

Big Brother's shadow: History, justice, and the political imagination in post-1989 Poland¹

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“That is the question for a politician – how today to read this yesterday in the name of tomorrow?”
— General Wojciech Jaruzelski²

1. Introduction

Within the paradigm of “transitional justice”, the problematic of justice in “post” societies is generally conceived of in terms of “how new democracies have attempted to strike a balance between redressing the abuses of the former government and integrating victims and perpetrators in a post conflict society”.³ Transitional justice thus includes such measures as identifying, and perhaps prosecuting, perpetrators of crimes (lustration); restoring voice, as well as honour and dignity, to victims through public acknowledgement of past sufferings; reintegration of perpetrators into democratic society through public acknowledgement of the repression mechanisms of the old regime and their involvement in these mechanisms (truth telling); restitution of economic losses; and reform of state institutions.⁴ The measures have two major “normative aims: achieving justice for victims, and achieving a more just, democratic order”.⁵

Although post-1989 Poland has been largely successful at restitution and institutional reform, lustration of functionaries of the prior regime and prosecution of those responsible for its crimes have been stalled by conflicts over interpretations of the real-socialist past, conflicting narratives of the political transition, and, ultimately, conflicting attitudes toward the character and direction of the post-1989 democracy. It is on the conjunction of these conflicting interpretations and attitudes as they relate to the sense of the

¹ I borrowed the title from Mariusz Janicki and Wiesław Władysław, *Cień Wielkiego Brata: Ideologia i Praktyka IV RP* (Warszawa: Polityka, 2007).

² Wojciech Jaruzelski, *Stan Wojenny Dlaczego ...*, (Warszawa: BGW, 1992): v.

³ Theodore J. Piccone, “Review of *Transitional Justice*”, *American Journal of International Law* 90 (1996): 540-41, quoted in Paige Arthur, “How ‘Transitions’ Reshaped Human Rights: A Conceptual History of Transitional Justice”, *Human Rights Quarterly* 31 (2009): 321-367, [331]. Emphasis added.

⁴ See Lavinia Stan, “Introduction: Post-Communist Transition, Justice, and Transitional Justice”, in *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning With the Communist Past*, ed. L. Stan (London: Routledge, 2008): 1-14, [3].

⁵ Arthur, “How ‘Transitions’ Reshaped Human Rights”, 357.

historical justness (or unjustness) of post-1989 Poland that this essay focuses. In his reflections on the problem of justice in post-communist societies, Vladimir Tismaneanu notes that “political justice cannot be separated from moral justice as a continuous exercise in working through the [totalitarian] past”.⁶ The question that underlies this essay is thus this: How are judgments of moral justice derived from “working through the past” and how do such judgments influence the sense of “justice”,⁷ and thus the sense of moral and political legitimacy, of the succeeding formation?

2. Attitudes toward the past in post-1989 Poland

Andrzej Walicki has argued that “[to] understand the complex story of the vicissitudes of transitional justice in Poland, it is necessary to place this problem in its appropriate political context and, in turn, to interpret this context in the light of different experiences with the communist regime”.⁸

In the wake of the transition of 1989, two dominant interpretations of the real-socialist past emerged in Polish political debate.

One interpretation is represented by a statement made by Marian Orzechowski, leader of the parliamentary club representing the formerly ruling Polish United Workers’ Party, in a parliamentary debate following the expose of Tadeusz Mazowiecki, the first non-communist prime minister in Poland and Central/Eastern Europe:

“For the creation of the new to succeed, it is necessary to preserve a balance between continuity and change. Nobody suggests, that the past 45 years in Poland, was a period of only achievements and successes. But an equally great exaggeration would be to declare, and such voices exist, that it was an unbroken chain of failures, that everything up to now – has been unsuccessful and bad. Nobody has the right to erase the historical achievements of the lives of two generations of tens of millions of workers, of working people, of the entire society. Our nation achieved over those years great civilisational progress, created many great and lasting things and values, although far below the measure of the present aspirations and expectations”.⁹

⁶ Vladimir Tismaneanu, “Foreword: Truth, Memory, and Reconciliation: Judging the Past in Post-Communist Societies,” in Stan, *Transitional Justice*, xi-xii, [xi].

