“It is relatively rare in comparative social research that scholars conclusively demonstrate that they are both detail oriented and theoretically creative. The editor of this volume exemplifies both these qualities, identifying the specific provisions of lustration and de-communization laws across many post-communist countries, then evaluating disparate theories of transitional justice by advancing an innovative multivariate model. With an impressive cast of contributors, we now have a seminal work on East European de-communization.”

Raymond Tarsas, Tulane University

1 Introduction
Post-communist transition, justice, and transitional justice

Lavinia Stan

Since the end of the Cold War, “de-communization,” “transitional justice,” the “politics of memory,” and “political justice” have been among the terms and concepts commonly used to describe the wide range of inter-related processes of coming to terms with the recent dictatorial past in post-communist Eastern Europe and the former Soviet Union. As in other parts of the world, most notably South Africa, Southern Europe, and Latin America, in post-communist countries democratization has turned into an effort to envision a better future and to navigate an uncertain present as much as to investigate, reevaluate, and redress the mistakes of the ancien régime. Bit by bit, the touching personal testimonials of former political prisoners, the reserved memoirs of communist officials and secret agents, the testimonials of silent bystanders, and the independent research carried out in the newly-opened archives have lifted the veil of secrecy surrounding the activity of the communist parties hegemonic in the region, their privileged relationship with the ruthless secret political police forces, their alternate use of repression and cooption to maintain monopoly of political power, and their victimization of countless individuals arrested, imprisoned, tortured, exiled, murdered or reduced to silence. Although much more work needs to be done in order to unravel the entire mechanism of communist repression and terror, and sort myth from truth regarding the identity and role of victims and victimizers, today we have incontestable proof for many human rights trespasses and violations we knew about only from unsubstantiated rumors prior to 1989. The challenge is to come to terms with these atrocities, while continuing to establish the truth and strengthen the rule of law.

This volume is the first to map the progress of three main transitional justice processes in post-communist Eastern Europe and former Soviet Union countries, explain why individual countries employed different models of coming to terms with their recent past at different times with different degrees of success, and probe the relative efficacy of country-specific transitional justice outcomes through the evaluation of the activity of state bodies in charge of moving the process forward. Finally, this study draws together this rich case-specific research into a comprehensive comparative analysis of the determinants of transitional justice in post-communist times.
Transitional justice: the broader context

The origins of the urge to reassess the past authoritarian regimes, to confront and to prosecute the victimizers, to rehabilitate the victims, and publicly to uncover the mechanisms of repression are identified with the post-World War II setting in Europe by some authors, the aftermath of the French Revolution by others, and 251 AD or even ancient Greece by still others. Bickford points to the International Military Tribunal at Nuremberg and the de-Nazification programs in Germany as representing the first efforts dedicated to assessing and redressing past injustice. Fitzpatrick places those first attempts much earlier and claims that they materialized as the purges and the revenge campaigns that followed in the wake of the French Revolution of 1789. For theology scholars, reconciliation first became important for the primary Church after the persecution sanctioned by Roman Emperor Decius in 250 AD, when Novatian and his followers refused readmission to communion to the lapsi, the baptized Christians who had denied their faith and who had sacrificed to pagan gods. Elster discusses the politics of accountability carried out with the return of democrats to Athens in 403 BC after the rule of the Thirty Tyrants. While different authors vacillate between different time periods when trying to pinpoint the first attempts at pursuing justice during times of regime change, they unanimously agree that the transitional justice framework gained in coherence, diversity, and importance only in the second half of the twentieth century. These developments emerged because “democratic activists and their allies in government sought to find new and creative ways to address the past,” and further expanded the possibility of comprehensive justice during transition, relying on the idea of truth as an “absolute, unrenounceable value.” These efforts addressed the unprecedented genocide and regimes of tortures marking the twentieth century, and culminated in what Soyinka labeled “the end of millennium fever of atonement.” Each of the consecutive waves of democratization identified were accompanied by calls for holding the officials of the former authoritarian regime accountable for their many wrongdoings. The calls were heeded predominantly in those countries where the democratization process was not reversed, and the fragile new regimes did not succumb to a new wave of ruthless authoritarianism.

