

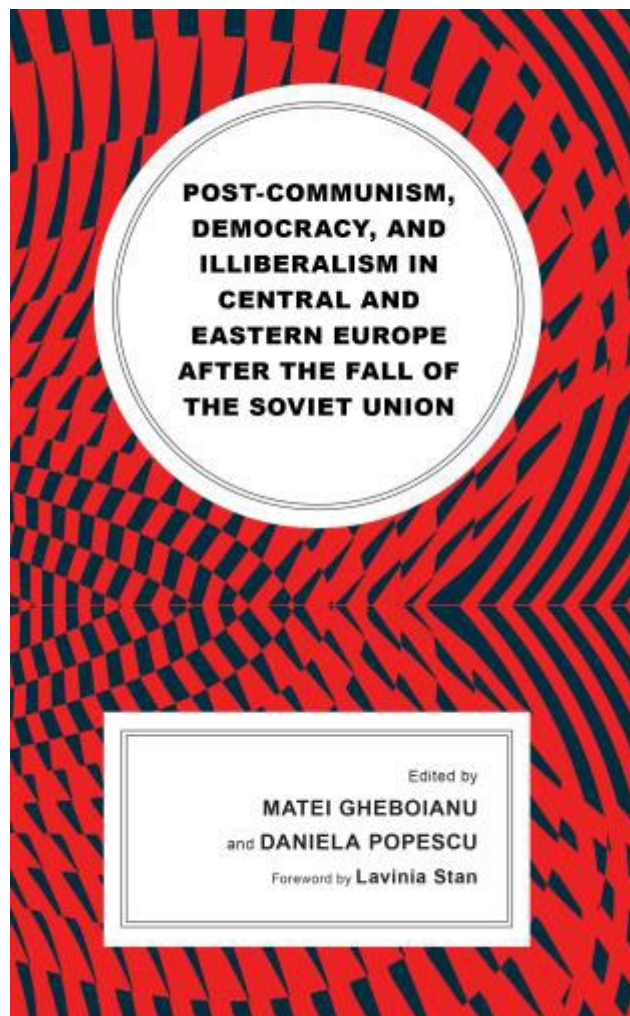
Krzysztof Brzechczyn*

**Transformation, Post-communism, and the Deficiencies of Liberal
Democracy in Poland: A Case Study**

To be published in:

Matei Gheboianu, Daniela Popescu (eds.) *Post-communism, Democracy, and Illiberalism in Central and Eastern Europe after the Fall of the Soviet Union*. Lanham/Boulder/New York/London: Lexington Books, pp. 171-186.

[Post-communism, Democracy, and Illiberalism in Central and Eastern Europe after the fall of the Soviet Union - 9781666953794 \(rowman.com\)](https://www.rowman.com/9781666953794)



* This paper was prepared as part of the Branch Research Project of the Institute of National Remembrance in Poznań: *The Methodological and Theoretical Problems of Research on the Current History of Poland*. Krzysztof Brzechczyn is a researcher at Institute of National Remembrance, Poznań Branch & Adam Mickiewicz University Poznań, Poland.

The political transformation which took place in Poland in 1988–1991 resulted from a compromise between the leadership of the Polish United Workers' Party (Polska Zjednoczona Partia Robotnicza, abbreviated to PZPR) and the “Solidarity” movement led by Lech Wałęsa. In this way, the party apparatus of the PZPR, together with the central social circles of the communist state (of the Ministry of Internal Affairs, Ministry of Justice, Ministry of Finance, etc.) ensured their influence on the course and pace of the process of transformation, which had a big impact on the quality of the liberal democracy introduced in Poland. In the second section, I portray the course of the transformation, which ended in the division of the political opposition into constructive and non-constructive parts. In the third section, I discuss the processes of the “enfranchisement of the nomenklatura”, interpreting them with the use of the conceptual framework of non-Marxian historical materialism, as the creation of a class of oligarchic owners related to the state apparatus. For these processes to be complete, the personal composition of the state apparatus had to stabilize, lustration had to be blocked, and there had to be no personal verification of state power ministries (like the Ministry of Internal Affairs or the Ministry of National Defence). Although the 1989 changes entailed the introduction of the rule of law and of liberal democracy, this democracy was incomplete from the very start. In section four, I analyse one of the reasons for the deficiency of liberal democracy in Poland, namely, its façade nature. Lastly, I present some features of emerging Polish capitalism in the context of a global perspective. **[the end of page 171]**