⁷ “Justice” in this context refers, as it does for Aristotle, not just to issues settled by law, but also, and primarily, to all relations within a polity.

⁸ Andrzej S. Walicki, “Transitional Justice and the Political Struggles of Post-Communist Poland,” in *Transitional Justice and the Rule of Law in New Democracies*, ed. A. James McAdams (South Bend, IN: University of Notre Dame Press, 1997): 185-238, [186].

⁹ Marian Orzechowski, *Sprawozdanie Stenograficzne z posiedzenia Sejmu w dniu 12 wrzesnia 1989*, 26. This and all translations from Polish in this essay are my own.

Orzechowski's statement nicely articulates the major outlines of what Kenneth Burke calls the "frame of acceptance" of the real socialist past in post-transitional Poland.¹⁰ This frame, while conceding the abuses and mistakes of the past, acknowledges its "achievements", primarily in terms of rebuilding the country from the devastation of war and offering social and economic advancement to individuals and groups not privileged in the pre-War social structure. This frame also helps to "justify" the efforts, privations, and struggles of the generations of Poles who spent their lives under real socialism. It is a frame widely adopted by former party leadership, many former rank-and-file party members, and some ordinary people for whom it legitimates, retrospectively, a measure of support for, or perhaps merely passive conformity to, the past system.

A different interpretation of the past is represented by a statement made in the same debate by Bronislaw Geremek, leader of the Citizens' Parliamentary Club, the parliamentary faction representing the former political opposition. "One should rather speak", Geremek declared in response to Orzechowski, of

"what is the balance of decades of consolidating and conserving a system that is contrary to the laws of life. One should speak of the *injustices* [done] to people and *wrongs* [done] to the nation, of the waste of efforts, [of] the alienation of the sense of human labour".¹¹

This "frame of rejection", in Burke's terms, legitimates active and moral opposition to the past system and "justifies" the experiences of those who feel themselves to be its victims.

These different interpretations of the past not only imply different moral evaluations of the epoch of real-socialism, but also feed into conflicting narratives of the political transition, ultimately lending divergent moral inflections to resulting figurations of the presence of the past in Poland's post-1989 political imagination. It is these figurations that ultimately underlie conflicting evaluations of, and attitudes toward, post-1989 democracy.

¹⁰ By "frame of acceptance" Burke designates "the more or less organised system of meanings by which a thinking man gauges the historical situation and adopts a role with relation to it". Kenneth Burke, *Attitudes Toward History*, 3rd ed., (Berkeley and Los Angeles: University of California Press, 1984): 5.

¹¹ Bronislaw Geremek, *Sprawozdanie Stenograficzne z posiedzenia Sejmu w dniu 12 wrzesnia 1989*, 31, emphasis added.

3. Narratives of transition

One narrative of the political transition (represented prominently in the memoirs and, in some cases, also court testimonies, of former officials such as General Wojciech Jaruzelski or Mieczyslaw Rakowski¹²) attempts to create historical continuity between the real-socialist past and the democratic present by representing the democratic present as in effect the outcome of the decisions and actions of the former authorities. Accounts based on this narrative defend the attitudes, decisions, and actions of the protagonists by making the democratic transition appear to be the outcome of official policies and strategies, with the opposition playing at worst a negative role as spoilers in the inexorable march toward “reform” and a market economy, and at best the role of “partners” in transforming the country.