The experience of new democracies suggests that the process of assuming the dictatorial past represents the key to building a stable, legitimate democracy. A number of political scientists and journalists have argued that democratization cannot be successfully effected without an honest reevaluation of the past that would bring justice to victims and closure to victimizers. According to O'Donnell and Schmitter, “it is difficult to imagine how a society can return to some degree of functioning which would provide social and ideological support for political democracy without somehow coming to terms with the most painful elements of its own past.” Tismaneanu reinforces the same point when writing that “to ask for a serious coming to grips with the past is not simply a moral imperative: none of these societies can become truly liberal if the old mythologies of self-pity and self-idealization continue to monopolize the public discourse.” Borneman similarly believes that “the relevance of retributive justice in the contemporary context goes far beyond the fate of individual crimes and victims; its increasing importance is part of a global ritual purification of the center of political regimes that seek democratic legitimacy.”

For de Brito et al., reckoning with the past through truth telling can “address the social need for knowledge to become acknowledgement” and “bring victims back into the fold of society, by recognizing their suffering, providing a form of distributive or social justice, and giving out non-conventional resources such as social awareness, collective memory, solidarity, and the overcoming of low self esteem.” Transitional justice, Calhoun contends, provides a solid foundation for budding democracies because it constitutes the middle-ground solution between forgetting the past altogether and engaging in violent retribution, two unacceptable options that prevent new democratic regimes from gaining much-needed political legitimacy. The experience of post-authoritarian countries reinforces Calhoun’s position vis-à-vis the necessity of reexamining the past. During the last century only Spain opted to “forgive and forget” its former torturers working for Generalissimo Francisco Franco’s dictatorial regime and to grant them the carte blanche of blanket amnesty that allowed them to prove their allegiance to the new democratic order. By contrast, all other democratizing nations chose to face the past more or less promptly, more or less vigorously, more or less effectively.

For some other authors, the stakes are more urgent, and they address specific goals that are key to a successful democratization process. “Forgetting the extermination is part of the extermination itself,” Baudrillard said after World War II, whereas Kundera voiced the Eastern European viewpoint when concluding that “the struggle against power is the struggle of memory against forgetting.” Rosenberg echoed that same position, explaining that “nations, like individuals, need to face up to and understand traumatic past events before they can put them aside and move on to normal life.” Beyond permitting a return to normalcy, transitional justice signals the break with the authoritarian past and the willingness of the political class and of the larger society to work together, rather than against each other, for the common good and in the national interest. Confronting the past honestly, vigorously, and constructively helps democratizing societies to bridge the great chasm dividing victims, victimizers and by-standers, and to reconstruct the national political community on firmer bases. Transitional justice rebuilds trust among citizens and between citizens and the state, and in doing so allows the community and the state to come together and solve the problems of the nation. Trust, in its turn, leads to the accumulation of rich social capital reserves, the formation of vibrant voluntary associations, and the rebirth of a strong civil society able to hold the state accountable for its actions. The South African experience proved that “no healing is possible without reconciliation, no reconciliation is possible without justice, and no justice is possible without some form of genuine restitution,” as Beyers Naud argued. Restitution is not limited to the return of abusively confiscated property, but can materialize as acknowledgement of past sufferings, the restoration of honor and dignity to long-silenced victims, or public knowledge of the repression mechanisms kept secret by the old regime. In the same vein, respect
for human rights cannot be instilled as a quintessential value of new democracies if injustices are left unpunished and unrecorded. When introducing the Truth and Reconciliation Committee, the South African Minister of Justice Dullah Omar reminded that “human rights is not a gift handed down as a favor by government or the state to loyal citizens [but] it is the right of each and every citizen.” Most of the killings, brutality, surveillance, and control were done in the name of political regimes keeping the state apparatus prisoner to their ideology of terror, not in the name of specific individuals or of distinguishable social groups. However, if perpetrators can hide behind the excuse that they acted at the command of their superiors rather than as a result of their own volition, then the repressive state is allowed to triumph over the captive society, even after the regime change is effected.

