andrzej Zybortowicz, *Privatizing the Police-State: The Case of Poland* (United Kingdom: Palgrave Macmillan UK, 2016), 285.

²⁰⁰ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, 80.

²⁰¹ Stan, 80.

²⁰² NATO, “Tadeusz Mazowiecki Becomes Prime Minister of the First Non-Communist Led Government in Poland in 40 Years,” NATO, August 24, 1989, http://www.nato.int/cps/en/natohq/news_23499.htm.

²⁰³ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 390.

affiliate.²⁰⁴ Arguably, such high-ranking communist officials facilitated the political atmosphere that maintained a pro-communist status quo.²⁰⁵ Therefore, the transition from communism to democracy in Poland was largely negotiated, which provided the communists with enough time to remove lustration legislation from the agenda.²⁰⁶

The delay in implementing lustration legislation in Poland also suggests extensive resistance from such high-ranking communist officials who showed no appetite for democratic transitions. Moreover, as the public polls of 1996 on lustration revealed, only 57 percent of the respondents found lustration necessary, while 24 percent opposed its enactment entirely.²⁰⁷ Despite the gruesome history of communism in Poland,²⁰⁸ Polish society took quite a bit of time to undergo the ideological transformation to democracy.²⁰⁹ Scholars have argued that the public interest did not match that of the public in Czechoslovakia due to the heavy presence of the unlustrated communist subordinates within all spheres of the public, who themselves had agitated for communism and stood in opposition to lustration for almost 12 years.²¹⁰

Furthermore, the political rivalries between the Polish United Workers' Party (PZPR) and the Solidarity Democratic Movement turned into a decade-long political discussion of whether lustration was acceptable for Polish society. Arguably, these factors

²⁰⁴ Szczerbiak, "Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland."

²⁰⁵ David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*.

²⁰⁶ Szczerbiak, "Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland," 555.

²⁰⁷ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

²⁰⁸ Notably, the Katyn Forest Massacre where communists brutally murdered more than 16,000 Poles in one day. J. K. Zawodny, *Death in The Forest; The Story of The Katyn Forest Massacre* (United States: Verdun Press, 2015).

²⁰⁹ Sheldon Dick, *From Peace to War: Germany, Soviet Russia, and the World, 1939-1941*, ed. Bernd Wegner (Switzerland: Berghahn Books, 1997).

²¹⁰ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

have obstructed Poland's democratic consolidation and delayed the achievement of lustration longer than in the Czech Republic.²¹¹

3. Implementation of Lustration in Poland

Political tensions arose after the Sejm passed the 1992 resolution which obligated the Interior Ministry to publicly disclose the names of the members of the parliament as well as other high-ranking officials who had collaborated with the communist intelligence agencies.²¹² Minister of the Interior Macierewicz provided the Sejm with the names of 64 collaborators, who appeared to be the opposition representatives.²¹³ Another colossal scandal was caused by President Lech Walesa when he publicly accused Prime Minister Olesky of having secretive relations with the Soviet KGB and Russian intelligence, which led to Olesky's resignation.²¹⁴ Internal rivalries flared up with every other case of lustration, since the Polish Lustration Act did not prohibit the disclosure of individual names. As such, thanks to resistance from high-ranking communist officials and the political polarization within the Polish Sejm, it took more than a decade for the statute to become fully operational.²¹⁵

The Polish Sejm approved the lustration law in 1997, and out of 460 delegates, 214 voted in favor, 162 rejected it, and 16 abstained.²¹⁶ In May of 1997, the Senate supported the ratification with 47 out of 100 in favor and 33 against.²¹⁷ In June 1997, President

²¹¹ Szczerbiak, "Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland."

²¹² David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)," 398.

²¹³ David, 399.

²¹⁴ Jane Perlez, "Polish Premier, Ex-Communist Accused of Spying, Resigns," *The New York Times*, January 25, 1996, <https://www.nytimes.com/1996/01/25/world/polish-premier-ex-communist-accused-of-spying-resigns.html>.

²¹⁵ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

²¹⁶ Barbara A. Misztal, "How Not to Deal with the Past: Lustration in Poland," *European Journal of Sociology* 40, no. 1 (1999): 44, <https://www.jstor.org/stable/23997336>.

²¹⁷ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)," 410.

Aleksander Kwasniewski officially signed the Polish Lustration Act.²¹⁸ The bill described itself as the act “on the revealing work or service in State security organs or of collaboration with them between 1944 and 1990 by persons holding public positions” and was initiated in August of 1997.²¹⁹ However, the entire implementation of the law was repeatedly postponed and altered for many years, taking almost 12 years to eventually become a reality.

The Polish Lustration Act was implemented only after 1999 due to the lack of political will, modest popular support,²²⁰ and the persistence of so many old communists within the government sphere.²²¹ The Polish lustration process involved several courses of action, which provided it a different, more reconciliatory nature, as well as facilitated democratic consolidation differently from other lustrated countries. First, the act heavily relied on legitimate affidavits or sworn written confessions of individuals’ collaboration with the secret intelligence services.²²² If an affidavit exposed someone as a collaborator, it was published in the Polish government gazette—*Monitor Polski*—due to the transparent nature of the statute.²²³ By publishing and disclosing collaborators’ identities, the government made the Polish citizenry aware of every collaborator’s name. Nevertheless, most of the collaborators remained in the office and were not punished; instead, they were given a second chance to invest themselves in the democratic reforms. Second, unlike the Czech model that expelled individuals from government positions arbitrarily without the proper investigations, Polish approach established a special lustration prosecutor who

²¹⁸ David, 410–11.

²¹⁹ David, 411.

²²⁰ Even in 1999, only 56 percent of the population was in favor of this project, while 31 remained against it. David.

²²¹ Szerbiak, “Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland.”

²²² David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

²²³ Felipe Gómez Isa, *International Protection of Human Rights: Achievements and Challenges*, ed. Koen Feyter (Bilbao, Spain: Universidad de Deusto, 2006), 650.

represented public interests, and the cases were handled by special lustration courts.²²⁴ Additionally, if one was convicted with the falsification of the affidavits, the most severe punishment was to disqualify that individual from having access to a public post for ten years.²²⁵ Third, the Polish Lustration Act only targeted high-ranking officials and not the ordinary collaborators.²²⁶

Despite the reconciliatory nature of the statute, the Polish lustration model still maintained some security loopholes that were exploited by the communist collaborators amid the implementation process. Scholars like Maria Los have suggested the uncontrolled and poorly prepared methods of intelligence collection allowed collaborators to remain largely intact in the public posts.²²⁷ As observed by Los, the communist collaborator personnel with tremendous skills in clandestine actions, fraud, espionage, blackmail, and misinformation maintained their links to all tiers of government.²²⁸ In some cases, the agents were transferred into private security agencies to minimize the risk of their affiliation with the communist intelligence services and keep them operational within the private sector.²²⁹

Moreover, the presence of the Soviet “advisors” in the Polish Ministry of the Interior indicated that the KGB had not yet lost its influence over its assets and government institutions.²³⁰ Also, in order to cover the SB’s tracks of past recruitments, General Dankowski commanded the respective services to find the infamous journal of

²²⁴ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

²²⁵ Misztal, “How Not to Deal with the Past: Lustration in Poland,” 43.