In his political memoir, Mieczyslaw Rakowski, the last communist prime minister of Poland, suggests, for instance, that without martial law in Poland in 1981 there would have been no perestroika in the Soviet Union and thus no democratic transitions in Poland and elsewhere.¹³ A similar basic narrative is implicit in Orzechowski’s statement in parliament following the exposé and installation of the Mazowiecki cabinet, in which Orzechowski spoke of the occasion as a measure of the success of the “political and economic reforms, initiated eight years ago [that is, in 1981, the year martial law was declared by the Jaruzelski government] and presently [that is, with the installation of the non-communist Mazowiecki cabinet] deepened and accelerated”.¹⁴

This general narrative depends on two rhetorical operations: *metalepsis* and a dialectic that relativises. *Metalepsis* is a rhetorical figure that works by attributing the present effect to a remote cause (according to Sister Miriam Joseph, *metalepsis* involves either chains of cause-and-effect related productively, or of antecedent-and-consequent related temporally).¹⁵ Perelman and Olbrechts-Tyteca suggest that *metalepsis* facilitates “the transposition of values into [putative] facts”.¹⁶ In Rakowski’s and Orzechowski’s narratives, the transposition works as if it were backwards, endowing the putative cause (the Jaruzelski martial law regime) with the

¹² Jaruzelski, *Stan Wojenny Dlaczego*, Wojciech Jaruzelski, *Byc Moze To Ostatnie Slowo (Wyjasnienia Zlozone Przed Sadem)*, (Warszawa: Comandor): 2008. Mieczyslaw F. Rakowski, *Jak to sie Stalo*, (Warszawa: BGW): 1991.

¹³ Rakowski, *Jak to sie Stalo*.

¹⁴ Marian Orzechowski, *Sprawozdanie Stenograficzne z posiedzenia Sejmu w dniu 12 wrzesnia 1989*, 29.

¹⁵ Sister Miriam Joseph, *Shakespeare’s Use of the Arts of Language*, (New York: Hafner, 1947/1966).

¹⁶ Chaïm Perelman and Lucie Olbrechts-Tyteca, *The New Rhetoric: A Treatise on Argumentation*, trans. John Wilkinson and Purcell Weaver (Notre Dame, IN: University of Notre Dame Press, 1969/2000): 181.

positive valuations attendant on the consequences (perestroika and democracy).

Kenneth Burke suggests that there is a principle of “justice” in the relative proportionality (putative exchangeability) of the perspectives deployed in metaphor or analogy. Hence, for example, to place genocide in a relationship of “analogy” to the annihilation of an animal species (the example is mine, not Burke’s) violates the common sense of “justice” because it does not accord with the common sense of moral proportion (in this case involving an adjudication of what Burke calls the “degree of being”: people are generally considered to have higher moral “value” than animals).¹⁷

Such “analogical” (*analogia* in Greek means “proportion”) violations of the sense of justice, however, occur also in *metalepsis*, to the extent that the transposition of value also implies judgments of relative proportion. It is as if Adolf Eichmann defended himself in Jerusalem by suggesting (which he himself did not but which his defence at least implied)¹⁸ that, had it not been for the Nazis and the Holocaust, including his own role in it, the state of Israel would not have existed to try him. Which, in some sense, is arguably “true”, but such a defence would strike most people as deeply “unjust”, implying as it were that the organised massive violation of human rights, destruction, and horror of the Holocaust were “justified” by the subsequent creation of Israel.¹⁹ Certainly, few Israelis would be inclined to applaud the Nazis on that score.

Aristotle makes a distinction between justice as “the practice of complete virtue”²⁰ and two “partial” senses of justice (*dikaion*, justice not as universal principle but in application to particular sorts of transactions): distributive, which consists in the “distribution of preferment, property, or anything else which is divided amongst the members of the community”²¹ (this sense applies also to the determination of rights), and commutative (also called corrective, retributive, or vindicative, which “has a rectifying function in private transactions”).²² Aquinas and later commentators called the latter *commutativa justitia*, from *commutatio* (transfer), which in the old Latin

¹⁷ Kenneth Burke, *A Grammar of Motives*, (Berkeley and Los Angeles: University of California Press, 1969): 504.

¹⁸ Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil*, (New York: Viking, 1963).

