Lustration and Democracy: The Politics of Transitional Justice in the Post-Communist World

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Abstract

In transitions from authoritarian regimes, justice has normally encompassed a variety of approaches, from amnesty to public trials. The oddity about the post-communist world is that transitional justice has been reduced to, by and large, the mechanism of lustration, which is the process of limiting the political participation of the former authoritarian elites. This widespread political arrangement raises three puzzles of regime transitions. Why do some post-communist countries lustrate, while others do not? Why do countries with similar authoritarian pasts implement different lustration mechanisms? What explains the timing of lustration? This dissertation argues that three factors—democracy, elite politics and the institutional environment—explain levels of lustration as measured by an original Lustration Index, covering thirty-four post-communist countries from 1990 to 2012. Statistical analyses, elite interviews and in-depth case studies of Russia and Georgia illustrate that inherited social capital and institutional constraints affect transitional justice in ways that account for lustration as an integral part of post-communist regime change. The findings of this study demonstrate that lustration is a tool by which the transitional elites rewrite the rules of the political process in order to gain and maintain political power.

Keywords

Lustration, Democracy, Elites, Transitional Justice, Post-Communist Politics, Georgia, Russia
To my family, companions and friends
who taught me
the power of
humility in reconciliation
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I owe a profound debt of gratitude to many friends, companions, colleagues and family. They helped me not only undertake and complete this research project but also realize that I too partake in a broader story that this study conveys. That story is about the persistent dilemma of continuity and rupture with the authoritarian past.

My life and work in Slovenia and other post-communist countries raised research questions related to the theme central to this study. During the communist era, one of my grandfathers was imprisoned by the communists while the other joined the Communist Party. One of my granduncles was shot by the regime while another became the top advisor to the Party’s First Secretary. Since Slovenia’s quick transition to democracy, no truth, reconciliation, vetting, or explicit amnesty programs have been offered to help the individuals either of my family or the broader society to settle past accounts. As a young Jesuit eager for dialogue, I wanted to reconcile the divided family members as well as the members of the parishes I belonged to. My desire for democracy and justice led me to pursue studies related to transitional justice. I discovered that very few of the post-communist states addressed comprehensively the dilemma of continuity and rupture with the past. Moreover, the success or failure of different attempts to reconcile depended on specific social conditions.

Issues of continuity and rupture are not novel to the countries of the post-communist region. The region has experienced such processes after World War II as well as since the end of the Communist era. In both 1945 and in 1990, leaders in East-Central Europe attached specific
importance to the past elite, their collaborators and the secret police. Similar issues were raised after Soviet Revolution of October 1917, during the subsequent enlargement and occupation processes of the Soviet empire, and after the demise of the Soviet Union in 1991. What is new about post-communism is that it deals with the issues of continuity and rupture within a relatively democratic political environment, which has defined these issues from a different perspective.

This research examines why some post-communist states limit the political participation of former authoritarian elites and their collaborators, while others do not—and how those processes come about. In other words, it explores the political origins of lustration, which is a mechanism of transitional justice that scrutinizes individuals for links with the previously authoritarian leadership, bureaucracy or security services and limits their degree of participation in new political and civil service positions. The study provides a new theory and breaks new ground by expanding research to the entire post-communist world, by combining probabilistic and deterministic approaches to causal inference, and by applying a process-tracing method to the study of lustration adoption processes. The project draws on an original lustration dataset covering thirty-four countries from 1990 to 2012 and provides the first comprehensive Lustration Index. It also relies on archival work and a number of interviews with political elite.

My research travels throughout Armenia, Belarus, the Czech Republic, Georgia and Russia would not have been possible without the gracious hospitality of many wonderful people, including Tim Blauvelt, Katya Korosteleva, Nino Lapiashvili, Andrei Melville, Anton Vorobyev, Irina Tsertsvadze, the Berishvili family, as well as the generous welcome of the Apostolic
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I also thank the rest of my dissertation committee—Harley Balzer, Desha Girod and Marc Howard—for their many and careful readings of my dissertation materials and valuable feedback. In addition, professors Balzer and Howard provided me with important research and
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My gratitude goes to my valuable friend, compatriot and colleague Peter Verovšek. Peter has not only offered numerous insights on the topic of lustration from theoretical and philosophical perspectives but also helped me write this study in a language that is not my mother tongue. Many Jesuit companions have joined in these copyediting efforts of my earlier versions, including Richard Curry, †Gerhardt Lehmkuhl, John Montag and Doug Ray. Salomon (“Sam”) Sara and John Siberski went through my entire dissertation.

I continue to work contentedly under a profound debt of gratitude to my parents, Anton and Dragica Rožič, to my four grandparents who have waited to see me finish this project, and to my brother Robi, his wife Urška and their most marvelous sons Luka, Jure and Žiga. The lustrous example of their love and commitment helped me bring this project to a happy completion. What is more, their own stories have shown me and many others that even after a difficult past there always is a chance for a reconciled and blessed life in the present. I dedicate this dissertation to them and all those who helped me understand and live reconciliation.

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Abbreviations

(Where names are translated into English, their foreign language equivalents are noted in parentheses and italics.)

AME Average Marginal Effect
CPRF Communist Party of the Russian Federation (KPRF: Kommunisticheskaia Partia Rossiiskoi Federatsii)
CPSU Communist Party of the Soviet Union (KPSS: Kommunisticheskaia Partia Sovetskogo Soiuza)
DRM Democratic Russia [Movement] (DR: Demokraticheskaia Rossia [Dvizhenie])
DML Democratic Minimum of Lustration
dy/dx Leibnitz’s notation for the derivative of y with respect to x
ECE East-Central Europe
ECEFSUL East-Central Europe and Former Soviet Union Lustration Dataset
ECEFSUM East-Central Europe, Former Soviet Union and Mongolia
EU European Union
FH Freedom House
FHPHPE Freedom House Political Rights democracy index
FSB Federal Security Service of Russian Federation (FSB: Federalnaia Sluzhba Bezopasnosti)
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>FSU</td>
<td>Former Soviet Union</td>
</tr>
<tr>
<td>KGB</td>
<td>Committee for State Security (<em>KGB: Komitet Gosudarstvenoi Bezopasnosti</em>)</td>
</tr>
<tr>
<td>LP(s)</td>
<td>Lustration Program(s)</td>
</tr>
<tr>
<td>ME(M)</td>
<td>Marginal Effect (at Mean)</td>
</tr>
<tr>
<td>NATO</td>
<td>North Atlantic Treaty Organization</td>
</tr>
<tr>
<td>TC(s)</td>
<td>Truth Commission(s)</td>
</tr>
<tr>
<td>TJ</td>
<td>Transitional Justice</td>
</tr>
<tr>
<td>UNM</td>
<td>United National Movement (<em>ENM: Ertiani Natsionaluri Modzraoba</em>)</td>
</tr>
<tr>
<td>USTR</td>
<td>Institute for the Study of Totalitarian Regimes (<em>USTR: Ústav pro Studium Totalitních Režimů</em>)</td>
</tr>
<tr>
<td>ZIP</td>
<td>Zero-Inflated Poisson regression model</td>
</tr>
</tbody>
</table>
1 Introducing Lustration

In transitions from authoritarian regimes, justice has normally encompassed a variety of approaches from truth commissions to public trials of former dictators. The oddity about the post-communist world is that transitional justice has been reduced to, by and large, the mechanism of lustration. Lustration is the process of narrowing the field of public influence and political competition by scrutinizing individuals who had been associated with the former regime and by limiting their degree of participation in the new political and civil service positions.¹ In post-communist regime transitions, lustration has raised serious questions about the nature of transition and transitional justice. More than twenty years after regime change, post-communist societies continue discussing, sampling and using lustration. Lustration has become the region’s defining mechanism of coming to terms with the past.²

Lustration has affected the careers of numerous politicians and bureaucrats. It has prevented tens of thousands of members of the communist regime from holding office in new governments. Hundreds of thousands have been screened out for their potential involvement with the past regime. Yet, despite the use of lustration, the post-communist approach to lustration has ranged from rupture to continuity. New leaders have either limited the influence of the former elites to various degrees or compromised with and even continued to employ officials of the old regime.³ Three empirical observations emerge from this variation.

