Introduction: Memory, Democracy, and Justice in Post-Communism

Transitional justice has attracted increased attention since the term was first used during the 1970s to describe state and society efforts to come to terms with past human rights abuses. After the collapse of the communist regimes in 1989, Eastern Europe joined the growing number of regions interested in reckoning with their recent dictatorial past in judicial and nonjudicial ways, adopting methods tested in other corners of the world (such as court trials, reforms of the state security sector, the rewriting of history books, and the construction of new public symbols, including statues and memorials) and expanding the repertoire of solutions by devising new methods (most importantly, lustration, the governmental ban on communist decision makers from holding positions of power and responsibility in the new democracy, and access for ordinary citizens to the secret files compiled on them by the political police). When it comes to Eastern Europe, specific transitional justice methods (lustration and court proceedings), countries (especially Germany, Poland, Hungary, and the Czech and Slovak Republics, which have engaged in more sustained efforts to reckon with the past), and themes (e.g., the reasons why some post-dictatorial governments opted for “forgiving and forgetting,” whereas others “prosecuted and punished”) have been closely examined. This fine literature serves as a good starting point for any research on transitional justice in the

1 For example, the Transitional Justice Data Base, which lists English-language references, includes fourteen titles for Czechoslovakia, eleven for Hungary, and twelve for Poland, but only five for Romania, one on Albania, and one for Bulgaria. Fourteen of these titles deal with lustration. The International Internet Bibliography on Transitional Justice, which mentions both English and German sources, lists nineteen titles for the Czech Republic, eighteen for Poland, nine for Hungary, and three for Bulgaria. It includes no references for Albania, Romania, and Slovakia. Although incomplete, these databases illustrate the quantitative, if not qualitative, disparity within the literature. See Transitional Justice Data Base, available at: https://sites.google.com/site/transitionaljusticedatabase/transitional-justice-bibliography/europe-and-the-former-soviet-union (accessed on 24 August 2011), and Gunnar Theissen, International Internet Bibliography on Transitional Justice (27 January 2000), available at: http://userpage.fu-berlin.de/theissen/biblio/ (accessed on 24 August 2011).
region. Nevertheless, additional important theoretically driven questions remain unanswered.

These questions can be divided into two distinct sets. The first relates to the relationship between transitional justice and post-communist democratization, especially in countries where the process has paralleled European Union (EU) accession, as was the case in Central and Eastern Europe. Do transitional justice projects impede or promote post-totalitarian democratization? Do some transitional justice methods contribute to trust, the rule of law, and the break with the dictatorial past more than others? Did EU accession help or stifle the politics of memory in post-communist times? Does accession explain why transitional justice unexpectedly took center stage a decade after the region underwent a radical regime change? Does late reckoning with the past signal democratic consolidation or democratic malaise? As Ruti Teitel contended, punishment of former perpetrators is often justified as a democratic requirement, because trials provide victims with legal redress, unveil the truth about the past, may reconcile victims and victimizers, and restore trust in the judiciary.\(^2\) Transitional justice can facilitate democracy, but the effects are delayed, appearing only a decade after the regime change takes place.\(^3\) The dominant assumption is that trust – a core democratic feature – is positively correlated to transitional justice, as Eastern European and Baltic countries that addressed the past became democratic sooner than former Soviet republics that chose to forgive and forget communist human rights abuses. Nevertheless, lustration breeds distrust in new democracies on the part of those affected by it and truth commissions seem inimical to democracy because of their inability to bring perpetrators to justice, while the relationship of other transitional justice methods with trust remains theoretically and empirically contentious.\(^4\) The EU has played a minor role in redressing the communist past by allocating small funds to education and memorialization projects, but the aid has remained modest, coming through only fifteen years after the region took its first steps toward revisiting the past.\(^5\)

The second set of questions relates to the sequencing, nature, and goals of transitional justice programs. Does the order in which transitional justice methods are enacted matter in any way? Does the adoption of some methods (e.g., access to secret files) facilitate or preclude the use of others (such as truth commissions)? Do...