²²⁶ The law has divided high-ranking officials into three categories: those who did not collaborate with security services; those who did collaborate but came clean about the fact; and the collaborators who did not confess their collaboration.²²⁶ The Polish Lustration Act could only dismiss the third category of collaborators, meaning those who failed to confess.

²²⁷ Maria Łoś, “Lustration and Truth Claims: Unfinished Revolutions in Central Europe,” *Law & Social Inquiry* 20, no. 1 (1995): 117–61, <https://www.cambridge.org/core/journals/law-and-social-inquiry/article/abs/lustration-and-truth-claims-unfinished-revolutions-in-central-europe/635E4D94EBEF78377B5D2AF843CC8908>.

²²⁸ Los and Zybortowicz, *Privatizing the Police-State: The Case of Poland*, 284.

²²⁹ Łoś, “Lustration and Truth Claims: Unfinished Revolutions in Central Europe,” 122–23.

²³⁰ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 402.

collaborators titled “Zibor 560,” which is believed to have contained valuable information regarding the parliament members who had been collaborating with the KGB.²³¹ According to the investigation, the journal went “missing” in 1990.²³² The sudden disappearance of such valuable intelligence suggests how imperative it was for the Kremlin’s subordinate communists to intervene and protect their valuable assets in the Polish government. Arguably, certain political figures were blackmailed by such services due to their past affiliation with the communist regime, which has consequently resulted in prolonged or failed democratic reforms and a decade without lustration.²³³

4. Analysis

As a result of a decade of political debates and the prolonged implementation of the lustration statute, Polish lustration ended up with a relatively narrow scope, fewer targets, softer sanctions, and the narrative of semi-reconciliation.²³⁴ Scholars like Williams and Deletant argue that the lengthy period of adoption of lustration has matured the Polish society and has allowed its legislative body to observe the practices of their counterparts in other countries undergoing the transition from communism to democracy, unlike the Czechs who reacted more proactively with harsher sanctions due to the immediate implementation of lustration after the collapse of communism.²³⁵

According to the Polish government gazette, *Monitor Polski*, during the first two years of lustration, a total of 6,689 affidavits were issued out of which only 85 were falsified and therefore lustrated.²³⁶ According to the Polish lustration method, the falsification of the affidavits was the only cause to lustrate, as described by the law. The *Monitor Polski* published the court’s ruling, but the nature of collaboration was never

²³¹ David, 402.

²³² David, 402.

²³³ David, 401.

²³⁴ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

²³⁵ Williams, “Lustration as the Securitization of Democracy in Czechoslovakia and the Czech Republic.”

²³⁶ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001),” 423.

revealed to the public. In the worst cases, the Polish lustration court dismissed high-ranking collaborators from office for a maximum of 10 years; however, such cases remained relatively few, since the option of reconciliation in exchange for the truth has facilitated collaborators' public compliance to the law.²³⁷

As previously noted, the Polish lustration statute was never intended to punish, but rather to forgive the accused in exchange for the truth. Hence, the Polish lustration act is "semi-reconciliatory," resembling the South African reconciliation process following apartheid.²³⁸ The bill suggests that an individual confession of past collaboration must be amnestied and that the collaborator should have access to the public sector again.²³⁹ The same approach was provided by the committee in South Africa, and in exchange for the truth, perpetrators were forgiven their past deeds.²⁴⁰ This conciliatory approach with the collaborators upset the Polish citizenry, as former communist agents continued to serve in various government sectors, even when the intent to evolve democratically and further consolidate the country surely required some sacrifices.²⁴¹

C. WHAT CAN BE LEARNED ABOUT LUSTRATION FROM THE CZECH AND POLISH CASES?

Lustration, as a successful method of vetting collaborators of the communist secret agencies, has been implemented effectively by the countries of the former Eastern Bloc, including the Czech Republic and Poland.²⁴² As David notes, over time both the Czech and the Polish lustration acts have modeled their unique approaches to the concept of lustration. Accordingly, the Czech Lustration Act was built upon the principle of expulsion

²³⁷ David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*, 7.

²³⁸ David, 40.

²³⁹ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

²⁴⁰ David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*, 40.

²⁴¹ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)," 391.

²⁴² Institute for Development of Freedom of Information, "Failed Lustration Process in Georgia."

of past collaborators, while the Polish Lustration Act was intended to excuse or reintegrate collaborators who revealed the truth.²⁴³ As a prime motivator, both lustration acts prioritize safeguarding democracy with their unique approaches.²⁴⁴ In the Czech Republic, the threat to democracy is mitigated by fully excluding the collaborators of the repressive regime, whereas in Poland, a full disclosure of the collaborators' identities enables the public to be made aware of these officials, and no one is removed from office unless they fail to confess.²⁴⁵ Due to a more compassionate approach, Poland permitted former agents to remain employed in the security services. Almost 8 percent of the Polish force, as well as two-thirds of the staff of the Office of the Protection of the State (UOP), were former agents of the SB.²⁴⁶

Multiple factors have jointly designed the lustration processes in both countries. Such factors include political ideology, the power distribution during regime changes, and the regional status quo,²⁴⁷ meaning how much communist presence was evident in the Eastern Bloc countries. First, it mattered which political ideologies were present in the respective legislatures and how much leverage they had over the law-making process.²⁴⁸ Second, with communist entities sharing power with the new democratic government entities, the transition process remained challenging; hence, lustration was a necessary instrument to remove the obstacles along the way to democracy. Third, the regional status quo, or the existing political reality in Central Europe, influenced both states differently, either slowing down the process due to external factors or accelerating it. Therefore, these

²⁴³ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

²⁴⁴ David.

²⁴⁵ David.

²⁴⁶ Los and Zybortowicz, *Privatizing the Police-State: The Case of Poland*, 132.

²⁴⁷ David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*.