¹ See Chapter 2.4 and Appendix B.2 for a detailed discussion on the concept of lustration.
² The post-communist region surpasses all other regions in its use of lustration. For a discussion on regional comparison of lustration to other mechanisms of transitional justice and their impact see Mayer-Rieckh & De Greiff 2007; Olsen et al. 2010, 803-9; Bruce 2009, 15-36; Nalepa 2010.
³ “Regime” as defined here is the set of government institutions and of norms that are either formalized or are informally recognized as existing in a given territory and with respect to a given population (cf. Easton 1965). See also Howard & Roessler 2006, 367 for a more minimal definition, according to which political regimes are those rules and procedures that determine how national, executive leaders are chosen. Furthermore, by “elite” this study understands the ruling group in a society, consisting of the people who take decisions of national significance. The
1. Some post-communist states limit the political participation of former authoritarian elites and their collaborators, while others do not.
2. Countries with similar communist pasts implement different lustration mechanisms.
3. Some countries opted for lustration soon after the transition while others have done so much later, and still others continue discussing it.

The three ranges of variation raise a number of critical questions and set the agenda for this study. What explains the likelihood for a particular post-communist country to lustrate? What explains the range in intensity of various lustrative phenomena? What explains their timing?

Seeking to explain this variation, this study creates the first comprehensive measure of lustration in thirty-four post-communist countries since 1989. Based on the new Lustration Index, a number of elite interviews and an original statistical dataset, this study distinguishes historical, social and political environments that drive political elites to opt for different political arrangements of lustration. The study argues that differences in lustration are best explained as a consequence of a political process within a particular transitional context:

1. Following the changes in political regimes, the socio-political environment of regime transition constrains the strategic interaction among political elites and allows for lustration only if the state reaches a sufficient democracy threshold.
2. Once the minimal democracy threshold is guaranteed, the intensity and timing of lustration depend on the quality of democracy, stability of political elites, pre-communist independence, electoral rules and the international environment of the European Union.

1.1 From Continuity to Rupture: Why the Differences?

The first puzzle of this study is the observed variation in whether post-communist states limit the participation of the former elites. While fifteen countries have implemented some variant of lustration between 1990 and 2012, nineteen have implemented none (see Table 1.1). The absence of lustration in these countries raises critical questions about their political transition and the role of lustration in their democratization process.
of lustration is perplexing since lustration has been a common mechanism and a general phenomenon of post-communist transitional justice. Surprisingly, a comprehensive and testable model of why some countries lustrate and others do not is still lacking.

Secondly, where lustration programs have been adopted, there is significant variation in their application. In post-communist Germany about 42,000 citizens were removed from public office by 1997 (McAdams 2001, 73). In Albania about 250,000 were removed in 1992 only (Austin & Ellison 2008, 382). Yet, Hungary has banned only a few hundred. Poland requires individuals to acknowledge their past collaboration under the threat of removal for lying about their past links. Moreover, there is considerable variance among the negative cases. While some states debated but rejected lustration through a parliamentary vote, others never considered it seriously.

Table 1.1. Cross-Country Differences in Adopting and Implementing Lustration

<table>
<thead>
<tr>
<th>Level</th>
<th>Law or Decree</th>
<th>Lustration</th>
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<tbody>
<tr>
<td>Non-Existent</td>
<td>Aze; BiH; Blr; Kaz; Kos; Mnt; Mon; Tjk; Tkm</td>
<td></td>
</tr>
<tr>
<td>Introduced</td>
<td>Arm(91, 11); Bul(12); Cro(98, 99, 12); Geo(01, 05, 06, 08); Kgz(10); Hun(91, 93, 98); Mld(05); Rom (93, 99, 05); Rus (92, 97); Ukr (05, 12)</td>
<td>0</td>
</tr>
<tr>
<td>Attempted / Voted On</td>
<td>Bul(92abcd; 98(reduced)); Geo(07); Hun(90ab, 94b, 02b); Mld(00/01); Pol(92abcdef); Rom(97) Svn(92, 97)</td>
<td></td>
</tr>
<tr>
<td>Adopted</td>
<td>Alb (08); Bul(98); Hun(05); Pol(92g, 06); Rom (10, 12); Srb(03); Svk</td>
<td></td>
</tr>
<tr>
<td>Overturned</td>
<td>Alb (93, 09); Bul(92abcd, 11); Hun(94, 05); Pol(92, 07); Rom(08, 10, 12); Mac(10,11,12); Cz(00); Kgz(11)</td>
<td>1</td>
</tr>
<tr>
<td>Screening &amp; Disclosure</td>
<td>Bul(01ab, 06); Hun(94a, 96, 00 &amp; 01, 02a(b))</td>
<td></td>
</tr>
<tr>
<td>Screening &amp; Ban/Removal</td>
<td>Alb(91a, b, 92, 93ab, 95a, b); Bul(90, 91, 92e, f, 97, 98, 02, 11); CZE(91); Cz(92); Est(95ab); GDR(90, 91); Geo (10/11); Lat(94ab, 95, 96); Ltu(91ab, 98, 99, 07); Mac (08, 10, 12); Pol(90, 96); Rom(06); Svk(01); Svn(94)</td>
<td>1</td>
</tr>
</tbody>
</table>

Abbreviations: ALB Albania; ARM Armenia; AZE Azerbaijan; BiH Bosnia and Herzegovina; BLR Belarus; BUL Bulgaria; CRO Croatia; CZ The Czech Republic; CZE Czechoslovakia; EST Estonia; GEO Georgia; GDR the German Democratic Republic; HUN Hungary; KAZ Kazakhstan; KGZ Kyrgyzstan; KOS Kosovo; LAT Latvia; LTU Lithuania; MAC The Republic of Macedonia; MDA Moldova; MNO Mongolia; MNT Montenegro; POL Poland; ROM Romania; RUS Russia; SRB Serbia; SVK Slovakia; SVN Slovenia; TJK Tajikistan; TKM Turkmenistan; UKR Ukraine; UZB Uzbekistan; YUG Yugoslavia (Serbia and Montenegro). Partially recognized or non-recognized self-declared states are not included in the research (e.g., Abkhazia, South Ossetia and Transnistria). Source: Author (For detailed coding procedure see Appendix C and Endnotes).

5 Scholars have vastly overlooked the absence of lustration. Stan was one of the first to point to this omission, claiming that scholars have not been “interested to find out why countries avoided confronting their past, although non-cases could tell us as much about the reasons for and against transitional justice” (Stan 2009, 267).
As Graph 1.1 illustrates, the intensity of lustration varies greatly. Lustration has been applied in distinct waves and has been unevenly distributed. The substantial range in variation is noticeable both across the post-communist world and within states. While scholars have provided numerous insights on this variation in specific cases, no testable theory has explained these outcomes from a broader comparative perspective.

Thirdly, post-communist states vary with regard to the duration and timing of lustration (see Graph 1.2). Some lustration procedures come to an end as prescribed by law. Others are struck down by courts. Still others are enforced for decades or extended into perpetuity. Every year since 1990, at least one post-communist country has either adopted lustration program or changed an existing lustration provision through an executive, legislative or judicial decision.

The timing of lustration is relevant due to its potential impact on institutions. For instance, in the early cases of lustration, the influence of excluded individuals on lustration may be small.
contrast, delaying lustration may empower the former elites and thus hinder the effectiveness of lustration. This may be particularly true in cases where the aim is to eliminate dangers to the new regime (Czarnota 2007, 29). Moreover, despite the fact that the circumstances justifying their adoption have ceased to exist (Kosar 2008; Priban 2007, 315), some early lustration programs remain in effect while others are being adopted twenty years after the transition.

**Graph 1.2.** Countries Implementing Lustration: Timing and Duration

*Source: Author (The ECEFSUM 1990-2012 Dataset).*

In short, while the likelihood, intensity and frequency with which post-communist countries engage in lustration reflect its relevance (Duthie 2007, 19), the question remains as to why these differences exist. Before answering this question, the next section defines the differences first.

### 1.2 The Concept of Lustration: Defining the Differences

Lustration encompasses a multiplicity of meanings and practices. This multiplicity has resulted in a substantial variation in the understanding of the content and implementation of
lustration. Different states have attempted or chosen to lustrate different historical periods and targeted different positions. This variety has made it difficult to translate different forms of lustration into concepts and to compare them across countries. While numerous definitions have emerged, a consensus on a single definition of lustration has yet to be reached.6

This study considers lustration taking place only when a particular “lustration program” is “implemented” (see Diagram 1). The first necessary dimension of the concept is a “lustration program.” A lustration program includes three clearly defined characteristics:

1. Suspected past involvement, based on collective responsibility for past abuses;
2. Protected present or future public positions;
3. Specific method or procedure of lustration (such as screening), which includes a potential threat (such as removal or public exposure).