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specific judicial and nonjudicial methods complement or undermine each other? Is there a temporal “window of opportunity” beyond which efforts to work through the past are rendered severely crippled or meaningless for victims and societies at large? In which ways have competing pasts shaped transitional justice programs after 1989? Why have these programs emphasized truth and justice far more than reconciliation? Why does radical lustration remain unpopular in countries that need it the most? Why has a key transitional justice method such as the truth commission been generally overlooked in Eastern Europe, and why have commissions in that part of the world been mostly academic in nature, emphasizing truth but almost never reconciliation? Comparative multi-country analyses suggest that trials, truth commissions, amnesties, lustration, and reparations are implemented, on average, within the first six years after the regime change. The finding supports Helga Welsh’s “window of opportunity” thesis, which argues that transitional justice can be pursued successfully only immediately after the regime change, but many post-communist countries have implemented transitional justice well beyond this limited timeframe. Indeed, the Romanian truth commission was created in 2006, in Central Europe and the Baltic states trials of Soviet perpetrators have extended well into the 2000s, and Poland, Romania, and Serbia enacted late lustration after 2003. There is some evidence that “transitional democracies sequence their mechanisms by adopting amnesties first, trials later, and restorative justice mechanisms many years after the transition,” but the literature remains silent on whether the adoption of some methods precludes the enactment of others and whether facing competing pasts influences the speed, scope, and outcome of specific programs.

This volume seeks to answer some of these interrelated questions by looking closely at Romania, a purportedly marginal country that remains understudied, although it exemplifies the region’s middle road of adopting a moderate transitional justice program – more sustained and substantive than in most former Soviet republics, but less so than in Central Europe. To some, the choice of a country study, rather than a multi-country comparison, unnecessarily privileges description over theory building, but I argue that this shortcoming is only superficial. Given the differences in the nature of the past regimes that need to be addressed, the type of regime change, the varying post-communist political and economic conditions, the adopted transitional justice methods, and the order in which they were implemented, few post-communist countries are truly comparable. A study accounting for all these differences in a handful of countries would go beyond a single volume,

8 Olsen et al., Transitional Justice in Balance, 107.
Transitional Justice in Post-Communist Romania

whereas one including all or most countries of the region would gloss over important details, operate simplifications, or risk making mistakes in data collection and interpretation. A country study allows comparisons among social segments and local communities that reveal differences between victims, victimizers, and bystanders; contrasts in time that address the problem of sequencing; and rich contextualization that explains which state, non-state, domestic, and international actors have shaped the politics of memory and which specific memory projects have facilitated the rule of law, observance of human rights, and liberal democracy more generally. As a comparative politics specialist, I remain convinced that case studies represent key building blocks of theory development.

The volume is organized thematically, investigating each method separately as a facet of a larger, more ambitious program, instead of chronologically, as a narrative account of different actors, initiatives, policies, and outcomes. To help readers navigate the material, the volume includes a time line of transitional justice efforts (see Chapter 10, Table 10.1), but the analysis reconstructs, evaluates, and compares the different methods as distinct efforts designed to reckon with specific legacies of the recent past. The interactions, overlap, and synergy between various methods are duly recognized, and the methods are compared both among themselves and with similar programs enacted in other post-communist countries. Such a thematic approach necessarily relies on a selective reading of the numerous Romanian actors, factors, and events relevant for this volume’s topic. As such, for reasons of space, some names and events of secondary importance are not mentioned here—a limitation this analysis duly acknowledges. Note that names, places, and events are invoked to construct and illustrate larger theoretical arguments, not to rank specific victims and victimizers or to recognize some as being more deserving or guiltier than others.