¹⁹ Which demonstrates, by the way, that the relationship between justice and truth is neither direct nor simple, and may be “ironic”.

²⁰ Aristotle, *Nicomachean Ethics*, trans. Martin Ostwald (Indianapolis: Bobbs-Merrill, 1962): V, 129b, 31.

²¹ Aristotle, *Ethics* V, 1130b, 30, as translated in Henry Jackson, *The Fifth Book of the Nicomachean Ethics of Aristotle*, (New York: Arno, 1973): 16. Ostwald translates the line as “distribution of honours, of material goods, or of anything else that can be divided among those who have a share in the political system”.

²² *Ethics*, 1131a. Jackson renders the line as “which rectifies wrong in the case of private transactions”, while the *OED* renders it as, “which is corrective in transactions between man and man”. “Commutative”, *Oxford English Dictionary*, (New York: Oxford University Press, 1985).

translations of the *Ethics* represented the Greek *analogia*.²³ Justice in its commutative sense thus implies an exchange or convertibility of two different qualities, with *analogia* (proportionate return) as the principle underlying judgments of the convertibility of values.

On such an account, the narrative of transition based on a *metalepsis* such as Rakowski's (similar *metalepses* underlie General Jaruzelski's defense during his trial for the crimes committed under martial law)²⁴ implies a fundamental equi-valence (via an implicit analogy) of post-1989 democracy and real-socialism, based (via the reverse transposition of value from the democratic present to the oppressive past) on a "normalisation" of the latter as just another political system (like the former) in which "politicians" did their best under difficult objective conditions – exacerbated by massive civil disobedience and Western hostility – to maintain and advance social order. Such "analogical" transfers of (moral) value deprive the post-communist 3rd Republic²⁵ of claims to historical justice (especially in the eyes of those who do not share the frame of acceptance of the real-socialist period) and thus play into the hands of its detractors, who see it as an extension of the pathologies of the prior epoch.

Such a narrative also relativises the "democratic" narrative of the transition as a "breakthrough" from an oppressive past to a democratic present, hard-won through years of popular struggle, delegitimising the claim of the democratic 3rd Republic to historical "justice" vis-à-vis the non-sovereign and totalitarian (thus "unjust") past and, in the process, compromising the new oppositional political elites.

The currency of this delegitimising narrative in the post-1989 popular political imagination is facilitated by the fact that the Polish transition was a negotiated rather than violent one. As one Member of Parliament pointedly noted,

"I think that not everybody is conscious of what has happened in our country. Perhaps they do not see it, because it is not the effect of revolution, barricades, or mass strikes. (...) We Poles, accustomed by history to sudden changes, to tragedies and sacrifices, do not value peaceful change, which nevertheless destroys the totalitarian system . . .".²⁶

²³ "Commutative", *OED*.

²⁴ Wojciech Jaruzelski, *Byc Moze Ostatnie Slowo (Wyjasnienia Zlozone Przed Sadem)*, (Warszawa: Comandor, 2008).

²⁵ Post-1989 Poland is called the 3rd Republic to emphasize its putative historical continuity with the pre-World War II 2nd Republic. The numbering is a deliberate omission of the presumably non-sovereign (or at least not fully sovereign) communist "Polish People's Republic".

²⁶ Aleksander Bentkowski, *Sprawozdanie Stenograficzne z posiedzenia Sejmu w dniu 12 wrzesnia 1989*, 35.

The negotiated character of the transition makes it easier to represent it retrospectively as a result of a “sweet” (and potentially also “dirty”) “deal” between the old and emerging elites, therefore as fundamentally a “continuation of the same” but with the ostensible exchange of elites while the old guard holds on (now through economic wealth) to behind-the-scenes political power behind the façade of democracy.