If any of the three characteristics of a lustration program is missing, a phenomenon falls out of the concept. This is the case even if instances of screening occur.7 Lustration must include an

<table>
<thead>
<tr>
<th>Lustration Program</th>
<th>Past Involvement</th>
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<tr>
<td></td>
<td>Protected Positions</td>
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<tr>
<td></td>
<td>Method</td>
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<td></td>
<td>Institut. Adoption</td>
</tr>
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<td></td>
<td>Screening Intensity</td>
</tr>
</tbody>
</table>

Diagram 1.3. Basic Structure of the Concept of Lustration

6 No consensus has been reached about how to conceptualize lustration such that meaningful comparisons can be made through time and across countries (see David 2006, 347-72; David 2011; Nalepa 2010; Stan 2009; Zidar 1996). Some propose a “minimalist” definition to capture the “consensual elements” (Hatschikjan 2004; Hatschikjan et al. 2005; Horne 2011, 1-35). Yet, no coherent theory of the concept exists. As Johnson ironically notes, scholars “apparently agree” that lustration “refers to vetting current or prospective officials to determine whether they must, or should, or might be ineligible for appointment or election” (Johnson 2006 [cited 2012]).

7 Events, in which a sub-dimension of a lustration program is missing but contain screening, resemble purges or vetting procedures. For a detailed discussion on the differences between the different procedures see Appendix B.1.
examination of the individual’s involvement with the communist regime, such as with the secret police. In some countries the consequences of past collaboration entail removal from office or electoral ballot. In others, only lying about the nature of collaboration represents grounds for ban or public exposure of one’s presumed past involvement.8

The second necessary dimension of the concept is “implementation.” A lustration program is implemented if a person’s proven or alleged links to the previous regime have been reviewed pursuant to a lustrative provision of a defined consequence. The mere existence of a lustration provision cannot count as lustrative without implementation. The implementation describes the intensity or degree to which the provisions of lustration programs have been acted upon.

Building upon the logic of two necessary dimensions of the concept, lustration can be defined as follows. Lustration is a mechanism of transitional justice that limits the political participation of the former elites and their collaborators in the new regime through specific procedural restrictions. Firstly, depending on a lustration program, this mechanism scrutinizes individuals in publicly important positions for involvement with the communist leadership, bureaucracy or security services, bearing collective responsibility for past abuses.9 Secondly, it puts restrictions on acquiring or holding specific positions and/or requires individuals to address their past collaboration under a specified threat such as disqualification, forced confession or exposure. Thirdly, lustration programs are implemented when they produce a “lustrative effect.” This

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8 A lustration method can entail data disclosure or employment ban. Results of the review ban certain individuals from the public sphere, while granting others a clean slate. Lustration has ranged from identifying and publicly exposing collaborators or officials of the communist regime to barring such persons from employment in order to minimize their public presence or influence in a new regime (see Boed 1998, 359 and 364). Some countries and programs have moved away from a blanket policy of collective guilt by requiring individuals to address their personal past involvement. Such lustration programs either ban such individuals from the public sphere or provide them with a clearance and, if stipulated by the program, reappoint them to their positions.

9 Collective responsibility is a defining attribute of the sub-dimension of past involvement. This attribute distinguishes lustration from vetting. While this attribute does not require the former regime to be declared criminal, it is up to each specific lustration program to define in its own terms collective responsibility for past abuses.
means that in a particular year, a given country verifies at least one lustrable position, i.e., it screens the background of an applicant to, or a holder of, a lustrable position.\textsuperscript{10}

This conceptual approach explicitly avoids defining lustration in terms of normative expectations. Such prescriptions justify lustration because of presumably impaired values of the communists and because of the lack of integrity of those who had conformed to the previous system (Letki 2005, 78). In addition, lustration has been justified as promoting justice, accountability, institutional reform and credibility in democratizing regimes (Fombad 2012; Mayer-Rieckh & De Greiff 2007; Stan 2011). This study does not deny the importance of normative considerations that range from bringing justice to the victims of oppressive regimes to securing democratization. However, the fact that a political arrangement of lustration serves a desirable purpose cannot explain its adoption and implementation. Nor can such prescriptions adequately define the concept of lustration.\textsuperscript{11}

1.3 Overview of the Argument: Explaining the Differences

The goal of this study is to identify the factors by which post-communist elites decide to employ a particular type of lustration. While many separate insights of this study are not new, they are integrated into a research design that allows their implications to become evident from a broader perspective. Such a perspective is built on a cross-time and cross-country comparison of systematic lustration patterns that are shaped by specific transitional environments.

Scholars of transitional justice and regime change have provided “infinite” explanations of lustration (Tóth Manó 2010). Yet, their research generally focuses on a small number of cases

\textsuperscript{10} For a detailed discussion on the theoretical framework behind this conceptualization, see Appendix B.

\textsuperscript{11} This study shifts the focus from much of the literature’s normative underpinnings to an analysis of lustration as a consequence of institutionally informed political choice. It treats the concept and the practice of lustration as descriptive and non-normative. For a discussion on distinctions between normative and structural models see Maoz & Russett 1993, 624-38, as well as Chapter 7.3 and Appendix B.1.2.
and on limited explanatory groups. In recent years, scholars have moved forward, trying carefully to amalgamate and balance these different approaches. However, two issues remain. Firstly, despite the evolving debate about the factors explaining lustration, a rigorous test of the proposed hypotheses through replicable approaches of causal inference is missing. Secondly, no comparative framework explains lustration for the entire post-communist region since 1990. Theoretical and empirical models must be reassessed.

Lustration is a function of politics. New leaders often attempt to break with the old regime by purging specific institutions of members of that regime. Yet, different considerations may lead new leaders to compromise with the old elites. The decisions on continuity or rupture may be driven by ideology, security or administrative needs. However, while lustration may represent one of the “institutional innovations” addressing these needs (David 2011), it also rewrites the rules of the democratic process. Lustration enables the competing elites to achieve specific political, electoral and policy goals by circumventing the regular rules of a political process. The variation in lustration is best explained not as a consequence of different needs of transitional justice but as a tool providing political benefits in the context of regime transition.

Chapter 2 frames this argument by introducing an integrated theory of lustration, by providing and justifying a new measure of lustration and by presenting an original research design. The chapter first elucidates how specific elements of the political process constrain political elites with regards to lustration. It highlights the interactive effect of structural factors and political agency. The theoretical argument stresses the crucial role of democracy as enabling elites to opt...


13 The first multi-causal model, balancing between the influences of the past and the politics of the present, was developed by Welsh, followed by others: Welsh 1996, 413-28; Nedelsky 2004, 65-115; Stan 2009.
for and adopt lustration. The chapter also presents a systemized measure of lustration. This measure aggregates reports on several regularities in lustration, on numerous institutional designs of lustration, on hundreds of lustration laws, on secondary literature sources and interviews, and on thirty-four post-communist countries. These enhancements are incorporated in the 1990-2012 Lustration Index, which represents an vital contribution of this study. The chapter also presents alternative hypotheses and justifies a nested research design. The design employs quantitative and qualitative approaches in order to provide a testable, reliable and valid explanation.

The first theoretical innovation of this study is the “democratic model.” Chapter 3 presents this model under a double premise. The first is the notion of a “democratic minimum,” which is a threshold level of democracy required for lustration to take place. Only once a relative level of democracy is assured, can the characteristics of the past and the particular domestic and international environments of the present enable political actors to opt for lustration. Secondly, democracy is a consistent statistical predictor of lustration: the more democracy, the more lustration. For this reason, lustration represents a frequent outcome of post-communist democratization processes.

However, as Chapter 4 demonstrates, elites use lustration for purposes opposed to the practice of democracy. Inasmuch as a minimum of democracy is necessary but insufficient for lustration, elites manipulate the new democratic order through lustration as means of grasping power. Exploiting the authoritarian past, parties with occasionally illiberal preferences take advantage of the fluid transitional settings. They invent lustration as a powerful tool in the arena of the political process. In the end, lustration curtails political competition to the benefit of these same elites. Chapter 4 illustrates why and how elites capitalize on the size and orientation of political parties to promote lustration for the sake of immediate political gains.
The focus of Chapter 5 moves from the immediate arena of politics to the broader institutional effects of post-communist environments. The analysis examines the impact of institutional choice, transitional justice and social capital. Also, it introduces and tests the international determinants of lustration such as the EU and NATO accession processes. It shows that institutional variation affects the choices of elites whenever the broader institutional context offers them an available platform for promoting their agendas through lustration. The institutional choice of open list electoral systems, the presence of truth commissions and NATO membership aspirations significantly raise the chances of lustration and explain the timing of its origin.