The course of the transformation

In 1988, seven years after the introduction of martial law in Poland, pressured by two waves of strikes – first, at the end of April and the beginning of May, and second, in August of that year – Lech Wałęsa, the chairman of the Independent Self-Governing Trade Union “Solidarity” (Niezależny Samorządny Związek Zawodowy “Solidarność”, NSZZ “Solidarność”), met with Czesław Kiszczak, the Minister of Internal Affairs. That meeting resulted in a period of negotiation which led in 1989 to Round Table discussions (at the beginning of February) and agreement (in April). Within the framework of the compromise, the two sides agreed to hold partially-free and non-confrontational parliamentary elections, with 65% of the seats in the lower chamber (the Sejm) reserved for the PZPR and its satellite parties: The Democratic Party (Stronnictwo Demokratyczne) and the United Peasants' Party (Zjednoczone Stronnictwo Ludowe). The remaining 35% of the seats in the Sejm were to be democratically elected. In addition, 35 seats were to be elected via the country-wide candidate list of the Polish United Workers' Party, with no possibility of runoffs. The term of office of

the newly elected Parliament was four years. Another institution guaranteeing the continuity of the state system was the newly established office of president with extensive powers: namely, the power of veto, exercising the function of the commander-in-chief of the armed forces, presiding over the Committee of National Defence, and appointing the director of the National Bank of Poland. The president could also dissolve the Parliament, if the Sejm failed to pass the budget law within three months, failed to appoint the Cabinet, or passed any law threatening the president's constitutional prerogatives. The president was to be elected by the National Assembly for a six-year term of office. On 17 April 1989, the Independent Self-Governing Trade Union "Solidarity" was officially re-legalized by the Warsaw Voivodeship Court; however, the statute of the union was supplemented with an accessory contract which limited its right to strike on the basis of the law of 1982 on trade unions.

During the election of 4 June 1989, the Solidarity candidates won 160 out of 161 possible seats in the Sejm and 92 seats in the Senate. Out of the 35 seats on the country-wide list, only two were gained by the government.

Despite its landslide electoral victory, Solidarity continued its compromise strategy, the main elements of which included:

- allowing the amendment of the electoral regulations during the campaign, so that the government side could enter 33 country-wide list candidates to the parliament,
- allowing the election of Wojciech Jaruzelski for the office of president of the Republic of Poland, **[the end of page 172]**
- allowing the Polish United Workers' Party to take over the ministries of Defence, Internal Affairs, International Economic Cooperation, and Transport and Communications in Tadeusz Mazowiecki's cabinet, and
- allowing the nomination of a candidate of the PZPR for the office of director of the National Bank of Poland.

In July 1989, the Council of Ministers changed the organizational status of the Ministry of Internal Affairs and granted the minister of internal affairs the right to reorganize the Ministry internally without the need to consult the prime minister. At the end of 1989, 24,000 functionaries worked in the Security Service of the Ministry of Internal Affairs. Following the reorganization – after the Security Service functionaries had been transferred to the Citizens' Militia – that number fell down to 14,000 people. The prime minister delayed his appointment of the undersecretaries of state in the state power ministries for over six months. On 7 March 1990, Krzysztof Kozłowski became the undersecretary in the Ministry of Internal Affairs, followed by Bronisław Komorowski and Janusz Onyszkiewicz in the Ministry of

Defence on 3 April. In April 1990, the Security Service was dissolved and replaced by the Office for State Protection. 10,000 functionaries were positively verified in 1990.¹

That evolutionary transformation, with gradual political changes, led to internal divisions inside the political opposition.² Before the beginning of the Round Table negotiations, the opposition divided itself into so-called constructive and unconstructive parts. The criterion of the division was their attitude towards the political compromise with the communists and towards the manner of the introduction of the changes. The constructive part of the opposition supported the Round Table Agreement (Lech Wałęsa, The National Executive Commission of the Independent Self-Governing Trade Union “Solidarity”, the Citizens’ Committee, etc.). The unconstructive part had its roots in the Working Group of the National Commission of the Independent Self-Governing Trade Union “Solidarity” (Grupa Robocza Komisji Krajowej NSZZ “Solidarność”), which was created in 1987 and which criticized Wałęsa’s authoritarian management and the fact that the unions no longer actively protected working people’s standard of living. The group was composed of all Wałęsa’s opponents in the elections for the chair of the National Committee which took place during the 1st National Congress of Solidarity in 1981: Andrzej Gwiazda, Marian Jurczyk, and Jan Rulewski, together with members of the National Committee chosen during the convention of 1981. The largest structure of the nonconstructive opposition was the Fighting Solidarity Organization (Organizacja Solidarność Walcząca) founded in 1982 by Kornel Morawiecki who, for moral and substantive reasons, rejected the very idea of negotiating with communists. **[the end of page 173]**

However, during the process of transformation both the principal orientations were divided into smaller subdivisions. The constructive orientation of the opposition was at first dominated by its evolutionist faction, the proponents of which (principally Tadeusz Mazowiecki, Bronisław Geremek, and Jacek Kuroń) propagated the view that the content of the Round Table Agreement should be binding, regardless of changing internal circumstances, such as the dissolution of the Polish United Workers’ Party in January 1990, or of changing external circumstances, such as the fall of the dictatorships in Central and Eastern Europe in the fall of 1989 or the dissolution of the Union of Soviet Socialist Republics in 1991. This meant that Jaruzelski was to be the president, elected for six years (until 1995), and that the Parliament, elected in undemocratic elections, was to serve its whole term, until 1993. The institutional embodiment of the evolutionist faction was the Citizens’ Movement for Democratic Action (Ruch Obywatelski Akcja Demokratyczna) established in July 1990, superseded first by the Democratic Union (Unia Demokratyczna, 1990–1994) and then by the

Freedom Union (Unia Wolności, 1994–2005) created by way of a merger of the Democratic Union and the Liberal Democratic Congress (Kongres Liberalno-Demokratyczny).