²⁴⁸ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)," 397.

factors collectively shaped the policy of dealing with the past in Poland and the Czech Republic.²⁴⁹

D. CONCLUSION

Even today, Eastern and Central Europe are still perceived by the Russian Federation as situated within its sphere of power interests, and the Russian threat has not vanished.²⁵⁰ Therefore, the lustration process gained more importance as NATO membership reshaped security concerns for Poland and the Czech Republic.²⁵¹ Even though it is largely believed that both countries' lustration acts have contributed significantly to eliminating intelligence ties with Moscow, the threat emanating from Russia through its dedication to infiltrate and destabilize democratic governments with active measures and hybrid warfare, has not ceased to exist.²⁵² Hence, one could argue that, through the proper implementation of lustration, states like the Czech Republic and Poland have minimized the risks of communist and Russian interference in their sovereign politics as well as accelerated their democratic consolidation.

²⁴⁹ David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*.

²⁵⁰ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

²⁵¹ David, 403.

²⁵² David Salvo and Andrew Andell, "The Active Measures Orchestra: An Examination of Russian Influence Operations Abroad," GMFUS, 2019, <https://www.gmfus.org/news/active-measures-orchestra-examination-russian-influence-operations-abroad>.

IV. FAILED LUSTRATION IN GEORGIA

This chapter examines the case of implementation (or ineffective implementation) of lustration in the Republic of Georgia. It is important to analyze Georgia’s missteps of implementing lustration because of the long oppressive regime of Russian imperialism over the country. Unlike the Czech Republic and Poland, where local communists were influenced by Moscow, Georgia had been a constituent state of the USSR—a “Soviet Republic”—under the direct control of the Kremlin and its oppressive intelligence services. As such, the persistence of personnel from the old regime—and loyal first to Russia—in sensitive positions, particularly in the intelligence and security sectors, have presented an acute threat to Georgia’s democratic progress.

This chapter covers Georgia’s political developments before and after the collapse of the Soviet Union and provides the historical context of democratization of the country. It highlights major events in post-communist Georgian history that obstructed the country’s democratic consolidation, which ultimately led to the Tbilisi Civil War. Additionally, this chapter explores numerous failed attempts by the Georgian government to implement the lustration statute and identifies the possible factors behind their failure. Notably, this chapter also considers the Freedom Charter of Georgia—a law like lustration—which was implemented in 2011 but annulled by the Constitutional Court of Georgia.

A. COMMUNIST LEGACY IN GEORGIA

April 9, 1991, marks the date of Georgia’s independence from the Soviet Union. It is a symbolic day in Georgian history because of the events that had occurred two years earlier on April 9, 1989, when peaceful protestors against communism were set upon by the special forces of the Soviet army and brutally slaughtered in Tbilisi, the capital of Georgia.²⁵³ The peaceful democratic protest turned into a massacre, resulting in the death

²⁵³ Archil Gegeshidze, “The 9 April Tragedy — a Milestone in the History of Modern Georgia,” ORF, April 10, 2019, <https://www.orfonline.org/expert-speak/the-9-april-tragedy-a-milestone-in-the-history-of-modern-georgia-49801/>.

of 21 Georgians—including 16 women.²⁵⁴ This day, thus, also provides historical evidence of the dedication of Georgian society and an example of its willingness to sacrifice their lives for freedom and democratic governance.

Freedom comes at a cost, and transitioning to a democracy posed a great challenge for the newly established government of Georgia. The first democratically elected leader, President Zviad Gamsakhurdia, quickly became an irritant to Moscow and its collaborative assets on the ground.²⁵⁵ The president's removal from office was initiated by the KGB and the Russian-backed opposition rivals, who had intentionally decided to disrupt the ongoing democratic processes.²⁵⁶ The dispute between President Gamsakhurdia and his rivals escalated into the Tbilisi Civil War.²⁵⁷ The Tbilisi War was a brief, violent battle that broke out in the heart of the Georgian city on December 22, 1991.²⁵⁸ A few months after the election, a coalition of rebel forces tried to remove him from office. Most of the combat occurred near the ancient parliament building in Georgia, where Gamsakhurdia and his allies hid from the Russian-backed insurgents in a bunker for the entirety of the conflict. After the pro-Russian parties successfully destabilized the state, Gamsakhurdia was forced to abandon the state and seek shelter in Chechnya, where he was subsequently killed.²⁵⁹ The destabilization of the country by the pro-Russian militias led to the spread of conflict in various regions, which provided the grounds for the Russian forces to enter and annex two regions of Georgia—Abkhazia and South Ossetia.²⁶⁰

²⁵⁴ Gegeshidze.

²⁵⁵ President Gamsakhurdia was a former Soviet Union dissident who was arrested and imprisoned on multiple occasions for political reasons during his political career. It was crucial for the Kremlin to avoid setting a precedent in the post-Soviet sphere by electing a dissident president. *Encyclopedia Britannica*, s.v. "Zviad Gamsakhurdia - Georgian Politician," Accessed August 4, 2022, <https://www.britannica.com/biography/Zviad-Gamsakhurdia>.

²⁵⁶ Molodinashvili and Basiladze, "Lost History."

²⁵⁷ Kldiashvili, "Lustration in Georgia."

²⁵⁸ Amos Chapple, "The Tbilisi War: Then and Now," RadioFreeEurope/RadioLiberty, December 21, 2021, <https://www.rferl.org/a/georgia-civil-war-slider-gallery-then-now/31617821.html>.

²⁵⁹ The Washington Post, "Georgian Rebel Say Civil War Has Begun," *Washington Post*, November 30, 1991, <https://www.washingtonpost.com/archive/politics/1991/12/31/georgian-rebels-say-civil-war-has-begun/e957e703-7da7-4f85-b1be-dd10a2e8e12c/>.

²⁶⁰ Stefan Wolff, "Georgia: Abkhazia and South Ossetia," *The Princeton Encyclopedia of Self-Determination*, July 26, 2022, <https://pesd.princeton.edu/node/706>.