Chapter 6 demonstrates that history matters more than is usually recognized. The persistent effects of institutional historical legacies limit the scope of current actions and account for lustration in contemporary politics. In particular, the claims to pre-communist experience of independence strongly affect the overall chances for lustration. The chapter follows the “legacies” literature on post-communism (Ekiert 1999; Fish 1998; McFaul 1993) and introduces the analytical importance of overlapping issues of path-dependency on lustration (Holmes 2006). It shows that the inherited social capital and institutional legacies from the past affect transitional justice in ways that have not been accounted for.

Finally, Chapter 7 summarizes the findings, presents a parsimonious model of lustration and discusses some of its wider implications. The task of a single integrated framework is to bring together the findings from previous chapters and to address separately the puzzles of likelihood, intensity and timing of lustration. The discussion then makes a strong case that lustration in the post-communist world is a story of political weaponry rather than justice.
In terms of methodology, chapters 3-7 rely on large-N quantitative analyses. This approach allows testing the generalizations about complex causal relationships leading to lustration. A crucial advantage of the quantitative approach is data accumulation from a large number of countries and its ability to support generalizations (Coppedge 1999).

The qualitative sections of chapters 3-6 deepen the cross-national analysis by in-depth analyses of cases. In order to illuminate the causal mechanism, the study draws on a historical analysis and over eighty interviews with political elites in five countries. The analysis focuses on Georgia, which implemented a lustration law, and Russia, which attempted it. Providing important local knowledge to tease out the causal mechanisms, Georgia and Russia represent “critical cases” of analysis (Eckstein 1975). The two countries fit the hypothesized causal pattern and represent relatively similar cases with different outcomes.

In order to test the main theoretical model from a case-study perspective, the method of “process-tracing” is used. The method points out specific political events and people in order to assess if the dynamics of change within the two cases plausibly reflect the same causal pattern suggested by the statistical analysis. Qualitative analyses also employ “congruence-procedures.” They examine the values of dependent and independent variables for Russia and Georgia, and determine whether these values are consistent with the predictions of the main hypothesis (George & McKeown 1985; George & Bennett 2005). In short, the study of cases dissects the chain of political events in order to demonstrate how the structural and agency factors create an environment contributory to lustration.

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14 The field work for this particular study was carried out between 2010 and 2012. The interviewees were selected using a snowball technique. If the identity was withheld at respondent’s request, the following coding nomenclature enables the reader to identify the interviewee. The first letter stands for the country (A = Armenia, B = Belarus, C = the Czech Republic, G = Georgia and R = Russia). The number is randomly assigned. For details, see Appendix E.
This introductory chapter has presented the main questions, revised the concept of lustration and given an overview of the main argument. The scope of theses and findings, however, should not be overestimated since much of the proposed theorizing about state-level behavior is tentative. The study raises more questions about the political origins of lustration than it can legitimately answer. Moreover, some of the findings may be not be fully generalizable as the study does not explore in detail the extrapolation of the inferences of this research to transitions outside of the post-communist world. Nevertheless, the hope is that the underlying theoretical model and methodological approach of this study will find application in the research area of transitional justice, democratization and regime change. In that sense, the following chapter introduces the main theoretical model and operationalizes hypotheses and alternative hypotheses for subsequent statistical and qualitative testing.
2 An Integrative Approach to Continuity and Rupture

This chapter sets forth the theoretical framework and the methodological procedure of the study. It begins by developing a theory of lustration. In the first part of the chapter, existing explanations are analyzed and a double hypothesis introduced. The basic theoretical premise relies on a framework that amalgamates a voluntarist and a structural argument. The double framework explains lustration through an interaction between the agency of political elites and the institutional constraints of political regimes. Next, a nested methodological approach is proposed, combining quantitative and case-based techniques. For the purposes of the statistical analysis, the originally systemized Lustration Index is presented and the use of tobit models justified. The qualitative methodology relies on process tracing and congruence procedures for the subsequent analysis of Georgia and Russia. The use of sequencing effects and path-depency techniques aims to improve the static explanations provided by statistical analyses.

2.1 An Integrative Theory of Lustration

The theory of lustration consists of two basic claims. Firstly, democracy represents a \textit{conditio sine qua non} of lustration and lustration a product of post-communist democratization. Secondly, elites exploit past and present institutional elements for political gains, making lustration an outcome of transitional and post-transitional politics. This section shows how the structural factor of democracy and a dynamic approach to politics fit together.\footnote{This study takes into account the difficulty of integrating the existing explanations from both the agency and structural perspectives into one framework. Causal explanations can work on different levels and in different directions. Voluntarist approaches may overemphasize immediate processes, choices, and political crafting, while ignoring the extent to which the reality is conditioned by social structures. Structural approaches, by contrast, treat the identities and interests of actors as defined by positions within social structures and view choices and actions as results of these positions. Institutions understood as sets of rules give structure to social interactions by constraining actors’ behavior (see Helmke & Levitsky 2004, 725-40; Mahoney & Snyder 1999, 3-32).}
Patterns of political arrangements have multiple institutional and ideational components that structure political action. Regime type, the constraints of the present and historical legacies all influence the character of what Tarrow calls “political opportunity structures” (Tarrow 1994). These components provide political actors with incentives, opportunities and grounds for legitimation (Lieberman 2002).

Lustration occurs in the environment of inexperienced democracies through party politics. During the periods of political transition, political parties and rules tend to be fluid (Carroll et al. 2006). Parties grab the structural opportunities to re-evaluate electoral and legislative rules with an eye to their own success. These structures constrain or expand the field of collective action and ensuing political arrangements of lustration.

Integrative theoretical approaches offer important tools to understand lustration as both a byproduct of democratization and a product of compromise. In fact, the criteria for integrative approaches follow from the basic components of both voluntarist and structural approaches.16 The two strategies provide grounds for a meta-analytical synthesis of lustration. The synthesis integrates agency and structure by combining variables from multiple levels of analysis and by linking antecedent structural factors to subsequent actor choice.

2.2 Self-Interested Actors

The agency-based model of this study claims that lustration is an elite-driven phenomenon of politics. The model assumes that elites ground their choices and actions on their calculated self-interest, which is to occupy and stay in public office. In the arena of the political process, the

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16 Integrative approaches are defined here by use of both subjective evaluations of actors and objective conditions as primary causal variables. These include “a focus on temporally proximate and remote factors; a methodological concern with case-specific and general causes of regime change; and an emphasis on multi-level explanations that span micro and macro levels of analysis” (Mahoney & Snyder 1999, 10-11).
political elite must win offices to stay in business. In transitional regimes the rules that regulate the political process tend to be more fluid. The context of democratization in particular allows for the introduction of lustration, which benefits certain elites and harms others. From the perspective of the rational elite, the origin of lustration is thus a function of lustration politics. The elites’ self-interest becomes embedded into their calculations about how to obtain and maintain political power through lustration.\(^\text{17}\)

Conversely, the ruling elites of authoritarian regimes do not need lustration. While the autocratic elites may legalize opposition parties and permit elections, they control the political process to such an extent that the use of lustration would add nothing to ensure their survival. Since in the post-communist regimes of authoritarian character there has been only limited elite turnover, lustration would needlessly hurt the elite’s own prospects.

Lustration represents a political opportunity. The context of prolonged post-communist transition offers the various elite groups a tool of lustration. This tool may increase elites’ chances of gaining or maintaining power. As the reasoning behind the use of lustration includes personal benefits and the elimination of the adversary, elites institutionalize a new framework of political process that provides seemingly winning opportunities.

Political incentives that sway elites to introduce lustration represent important determinants and basic assumptions of this study. The first assumption of lustration politics is that elites are able to operate under such conditions. Second, elites are assumed to be “perfectly rational, purely

\(^{17}\) Among the political purposes of lustration this study includes the following: Undermining the legitimacy of political opponents to enhance one’s own; accusations of lustration are a tool of political competition (Welsh 1996, 413-28); remedying the involvement with the past regime; minimizing harmful exposure of data (Nalepa 2010); Ensuring electoral gains; achieving institutional reforms (Szczerbiak 2002, 553-72; Costa Pinto & Morlino 2010; Williams et al. 2005, 22-43). The centrality of strategic elites has been forcefully presented by Nalepa, who finds that by using lustration, elites are strategic as they are mostly concerned with defeating the opponent (Nalepa 2010). Others have shown that the new elite might fight not only the old elites but also other new elites emerged after the regime change (Grodsky 2009, 687-706; Grodsky 2008, 281-97).
selfish, and have perfect foresight” (Battaglini et al. 2012, 408). While these assumptions are abstractions and disregard other characteristics, the elite model predicts lustration as an opportunity occurring under the political context of regime change. Lustration is a political element of protracted transitions. Unstable elites constantly aim at lustration precisely because of an ever more present framework of increasing political contestation. This concerns the legislature and the political parties in particular.