When the geopolitical situation changed at the end of 1989 and the beginning of 1990, the concept of acceleration crystallized. Its main proponents were Jarosław Kaczyński and Lech Kaczyński. For them, the Round Table Agreement was merely a necessary condition for a peaceful exit from communism. The political system negotiated was treated as transitional, which meant that a political acceleration should take place as soon as possible, in the form of new presidential elections, free elections to the Sejm, the dissolution of the institutions that had supported the communist dictatorship (censorship, the Security Services), and lustration. That faction was represented chiefly by the Centre Agreement (Porozumienie Centrum) established in May 1990. Wałęsa initially supported the evolutionist faction of the constructive opposition. However, in the middle of 1990, he backed the proponents of acceleration, in return for their endorsement of his candidacy in the presidential elections.

As regards the unconstructive opposition, we may also distinguish two factions: fundamentalist and pragmatic. The fundamentalist faction included the Fighting Solidarity organization, the “Independence” Liberal-Democratic Party (Liberalno-Demokratyczna Partia “Niepodległość”), the Freedom Party (Partia Wolności), the Polish Independence Party (Polska Partia Niepodległościowa), and the Movement of the Alternative Society (Ruch Społeczeństwa Alternatywnego). Their common denominator was calling for a boycott of the 4 June 1989 elections. During the transformation, those groups postulated free elections, decommunization and lustration, removing [the end of page 174] the Soviet army from Poland, and supporting the independence processes in the Union of Soviet Socialist Republics.

Between the proponents of acceleration in the constructive opposition and the fundamentalist faction of the unconstructive opposition, there were activists and social circles who questioned some aspects of the compromise rather than the very idea of it. They disputed the selection of the representatives of Solidarity, the negotiation method, the results achieved in certain areas (for example, the status of scouting), or the selection of the candidates of the Solidarity opposition for membership of the Sejm and Senate in 1989. The pragmatic faction of the unconstructive opposition was not fully institutionalized; its changing ranks included mainly the Catholic advisors of Solidarity, for example, Władysław Siła-Nowicki, Jan Olszewski, and Bronisław Komorowski. It also included the Confederation of Independent Poland (Konfederacja Polski Niepodległej), which did not participate in the Round Table negotiations, but did put up candidates in the June elections.

Post-communism. The anatomy of the system

In this section I would like to interpret the emerging post-communist system using the conceptual apparatus of non-Marxian historical materialism.³ In this approach, particular areas of human activity, namely politics, culture, and economy, are assumed to have the same internal structure. In each of them, there are certain material social means: the means of production in economy, the means of indoctrination in culture, and the means of coercion in politics. Society is divided into two social classes based on the relation to those material social means: the disposers and the non-disposers of them. The social minority which has at its disposal a particular type of material social means (the means of coercion, production, or indoctrination) decides on how they will be used. The social majority does not have such influence. Therefore, in the respective areas of human activity, there emerged a conflict of interest between the minority groups and the majority groups (between the priests and the indoctrinated in culture, the owners and the direct producers in economy, and the rulers and the citizens in politics). It is in the priests' interest to increase their spiritual authority at the cost of the followers' spiritual autonomy, in the owners' interest to increase profits at the cost of the incomes available to the direct producers, and in the rulers' interest to increase power regulation at the cost of the citizens' political autonomy.

The abovementioned divisions may accumulate, and one social class can have at its disposal the means of coercion, production, and indoctrination at the same time. One example of such a system is communism, in which the **[the end of page 175]** party-state apparatus formed the class of triple-lords which controlled the means of coercion, production, and mass communication.

Democratic capitalism, on the other hand, could be interpreted as a class-balanced society consisting of the rulers' class, the owners' class, and the (secular and religious) priests' class. Each of those classes has a similar social influence and is able to realize its social interests without the support of the other dominant ("higher") social classes. Social conflicts between the rulers and the citizens, the owners and the direct producers, and the priests and the followers are solved by way of compromises and concessions made by the higher classes to the lower ones. Moreover, the state of social peace is strengthened by vertical class alliances: a class which is dominant in one domain of social life offers support to a class which is dominated in a different domain.

For example, the rulers intervene in economic life and support the direct producers in their conflict with the owners, in this way contributing to social peace in economy. The owners, on the other hand, counterbalance the rulers' advantage over the citizens by helping the latter class to limit the power of the former, bolstering social peace in politics. Social peace in both realms, political and social, in turn, facilitates social peace between the priests and the followers. Peace in that realm is conditional upon the dispersion of the disposal of the means of indoctrination, which ensures a pluralism of world views and ideologies.