Regrettably, the transformation from totalitarianism to democracy has been costly for Georgia compared to the process in many post-Soviet states. The preexisting cadres of communists were reincarnated in the Georgian public sphere, which suffered extensively throughout the 1990s.²⁶¹ The failure to remove the collaborators from office had a lot to do with the process of government transformation and the events that followed the demise of the Soviet Union. Similar to the governments of Poland and the Czech Republic, the Georgian government and its security institutions remained heavily occupied by ex-KGB officers and their subordinates.²⁶²

Unfortunately, the persistence of the communist collaborators affected not only the law enforcement agencies but also the high echelons of government. Even after the collapse of the Soviet Union, the absence of a proper de-communization statute in Georgia made it easier for the pro-Russian politicians to influence government policies in the opposite direction from lustration. First, amid the civil unrest, democratically elected President Zviad Gamsakhurida, who pursued a lustration policy, was assassinated—presumably by Russians—thus ending his pursuit of the implementation of the statute.²⁶³ Since Eduard Shevardnadze, the country's second president, had previously served as the Soviet Union's Minister of Foreign Affairs and was a close associate of Mikhail Gorbachev, the de-communization project was in no way feasible under his administration.²⁶⁴ The third president, Mikheil Saakashvili, served in the Red Army's border troop, a position that typically required each serviceman to commit to a lifelong collaboration with the KGB, and hence his likely collaboration with the Soviet intelligence services admittedly forced him to remove lustration from the table.²⁶⁵ In addition, former President Saakashvili's uncle, Temuri Alasania, is a retired KGB general who served in a prominent position in

²⁶¹ Kldiashvili, "Lustration in Georgia."

²⁶² Kldiashvili.

²⁶³ As the investigation into the president's death is underway, there is no conclusive proof of a connection. However, President Gamsakhurida was one of the most notable anti-communist leaders in the history of modern Georgia who was also the target of multiple murder attempts by the Muscovites in the past.

²⁶⁴ *Encyclopedia Britannica*, s.v. "Eduard Shevardnadze - Soviet Foreign Minister and President of Georgia," Accessed July 20, 2022, <https://www.britannica.com/biography/Eduard-Shevardnadze>.

²⁶⁵ Zaal Anjaparidze, "Russian Film on Saakashvili Tests Georgian Democracy," Jamestown, October 4, 2004, <https://jamestown.org/program/russian-film-on-saakashvili-tests-georgian-democracy/>.

the Soviet foreign intelligence service and represented the closest circles of Yuri Andropov, the Secretary General of the USSR.²⁶⁶ Therefore, for obvious reasons the implementation of lustration seemed almost impossible, limiting Georgian democratic reforms and ensuring the country remained obedient to the pro-Russian status quo domestically and in the region.

B. BACKGROUND ON THE LUSTRATION PROCESS IN GEORGIA

It is hardly controversial to assert that the Russians have caused the great majority of lustration missteps in Georgia with the help of their subordinates within Georgian security institutions.²⁶⁷ To be sure, structural improvements in the state security institutions amid government transitions were never implemented.²⁶⁸ The newly established Ministry of State Security of Georgia, a remnant of the Georgian KGB, remained heavily occupied by ex-KGB operatives, and the ministry turned into an isolated organization that disregarded presidential directives while it stayed in close contact with Moscow.²⁶⁹

Moreover, soon after stepping into office, President Gamsakhurdia ordered the Minister of Georgian State Security to recover and deliver the documentation of the collaborators with the communist regime; however, he was disobeyed by the high-ranking officials of the intelligence services, who justified their actions as a matter of professional ethics and refused to disclose the names of their assets.²⁷⁰ Additionally, multiple sources have confirmed President Gamsakhurdia's commitment to initiate legislative procedures for Georgian lustration, but the political climate and the lack of coercive power removed the discussion from the table.²⁷¹

²⁶⁶ Irakli Kakabadze, "Privatized Death Machine," *Arcade* (blog), 2011, <https://arcade.stanford.edu/blogs/privatized-death-machine>.

²⁶⁷ Molodinashvili and Basiladze, "Lost History."

²⁶⁸ Molodinashvili and Basiladze.

²⁶⁹ Molodinashvili and Basiladze.

²⁷⁰ Molodinashvili and Basiladze.

²⁷¹ Molodinashvili and Basiladze.

Furthermore, the chances of Georgian lustration kept decreasing with the help of the Soviet KGB operatives who purged the Georgian KGB archives and relocated most of the essential documentation to a secret KGB vault in Smolensk, Russia.²⁷² Following the extraction events, the Tbilisi Civil War began, during which the Georgian KGB's headquarters caught fire, resulting in substantial damage to the archives.²⁷³ Per the Ministry of Internal Affairs of Georgia's (MIA) statistics, a total of 210,000 files, or 80 percent of what was left behind by the KGB, were destroyed by fire and water.²⁷⁴ Research reveals that the fire was caused intentionally by the Kremlin's subordinates in order to hide evidence of their actions.²⁷⁵ In sum, water, fire, and the insubordinate moles of the Georgian intelligence services collectively stifled the lustration process in Georgia.

C. PARTIAL LUSTRATION IN GEORGIA, THEN ANOTHER FAILED ATTEMPT

Since the early 2000s, Georgia has pursued a lustration-like law, or the Freedom Charter of Georgia, which was intended to execute some of the duties of lustration; however, it failed to do so. Most scholars identify two major reasons for this failure: the lack of supportive documentation and the extensive time elapsed since the collapse of the Soviet Union.²⁷⁶ There also is evidence of a certain lack of political will to fully enact the statute.

Similar to other post-communist states in pursuit of lustration, Georgia has been motivated by the same principles—identification of the regime's hidden agents and accomplices, establishment of personal accountability, expulsion of the collaborators from the government services, eradication of all manifestations of totalitarianism from society, and the delivery of justice.²⁷⁷ With numerous failed attempts in the 1990s to translate these

²⁷² Molodinashvili and Basiladze.

²⁷³ Kldiashvili, "Lustration in Georgia."

²⁷⁴ Molodinashvili and Basiladze, "Lost History."

²⁷⁵ Kldiashvili, "Lustration in Georgia."

²⁷⁶ Kldiashvili.

²⁷⁷ Kldiashvili.

principles into law, the first public discourse around lustration arose after the Rose Revolution of 2003.²⁷⁸ The so-called liberal revolutionaries of Georgia had promised a long-awaited justice. The first draft of the law in 2005 intended to dismiss ex-KGB collaborators of high ranks and their agents from the security services, the Ministry of Defense, and the president's administration; however, the parliament never ratified the bill, justifying their actions again with the lack of supportive documentation and destroyed archives.²⁷⁹

It was not until 2011 that the Georgian parliament ratified the Freedom Charter, a lustration-like bill, which banned Soviet and fascist ideologies, eliminated identifying symbols, and was designed to blacklist the suspected collaborators of the regime.²⁸⁰ However, the legislation did not accomplish what it set out to do, other than renaming streets and squares in addition to removing monuments portraying communist leaders.²⁸¹ Along with the prohibition of Soviet and fascist ideologies and their associated insignias, the Freedom Charter included anti-terrorism measures.²⁸² In principle, the Freedom Charter was intended to imitate the Czech Lustration Act expelling the KGB collaborators without exposing their names.²⁸³

Additionally, the Freedom Charter initiated the creation of a commission consisting of members of the parliament as well as appointed entities of certain security institutions, who were responsible for studying the collaboration cases.²⁸⁴ According to the official statement released by the Ministry of Internal Affairs of Georgia, the commission was to be created three years after the implementation of the Charter, when the obligated committee was supposed to meet on a monthly basis to fully implement the lustration

²⁷⁸ Kldiashvili.