More importantly, this is a volume about post-communist efforts to reckon with the communist past, not one that delves in great detail into the pre-1989 human rights abuses that various transitional justice methods have tried to rectify. As such, the book is concerned with the political negotiations and state–civil society interactions centered on addressing and redressing the past, more than with establishing which communist actors were responsible for which crimes and human rights infringements against which specific victims at which particular moments in time. The book therefore should be read as a political science case study of post-communist policies and initiatives, not as a history of the communist institutions and the overwhelming array of military, bureaucratic, police, and secret police resources that successive communist leaders have pulled together to organize murder, engage in mass surveillance, or inflict injustice. True, the following paragraphs sketch in very broad strokes the human rights violations in need of redress, showing that the history of the Romanian communist regime amounted to another “tale of unrequited
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injustice,"⁹ but readers are invited to supplement these presentations with information drawn from the growing literature on Romanian communism, which includes scholarly studies, memoirs of former victims, and books of interviews with former communist officials and Securitate agents.¹⁰

Finally, my theoretical perspective draws on transitional justice more than memory studies, and in doing so privileges the relationship between state and civil society actors and the responsibility of the post-communist state in overcoming the repressive past over the way in which individual, collective, or social memories have been reconstructed and reshaped since the collapse of communism. True, 1989 opened the “floodgates of memory” and resulted in a “cavalcade of stories of victimization” during communist times, as historian Maria Bucur reminded us, and it is important to record these truth-telling initiatives.¹¹ Equally true is that some memory scholars


have noted that “memory matters politically” for attempts to legitimate current regimes and that “the power of memory” is related to “the memory of power” in “contentions over interpretations of historical experiences between official history and social memory,” “the appropriation of these interpretations for political action, critique and consent,” and “the formation of political subjects through remembering and forgetting.” Nevertheless, memory studies limit the discussion in two important ways. First, memory relates directly to only a subset of the methods and practices that legal scholars and political scientists recognize as part of transitional justice — that is, to the so-called backward-looking, not the forward-looking, processes, to use Claus Offe’s terminology. Indeed, memory is tied to commemoration rituals that periodically re-actualize past events and underscore their importance for what Helga Welsh termed “the politics of the present,” but not so much to lustration, which, through its capacity to cleanse the political elite of tainted elements, is related to the future as much as to the past. Second, only some memories that the population at large employs, individually and collectively, to commemorate victims of state-perpetrated violence are echoed in political debates about guilt and moral responsibility. A catalog of memories, even complete and updated, might tell us little about state efforts to redress past human rights transgressions and the instrumentalization of that past by political actors, whereas transitional justice studies place these questions at the core of the analysis. Jeffrey Olick recognized the limitation of memory studies, which examine memory as individual and collective, social and political, mythic and oppositional, official and vernacular often without making clear distinctions among these terms, when he proposed an “integrated paradigm” to evaluate the impact of the social on what he pertinently called “collected,” instead of “collective,” memory.