It can be assumed that democratic capitalism is an empirical approximation of a class-balanced society. In that form of government, everyone has the right to free elections, the creation of political parties, private property, the creation of trade unions, and freedom of belief, speech, and religion. That fragile social balance can be disturbed by a "horizontal" direction of social alliances formed not by a dominant and a dominated social class, as is the case in a class-balanced society, but between dominant classes. This social phenomenon is called oligarchization and it is possible to distinguish its different variants.

For example, in economic-political oligarchization, the owners reach for political support for their interests. That support can be given in various forms. The rulers can limit the role of trade unions, regulate the relationships between employers and employees, lower the costs of production (tax exemptions), or secure the realization of extraordinary profits (concessions, public procurements). The rulers may use the owners' material resources to weaken the control exerted over their own class by civil society. For instance, as the high costs of running a political campaign can only be covered by political parties with sufficient financial means, new political parties are at a significant disadvantage in their competition with the established ones. That restricts the political market to a limited choice of candidates.

[the end of page 176]

Economic-political oligarchization also has a negative influence on doctrinal and world-view pluralism. The rulers set the fees for radio and television broadcast licences and for the use of the ascribed frequencies. Big business (together with state enterprises) decides where advertisements will be placed, which determines the profitability of particular media outlets.

In the light of the assumed theory, we might venture to advance the thesis that in the social system which emerged in the transformation process, the formal and informal relations between the owners, the media owners, and the political class were preserved. Nevertheless, the differences between the new social system and both the triple rule system (communism)

and the balanced class system (democratic capitalism) are big enough to warrant naming that new system “post-communism”.⁴

The core of the new system was the creation of private property thanks to the influence held in the state apparatus. The processes which can be interpreted in the categories of the oligarchization of social life began as early as 1987, when the law on state companies was amended, allowing the formation of state partnerships with natural persons. In 1989, the law on the financing of state companies stated that state property can be leased to legal or natural persons for business purposes. Moreover, the law on the aspects of the consolidation of state economy allowed the leasing of state property to private companies. Those laws sanctioned the earlier takeover of state property by the managers of the state apparatus. The beneficiaries of those laws were party apparatchiks at factory and supra-factory level and at various administrative levels. That process is called the “enfranchisement of the nomenklatura”, and it can be defined as “the transfer of the actual political privileges resulting from one’s position in the administrative hierarchy of the state apparatus to economic capital”.⁵ It should be added that that transfer was not necessarily illegal (although it was not in line with the general public interest) because the transferrers made use of legal loopholes and of the imperfections of the laws which introduced the free market economy to Poland.

According to Tomasz Kozłowski’s definition, a nomenklatura company was related to a state enterprise, and its shareholders were: “the executives of that enterprise and members of the party and state apparatus (or their families) bound by party, administrative, or social ties.” Nomenklatura companies were actually created and run not in order to promote entrepreneurship but to allow the company managers to take personal advantage of the enterprise’s assets. Loopholes in the economic, financial, and tax laws were consciously used to transfer those assets into private hands.”⁶ Kozłowski distinguished three models of action of nomenklatura companies: symbiosis, parasitism, and predation. Symbiosis means cooperation which is beneficial for one organism (the company) but not necessarily harmful for the state enterprise. Moreover, in the changing legal environment of the transition period, the cooperation [the end of page 177] could be beneficial for both sides because companies were allowed by the law to carry out tasks and actions forbidden to state enterprises.

As regards parasitism, it caused losses to the state enterprise when the company provided the most lucrative services and works in lieu of the enterprise. By entering into an agreement with a state-owned enterprise, the nomenklatura company took control – by way of a lease or transfer of property – of some state-owned assets: offices, warehouses, knowledge, technology lines, and so on. By operating in the same line of business as the mother company,

the nomenklatura company intercepted some of the orders, contracts, customers, and – consequently – profits of the state enterprise. In most cases, however, the nomenklatura companies only acted as parasitic intermediaries without being involved in actual manufacturing processes. In such cases, their profits were made by serving as middlemen between state-owned enterprises which previously contacted each other directly for trade purposes.

Predation consisted in the undervaluation and taking over of enterprise assets by companies.⁷ This process was possible because the main shareholders of nomenklatura companies were people connected to the state apparatus. They bought the right to dispose of state assets in return for minimal financial engagement.⁸ In a way, then, nomenklatura companies were a vehicle for transferring capital from the state sector to the private sector, by way of a mechanism which would have been impossible if the perpetrators had not had the political influence necessary to warrant the stability and security of that procedure.