²⁷⁹ Kldiashvili.

²⁸⁰ Chukhua, "Freedom Charter and the International Practice of Lustration."

²⁸¹ Chukhua.

²⁸² Kldiashvili, "Lustration in Georgia."

²⁸³ Roudik Peter, "Georgia: Ban on Soviet Symbols Proposed," Library of Congress, 2010, <https://www.loc.gov/item/global-legal-monitor/2010-12-08/georgia-ban-on-soviet-symbols-proposed/>.

²⁸⁴ Chukhua, "Freedom Charter and the International Practice of Lustration."

process.²⁸⁵ According to the statement, however, the lustration commission only met once during its existence, in 2014. As a result, the commission had studied an unknown number of possible high-ranked collaborators; but, no violations have been detected.²⁸⁶ To date, the commission has only ordered two individuals and three political subjects to stop displaying communist symbols in public.²⁸⁷

The promising tendencies that have followed the Freedom Charter—for example, abolishing totalitarian ideology and distinguishing the USSR as a criminal regime—have largely remained on the level of rhetoric.²⁸⁸ The law was built upon the bases of de-communization through the removal of statues dedicated to communist figures, renaming of streets, and refurbishing rusty communistic infrastructure, but that is not what lustration is about. Even with such restrictions, there have been countless cases in recent years when the Georgian leftist Public Union Socialist Georgia (PUSG) or the neo-fascist Georgia’s National Unity (GNU) have disregarded the legislation and displayed totalitarian symbols in public places.²⁸⁹ For instance, in 2018, the State Security Service of Georgia (SSSG) issued official written warnings to both right-wing and leftist groups to follow the law of the Freedom Charter and not display the totalitarian symbols in public.²⁹⁰ Nonetheless, on May 9 of the same year the PUSG in honor of the Soviet victory over fascism held a massive gathering of communist supporters with hundreds of flags of the USSR.²⁹¹ Similarly, the GNU held a protest on May 14, where it criticized the legalization of soft drugs and displayed fascist flags, swastikas, and voiced fascist slogans.²⁹² As a

²⁸⁵ Institute for Development of Freedom of Information, “Failed Lustration Process in Georgia.”

²⁸⁶ Kldiashvili, “Lustration in Georgia.”

²⁸⁷ Kldiashvili.

²⁸⁸ Kldiashvili.

²⁸⁹ Kldiashvili.

²⁹⁰ Misha Mepharishvili, “სუს–მა ‘სოციალისტური სიმბოლოები’ გააფრთხილა, რომ 9 მაისს საბჭოთა სიმბოლოები არ გამოიყენოს,” [SSSG Issues a Warning Not to Disclose the Soviet Symbols in Public] NETGAZETI.ge, May 18, 2018, <https://netgazeti.ge/news/274696/>.

²⁹¹ Mepharishvili.

²⁹² Misha Mepharishvili, “სუს–მა ‘ეროვნული ერთობა’ გააფრთხილა, ფაშისტური სიმბოლოები არ გამოიყენოს,” [SSSG Issues a Warning Not to Disclose the Fascist Symbolics] NETGAZETI.ge, May 18, 2018, <https://netgazeti.ge/news/278145/>.

result of their direct violation of the Freedom Charter, both groups received fines amounting to only 1,000 GEL, an equivalent of \$300.²⁹³

Furthermore, the Freedom Charter proved to be of zero value to judicial institutions, which this thesis identifies as resulting from the internal resistance to the Georgian lustration. On October 28, 2015, the Constitutional Court of Georgia ruled against Article 9 of the Freedom Charter, declaring the prohibition and expulsion of the former Soviet officials from public offices and government branches as unconstitutional and annulled.²⁹⁴ Ruling No. 2/5/60 of the Constitutional Court of Georgia, Nodar Mamulari v. Parliament of Georgia, ruled in favor of the known communist collaborator.²⁹⁵ Regrettably, the Court ruled in favor of the complaint stating that the permanent prohibition of the individual from public office breached Article 17 of Georgian Constitution, which guarantees an individual's right to honor and dignity.²⁹⁶ Although aware of the nature of the policy, the Georgian Constitutional Court decided to protect the individual rights of the ex-KGB collaborators rather than set an example of the delivery of justice and enhancement of democratic consolidation in the country.

D. ANALYSIS

This devastating court ruling highlights the failure of the Freedom Charter of Georgia, a failure due to miscommunication that existed within the government services while implementing and enforcing the law. Clearly, not everyone in the government “was on the same page.” The internal resistance to de-communization, even after 25 years after the demise of the Soviet Union bespeaks the lack of political will to uphold the policy. It also suggests the high probability of continued Russian influence over Georgian politics,

²⁹³ Kldiashvili, “Lustration in Georgia.”

²⁹⁴ Legislative Herald of Georgia, “Citizen of Georgia Nodari Mamulari - Constitutional Court Case,” Legislative Herald of Georgia, October 28, 2015, <https://matsne.gov.ge/ka/document/view/3055763>.

²⁹⁵ Mamularui, the complainant, was a Soviet-era leader of Georgia's Communist Youth League, a confirmed collaborator of the Soviet secret services, and subsequently served as the party secretary of the Telavi, one of Georgia's administrative districts. In 2013, Mamularui ran for the office of governor of the Telavi district, when he received a note from competent authorities regarding his exclusion from the ballot, as compelled under the Freedom Charter.

²⁹⁶ Nerses, “Georgia: Constitutional Court Rules Against Part of De-Communization Law.”

which facilitated the public sector of Georgia with plentiful subordinates to the Kremlin for more than two decades who themselves have resisted the complete democratic consolidation within the state.