While the elite processes during regime transition represent a crucial factor at a general level, the politics of lustration become most visible in the arena of legislative and party politics. It is in specific legislatures and political parties that lustration represents an optimal outcome for political elites promoting lustrative policies. As a mechanism of politics in transition, lustration redistributes political influence within the legislative and electoral arena. The lustration debate and policies are created by the elites’ deals and become a function of politics.

According to the elite model, the politics of lustration develop on two levels. On the first level, a legislature bargains over the qualification prerequisites of certain public positions. These positions often comprise the members of parliament and its committees. A legislature decides on the intensity of lustration provisions—provided that it receives a qualified majority. When enough votes are secured, parties assess the risks of lustration, such as unintended exposure of their own “tainted” members and the anticipated future payoffs. The main determinant in the

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18 The argument about opportunities in transitions partially accords with Przeworski’s theory of the emergence of democracy. He claims that a final result of the extrication games of incumbent elite and the alignment of groups during a transitional process is a new framework of political contestation. Yet, Przeworski’s main theoretical concern is with the transition process to democracy (See Przeworski 1991, 88-94; Kitschelt 1993, 413-27).

19 Early lustration scholarship found that politicians have an incentive to use lustration and secret files against their opponents as a means of discrediting them with the electorate (Ackerman 1992, 81). Building on this rational-choice assumption, others have developed a model of a “lustration cycle.” Once politicians have used lustration against their opponents, the opposition retaliates when it obtains power, leading to a cycle of escalation. Lustration becomes “the consequence of particular cycle of political competition” in order to restructure the rules of the game to the advantage of one party over other parties (Horne & Levi 2004, 55 and 62). One political block attacks while the other retaliates. Political elites both shape lustration and become its objects (Teitel 2000).
The legislature’s voting will thus be the difference between the expected utility of the current status and a lustration proposal, taking into account the anticipated and unanticipated future payoffs.

On the second level, the model assumes that political parties benefit or lose from discussing and adopting lustration. The results depend on the inter-party bargaining position of elites as parties have a strong incentive to champion specific salient issues in their competition for power. Besides the conflicts over democratic and free market reforms, the post-communist world has presented the parties with other significant cleavages. Parties have strongly disagreed over the treatment of officials from the communist regime. They have assumed distinct positions on how senior officials from the old regime should be held accountable. Party competition, in turn, incorporates a dimension of lustration. This may be particularly true since the parties that rose to power on both sides of the political spectrum have been able to use their positions to strengthen themselves through political patronage.

Because of its function as a tool in the struggle for political power, lustration becomes a means to political gain rather than historical justice (Szczerbiak 2002b; Welsh 1996, 414). Lustration will simply not be used if it does not bring about political gain. What is more, while lustration emanates from the emerging democratic competition, it conforms to a decrease in competition. Whenever political power is threatened, “the weapon of lustration can be wielded to gain sympathy and to quiet opposition.” Social conflicts become “concealed by the smokescreen of purification” (Bertschi 1994, 447-48).

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20 Unlike in most of the post-Soviet countries, political parties in East-Central Europe gained a dominant place in the new regime after their initial weakness. Former communist parties generally successfully reinvented themselves as center-left parties, drawing upon their political experience and institutional resources. These and other parties took advantage of “the generally high degree of political freedom and the regular national and local elections to build their strength” (Carothers 2006, 23).

21 During the 2012 public debates on lustration in Ukraine, a scholar asserted that in Ukraine “there will be no lustration as it would benefit no one” (Emelyanov 2012 [cited 2012]). See Chapters 5 and 6 for a detailed structural explanation describing under what conditions lustration may not benefit the elite.
Through lustration, the discourse about the past masks the debate and represents a proxy struggle that is conducted in historical costume for political interests (Schlögel. 2008, 7). As the elite exploit lustration for the purposes of power, they enter into “contemporary memory games” (Przybylski. 2008, 7). The discourse of lustration becomes driven by power struggles among political elite. For that reason the control of the constructions of the past and its actors affects the outcome of contemporary contestation (Łoś 1995, 124).

If lustration as a tool of political competition represents the correct model, specific elite patterns are expected to take place as a function of regime change. Scholars have emphasized the left-right ideological orientation of the elite (Stan 2009a) and have seen their potential past involvement as a skeleton in the closet that boomerangs back upon the elite (Nalepa 2010a; Nalepa 2010b). Chapter 4 will introduce alternative aspects of the competing elite in terms of their strength in the legislature, age and nationalistic leanings. It will show that legislative coalitions that are broader or more tightly knit are also more motivated and secured in adopting lustration. Moreover, if the pro-lustration factions represent strong state agents, they work against the party system in order to prevent the expression of public will and provide maneuvering space for party competition by other means, such as lustration.

2.3 Constraining and Facilitating Structures

While the integrative approach emphasizes the central role of the political elite, it assumes that the elite depend on an institutional environment that constrains them. The structuralist model of this project demonstrates how present and past factors limit or facilitate elite behavior. Political actors make decisions in specific historical and institutional environments (Snyder & Mahoney 1999; Thelen & Steinmo 1992; Thelen 1999). These structures are not the direct result
of political choices made by the leaders (Ottaway 2003, 175). Instead, the type of class, ethnicity, inherited institutions or current regime creates a framework of relations that defines the range of possibilities within which individuals can and do act. The integrative approach assumes that these relations define political actors as structures through institutions constrain their perceptions and choices (Lichbach & Zuckerman 1997). 22

The structural approach has informed much of the literature on lustration. Approaches focusing on past legacies have included explanations such as severity of the authoritarian regime, mode of exit and the political legitimacy of the former regime. 23 This study provides alternative legacy explanations by focusing on past foreign control and the experience of pre-communist statehood. Moreover, research has also focused on present structural factors. These include the urgency of current problems (Holmes 1994), the quality of judicial infrastructure (Elster 1998), the quality of social capital and many others. This research also provides alternative hypotheses such as institutional choice about transitional justice and electoral rules.

In order to provide a more complete and coherent account of lustration, this study breaks down the impact of institutional factors. It provides distinctions between the post-communist world as a whole and separately, as East-Central Europe and the region of the Former Soviet Union. The study also breaks down the explanatory factors by distinguishing periods in the past: historical legacies from before World War I, the interwar period, the period between World War II and 1989, and the period after the fall of communism. Within the post-1989 era, time periods

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22 Institutions can be understood as composed of rules and formal organizations that are “loci for human interaction under conditions of differential power and authority” (Katznelson 1997, 102). Rules and institutions—both old and new—may not instantly produce firm realities but rather create a loose structure that political actors seek to shape in the interest of their own power and policy objectives (see Baylis 1996, 302). At work is a “complex dialectic” between institutional rules and the behavior of the political elite (See Linz & Valenzuela 1994, xii).

23 While some authors emphasize the link between lustration (Nedelsky 2004, 65-115), others caution about the potential covariance of legitimacy with the level of oppression within the different regimes (Nino 1996; Rosenberg 1995; Walicki 1997, 185-237).
are distinguished from two perspectives. The first looks at the region during the first decade (1990-2000) and the second decade (2001-2012). The second differentiates between the early years after regime change (1990-1996), the period that marked many with EU accession processes (1997-2003) and the post-transition and the EU periods (since 2004).  

This disaggregation is crucial for several reasons. First, causal effects may be time-dependent or region-dependent. The statistical effect of certain predictors may increase or decrease over time or be more or less pronounced in specific periods or regions. Second, distinctions within time and space allow for the explanation of how past and contemporary institutions affect the elite’s decision-making process. This is particularly important from the perspective of model-building as some predictors vary across time and others do not. Third, a nuanced structuralist approach may help the model to gain analytic traction on the voluntarist factors.