The process described above became particularly widespread in 1988–1991. According to the report of the Supreme Audit Office, in the period between 1 January 1989 and 15 November 1989 alone as many as 1,539 nomenklatura companies were established. All in all, there were three thousand enterprises of this kind operating in Poland in 1989. The companies' shares were in the hands of members of the lower and middle levels of the party–state apparatus. The report confirms the claim that members of various levels in the nomenklatura participated in such enterprises on a massive scale. In the managing boards of the 1,539 nomenklatura companies studied, there were 703 top managers of factories, 304 middle-level managers, 304 accountants general, 580 company presidents, 80 PZPR officials, 57 city mayors, 9 voivodes or their deputies, and 38 directors of departments in voivodeship offices.⁹

One of the greatest financial scandals concerned the operations of the Foreign Debt Servicing Fund (Fundusz Obsługi Zadłużenia Zagranicznego, abbreviated to FOZZ) between 1989 and 1991.¹⁰ The official aim of the fund was to amass and manage the financial means to service the Polish foreign debt. The fund had considerable autonomy: it could purchase Polish and foreign stocks and bonds, hold shares in companies, and carry out financial and commercial activities in Poland and abroad. The members of the **[the end of page 178]** Supervisory Council of the fund were officials directly responsible for state finances: two deputy ministers of finance, the president and vice-president of the National Bank of Poland, a former deputy prime minister, and the director of the Foreign Department of the Ministry of Finance. During the two years of its operation, the fund received hundreds of millions of

United States dollars from the state budget to buy out Poland's debt on secondary markets. As that contravened international law and contracts with the Polish government, the fund transferred the money it received from the state budget to Western commercial banks, which ran the illegal financial operations on behalf of the fund. However, as the fund did not keep accounts properly, it is not possible to settle the money received from the government, and the promissory notes purportedly bought by the fraudsters have not been returned to the debtor, that is, the State Treasury.

The real objective of the fund was to finance the development of the nomenklatura, i.e. the sector of the Polish economy linked to the apparatus of power. In a report of the Supreme Audit Office (Najwyższa Izba Kontroli, abbreviated to NIK), a case was described in which the Foreign Debt Servicing Fund transferred large sums of money to a substitute bank in London which was to carry out financial operations on the secondary debt market on behalf of FOZZ. That bank, in turn, appointed the Polish Trade and Investment Associates company its representative, and in this way the company received a considerable amount of money to start its own operations. The report adds that “on the date of its founding, the company did not have any founding capital.”¹¹ The founding capital of that company was its shareholders' high position in the state power hierarchy (the Foreign Department of the Ministry of Finance).

Another aspect of the fund's “business” was soft lending to various nomenklatura companies. According to the report, the institutions granted interest-free loans, often deferred payment dates without charging penalty interest, and cancelled debts. At some point, the fund gave 14 loans totalling 43.4 billion (old) zlotys to seven Polish contracting parties. Only 39 billion zlotys was repaid. One form of interest-free lending was financing fictitious limited liability companies in order to provide cheap loans to debtors. Another example was transferring United States dollars abroad. For some selected business partners, the fund exchanged foreign currency into Polish zlotys for deposit in Polish banks, and then it exchanged the Polish zlotys into foreign currencies and transferred the money abroad. That was highly profitable because of a high deposit interest rate in Poland at that time (60%–70%) and the fixed US dollar rate. The total losses of the state budget due to those operations are estimated to be about 330 million (new) zlotys.¹²

The FOZZ affair has a special place in that string of corruption cases because of the scale of the operations, the at least silent approval of people **[the end of page 179]** occupying high positions in the governments of the Polish Third Republic, the role of secret collaborators and of the Security Service of the Polish People's Republic, the inefficiency of

the judicial system, and the protection by the media, which downplayed the existence of the affair or denied it outright.

The scale of the operations exceeded the standard prosecution's investigative abilities. As noted by Adam Chmielecki, in 1989 alone, the Przedsiębiorstwo Handlu Zagranicznego "Uniwersal" company, which cooperated with the Foreign Debt Servicing Fund, sent 816 people abroad on delegations which, combined, lasted 8,036 days. On February 19, 1993, the prosecutor's office brought an indictment – prepared on the basis of the report of the Supreme Audit Office – to court. The court, however, returned the indictment to the prosecutor's office with the explanation that the evaluation of losses prepared only by officials working in the Ministry of Finance was unconvincing and with a demand for the appointment of experts on accountancy, economics, and banking. That decision was upheld by the higher court. The new indictment was brought to court five years later. The trial began in 1998. In October 2001, Barbara Piwnik, the judge in the process, took up the position of the Minister of Justice in Leszek Miller's government, and the process had to begin anew. It was not possible for the new judges to acquaint themselves thoroughly with the enormous amount of documentation collected during the five years of investigation. The decision of the court of first instance was only made in March 2005. Since the trial was so long, some charges became time-barred, which gave rise to numerous appeals terminating with the June 2009 decision of the court of appeal – the court upheld the sentences of nine years imprisonment for Grzegorz Żemek, six years for Janina Chim, and, by default, two and a half years for Dariusz Przywieczerski, who had managed to leave Poland for the USA. It was those who had carried out the orders who were convicted, not those who had issued them. Needless to say, the stolen assets were never returned to the state treasury.