In past years, lustration was neglected by the legislative body of Georgia due to the lack of reliable documentation that would uncover evidence of collaboration. Once implemented, the Freedom Charter of Georgia, which was intended to serve the purpose of lustration legislation, was simply disregarded by the Georgian judiciary, even when proof of individuals' collaboration existed. Hence, one should perceive such collateral damage of the national interests as acts of sabotage on Georgian democracy, especially since two regions of Georgia are occupied by the Russian armed forces.²⁹⁷

E. CONCLUSION

Since the fall of the Soviet Union, Georgia has struggled to commit to de-communization due to its incapacity to administer lustration throughout its institutions and public sector. Georgia's efforts to democratize itself and its political institutions have been successful, although only to a limited degree. The incomplete de-communization and remaining Russian pressure groups within the Georgian public sector are major obstacles to Georgia's path to democratization, and they are committed to ensnaring Georgia within Russia's influence by keeping Georgia's public sector riddled with former and current cadres of collaborators.

²⁹⁷ Wolff, "Georgia: Abkhazia and South Ossetia."

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V. CONCLUSION: LESSONS LEARNED AND RECOMMENDATIONS

This chapter provides an examination of the most significant findings from successful lustration cases of the Czech Republic and Poland. Based on the analysis, it also gives an evaluation by which Georgia may successfully undertake a comprehensive lustration, which would likely ensure the country's continued democratic maturation and integration into the key Western alliances, for example, the EU and NATO. The chapter begins by addressing what Georgia could learn from the successful cases of lustration. Second, it tackles some of the issues currently faced by the Georgian intelligence services due to the lack of competent de-communicization/lustration legislation. The study concludes with a selection of recommendations taken from successful case studies of lustration, which might aid the effective implementation of the law in Georgia.

A. WHAT CAN GEORGIA LEARN FROM THE CZECH AND POLISH LUSTRATION CASES?

Overcoming the existing hurdles to executing the lustration policy remains difficult for the Republic of Georgia, owing to the time that has passed for the implementation of the legislation, the scarcity of supporting information in the intelligence archives, and the possible remaining political resistance within the government. Following in the footsteps of Poland and the Czech Republic, however, Georgia's policy implementation may be less challenging, given those other governments have gone through similar transitional processes and successfully removed Russian ties in their respective governments.

The overall findings on Poland and the Czech Republic highlight that the removal of communist collaborators from government in both countries has accelerated the democratization of government institutions. The findings of this study also indicate that states that undergo lustration distance themselves from the Kremlin more effectively over time by strengthening democracy and the rule of law. Although the execution of the legislation was initially difficult for both states, it proved feasible under the right conditions. For reference, the Polish lustration case demonstrates the potential of starting the lustration procedure without enough archival evidence. Aside from the absence of

evidence, Poland was successful in convincing the population to cooperate with lustration in return for granting amnesty to those guilty of previous collaboration with the oppressive security services. As a result, this chapter acknowledges Poland's effective reconciliatory propaganda, which facilitated the gradual expulsion of communist collaborators or the reintegration of those who desired democratic changes in the nation. Poland has successfully lustrated its organizations and responded to the problems through transitional justice by effectively increasing public awareness and by active cooperation between the public and private sectors on the topic.²⁹⁸ In contrast, the Czech Republic did not attempt reconciliation techniques and instead adopted more severe measures of identification and expulsion of collaborators, which exacerbated societal polarization; hence, the Czech tactics of enforcing the legislation may not be the ideal model in terms of gaining support from Georgian citizens.

Georgia, like Poland, must engage in active information dissemination through educational institutions and communication channels to increase public awareness of the subject of Georgia's lingering authoritarian ties inside the state. People in Georgia are likely to come forward to identify themselves or others who may have collaborated with Russian intelligence agencies during or after communism, because Georgian memory is full of communist oppression. A larger volume of affidavits might have helped more in terms of further insight into the details of the nature of collaborations or with discovery of the larger circle of individuals involved in the process; however, the Polish government did not cite the scarcity of affidavits as an excuse to stop pursuing the process of removing supporters of the totalitarian rule, and it should not serve as an excuse for Georgia either.

Additionally, Georgia confronts particular issues in executing lustration owing to the threat of Russian intelligence agencies blackmailing Georgian public sector officials, hence creating the internal resistance to the implementation of the statute. In a scenario similar to lost data in Poland, Georgian archives disappeared during the Tbilisi Civil War, adding more complications to implementation.²⁹⁹ It is probable those records came into

²⁹⁸ Misztal, "How Not to Deal with the Past: Lustration in Poland," 34.

²⁹⁹ Kldiashvili, "Lustration in Georgia."

the hands of KGB operatives who continued to control collaborators who transitioned to various positions in Georgia's new leadership, both in the public and the private sectors, as in the Polish and Czech cases. As this study shows, members of Poland's parliament were kept "hostage" by the KGB owing to their past collaborations and ability to be blackmailed, which resulted in protracted or failed democratic procedures and a decade without lustration.³⁰⁰ Similarly, it is quite probable that individuals who collaborated with the Soviet government and the KGB have successfully infiltrated Georgian government organizations by acquiring positions as the policymakers, judges, policemen, ministers, and representatives of religious institutions. Hypothetically, one could argue that Russia's influence over Georgia's sovereign politics via its assets in Georgia's government sectors has delivered far greater damage to Georgia than it did for Poland or the Czech Republic, especially since Georgia has not excluded any communist collaborators for more than two decades.³⁰¹

Furthermore, this research has determined that the time it took to implement lustration substantially affected the form of the legislation in Poland and the Czech Republic, providing both countries with quite distinct implementation techniques. For instance, the Czech Republic battled harder and showed a faster response time in addressing similar concerns via more comprehensive investigations and stricter means of implementing the lustration legislation. The Czech lustration case is successful in its nature since the proceedings were kept secret and the names of individual collaborators were not publicly revealed, which maintained public support for the statute. Similarly, Georgian authorities should not disclose the identities of collaborators and should promise full confidentiality to Georgia's lustrated individuals, as was done in the Czech Republic. For one, Georgia's population barely exceeds 4 million, which is three times smaller than the Czech population, and therefore publication of the names might further complicate the

³⁰⁰ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

³⁰¹ Kldiashvili, "Lustration in Georgia."

administration of the statute.³⁰² It is advisable, however, to imitate the swift approach of the Czech authorities. Georgian law enforcement agencies must devote their full resources to investigate, infiltrate, and eradicate remaining or any existing security networks with ties to the Russian intelligence services.³⁰³ Through effective transformation of its security institutions, the Czech Republic has managed to eliminate the Russian influence over its services, and unlike the Slovak Republic, it has managed to exercise its coercive power to counteract subversive actions delivered by Russian intelligence subordinates.³⁰⁴ The reconciliatory aspect of Polish lustration, on the other hand, compelled the government to disclose the names of known collaborators, which may not be the best course of action for Georgia's lustration. Therefore, Georgia must mimic Czech confidentiality measures while implementing lustration in its public sector.