Confronting the past responds to genuine needs for justice, truth, and atonement, but it can also easily lend itself to political manipulation, and it can lead to new injustices if the rule of law is disregarded in favor of political expediency. In this respect, George Orwell’s remark that “who controls the past controls the future” remains relevant in post-communist Eastern Europe and the former Soviet Union, where the memory of the past constitutes one of the most coveted prizes. There, “the battle for history is really a battle for the political culture of these new post-communist states,” one which constitutes an important way for Eastern Europeans to compete for control of the present. Albania engaged in extensive purges following each of its governmental changes of the early 1990s, and brought the family of dictator Enver Hoxha to trial not for his gruesome political crimes, but for living well in a country where most of the population barely made ends meet. In Romania few objected to the mock-trial and execution, commando style, on Christmas Day in 1989 of Nicolae Ceausescu and his wife Elena, who were singled out as solely responsible for communist abuses ironically by their one-time right-hand collaborator Ion Iliescu. The Baltic states of Estonia and Latvia marginalized former Soviet party officials and KGB agents by denying citizenship in the new state, thus depriving them of the important political rights of electing and being elected. Following her travels to Czechoslovakia, Poland, and Germany, lands still haunted by the ghost of their communist past, Rosenberg talks at length about the readiness with which post-communist political parties have embraced widely different myths about communism that are “constantly rewritten to fit the current political debate,” to bring additional legitimacy to their initiators and to sully the track record of their political enemies. Adopting a similar viewpoint, Tismaneanu includes the myth of de-communization among his “fantasies of salvation,” describes it as a process of manifold mental, political, economic and legal dimensions with Jacobin propensities, and warns against the perils of reconciling legitimacy and legality through authoritarian methods in countries where the demarcation line between right and wrong remains utterly blurred. But to reduce the complexity of the politics of memory to the level of recognizing it only as a manipulating tool used in the cut-throat battles waged by power-thirsty political parties or to relegate it to the grey zone of illusory and unattainable myths ignores the Eastern Europeans’ need to know the truth about the communist regime, to confront their own personal history, and to obtain justice and absolution.

The methods through which post-authoritarian countries have approached the cathartic quest for political justice differed widely, but they were generally divided into state-driven and society-driven solutions that can acquire either judicial or non-judicial characteristics. Post-authoritarian governments have supported truth and reconciliation commissions, court trials and amnesties, purges and screenings, public official apologies, as well as financial compensation, restitution and repairation programs. Initiatives proposed by human rights organizations, former political prisoners, religious denominations, political parties and other civil society groups, often pursued in parallel with government-sponsored solutions, have spanned acknowledging the past, rehabilitation, access to the governmental records detailing repression and persecution, the rewriting of official historical canons, and symbolic reparations in the form of commemorative monuments, new museums, name change for streets and localities, and official holidays celebrating important moments when the society stood up to the authorities. To these locally grown ways to confront the past and to seek justice during times of post-authoritarian transformation, one should add the solutions advocated by the international community, which have primarily included the international courts of justice hearing cases that involve genocide and crimes against humanity. As Elster explained, some of these political decisions were made “in the immediate aftermath of the transition and [were] directed towards individuals on the basis of what they did or what was done to them under the earlier regime.” The prime example here is the Nuremberg trial, which in the aftermath of World War II held accountable 24 top Nazi officials as war criminals. Other transitional justice methods were adopted a number of years after the authoritarian regime collapsed, when its officials had already lost much of their political clout. Taking post-Nazi Germany again as an example, the restitution of property abusively confiscated from Jewish victims of concentration camps is yet to be fully completed, although major accomplishments have been achieved during the last six decades. Transitional justice methods further divide in distinct categories in terms of their efficacy and effectiveness in providing justice, voice, atonement, and redress. Whether specific methods are more apt to provide efficiency depends less on the specific moment in time when they are adopted and more on the political will and resolve with which they are implemented.

The list of cases that could serve as models for post-communist Eastern Europe is impressive, testifying to the wealth of innovative solutions different countries have employed in order to conduct the politics of memory, prevent future abuse, and establish state-society relationships based on functioning and fair institutions. As comprehensive accounts of successive transitional justice cases were provided by Elster, Hayner, Barenboim de Brito, and others, we will not embark on such an enterprise here, but instead we will highlight only the most important trends.