The deficiencies of liberal democracy in Poland

One of the determining factors in the process of the "enfranchisement of the nomenklatura" was the passive attitude of the justice system (courts, prosecutor's office). After 1989, no significant changes were made in the system, and judges compromised during the martial law period were not verified. During the Round Table talks, the National Council of the Judiciary (Krajowa Rada Sądownicza) was formed for the purpose of recommending candidates for judges and of co-deciding on the filling of posts of court president. That institution had been introduced into the constitution (of the Polish **[the end of page 180]** People's Republic) in April 1989. The proposed law was prepared in the summer of 1989,

agreed on 25 September during a meeting of Mazowiecki's government, and sent to the Sejm, after a short discussion, on 9 October. Antoni Dudek notes that: "at the forum of the government, however, no-one raised the question of the consequences of the mechanical transfer of the whole system of justice from the Polish People's Republic to the emerging democratic Poland which, pursuant to the laws which were just being passed, was to guarantee complete judicial independence."¹³ In the end, the National Council of the Judiciary was created on the basis of the law of 20 December 1989. In Dudek's words, "At the end of 1989, the postulate of systemically verifying judges or only prosecutors was far beyond the horizon of the political imagination of any member of Mazowiecki's government."¹⁴ It was only the amendment of the law of 1997 on the system of common courts that provided for the possibility of the verification of judges. At the request of the Minister of Justice, the National Council of the Judiciary initiated proceedings against forty-seven judges from the Stalinist period, and thirty-seven of them were deprived of their entitlement to benefits. Indictments were brought to court against six judges and four prosecutors – in all these cases, either the proceedings were discontinued, or the defendants were acquitted. Dudek also notes: "Contrary to other spheres of the state apparatus, in which corrections could be made by subsequent governments, the system of justice turned out to be incorrigible. The proverbial die was cast in the very first months of Mazowiecki's government. The constitutional guarantee of judicial independence led to the petrification of the system of interpersonal relations created in 1990."¹⁵

The petrification of the employees of the system of justice was a decisive factor during the lustration process in Poland. After the unsuccessful attempt at lustration which ended in the bringing down of Jan Olszewski's government in 1992, the Sejm passed the lustration law on 11 April 1997. Similar solutions had been introduced in Albania, Bulgaria, the Czech Republic, Germany, Slovakia, and Hungary, among other countries. The law obliged holders of public office to submit lustration statements about their cooperation with the Security Service. The obligation pertained to 27,000 people, including judges and other employees of the system of justice. Cases of false lustration statements were taken to a Lustration Court comprising twenty-one judges. The process of submitting candidates for the Lustration Court consisted of two stages. During the first stage, the candidates were to be selected by assemblies of voivodeship and appeal courts. During the second stage, they were to be approved by the National Council of the Judiciary. At the beginning of September 1997, that is, after the date provided for by the law, it turned out that the judicial assembly had only selected twelve people. After the parliamentary elections of 1997, when the Solidarity

Electoral [the end of page 181] Action–Freedom Union came to power, Jerzy Buzek, the new prime minister, and Hanna Suchocka, the minister of justice, made an appeal for the selection of the remaining nine judges. During subsequent judicial assemblies, the number of candidates grew to twenty. The last person was to be selected during the assemblies in Nowy Sącz, Łódź, and Olsztyn. The judicial assemblies in the first two cities did not select their candidates, and the judicial assembly in Olsztyn rejected the only candidate. Thus, the six thousand professionally active judges did not manage to select the full twenty-one-person membership of the Lustration Court.¹⁶ As a result, the law was amended in June 1998. After the amendment, lustration was to be carried out by the Lustration Department of the Court of Appeal in Warsaw. According to Piotr Grzelak, “some judges’ unwillingness to work in the Lustration Court did not stem from their desire to protect compromised people who were still occupying their positions but from the fear of interfering with that social circle from the outside, and that was the nature of the lustration imposed upon judges – among other parties – by the Parliament. The fact that the majority of the judges rejected the opportunity to carry out a lustration in their professional group, combined with the inability of that milieu to self-purge with the use of, for example, disciplinary courts, showed the third power to society in a very bad light.”¹⁷

Because of the oligarchization of social life, the relations between position in the power hierarchy and position on the market are not broken when the members of the power structure change into owners: instead, they stabilize and are further reproduced. The self-reproduction of the system of relations and dependencies between the political and economic spheres has an impact on the shape of the rules of the market game, which are always in favour of those owners who have influence or directly participate in the exercise of power, thus obstructing the standard process of the creation of ownership.