Ultimately, according to this research, even if some governments take more time to pass lustration legislation, they still have long-term aims that include promoting democratic prosperity, improving government institutions, and safeguarding national security. Aside from the disparity in timeframes for lustration implementation, both the Czech Republic and Poland have emphasized the complete implementation of critical democratic reforms. Even 12 years after the Soviet Union's demise, Poland felt the need to lustrate its public sector in order to strengthen its human rights, civil freedoms, and the institutions in charge of preserving such liberties. The essential reforms that followed lustrations both in the Czech Republic and in Poland, made it possible for those states to develop economically and to build stronger institutions while also joining the EU, NATO, or other major

³⁰² While administering the statute, cultural, religious, and historical backgrounds must be thoroughly analyzed to avoid further polarization within such small nation as Georgia.

³⁰³ With the relevant statute for prosecuting communist era collaborators, Georgian law enforcement agencies will obtain corresponding court orders to thoroughly examine accused collaborators using technical or other investigative techniques.

³⁰⁴ Slovakia's failure to integrate into the EU and NATO was largely caused by the subversive actions committed by the Russian-backed intelligence services in the Slovak Republic that remained heavily influenced by the KGB and which intended to carry out an anti-democratic propaganda campaign in country. Some of the famous operations conducted by Slovak Security Services were 'Operation Dezo' and 'Operation Neurtron.'³⁰⁴

democratic coalitions.³⁰⁵ Due to their dedication to this form of transitional justice, both Poland and the Czech Republic have facilitated the democratic consolidation within their states by excluding the communist-minded collaborators who never showed any appetite for democratization.

Similarly, by following in the footsteps of Poland and the Czech Republic, Georgia might substantially expedite its integration process into democratic coalitions. The excuse of that too much time has passed for lustration implementation is unjustifiable. The precedent of Poland demonstrates that it is not only feasible to implement lustration effectively under such circumstances but that it is imperative to start later rather than never in minimizing existing linkages to the Kremlin and its repressive security apparatus. Unfortunately, because of the unlustrated public sector, Georgian society still suffers from existing pro-Russian political movements that are successfully interrupting Georgian democratic transformations. For reference, pro-Russian right wing parties have been attacking minorities, for example, the LGBTQ activists, on the streets and recently have committed acts of physical violence against the Tbilisi Pride members, as well as representatives of free media, which resulted in the death of a journalist.³⁰⁶ Despite active resistance from Georgian law enforcement and intelligence services, the country has failed to answer the posed challenges of democratic principles on the policy level, which arguably is the result of the Russian subordinate political actors jeopardizing democratic reforms in the country.³⁰⁷ The incidents of violence targeting LGBTQ activists and the attack on the free media representatives have resulted in Georgia's decreased score in press freedom, as well as in the freedom index.³⁰⁸

³⁰⁵ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)."

³⁰⁶ Radio Liberty, "Georgian Journalists Honor Colleague Who Died After Being Attacked While Covering LGBT March," *Radio Free Europe/Radio Liberty*, July 13, 2021, <https://www.rferl.org/a/funeral-lexso-lashkarava-georgia/31355892.html>.

³⁰⁷ Radio Liberty.

³⁰⁸ Reporters Without Borders, "Georgia : Pluralist but Not Yet Independent," Reporters Without Borders, July 26, 2022, <https://rsf.org/en/georgia>.

B. LUSTRATION-RELATED CHALLENGES FOR THE GEORGIAN INTELLIGENCE SERVICES

A nation can survive its fools, and even the ambitious. But it cannot survive treason from within. For the traitor appears not a traitor — He speaks in the accents familiar to his victims, and he appeals to the baseness that lies deep in the hearts of all men. He rots the soul of a nation — he works secretly and unknown in the night to undermine the pillars of a city — he infects the body politic so that it can no longer resist. A murderer is less to be feared.³⁰⁹

—Marcus Tullius Cicero, 42 BC

The democratic consolidation and the successful implementation of democratic reforms in Georgia have historically relied on the independence of its government institutions and the pro-democratic mindset of its people—for example, the first democratically elected President Gamsakhurdia who was a dissident of the communist regime and a fearless fighter for Georgian democratic institutions.³¹⁰ The dynamics and the likelihood of Georgia’s effective political transition to democracy have been shaped by the amount of formal political participation and competition allowed by the old regime, which was largely dictated for decades for Georgia—by the Kremlin.³¹¹ Some might have expected that the fall of communism could facilitate further democratization of Russia and its surrounding states; however, even with Russia’s democratic posturing and economic reforms, its security agencies have retained their traditional colors and kept meddling into the sovereign politics of its adjacent states, notably in Georgia.³¹²

Similarly, not a lot has changed in Georgia given its legacy of subordination to the Kremlin and inherited officials who were installed in the newly formed Georgian public sector as well, which slowed the democratization of the state and its institutions. The Georgian intelligence services, the entities solely responsible for countering the Russian

³⁰⁹ Liberty Tree, “Quotation by Marcus Tullius Cicero,” LibertyQuotes, July 26, 2022, <http://libertytree.ca/quotes/Marcus.Tullius.Cicero.Quote.B6EA>.

³¹⁰ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

³¹¹ Michael Bratton and Nicolas Van de Walle, “Neopatrimonial Regimes and Political Transitions in Africa,” *World Politics* 46, no. 4 (1994): 485, <https://www.jstor.org/stable/2950715>.

³¹² James M. Olson, *To Catch a Spy: The Art of Counterintelligence* (Washington, DC: Georgetown University Press, 2021), 13.

threat, have been aware of the political figures or the pressure groups who have been collaborating with the communist security services, and arguably have remained in close contact with the current security services of Russia.³¹³ Yet, it always remained challenging for the intelligence services of Georgia to investigate, exclude, or prosecute the traitors of the nation without the proper statute in the constitution.³¹⁴

Georgian secret services are still struggling to battle incoming Russian threats in the present day. For instance, when the entire world is uniting against the Kremlin's expansionist policies and attempting to put an end to Putin's bloody regime, Kremlin-controlled Russian media outlets in Georgia openly support Russian aggression and continue to disseminate Russian misinformation throughout Georgia, particularly via social media.³¹⁵ For one, "Alt-Info," a media outlet directly sponsored by the Kremlin which has justified the invasion of Ukraine and Georgia, operates freely without interference, spreading lies and misinforming the broader public.³¹⁶

Similarly, the Georgian intelligence services could not prevent or disrupt the establishment of a pro-Russian political party in Georgia, even though the services were aware of the pro-Kremlin individuals who founded this political party. For reference, in November of 2021, the founders of "Alt-Info" established the "Conservative Movement," an openly pro-Russian political party that advocates for Russia's foreign policy and operates in all regions of Georgia.³¹⁷

³¹³ Stan, *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*.