While periodization and regionalization risk a loss of analytic leverage, their use in this study is warranted since the study provides an additional test using non-disaggregated data. Chapters 3-6 disaggregate the three puzzles of this study into a series of causal mechanisms in order to identify multiple processes (Geddes 2003, 43). These micro-mechanisms are then compared to the macro-theme of lustration. Moreover, this study distinguishes different aspects of current politics and society. It analyzes the origin of lustration by looking at the impact of economic welfare, education, social capital and other factors. By including these distinctions, this study introduces three main theoretical perspectives and observable implications that stem from the structural considerations of the integrative approach.

1. Past and present factors, while potentially significant, do not play a role in lustration unless they are combined with sufficient levels of democratization.

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24 Since not all historical observations are equal and since some provide more analytical insight than others, the moments of variation on crucial variables are clearly specified in order to evaluate the impact of such variation on lustration (Lieberman 2001, 1018; Mayhew 2005, 533). As shown in Chapter 1 and 2.6.2, disaggregation emerges from the very nature of the data.
2. The persisting effects of the historical legacies limit the scope of current actions and account for lustration in contemporary politics. The experience of crushed pre-communist independence and the duration of communism crucially affect the chances for lustration.

3. The international, transitional and electoral determinants matter. The accession processes to the EU and NATO offer elites an available platform for promoting their agendas through lustration. Truth commissions inform motivations and provide supporting materials for lustration. Electoral rules additionally constrain elites in their competition for power.

Combining these structural insights with the elite model presented above, the following causal mechanism emerges (see Diagram 2). Pro-lustration elites can hope for success only in an environment of democratization. Once minimal democratic elements exist, elites have a chance to promote lustration. The process is set in motion if the representation of the pro-lustration elite in the legislature is sufficiently large within a tightly knit and stable coalition. Within those parameters four major structural conditions facilitate lustration: specific electoral rules, the environment of the European Union, the presence of truth procedures and claims to a previous independence crushed by the communist regime.

Diagram 2.1. Map of the Argument: Causal Mechanism behind Lustration

Having introduced the main model to explain the three ranges of variation in lustration, the next section codes these ranges, provides a new index and justifies its introduction.
2.4 Introducing the Lustration Index

Despite the growing use of various measures of lustration, a number of questions about its coding structure remain. The first is how to capture the variation of lustration practices across time and space. To date, no complete index has adequately measured various degrees and scores of lustration. As a result, the validity and reliability of current indices are too low to justify confidence that particular scores reflect specific lustrative processes. Moreover, research has shown insufficient consistency between the structure of the concept and the structure of its measure. For that purpose, the previous chapter refined old concepts and provided a theory of the concept of lustration. Building upon that theory, this section introduces the Lustration Index.

The Lustration Index is the first of its kind to accumulate the data from all cases of lustration as well as from those where lustration is absent but possible. The index increases the accuracy of current data by reexamining the historical record and identifying the time and scope of the changes in lustration. This section converts the complexity and variety of lustration into measures and variables and addresses potential objections to coding and measurement.

2.4.1 Coding, Measure and Index

Detailed discrimination of measurement instruments leads to more subtle interpretations and powerful analyses (Jackman 2008; Singer & Willett 2003, 469). To provide finer distinctions and

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25 First, a measure of lustration has construct validity if it is a good predictor of phenomena that are hypothesized to be associated with lustration. The comparison of graded and dichotomous measures in this study shows validity as dependent on their predictive power. Second, reliability is relative to the extent that a measure captures the variation of a phenomenon. Fine-grained measures lead to greater reliability. However, as reliability depends on the number and magnitude of errors, increased sensitivity may come at the cost of increased error (see Elkins 2000, 193-200; Alvarez et al. 1996, 3-36). This study uses several ways to drive down random error and systematic bias (see 2.4.1).

26 The inconsistency between the concept and the measure of lustration derives mainly from under-developed conceptualization. The problems of indices begin at the level of definition (see Coppedge et al. 2011, 249).

27 Appendix B lays out detailed concept-building procedures and uses formal logic to justify coding decisions. Valid measures of lustration thus rely on the structured operationalization of the core characteristics of lustration.
credible measures, this study systemized the variation of lustration practices (Chapter 1), which now allows lustration to be quantified in two ways. Firstly, a binary coding classifies country cases according to presence or absence. The distinguishing criterion is the enforcement of a lustration program, visible through actual instances of screening.

Secondly, the Lustration Index provides nuanced measures on two levels. The non-implemented levels correspond to the degrees to which a lustration program has been adopted (see Table 2.1 and Appendix B.4). If no lustration program is introduced into the legislature or executive, a particular observation is coded \{0\} and labeled “non-existent.” The \{0\} level represents a complete absence of lustration, i.e., an observation in which lustration has not been even attempted. If a lustration program is introduced but not voted on, it is coded \{1\} and labeled “introduced.” If a lustration program is voted on, but rejected, it is coded \{2\} and labeled “voted on.” If a lustration law is voted on and adopted, it is coded \{3\} and labeled “adopted.”

<table>
<thead>
<tr>
<th>Type</th>
<th>Coding Criterion</th>
<th>Index Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Existent</td>
<td>No LP is introduced to legislature/executive</td>
<td>0</td>
</tr>
<tr>
<td>Introduced</td>
<td>A LP is introduced but rejected before it is voted on (legislature/executive)</td>
<td>1</td>
</tr>
<tr>
<td>Voted On</td>
<td>A LP is voted on (legislature) but rejected</td>
<td>2</td>
</tr>
<tr>
<td>Adopted</td>
<td>A LP is adopted (by legislature/executive)</td>
<td>3</td>
</tr>
</tbody>
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Levels \{0\} to \{3\} provide nuance on the negative cases. They represent “negative” lustration, since lustration requires the enforcement of a lustration program.\(^{28}\) Moreover, level \{3\} is necessary for subsequent levels as lustration requires a lustration program to be approved by the legislature or the executive. As a variable, the negative spectrum of the Lustration Index is labeled “Institutional Adoption.”

\(^{28}\) This coding procedure does not differentiate between a lustration program (LP) simply adopted and a lustration program that has passed additional barriers such as approval or upholding by the constitutional court or the president. Both categories are coded as “3” or higher (if enforced).
For the actual cases of lustration, the coding procedure is based on the extent to which a country’s populace was screened with regard to a lustration program (see Table 2.2).\(^{29}\) If a lustration program is implemented but not enforced, it is coded \{4\}. While in level \{3\} there is no implementation since there is no evidence of an institutional framework enforcing an adopted lustration program, in level \{4\}, lustration institutions are put in place. Yet, due to the specificity of a lustration program, no screenings may be necessary in a particular year.

<table>
<thead>
<tr>
<th>Type</th>
<th>Coding Criterion</th>
<th>Index Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not enforced</td>
<td>A LP is implemented through a commission but nobody is screened</td>
<td>4</td>
</tr>
<tr>
<td>Lenient</td>
<td>A LP’s implementation results in limited screenings <em>per capita</em></td>
<td>5</td>
</tr>
<tr>
<td>Intermediate</td>
<td>A LP’s implementation results in average screenings <em>per capita</em></td>
<td>6</td>
</tr>
<tr>
<td>Harsh</td>
<td>A LP’s implementation results in substantial screenings <em>per capita</em></td>
<td>7</td>
</tr>
</tbody>
</table>

Levels \{5\} to \{7\} reflect a measure of the screenings *per capita* and are coded as follows.\(^{30}\) First, the absolute number of yearly screenings (labeled as “scravg”) is divided by a country’s population (labeled as “scrpop”). This measure of screened *per capita* is then trichotomized (labeled as “scrpcstd”). The trichotomization seeks to reflect the variability in the number of persons screened *per capita*. The delimitative criterion distinguishing the lenient, intermediate and harsh categories is the measure of dispersion of standard deviation from the median.\(^{31}\)

\(^{29}\) In addition to the variable measuring the numbers of screened persons per year, this study creates a variable accounting for the numbers of those who were found to be “tainted” per given country for a year (see Appendix B.3). The correlation between the number of screened and the number of tainted is high: 0.899.

\(^{30}\) Since the previous data on screenings is small, this research project assembled it through a detailed study of complimentary sources such as newspaper articles and archives and aggregated them (See Appendix B).

\(^{31}\) Cases falling under the lenient category \{5\} range between the median (0) and one standard deviation of the *per capita* data for screening. The intermediate category \{6\} accounts for cases dispersed between the first and the second standard variation away from the median. The harsh level \{7\} comprises the cases dispersed more than two standard deviations from the median. Using the median rather than the mean is justified by the fact that over 50 percent of cases lack enforcement. In the distribution of screenings *per capita* all cases of enforcement occur above the median, which is zero, and standard deviation is greater than the mean.
The combination of adoption and implementation scales creates the Lustration Index (see Table 2.3, labeled as “lustr”). The coding follows a typology of eight outcomes, which are ordered and mutually exclusive. Categories 0-4 are assigned to the non-implemented portion of the lustration variable. Categories 5-7 are assigned to the enforced portion of implementation.