The end of World War II witnessed the launch of an array of different transitional justice methods in Germany, Japan, and countries that had been overrun by the Nazis like Austria, Belgium, and France. Top war criminals were tried in international tribunals, official historical accounts were reexamined in intense public debates, the Holocaust was acknowledged, documented, and condemned, and its victims
were called to provide moving testimonials, amnesties were granted to former collaborators in an effort to "normalize" the situation, confiscated property and assets were returned to their initial owners, and the concentration camps were turned into museums commemorating the plight of millions of innocent victims. The court trials Greece and Argentina organized in 1974 and 1983, respectively, led to the successful prosecution of former members of the bloody colonels' regime and the military junta responsible for human rights abuses. The final report of the Argentine National Commission on the Disappeared, the best-seller Nunca Mas (1983), the Chilean efforts to provide reparations to victims of the Pinochet regime, and the truth commissions established in post-Apartheid South Africa and twenty other countries in Africa (Zimbabwe, Uganda, Chad, Nigeria, Sierra Leone), Asia (Sri Lanka and Nepal), Caribbean islands (Haiti), and Latin America (El Salvador, Guatemala, Bolivia, Uruguay, Ecuador) have made significant contributions to establishing justice for victims of human rights abuses. By the time the communist regime collapsed in 1989, the new Eastern European democracies and former Soviet republics could draw inspiration from a large array of transitional justice methods adopted throughout the world.

Transitional justice in the post-communist world

In Eastern Europe and the former Soviet Union, calls for de-communization have revolved around the Communist Parties and their feared instruments of repression, the secret intelligence services. The communist secret political police was organized as an extensive repression apparatus of full-time officers and part-time informers responsible for keeping dissent in check, discouraging anti-governmental opposition, censoring journalists and artists, and protecting the communist party leaders, to which it was directly accountable. Its employment numbers were vast. In the case of the Romanian Securitate, for example, they are estimated at around 15,000 officers and between 400,000 and 700,000 informers in a total population of about 23 million. In 1989 the East German Stasi employed some 90,000 officers and around 150,000 active informers in a total population of 17 million. It is believed that the Soviet KGB employed almost half a million agents, but the numbers remain strictly guarded by authorities of the Russian Federation. An informer became a collaborator when joining the Communist Party, then a paid collaborator and finally a paid referent contemplating promotion to the rank of political police officer with uncovered, partly covered or completely covered identity. Monetary and non-monetary perks alike were available to informers if they spied on and reported the whereabouts of their relatives, friends, workmates, neighbors, and colleagues. Not all collaborations were voluntary, opportunistic and revengeful, as many informers spied out of fear for themselves and the well-being of family members, misplaced patriotism or blackmail. In such cases, the informers' secret activity was neither rewarded financially nor resulting in a speedier promotion, better living conditions, and permission to travel abroad.

The secret police kept files on Western visitors, pre-communist political leaders and elite members, anti-communist dissidents, people suspected of pro-Western sympathies and ordinary citizens alike. While the political police differed in numbers across countries, the recruitment, mission and general activity were remarkably similar. The extant archives attesting how some Eastern Europeans spied on others range in length from some 200 kilometers in the case of the Stasi to only 25 in the case of the Securitate.23

While omnipotent, controlling and pervasive, the much-feared secret political police remained nothing more than the obedient arm of the communist parties that dominated the region from the end of World War II until 1989. Those parties controlled the appointment to state positions and public offices, had virtual monopoly over policy making in most areas of life, imprisoned, tortured, and murdered thousands of pre-communist elite members, anticommunist dissidents and religious leaders, closely supervised mass media and artistic productions to root out dissent and criticism of the leaders, the official policy and ideology, and curtailed basic human rights such as freedom of travel, expression, religion, opinion, and association. Career advancement depended on toeing the party line, submission to the communist leadership, and readiness to implement the official policy, however irrational, more than managerial skills and professional expertise. The secret police kept the general population under surveillance, but at the same time they deferred to the authority of the top party leadership, to which they were directly accountable. In each Eastern European communist country, the top party leaders decided the general mission, the tasks, and the individual targets of the secret police, and allocated the resources they needed for their daily operations. In the Soviet Union, those decisions were taken in Moscow, with only minimal input from republican leaderships. Communist Party leaders further maintained the pretence of socialist legality by obliging the judiciary to work closely with the secret officers to protect the identity of the secret informers, ignore the need to fair trials and vigorous defense, and obtain the legal evidence needed to convict dissenters, opponents, social parasites, and trouble-makers. The hierarchical relationship between the ruling party and the secret services was evidenced by the fact that the latter was permitted to freely recruit informers from among all social categories except party members, who could be approached only after the approval of the party leadership was secured (sometimes in writing) and whose collaboration was fiercely guarded as a secret according to standards not extended to regular, outside-party informers.