That is how its right-wing foes see the post-1989 3rd Republic, through a *metalepsis* that in effect reproduces the basic analogy between the past and present projected by the communist narrative, but that transposes the negative valuation of the communist past forward onto the post-communist 3rd Republic (in contrast to the communist “justification” narrative that transposes the positive valuation attendant on democracy backward onto the real-socialist past). In the eyes of its enemies, “democratic” Poland seems in fact ruled by a conspiratorial clique consisting in large part of the old apparatchiks (except now they have money, having parleyed their political connections into business ones, and that is how they wield political influence) and their allies from the former “opposition”; alliances and networks inherited from the past persist and explain why some people succeed and others do not, and so on.

Bronislaw Wildstein's²⁷ best-selling 2008 political novel *Dolina Nicosci* (Valley of Oblivion) is a good example of such a vision of post-1989 Poland: a polity corroded at its foundations by “networks” with roots in the old system, facilitated by the new, formerly oppositional, elites. Such fantasies constitute a specific inheritance of the totalitarian past in the succeeding democratic imagination – an inheritance not without political and social consequences.

4. Conclusion: Figurations of justice and attitudes toward post-1989 democracy

Burke suggests that “[t]he business of interpretation” is accomplished by the twin processes of “over-simplification and analogical extension. We over-simplify a given event when we characterize it from the standpoint of a given interest—and we attempt to invent a similar characterisation for other events by analogy”.²⁸ It is through such twin process, grounded in the basic analogy

²⁷ Opposition activist and well-known journalist, notorious for having obtained and posted on the Internet, in 2005, the list (dubbed “Wildstein’s List”) of supposed communist-era agents and informers.

²⁸ Kenneth Burke, *Permanence and Change: An Anatomy of Purpose*, 3rd edition, (Berkeley and Los Angeles: University of California Press, 1984): 107.

between past and present implicit, ironically, in both communist and right-wing nationalist narratives of transition, that many negative post-1989 social phenomena tend to be interpreted by many – even otherwise reasonable – people in Poland today as extensions of pre-1989 pathologies, rather than as artifacts of the new liberal democratic, capitalist situation. In this view, a phenomenon such as corruption (although endemic to many democratic countries that have never been communist, for instance India) appears as a sure sign of “contamination” of the new polity by the old system.

Such visions feed on frustrations born of popular expectations of historical “justice”: the revolution should “by rights” have brought down all involved in the communist apparat and elevated the suffering and struggling to power and economic privilege. As the former Speaker of Parliament once told me: many ordinary people feel betrayed by democracy because they see that some of the communists who once oppressed them turned into wealthy capitalists and still rule it over them, except now as employers rather than party bosses.²⁹

A consequence of these frustrations, fed by the relationships between past and present projected by both the left and the nationalist right (albeit for very different reasons), is the view, held by many in Poland today, that in the absence of revolutionary violence at the founding moment of the democratic Republic (a violent birth would presumably have interrupted such “analogies” and set the new Poland on a “just” course), Poland needs a visible symbolic rupture with the past. Such a radical, historical and axiological, break is represented by Jaroslaw Kaczynski’s (and his Law and Justice Party’s) conception of the 4th Republic to replace the “corrupt and compromised” 3rd Republic, a conception that Kaczynski tried to implement during his premiership, and the parallel presidency of his, now tragically deceased, brother Lech, between 2006 and 2007.

The Law and Justice party’s 4th Republic program diagnoses the fallen condition of Poland today as “post-communism”, but the term in the 4th Republic vocabulary designates not mere temporal succession but rather the persistence of “communism” – not as an ideology but as a specific condition of “injustice” (consisting largely in the fact that accounts with “communism” had not been settled and many former decadents continue in positions of economic, and putatively also political, power) – at the very core of the new democratic polity. As a cure (the program is redolent of metaphors of disease and pollution), the program calls for a total rejection of the 3rd Republic, “warped” through its negotiated “continuity” with communist People’s Poland, and for a “fundamental reconstruction of the state”, including the restoration of a “moral dimension” to the state’s economic and social policies that would provide “justice for everyone” (the title of the Law

²⁹The Honorable Maciej Plazynski, personal conversation, Gdansk, Poland, June 22, 2008.