### Table 2.3. Operationalizing the Binary and Multi-Level Codings of Lustration

<table>
<thead>
<tr>
<th>Institutional Adoption</th>
<th>Coding</th>
<th>Variable</th>
<th>Number of Screened Per Capita (percent)</th>
<th>Coding</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Lustration [0]</td>
<td></td>
<td>Binary</td>
<td>Lustration [1]</td>
<td></td>
</tr>
<tr>
<td>LP is Non-Existent</td>
<td>0</td>
<td></td>
<td>Lenient 0.0000502 - 0.0587956</td>
<td>5</td>
</tr>
<tr>
<td>LP is Introduced</td>
<td>1</td>
<td>Multi-Level</td>
<td>Intermediate 0.0659257 - 0.0834387</td>
<td>6</td>
</tr>
<tr>
<td>LP is Voted On</td>
<td>2</td>
<td></td>
<td>Harsh 0.1453823 - 0.4909114</td>
<td>7</td>
</tr>
<tr>
<td>LP is Adopted, no commission</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LP is Implemented, no screening</td>
<td>4</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### 2.4.2 Addressing Concerns related to the Lustration Index

The variation in lustration as defined above in the Lustration Index may raise theoretical and methodological concerns. The first objection concerns the inter-dependency of specific categories. One may claim that while it is impossible to adopt a lustration program without having it first “introduced”, the enforcement levels remain independent. The latter part of the concern is irrelevant. Even within the implementation portion a higher level requires the lower.

The second objection sees the coding of the screening portion as arbitrary. It is true that it is impossible to obtain an exact number of screenings for every country. Often only estimates are available due to poorly held screening records. A lustration program may also prohibit the publication of numbers. Yet, while in any coding of complex realities, there is an inherent degree of artificiality, the coding procedure of this study follows an explicit logic. The number of people screened in one category is meaningfully different from the number found in the category just above it. Also, the differences between the categories are based on the inherently consistent
dispersion of the screening data. Moreover, the continuous variable accounting for the number of screened *per capita* and the related trichotomized variable are highly correlated at 0.796. Finally, while an isolated use of the screening *per capita* variable would be beneficial for statistical analyses, the rich variation among the negative cases in the adoption level would be lost.

The amalgamation of the adoption and implementation portions leads to a third objection. The processes of adopting lustration programs are different from screening procedures. Statistical models should thus differ accordingly. The response to this objection is manifold. In order to prove the index as internally consistent, this study will provide three different models for all basic analyses, using separately the adoption portion, the implementation portion and the Lustration Index. The hope is that statistical effects of the three models will show sufficient similarity to justify the amalgamation (see Chapters 3 and 7). What is more, the combination of the two portions is empirically justifiable. Once lustration starts being debated and potentially adopted, it is usually enforced. Finally, there is a high correlation between the three conceptual understandings of lustration (see Appendix A).

### 2.5 Research Design: Case Selection, Data and Model Specification

Having defined the main theoretical model and the Lustration Index, the research design may now be outlined. The design focuses on three issues: case selection, statistical model specification and case-study techniques. It uses a “nested analysis” research approach in order to provide a testable theory (Lieberman 2005; Lieberman 2010). The probabilistic perspective helps to broaden the scope and maximize generalization while the study of cases illustrates if and how the main theoretical determinants affect lustration in specific countries. The studies of Georgia and Russia provide narrative accounts in order to test broader theoretical propositions.
2.5.1 Case Selection

The post-communist world represents the specific context in which the conditional propositions of this study are formulated. While the definition of lustration provided above is applicable to cases outside the post-communist world, this research focuses on countries in which the constitutional rule of the communist regime has ended and a new regime has emerged. Relevant cases are the states that had experienced a significant length of the communist regime and its disintegration. This condition allows for lustration to occur at least in principle.

The level of analysis in this study is both a domestic and a systemic one. The study locates causes of lustration within specific states and within a system-wide level. It includes all post-communist states and their interrelationships. The unit of analysis is a country and observation is a country in a particular year. The choice of cases depends on a selected area of homogeneity. The countries share enough characteristics to enable meaningful comparisons. Case section also represents a theoretical leverage since scope conditions are considered as constants and do not feature in the model. Only those cases that share relatively similar structural and historical constraints on the mechanisms of transitional justice are chosen.

By using these criteria, non-communist regime transitions are excluded. While such a choice certainly affects the results, it helps control for alternative variables. The selection of post-communist cases also helps highlight the relevance of the causal mechanism and to understand lustration as a cross-national phenomenon. Furthermore, the possibility principle plays a crucial role in the selection of cases. It identifies relevant cases on the grounds of the parameters within which this study is expected to be valid (Cohen 1989; Walker & Cohen 1985). This includes the post-communist states in Europe, the region of the former Soviet Union and Mongolia.
These parameters exclude other communist countries. China, Cuba, North Korea and Vietnam are not post-communist, whereas other Marxist regimes in the developing world were of a sufficiently different nature so as to make their inclusion problematic. Due to lack of data, Mongolia is included only in few analyses, although it fits the scope conditions. This is unfortunate since contemporary Mongolia represents one of more democratic polities in Asia, undergoing a remarkable post-socialist transformation, and has experienced no lustration.\(^{32}\)

The selection of cases yields a cohort of 34 countries for the 1990-2012 period. This cohort is first used for the quantitative analysis. Statistical modeling allows for weighing the strength of the main argument against other explanations in order to provide a robust and convincing answer to the three puzzles presented in the introduction.\(^{33}\) Over 600 observations increase the degrees of freedom and guarantee a minimization of biases due to aggregation effects. As a result, this study yields over 600 statistically significant associations between lustration, the elite’s behavior and the structural factors of regime transition. The findings rely on an original dataset, where a number of variables is created and many available variables are recoded (see Appendix A).

The qualitative analysis relies on a paired comparison of Georgia and Russia. While the use of other cases will provide additional explanatory leverage, Georgia and Russia fit the hypothesized causal pattern. They also represent relatively similar cases with different outcomes (MSDO), making it possible to control for several alternative hypotheses. They control first for the level of violence and mode of transition, as both Russia and Georgia experienced violent outcomes of

\[^{32}\] Despite its relative democracy and extensive communist political purges in the past, Mongolia has not opted for lustration—and thus represents an important negative case. This absence may be attributed to the fact that although the former ruling party, the Mongolian People’s Revolutionary Party (the MPRP), has fundamentally changed its platform, it holds leadership and frames nation-building policy (See Morozova 2009; Christie & Cribb 2002). However, the ECEFSUM dataset includes enough information about Mongolia for the analyses in Chapters 2 and 3.

\[^{33}\] In this study, the cross-section units (34 countries) are more numerous than temporal units (23 yearly observations), i.e., where N>T. Such a pool within the time-series cross-section analysis is often conceptualized as a “cross-sectional dominant” (Stimson 1985, 914-47). For this reason, regression models used in this analysis focus on random effects. For a justification of the random effects use, see Podestà 2006, 539-59.
regime change. They control for the diffusion effect since none of these countries is geographically close to the former Czechoslovakia. They control for public demand as none of them experienced high public demand for lustration. Finally, they are relatively similar on other levels, including interwar democracy, communist oppression, and EU membership prospects. However, two important factors vary. These variations explain the outcome. The most important is the variation in democracy. Second, Russia and Georgia vary on the main historical predictor, the pre-communist experience of independence coupled with communist occupation.\footnote{A caveat is in order here. From case-selection and theory-confirming perspectives, the MSDO design would usually require only one important independent variable to vary. The rationale presented above may not promise that for the paired comparison. This shortcoming is remedied by distinguishing distinct periods within each country.}