Given the extent to which both the Communist Party and its secret police controlled the lives of citizens in Eastern Europe and the former Soviet Union, it is not surprising that the collapse of these regimes in 1989 and 1991, respectively, prompted heated public debate over what should happen to secret police officers, informers, and communist officials, as well as their files. Some demanded that officials and secret informers be banned from politics and prosecuted for human rights trespasses, and that the secret police archives should be opened to the public. They argued that communist decision-makers should not be allowed access to state positions they could use to destroy the archives, and with them the proof of their past injustices. Many warned that democratization itself required not only accountable and representative political institutions, but also an honest attempt to
deal with the undemocratic past that would bring some justice to its victims and lay the groundwork for greater respect for the rule of law. Others, including not only former communists but also some former dissidents, argued that the files were not only full of lies and false accusations, but also that their integrity was in doubt, as interested parties removed, altered, and destroyed portions of them during the upheavals of the 1989 revolution. They pointed out that using deeply flawed materials to screen job candidates would violate the fairness standards of democracy and fuel politically motivated witch hunts. Allowing public access would also expose material wrenching from reluctant informers and trusted intimates and make public the private details of the lives of those spied upon, poisoning societal relations, and extending the secret police’s influence over society into the post-communist period. While the debates throughout the region were contentious, those arguing in favor of lustration and file access gained ground as more former communist countries joined NATO, whose Western members were wary of former secret police officers getting access to sensitive military and intelligence data, and the European Union, where existing members felt apprehensive about high communist officials securing top leadership positions in Brussels.

Thus, by the year 2000 all Eastern European countries but war-torn Yugoslavia passed legislation providing for either the banning of communist officials and secret agents from post-communist politics or access to the secret files compiled by the communist state security services. The laws differed greatly, however, in terms of scope, stringency, and enforcement. In the Czech Republic, for example, high communist officials and individuals implicated by the secret files were banned not only from politics but also from such positions of influence as top academic posts and management positions in state-owned enterprises and joint-stock companies. By contrast, the 1997 Polish lustration law stipulated that, while public officials must declare whether they were knowing employers of, or collaborators with, the state security services, they may only be banned from office if their declarations were proven false by the Lustration Court. Hungary and Romania were still less severe, threatening public disclosure of one’s past rather than mandatory exclusion from public office. On the far end of the continuum ranging from “prosecute and punish” to “forgive and forget,” Slovakia allowed its Czechoslovak-era lustration law to lapse in 1996, never having enforced it seriously. Access to the secret police archives varies from state to state as well in terms of when laws granting access were passed, who may view the files, and how many files were made public. In 1991 East Germany was the first to grant access, whereas Albania reluctantly agreed to open some files only in 2006. Most Stasi files were made available to the public from the very beginning, compared with only a fraction of the Romanian Securitate archive, jealously protected by the post-communist state security services until 2006.

Overall, the former Soviet Union has lagged behind its Eastern European satellites in terms of lustration, access to secret files, and court proceedings. Because significant sections of the secret KGB archive were transferred to Moscow in the months preceding the collapse of the Soviet Union, most of the independent republics were unable to pursue the opening of secret archives as a method of reckoning with their recent past. Russia was the only successor republic with direct access to the bulk of the Soviet-era secret archival documents, but it lacked the political will to adopt that policy. There is much variation within the former Soviet empire with respect to lustration and court trials. The three Baltic states of Estonia, Latvia, and Lithuania have limited the political influence of former Communist Party officials and KGB employees, and have tried and convicted a number of Soviet-era KGB agents for their involvement in human rights abuses. At the other end of the spectrum, the societies and political elites of Belarus, Armenia, and Azerbaijan and the Central Asian republics of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan have not seriously revisited their past, because local Soviet decision makers have retained significant political influence; these republics were rocked by violent ethnic and regional conflict, and their post-communist political systems are more dictatorial than democratic in nature. Russia, Ukraine, Georgia, and Moldova stand somewhere in between these two extremes, having discussed and rejected lustration bills, but having brought to justice no Soviet party official or secret agent.