That state of affairs is most likely the result of the instability of the Polish political scene, which is dominated by personal and tactical divisions and where bonds are formed based on clientelism and not on ideology or programmes.¹⁸ In 1993–1997, because of the scattering of votes, the right-wing electorate was not represented in Parliament. In 2015–2019, the same thing happened to the left-wing electorate. We might venture to state that the political division into post-communist and post-Solidarity camps, together with the divisions inside the post-Solidarity camp caused the Polish political class to miss the constitutional moment. The post-Solidarity camp did not take part in the preparation of the constitution but elaborated an alternative citizens’ project. The 1997 constitution was the result of a compromise between the Democratic Left Alliance (*Sojusz Lewicy Demokratycznej*,

abbreviated to SLD), the Labour Union (*Unia Pracy*), the Polish Peasants' Party (*Polskie Stronnictwo Ludowe*, abbreviated to PSL), and the Freedom Union. The accepted solutions were the outcome of the presidential and parliamentary-governmental [the end of page 182] models. The president, elected in a general election, has the right of veto and supervises foreign policy and defence policy, but he does not have an influence on the choice of prime minister or on the nomination of ministers – these choices depend on the parliamentary majority. When the president and the prime minister, who is nominated by the parliamentary majority, are from the same political camp, their cooperation is smooth. However, if the president and the prime minister come from separate political camps, as was the case in 2007–2010, the political conflict is severely aggravated and transforms into a series of disputes about competences.

In the first presidential elections in 1990, Stan Tymiński, a previously unknown businessman, obtained 3,797,605 votes (23.10%) and, having overtaken Tadeusz Mazowiecki, proceeded to the second round where he lost to Lech Wałęsa. Radical parties – populist, nationalist, or anti-clerical– played a big role in Polish politics. In 2001–2005 and 2005–2007, Andrzej Lepper's populist Self-Defence party (*Samoobrona*) and the nationalist League of Polish Families (*Liga Polskich Rodzin*) party entered Parliament. In 2011–2015, Janusz Palikot's anti-clerical movement (*Ruch Palikota*), which preferred brutal language in politics, achieved the same feat, as did the ideologically nondescript *Kukiz-15* movement in 2015–2019.

Conclusions

The economic and political transformation began in 1989 formally introduced the rule of law and liberal democracy.¹⁹ The stability of the oligarchization process – understood as a protection against frequent government changes and against the political affiliation of members of the Sejm – is transferring the decision-making process from the official to the unofficial sphere of power. Thus, more and more actual political decisions are made outside Parliament, ministries, and government – the main components of the official sphere of the power hierarchy that can be effectively controlled by citizens. The transfer of the decision-making process to various often hidden and informal advisory bodies, lobbying groups, and similar agents entails a diffusion of responsibility for decisions and deprives democratic institutions of real substance.

That process was strengthened by the shock therapy that brought about a drastic fall in national income, bankruptcies of companies, and an increase in unemployment, which, in

turn, led to the disappearance of the middle class – the mainstay of every democracy. Tadeusz Kowalik notes that “it was not so much a transformational recession, perceived as the inevitable cost of great changes, as a recessive transformation, that is, a great social change effected by means of a recession as a tool for creating a polarized society.”²⁰ [the end of page 182]

The accepted model of economic development favoured foreign capital and inhibited the formation of the Polish capitalist class. In Krzysztof Jasiński's view, the emerging Polish capitalism is to be an economic system propelled by the activity of external actors: international institutions, EU funds, and foreign investors. For that reason, in the economic development of Poland, domestic enterprises are put in the role of subcontractors of foreign corporations. Jasiński claims that these processes have an influence on: “the subordination of [Polish – K.B.] elites to the political concepts and culture of more developed centres, deindustrialization, spatial development, and consumption patterns, and, in the first place, this limits the ability to finance economic development and to develop autonomously.”²¹

¹ Tomasz Kozłowski, *Koniec imperium MSW. Transformacja organów bezpieczeństwa państwa 1989–1990* (The end of the empire of the Ministry of Internal Affairs: The transformation of the Security Service of the state in 1989–1990) (Warsaw: IPN, 2019), 46, 56, 291–292.

² See also Krzysztof Brzechczyn, “The Round Table Agreement in Poland as a Case of Class Compromise: An Attempt at a Model.” *Debatte: Journal of Contemporary Central and Eastern Europe*, 18, no. 2 (2010): 185–204

³ Leszek Nowak, *Property and Power. Towards a non-Marxian Historical Materialism* (Dordrecht: Reidel 1983); Leszek Nowak, *Power and Civil Society. Towards a Dynamic Theory of Real Socialism* (New York: Praeger, 1991). This theoretical section is a summary of my earlier conceptualizations, see: Krzysztof Brzechczyn, “The Collapse of Real Socialism in Eastern Europe versus the Overthrow of the Spanish Colonial Empire in Latin America: An Attempt at Comparative Analysis.” *Journal of Interdisciplinary Studies in History and Archaeology*, 1, no. 2, (2004): 105–133.

⁴ It is worth noting that there is no single model of capitalism. For instance, Peter A. Hall and David Soskice distinguish between liberal market economies and coordinated market economies. In the former type, economic decisions are made on the basis of information coming from the market, whereas in the latter, they are made based on information from the broadly defined public sector, that is, such areas as state economic strategy and planning, state aid and public procurements, or collective agreements (see Peter A. Hall, David Soskice, “An Introduction to Varieties of Capitalism,” in *Varieties of Capitalism: The Institutional Foundation of Comparative Advantage* ed. A. Hall, D. Soskice, 1-68 (Oxford: Oxford University, Press 2001). In the context of Central and Eastern Europe, the typology of the forms of capitalism is used in Zenonas Norkus, *On Baltic Slovenia and Adriatic Lithuania. A*

[the end of page 184] *Qualitative Comparative Analysis of Patterns in Post-Communist Transformation* (Vilnius/Budapest: Apostrofa/ CEUPress, 2012).