The Repressive Communist Past

The history of Romanian communism (1945–1989), as it emerges from the works published to date, echoes Eva Hoffman’s prescient observation that Romania’s most serious problem is “the shortage of a usable past,” because the past has represented...
“a negative capital, an almost pure deficit”\(^\text{17}\) – a handicap, more than an asset – in the quest for democratization. Romania’s history, Hoffman further noted, is marked “by discontinuity more than continuities, by oppression more than by independence, by various forms of authoritarianism more than by liberalism.”\(^\text{18}\) The communist period was no exception, as the regime employed a combination of many sticks and few carrots to maintain its unchallenged control over the country. Stalinism was an ideology “for all seasons,” as Vladimir Tismaneanu suggested,\(^\text{19}\) but there were perceptible differences in the way it informed the political game over the years. During the early decades of communism (1945–1964), leader Gheorghe Gheorghiu-Dej, the Communist Party, and their insidious secret political police, the Securitate, engaged in systematic campaigns of human rights infringements that often involved murder, terror, and deportation. After Nicolae Ceaușescu took over the leadership of the party-state in 1965 and instituted his dynastic “socialism in one family,” as the only sultanist-cum-totalitarian regime in Europe was jokingly called,\(^\text{20}\) outward terror gave way to more subtle repression exerted through a mass surveillance program that targeted dissenters, opponents, and apolitical citizens alike. As fewer people were thrown into prisons for refusing to obey the regime, the number of individuals placed under constant surveillance increased, more people were co-opted into the party-state structures, which themselves grew in number over time, and larger social segments became dependent on the regime for their livelihood and social advancement. During the 1980s, as the economic situation became extremely dire and living standards plummeted to European lows, human rights abuses somewhat faded in the background and Romanians became concerned primarily with their economic survival. The country’s increased autarchy and isolation on the international scene, the ubiquitous and insidious secret informers, and the ever depleted reserves of interpersonal trust and social capital meant that Romania had a very weak civil society unable to oppose the communist regime and provide a voice to its critics. Citizens survived by keeping silent, accepting manifold compromises, negating their basic moral principles, turning a blind eye to injustice inflicted on relatives, neighbors, and friends, downgrading their life expectations, living parallel solitudes that often


\(^\text{18}\) Idem, 293.


drew little support from within and outside their immediate family, and even silently rejoicing when their enemies and rivals got in trouble with the authorities.

To its many victims, the psychological repression of Ceaușescu’s late communism and its Orwellian paraphernalia felt as stifling and oppressive as the outward terror of Gheorghiu-Dej’s early communism, although fewer of the human rights abuses perpetrated by the Ceaușescu regime qualified as crimes indictable in courts of law. Regardless of whether the victim’s worst fear was to be thrown in prison or to be confined into the psychiatric ward, the struggle between the individual and the state was a very unequal battle, as there was “very little justice to be had when the state decides on a policy of violence against its own citizens,” as Noel Calhoun contended.\(^\text{21}\) The all-powerful state, whose daily presence was aggrandized by rumors, insinuations, half-truths, threats, and even jokes spread by secret agents drawn from all walks of life, was able to “close off nearly all channels of assistance, leaving citizens with nowhere to turn: the police and courts are in the grip of the hostile state; the press will not risk printing their stories; even friends and neighbors may be reluctant to get involved.” In short, “by mobilizing the full armory of violence and terror,” the state was able to render victims “utterly powerless” and to ensure “not only its impunity, but the secrecy of its crimes as well.”\(^\text{22}\)

The number of people who became victims of communist repression from 1945 to 1989 remains subject of controversy, and the mere body count is compounded by the difficulty of measuring its magnitude and impact. An enumeration of fatalities may create a misleading picture, as communist terror was greater than the sum of its casualties or the tally of its perpetrators. To a certain extent, suffering was a personal journey to hell, a lonely experience whose full dimensions cannot be described to or comprehended by non-victims. Citizens of democracies can never grasp the multiple shades of utter fear that paralyzed those arrested during the 1950s, sometimes with a knock on the door in the middle of the night, with helpless children witnessing their horror and humiliation. Even Eastern European bystanders, who neither cooperated with the authorities nor fell victims to their repression campaigns, had a hard time accepting the innocence of those unjustly thrown into communist prisons, although they themselves had to navigate the multitude of limitations that the regime imposed on a daily basis. As Timothy Snyder reminds us, total rounded figures computed for those who were arrested, imprisoned, murdered, persecuted, harassed, disappeared, exiled, humiliated, or simply prohibited to live a normal life desensitize the reader and hide the fact that each one of those lives was shattered and remained an unfulfilled promise.\(^\text{23}\) Neither do tallies of perpetrators – those who


\(^{22}\) Idem.

committed human rights abuses with their fist, club, pen, or word – offer a more complete picture of how repression ubiquitously seeped into personal lives, divided families, eroded local communities, and fractured society.