and Justice program is *The 4th Republic – Justice for Everyone*).³⁰ It is a program for a continuing “moral revolution” that presumably picks up where “Solidarity” – not the “Solidarity” of the late 1980s, “compromised” by its Round Table “deal” with the communists, but the so-called “Fighting Solidarity” (Pol. *Solidarnosc Walczaca*) of the martial law years – left off. To achieve its vision of a “just state”, the program calls for two “parallel”, “coordinated” actions: a “cleansing” of the state (“getting rid of the inheritance of the PRL [communist Poland] and destruction of the networks that arose from its soil”) and its “consolidation” and “strengthening”.³¹

In “Four Master Tropes”, Burke connects irony to the problematic of law and justice. Irony, Burke argues, “approached through either drama or dialectic, moves us into the area of ‘law’ and ‘justice’”.³² That is because, to simplify Burke’s argument, since things inevitably will change, often if not always, into their opposite, “the developments that led to the rise will”, by an “ironic” bent, “by the further course of their development, ‘inevitably’ lead to the fall”.³³ The point, however, “at which different casuistries appear”, Burke notes, “is the point where one tries to decide exactly what new characters born of a given prior character, will be the ‘inevitable’ vessel of the prior character’s deposition”.³⁴

Translated into the terms of the Polish post-1989 debates this means: which of the visions of Poland that emerged post-1989 – the post-Round Table 3rd Republic or Kaczynski’s 4th Republic – is the proper “vessel” of the demise of communist Poland and the deposition of the historical continuity of the Polish democratic identity? Each of these visions in effect sees its rival as in some sense an (ironic) “continuation” of the communist past.

Critics of the 3rd Republic maintain that, under the general terms of liberal democracy, it in effect harbours the power elites, if not more or less clandestine structures of power and privilege, inherited from the previous dispensation. Critics of the 4th Republic point to the authoritarian and centralising bent of the Law and Justice party, with its cult of the Leader, insistence of ideological purity, almost “religious” sense of historical mission, the uncompromising “totality” of its vision of the “just state”, and practical reliance (demonstrated during its possession of the reins of government between 2006 and 2007) on surveillance, libel, and enforcement, as reminiscent of the prior system (which is why two journalists titled a book on the ideology and practice of the 4th Republic *Big Brother’s Shadow*).³⁵

As a result, unlike in some other post-totalitarian contexts, in the

³⁰ Prawo i Sprawiedliwosc, *Program 2005: IV Rzeczpospolita – Sprawiedliwosc dla Wszystkich*, (Warszawa: Komitet Wyborczy Prawo i Sprawiedliwosc, 2005): 6.

³¹ Prawo i Sprawiedliwosc, *Program 2005*, 12.

³² Burke, *A Grammar of Motives*, 516.

³³ *Ibid.* 517.

³⁴ *Ibid.* 517.

³⁵ Janicki and Wladyka, *Cien Wielkiego Brata*.

case of post-1989 Poland it is not the relationship between truth and justice that seems central to the sense of justice of the new democracy but the relationship between justice and freedom. In the liberal democratic 3rd Republic freedom prevails while justice remains incomplete;³⁶ on the other hand, in the “just state” represented by the 4th Republic, the case for justice in effect curtails freedom. Whichever vision ultimately wins out, it seems that Big Brother’s shadow is bound to continue to haunt the Polish post-1989 political imagination for a while yet.

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³⁶ Adam Michnik, one of the chief architects and opinion makers of the Polish 3rd Republic, reviled in Wildstein’s book and in 4th republic propaganda (not without anti-Semitic overtones) as a traitor to the cause of revolution, suggested during the conference “Reflections on the Transition to Democracy” convened in Managua in 1994 that during political transitions the logic of peace must transcend the logic of justice (since “justice may call for the guillotine”) even though compromise may appear to imply abandonment of justice (http://www.pjtt.org/assets/pdf/project_reports_pdf/LA/NICARAGUA%2094.pdf, 3).