While the variability in the transitional justice laws as they stand on the books is important in itself, a second and equally important question is how, in reality, these laws have been implemented. Taking investigations into the pasts of post-communist politicians as discussion points, the volume evaluates the success of the state bodies in each country charged with identifying the agents and informers, examining the frequency of contested findings, and investigating the factors responsible for mistaken verdicts. For example, previous examinations of the first verdicts on collaboration with the Securitate handed down in Romania in year 2000 by the National Council for the Study of Securitate Archives point to a mixture of factors explaining the low verdict accuracy. Some files were incomplete, while others remained out of reach for undisclosed reasons of “national security.” Some file documents were original, others were modified sometime after 1989 by unknown hands. Retrieval of codified informer names was cumbersome, as spies used aliases to cover up their identity, and the card system matching code names to real identities remained out of reach. There were also numerous questions about the quality of information spies provided to communist secret services. Some spies had thick informer files, but provided only trivial details. Other spies played crucial police roles, but their files cannot be found or, if available, contain only little information potentially damaging to their victims. There were legislative loopholes opening laws to interpretation and allowing communist officials and spies to go unpunished. The Hungarian lustration law of 1994 provided for the screening of past collaboration with the domestic repression branch of Direction III, but not with the counter-intelligence and military intelligence departments. Though repeatedly screened, Premier Peter Medgyessy was deemed “clean” because his ties had been to the counter-intelligence, not the domestic, division. Finally, the activity of the independent agencies has been distorted by pressure from political parties and interest groups, absence of clear internal guidelines as regards the written documents that could attest to collaboration, and in-fighting among agency leaders.
After 1989, Eastern Europe's attempts to come to terms with its communist experience were sometimes viewed through the lens of the region's earlier efforts to deal with its Nazi or fascist past. During World War II, a number of Central European, Balkan, and Baltic countries were occupied by, or they aligned themselves with, Nazi Germany and fascist Italy, contributing troops and supplies to the Axis powers, supporting Hitler's or Mussolini's foreign policy, adopting racist legislation discriminating against ethnic and religious minorities, and organizing human transports to concentration camps located in Transnistria, Poland, Germany, and elsewhere. Lacking any significant long-term historical experience with democracy, the Eastern European and Baltic states rationalized their position at the time by claiming they had no real choice when trying to avert a possible fall into the Soviet sphere of influence. After communist regimes were installed in the region with support from the Soviet army, the new authorities embarked on a massive hunt of Nazi collaborators and sympathizers that soon was extended to target individuals critical of the communist ideology, policy choices or leaders. The purges carried out throughout the region during the first decade of communist rule were less concerned with the Nazi past and more with the communist present, as they aimed to consolidate the new regimes by weakening the social bases of pro-democratic political formations, silencing or co-opting the remnants of civil society, and mobilizing the citizenry behind the communist leadership. The memory of those purges, and of the numerous show-trials with predetermined outcome that allowed communist leaders to settle scores with their rivals both inside and outside the Communist Party, seriously affected the scope, pace, and aims of the post-communist transitional justice those countries envisioned after 1989. In the Baltic states, Hungary, and to a lesser extent in Poland, the process of dealing with the memory of the two totalitarian regimes that had gripped those countries during the twentieth century were linked together, thus recognizing that an honest reassessment must avoid reading history selectively, that is, condemning communism while ignoring fascism. Other countries drew parallels between the Nazi and communist regimes, admitting they were two sides of the same totalitarian coin, but failed to bring together the politics of memory corresponding to each of them into a single, unified and coherent process. In Bulgaria and Romania, for example, those who voiced support for dealing honestly with the communist past stopped short of calling on their fellow countrymen to reassess the country's pre-communist politics.

The volume's outline and contribution

While theoretically countries could embrace any method of dealing with the recent past, as long as the method of choice redresses some past injustice, in practice some solutions have been popular in some countries, but not in others. Despite proving their effectiveness in Africa and Latin America, truth commissions were never seriously considered in post-communist countries, although Eastern Europe and the former Soviet Union alike could greatly benefit from both truth telling and national reconciliation. In post-communist Europe, international tribunals were created to hear cases resulted from the Yugoslav wars of the 1990s, not to establish guilt associated with older or more recent communist-era crimes. As purges were reminiscent of the persecutions unleashed against democratic political actors during the early stages of communism, citizens in Eastern Europe and the former Soviet Union have been reluctant to reenact them tel quel, opting instead for alternative ways to reckon with the legacy of communist dictatorship. As such, this volume investigates the three most important transitional justice methods that have made an imprint on post-communist democratization. These methods include: 1) lustration, the banning of communist officials and secret political police officers and informers from post-communist politics and positions of influence in society; 2) ordinary citizens' access to the extant archive of the communist secret police; and 3) trials and court proceedings launched against former communist officials and secret agents for their human rights abuses. Taken together, these three methods reveal the complex tapestry that forms the background to the politics of memory in Eastern Europe and the former Soviet Union.