⁵ Piotr Strzałkowski, “Polityczne i społeczne uwarunkowania przedsiębiorczości ekonomicznej” (The political and social determinants of economic enterprise), in *Zmierzch socjalizmu państwowego. Szkice z socjologii ekonomicznej*, ed. Witold Morawski (Warsaw: PWN), 349.

⁶ Tomasz Kozłowski, “Spółki nomenklaturowe – patologia transformacji ustrojowej” (Nomenclatura companies – the pathology of the political transformation), in *Brudne wspólnoty. Przestępczość zorganizowana w PRL w latach siedemdziesiątych i osiemdziesiątych XX wieku* ed. Karol Nawrocki, Daniel Wicenty (Gdańsk–Warsaw: IPN 2018), 100.

⁷ Kozłowski, “Spółki nomenklaturowe” 106–108, also see Strzałkowski, “Polityczne i społeczne” 349–351.

⁸ Kazimierz Słomczyński and Goldie Shabad’s analysis shows that political positions were exchanged into economic capital mainly by people from the middle ranks of management. The authors define that group as people occupying managerial positions in workplaces and supervising at least 25 employees or supervising subordinates with their own subordinates, see: Kazimierz Słomczyński, Goldie Shabad, “Systemic Transformation and the Salience of Class Structure in East Central Europe”, *East European Politics and Societies*, 11, no. 1 (1997): 172–177.

⁹ Edmund Skarżyński, “Uwikłani w spółki” (Entangled in companies), *Tygodnik Demokratyczny*, no. 26 (1990): 4.

¹⁰ Mirosław Dakowski, Jerzy Przystawa, *Via Bank i FOZZ. O rabunku finansów Polski* (Via Bank and FOZZ. On the stealing of Polish funds) (Warsaw: Antyk 1992); Maria Łos, Andrzej Zybortowicz, *Privatizing the Police State. The Case of Poland* (London: Macmillan Press 2000), 165–172; Adam Chmielecki, “Centrale handlu zagranicznego jako pole przestępczości zorganizowanej z udziałem funkcjonariuszy tajnych służb PRL w latach siedemdziesiątych i osiemdziesiątych XX wieku. Zarys problematyki badawczej” (The centres of foreign commerce as an arena of organized crime with the participation of the functionaries of the Secret Services of the Polish People’s Republic in the 1970s and 1980s) in: *Brudne wspólnoty*, ed. Nawrocki, Wicenty (Gdańsk–Warsaw: IPN 2018), 55–59.

¹¹ Dakowski, Przystawa, *Via Bank i FOZZ*, 150.

¹² Chmielecki, “Centrale handlu,” 56.

¹³ Antoni Dudek, *Od Mazowieckiego do Suchockiej. Pierwsze rządy wolnej Polski* (From Mazowiecki to Suchocka. The first governments of free Poland), (Kraków: Znak Horyzont 2019), 215.

¹⁴ Dudek, *Od Mazowieckiego do Suchockiej*, 216.

¹⁵ *Ibidem*, 221.

¹⁶ On the basis of: Piotr Grzelak, *Wojna o lustrację* (The lustration war) (Warsaw: Trio 2005), 145–149; Bogusław Nizieński, “Początki i problemy lustracji w III RP” (The beginning and problems of lustration in the Polish Third Republic) in *Racja stanu. Janowi Olszewskiemu*, ed. Elżbieta Urbanowicz, Jerzy Urbanowicz (Poznań: Zysk i S-ka, 2011), 221–231.

¹⁷ P. Grzelak, *Wojna o lustrację*, 149. **[the end of page 185]**

¹⁸ See also Krzysztof Brzechczyn, “Interpeting Poland,” *The Sarmatian Review* 36 no. 3 (2016) 2023–2032.

¹⁹ Tucker demonstrates that liberal democracy was not the goal of the transforming nomenclatura but only a side effect of the transformation of the privileges of the party apparatus into proprietary rights, see: Aviezer Tucker, *The Legacies of Totalitarianism: A Theoretical Framework* (New York: Cambridge University Press, 2015), 34. For a discussion

about Tucker's book, see "Author Meets Critics Symposium: Discussion on 'Legacies of Totalitarianism'", ed. Brzechczyn, *Central European Journal of International and Security Studies*, no. 1 (2019): 198–240.

²⁰ Tadeusz Kowalik, *WWW.polskatransformacja.pl* (WWW.Polishtransformation.pl). (Warsaw: Muza 2009), 104.

²¹ Krzysztof Jasiołkowski „Co nie funkcjonuje w gospodarce?” (What Does Not Function in Economy?), in *Institucje: konflikty i dysfunkcje* ed. Maria Jarosz (Warsaw: Oficyna Naukowa 2012), 165–166. **[the end of page 186]**