At the center of communist repression was the political police, the specialized arm of the hegemonic Communist Party, to which it reported and which it obeyed. In 1989, the Securitate employed 15,087 secret officers (popularly known as securistiti), 507,003 informers (informatori) not belonging to the Communist Party, and an unknown number of collaborators (colaboratori) drawn from party ranks, in a total population of 21.5 million.\(^4\) That same year, the Stasi employed 102,000 full-time officers and 174,000 part-time informers (known as inoffizielle Mitarbeiter, unofficial collaborators) in East Germany, a country of 16.7 million inhabitants.\(^5\) Although the Securitate and the Stasi were the largest state agencies in their respective countries, at least 3.4 percent of adult Romanians and only 2.5 percent of adult East Germans collaborated with the communist secret political police that was responsible for the vast majority of politically motivated human rights abuses perpetrated by the communist state. These small percentages fail to convey the full force of the dreaded political police and its secret agents, their enlarged presence in the citizens’ daily lives, and the morbid fear they inspired. Neither can they reflect the peculiar nature of party dictatorship, which maintained a specialized division of labor that allowed secret agents who worked as one in a mass to feel few scruples and little responsibility for their decisions. Their willingness to play along with the Securitate with hardly any reservations explains why after 1989 most secret agents claimed that their actions were benign.

Among the victims of Romanian communism were the 600,000 political prisoners of 1948–1964 and the 81,000 political prisoners of 1945–1948 and 1965–1989, including the 80,000 peasants arrested in 1945–1952 for opposing collectivization. Some 30,000 of these peasants were sentenced to jail time in trials open to the public.\(^6\) Around 200,000 other “enemies of the state” were deported to Bărăgan and Dobrogea from 1949 to 1962.\(^7\) During the Black Night of 18 June 1951, 44,000 residents of the Banat and Mehedinti regions were relocated to Bărăgan, where 2,000

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\(^7\) Comisia Prezidențială pentru Analiza Dictaturii Comuniste din România, *Raport Final*, 161. Historians like Andrei Pippidi consider these figures inflated.
of them lost their lives as a result of harsh living conditions. Add 1.1 million people secretly monitored and 507,003 individuals recruited as secret informers throughout the communist period. Some secret informers were children as young as nine, who were compelled to provide information on their playmates, parents, relatives, and neighbors at an age when they could hardly understand the world surrounding them and the difference between good and evil. Armed resistance centered on the Nucsoara group, which the Securitate apprehended in 1958.

Stalinist repression went down in history for the Pitești reeducation experiment, which used brutality and torture to turn prisoners into new people apt to form the bedrock of the new communist state. Between 1949 and 1952, young political prisoners jailed in the Pitești prison were terrorized and cruelly beaten, compelled to confess real and imaginary crimes against the state, brainwashed, and reeducated to betray their friends and publicly abjure their families. The tortured were turned into torturers, ready to apply to others the coarse methods of extreme physical degradation, constant psychological pressure, and personal alienation from the deepest emotional ties they themselves endured. This last step, meant to prove the prisoner’s full transfiguration into the new person, ensured that distrust among reeducation victims would render unlikely cooperation between them in the event of an uprising. According to former participants, at that stage the tortured contemplated suicide, a “luxury” they were denied.

Religious denominations were hard-hit by communist persecution campaigns. Initially, the majority Orthodox Church was targeted for repression by an atheist regime bent on curbing religiosity and weakening the Church’s considerable social base. Many Orthodox clergymen and faithful were arrested and imprisoned – often for the support they had provided to the interwar Iron Guard – nuns and monks were forced to leave the monasteries, seminaries and theological schools were closed, and

Not all the crimes of the communist period were directly attributable to the Romanian authorities. At the end of World War II the invading Soviet troops captured 100,000 “prisoners” in Iași, and forcefully deported 150,000 ethnic Germans from Romania. Comisia Prezidențială pentru Analiza Dictaturii Comuniste din România, Raport Final, 161.