Given the wide variation in transitional justice strategies in those countries, the present volume has two central purposes: first, to offer in-depth country case-studies; and second, to identify broader patterns and address the question of what accounts for both similarities and differences between cases. To this end, we offer case studies on nine post-communist countries in Eastern Europe (the former East Germany, the Czech Republic, Slovakia, Poland, Hungary, Romania, Bulgaria, Albania, and Slovenia) and all 15 former Soviet republics looking at their historical background, the political negotiations leading to the adoption of specific methods, the enacted transitional justice legislation, the activity of the independent governmental agencies in charge of the secret archive, and relevant civil society initiatives. Our concluding chapter offers a comparative analysis of how these countries pursued the politics of memory. A substantial literature exists on the topic, offering a variety of explanations for country differences in dealing with the communist past. To date, theoretical frameworks were proposed by Samuel Huntington; John P. Moran; Helga Welsh; Kieran Williams, Brigit Fowler and Aleks Szczesniak; Nadya Nedelsky; and Monika Nalepa. While all these frameworks offer valuable insight into country differences, none of them offers an analysis that is comprehensive in terms of cases, processes, or time span.

As such, our study contributes to the growing literature on transitional justice in general, and the politics of memory in Eastern Europe and the former Soviet Union in particular, in three important ways.

First, we survey all Eastern European and former Soviet countries that did not face prolonged war during the 1990s, the first decade of post-communist democratization. With this in mind, we have excluded Yugoslavia, but included tiny Slovenia, which seceded from the Yugoslav Federation in just seven days. Chapters 2 to 9 are the first to detail the progress to date in terms of lustration, file access, and court proceedings of these nine post-communist countries, to provide information on the organization, personnel, methods, and general goals of communist-era secret state security services, and to discuss the activity of the independent governmental agencies charged with effecting transitional justice in each Eastern European and former Soviet country.
Second, we examine the three most important transitional justice processes. Post-communist Eastern Europe was the first region that embraced lustration as a method of transitional justice. The first lustration law, adopted in 1991 in Czechoslovakia and prohibiting former communist officials and secret agents from participating in public life, regardless of their personal involvement in human rights trespasses, became a major focus of international attention and criticism for establishing what many viewed as collective guilt. Lustration has remained an important tool of de-communization throughout the region, so much so that most observers have employed it as the yardstick for measuring the progress of transitional justice in Eastern Europe and the former Soviet Union. Indeed, countries have been judged in terms of whether or not they adopted lustration legislation, and whether or not that legislation emulated the radical Czech model. Countries like Romania that failed to pass laws specifically aimed at lustration were often, viewed as having done nothing to deal with their recent past. By contrast, countries like Hungary that passed a mild lustration law that did not lustrate anybody were still regarded as pioneers in transitional justice. The focus on lustration has overshadowed efforts to deal with the communist past by other means, such as court proceedings, and has ignored the fact that lustration itself depends on access to the secret archives compiled by the communist-era political police. Only by studying lustration together with court proceedings and file access can one properly understand transitional justice in the post-communist context.

Third, we have included a longer time span for our analysis. The volume is the first to discuss transitional justice processes that took place from 1989 to 2007. The time period begins with the collapse of the communist regime, although we do not ignore the negotiations that immediately preceded the transfer of political power from the communist rulers to the pro-democratic opposition in Czechoslovakia, Poland and Hungary. The time period ends in January 2007 with the acceptance of Romania and Bulgaria into the European Union, two years after their Central European and Baltic neighbors were admitted as full members. There are no plans for the accession in the near future of any other post-communist country, and therefore year 2007 will remain a landmark for the eastern enlargement process for years to come. Accession into the European Union is important because, with it, the new member states turn their attention to the future of integration and away from the legacy of communism. As many citizens in Eastern Europe and the Baltic states have proudly remarked, post-communist transition ended once their country joined the Union. Surely political transformation and economic transformation will probably continue even after 2007, but accession signifies recognition, on the part of the initial European Union member states, that Eastern European and Baltic efforts to democratize and construct fully functioning market economies have been successful.

Notes


19. Ibid., p. xiv.

20. Elster, ‘Coming to Terms with the Past’, p. 15.