³¹⁴ Kldiashvili, "Lustration in Georgia."

³¹⁵ Nana Pitskhelauri, "რუსული პროპაგანდის ქართველი რუპორები: რატომ არაფერი კეთდება მათ შესაჩერებლად?," [Georgian Mouthpieces of Russian Propaganda: Why Nothing is Being Done to Stop Them] Ambebi.ge, March 11, 2022, <https://www.ambebi.ge/article/273496-gamaognebelia-prorusuli-partiebis-mier-partiuli/>.

³¹⁶ "გორში ალტ-ინფოს ოფისს წითელი საღებავი შეასხეს," [The Alt-Info office in Gori was painted with red paint] Tabula, February 24, 2022, <https://tabula.ge/ge/news/680796-gorshi-alt-inpos-opiss-citeli-saghebavi-sheaskhes>.

³¹⁷ ISFED, "კონსერვატიული მოძრაობა - „ალტ-ინფოს“ საშვი ფეისბუქზე," [Conservative movement - "alt-info" pass on Facebook,] ISFED, February 14, 2022, <http://isfed.ge/geo/blogi/konservatiuli-modzraoba-alt-infos-sashvi-feisbuqze->.

Unfortunately, Russia has its own propagandist media outlets and political parties operating freely in Georgia, a nation which has been constantly invaded and oppressed by the Russian Federation, most recently in 2008.³¹⁸ Therefore, one might ask why such traitorous actions are not being punished. How is it possible for an occupant country to have such an immense presence in Georgia’s media and public sector? Why is it not punishable by law? Should the decision makers of Georgia allow the existence of a political party that carries such a slogan as: “Georgia has no future in Europe, the only hope of regaining its territorial integrity is via an association with Russia?”³¹⁹

C. RECOMMENDATIONS

The first recommendation advanced by this thesis is for Georgia to rely on the successful cases of lustration explored in this research and fully commence its own implementation of lustration. Once implemented, the scope of lustration must be widened, since a vast majority of the collaborators who transitioned into the private sector³²⁰ have arguably maintained their links to government services and have remained subversive. Moreover, both lustration acts have dictated to lustrate only those who are active in office but did not provide for the pursuit of those who left office before the law was implemented; therefore, a lot of ties with the adversarial intelligence agencies of Russia are presumably still intact.³²¹

On the basis of the case studies, one problem evident in Polish lustration is that it did not affect the mid-level collaborators of the repressive apparatus. As noted in the policy, if the candidates of lustration did not hold leading positions within the communist-

³¹⁸ Pitskhelauri, “რუსული პროპაგანდის ქართველი რუპორები: რატომ არაფერი კეთდება მათ შესაჩერებლად?” [Georgian mouthpieces of Russian propaganda: why nothing is being done to stop them]

³¹⁹ Pitskhelauri.

³²⁰ Notably, the Georgian lustration statute must include the media sector as well, which is heavily occupied by pro-Russian individuals who further complicate the country’s democratization through misinformation and disinformation.

³²¹ David, “Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001).”

affiliated services, then they were exempted from the cleansing.³²² Consequently, many KGB collaborators remained in Polish government institutions, which have been directly subordinate to the Russian intelligence services within Central Europe.³²³ The narrow scope of lustration could pose a threat to Poland and the Czech Republic, both of which are NATO member states, because the mid-level collaborators could remain intact in their positions. Hence, it is probable that Russia remains in control of them, and presumably many of the low-level assets who did not fall under the narrow framework of both lustrations are still active. Under these circumstances, Georgia must expand the scope of lustration to encompass medium and low-level alleged collaborators to further reduce the influence of the Muscovites in all aspects of Georgia's public sector.

In addition, this thesis recommends the complete participation of all governmental authorities during the execution of the lustration legislation in Georgia. This recommendation is guided by the disorganized passage of the Freedom of Charter, which ultimately failed to fulfill its responsibilities. Georgian intelligence services alone are unable to answer the questions posed in this thesis. The decision must be made unanimously and in coordination with every branch of the government to fully commence the eradication of pro-Russian entities from the government sector. The solution is straightforward: the adoption of lustration legislation, screening of every government employee, and the launching of extensive investigations of individuals suspected of collaborating with current or former Russian intelligence agencies. The intelligence community's hands are tied without the support of a proper policy. Hence, the implementation of such a law would enable them to conduct large-scale investigations, operations, and surveillance against persons and groups primarily responsible for democratic regression in the nation.

Finally, this thesis emphasizes the necessity of maintaining the individual's rights to privacy and freedom and recommends rigorous adherence to the norms and regulations in place to guarantee these liberties. With lustration, a great threat of blackmailing and

³²² David, *Lustration and Transitional Justice: Personnel Systems in the Czech Republic, Hungary, and Poland*.

³²³ David.

defamation come into play.³²⁴ Certain individuals in or outside the government might be in possession of files and sensitive information on individuals that could be used for to manipulate politicians or discredit opponents. Hence, this thesis suggests that strict application of the law and harsher sanctions on manipulators could provide a healthier environment. Moreover, the importance of such preventive acts as the Freedom of Information Act, the Protection of the Classified Data Act, or the strict enforcement of the criminal and the civil law could facilitate confidentiality in the lustration process and uphold the rule of law amid its implementation.³²⁵ Illegal access to documents, and more importantly blackmailing of individuals, must be perceived as a threat to national security since the probability of involvement of the foreign secret services is always high.³²⁶

D. CONCLUSION

Georgian intelligence services will be better off after lustrating the public sector, since the possibility of removal of chief public collaborative figures could initiate a new phase of institution building and more robust institutions, which nowadays are weak in the battle against ongoing Russian threats. The possibility of expulsion of the Kremlin collaborators could guarantee a fundamental transformation in the Georgian political status quo, meaning that no Russian mouthpiece media outlet will be allowed to operate, and no Russian-backed political party will gain seats in Georgian parliament and influence the country's sovereign politics.

³²⁴ David, "Lustration Laws in Action: The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989-2001)," 431.

³²⁵ David, 420.

³²⁶ David, 431.

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