\subsection*{2.5.2 Data Presentation and Model Specification}

The data collected for this study show a large proportion of observations having no lustration. Lustration has been completely absent in 62.1 percent of observations (level \{0\}). In 73.9 percent of observations, no screenings have taken place, while some legislative attempts may have occurred (levels \{0-4\}). The Lustration Index is highly zero-inflated.\footnote{This zero inflation is visible in East-Central Europe and to a greater extent in the region of Mongolia and the former Soviet Union region (excluding the Baltic states; See Graph D.1 in Appendix D.1).} The overall number of zero observations represents a very high level of 0.16 on the categorical probability distribution scale. This fact points to an inflated probability density function (see Chart 2.2).\footnote{Without the truncation at the zero level, the Lustration Index is censored although not by construction or data selection but by fact. The lustration variable thus represents a “limited dependent variable” as it contains a threshold value, i.e., a discrete jump at zero. However, by truncating the zeros, the lustration measure becomes slightly right-skewed but relatively normally distributed above zero (see Chart D.1 in Appendix D.1).}

The high concentration of observations at the lower limit represents a particular conundrum for model building. The explanatory variables may influence both the probability of whether a country experienced a complete absence of lustration (scoring zero) and how much lustration a country did experience (scoring \{1-7\}), given that the country had some lustration experience.
The most pertinent solution to this challenge is “corner solutions” of censoring models.\(^{37}\) With censored variables, no observations are truncated from the dataset. Censored models allow for the lustration variable to gain the area of the distribution equaling to one. With the initial censoring of zeros that area had been lost (see Chart D.1, Appendix D.1). Now, the remaining distribution \([y|y>0]\) is rescaled. This is the essence of the so-called “corner solution” tobit model, which directly addresses the high percentage of zero values.\(^{38}\) In brief, tobit regressions model both the inflated structural zeros and levels \{1-7\}. Tobit models mix cumulative probabilities

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\(^{37}\) A more “naïve approach” (King 1998, 209) to deal with the zero-inflated nature of lustration models is to drop the censored observations. Excluding zeros, the censored data would be turned into truncated data so that the new \([y|y>0]\) variable follows a normal distribution. However, such a solution is naïve for several reasons. First, since the truncation occurs from below, the mean of the truncated variable would be greater than the mean of the original one, the variance would be reduced, and coefficients would be biased towards zero. Second, standard estimation techniques are biased under either censoring or truncation. Finally, by truncation much of the useful data would be lost. The main difference between truncated and censoring models is that the censoring model does not assume to “know” the “true” values of some of these observations.

\(^{38}\) Unlike in most censored regression applications, in which there is a latent variable, where \(y^*\) is “censored” i.e., it is not observed for some part of the population, in “corner solution models” the question is not data “observability” (i.e., the variable is censored because it is not observed for some part of the population). In corner solutions, the data are not strictly speaking “censored”, because the zero-inflation is not a result of data collection, data unavailability, or observability beyond/below a threshold.
integrated over a one-dimensional range with probability densities computed at zero-dimensional points. The overall likelihood is the product of probabilities of both types (Roodman 2009, 6).  

Because of the paneled nature of the Lustration Index, the above interpretations will be based on random-effects tobit regressions, relying on Gaussian distribution. The expectation using the panel data is that lustration at different time points in the same country may not be independent even after conditioning on the covariates (Rabe-Hesketh & Everitt 2007, 175). In principle, fixed-effects and random-effects models could be used in order to analyze the longitudinal data. However, the literature on nonlinear panel data models suggests the random effects approach as superior to the fixed effects approach. The reason is that only the former yields a fully specified model that can be used for calculating marginal effects.

Before moving to hypotheses building and regression analyses, the main assumptions behind the tobit model need to be addressed. In the standard tobit model, the error term is assumed to be normal and homoscedastic (constant variance). If it turns out that the disturbance term is either heteroskedastic or non-normal, then the maximum likelihood estimate will be inconsistent. For

39 Considering the nature of the Lustration Index, the choice of the tobit model is superior to the ordered probit alternative despite the fact that the dependent variable of lustration is categorical. The tobit model is mathematically proven to take account of both continuous and interval censored data (see Greene 2004, 125-47). An alternative is to use an ordered tobit approach (see Bellemare & Barrett 2006, 324-37). However, the usage of ordered probit has yet to be justified for panel data (see Schimmelfennig & Scholtz 2010, 452). More importantly, in the tobit model, the value of \( y^* \) is known when \( y^* > 0 \), while in the probit model we only know if \( y^* > 0 \). Since there is more information in the tobit model, the estimates of the BETA's should be more efficient. These benefits also outweigh the concern that the Lustration Index is a categorical variable while tobit models treat it as if it were a continuous one. Nevertheless, regression analyses of this study include concomitant probit models in order to provide additional leverage to the overall findings (see Chapters 3-7). At this point, however, it has to be noted that because censoring in the probit model is more symmetric than in the censored-from-below tobit model, the potential for systematic bias may be smaller in the former case (see Roodman 2009, 22).

40 While Tobit models are appropriate for both censored and corner data, the role of the Tobit corner solution model is to address the problem of the dependent variable hitting an upper or lower bound for a large number of observation while the zeros are fully observed and known (Wooldridge 2002). Tobit solutions focus on the features of the distribution of \( y \) such as the expected value of \( y \) (i.e., \( E[y] \)) and the probability of \( y \) being zero (i.e., \( P[y=0] \)). A Tobit model uses a log-likelihood approach made up of two parts: the classical regression of the “uncensored” or “non-corner” observations and the relevant probabilities that an observation is “censored” or “corner”.

41 The standard random effects panel data Tobit model (as used in the STATA statistical package, \( xttobit \) command) assumes no correlation between the individual specific effect and the explanatory variable. Because of this condition mean independence assumption, some authors regard this model as misspecified (see Kalwij 2004, 10). No statistical packages offer appropriate alternatives to address this concern.

32
example, assuming that more democratic countries are more likely to have more lustration, the variance of the error term (sigma-squared) may be high and convexly, positively related to democracy. Potentially disproportionate censoring of the zero values for highly democratic countries will increase their apparent tendency to lustrate more and bias the estimated slope of the relationship for uncensored observations upward (Roodman 2009). However, since the lustration data are not censored artificially at zero, the usage of the tobit model is warranted. Moreover, in order to avoid potential heteroskedasticity, the values of explanatory variables are restricted to their subsets. This study frequently employs the marginal effects approach as well as the strategy of breaking down the data into time periods and regions.42

### 2.6 Summary

This study pioneers a wide cross-national approach to lustration. It tests numerous hypotheses provided in the literature and introduces theoretically relevant explanations. Besides providing a theoretical background for the most pertinent hypotheses, the integrative approach allows each of the subsequent chapters to control for a number of alternative factors. Among these are the proximity of elections and self-lustration, the age of the pro-lustration elite and the age of political parties and systems of government. The analysis includes societal factors such as economic welfare, levels of education and civil society. While these explanations will be hypothesized as consistently insignificant, other theories will provide some explanatory weight. They may be important not on the general level but from the disaggregated perspective. A

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42 It is possible to get consistent estimates with heteroskedastic errors if the heteroskedasticity is modeled directly. Note also the implicit assumption that the data generating process that determines the censoring is the same process that determines the outcome variable. The model assumes that the equation determining whether an observation is at the limit, is the same as the equation telling us the value of the dependent variable. Kennedy provides an illustrative example of this problem. “The equation determining whether a family will take a vacation is not the same as the equation determining how much they will spend if they take a vacation. The empirical modeling procedure should capture this by having two specifications” (Kennedy 2003, 284). This is a procedure which the Tobit model reflects.
number of explanations will be presented not as a general rule but as helping explain specific time-based outcomes. These explanations include religious legacies, interwar and post-WWII political regime types, levels of communist bureaucratization as well as current levels of nationalism, diffusion effects and corruption.

On a more fundamental level, this chapter has argued that the political regime type and the structural explanations represent the core of this study. For example, the integrated approach allows in particular to account for past legacies and the international environment, which may matter more than has been previously claimed. The agency-based model increases the leverage of the theory and findings. Lustration is a result of specific choices and actions of the elite. While structuralist approaches assume that actors make decisions in specific historical and institutional environments, structuralism cannot present a complete causal logic. It is thus complemented by a causal mechanism of actual politics. Lustration is adopted by concrete political actors, who can adapt to a changing institutional context.

What is more, this chapter has carefully coded various lustrative phenomena into a systemized Lustration Index. As a form of meta-analysis, the chapter organized the combined data from numerous sources and analyzed them as one dataset in order to provide results with significantly more weight. The chapter finally presented the data behind the Lustration Index and justified the use of the tobit regression model. These steps now allow making a transition from the analytic argument of this chapter to testable implications of the following chapters.
3 The Democratic Model of Lustration

This chapter introduces the “democratic model” of lustration. The model argues that democracy is a prerequisite for and significant determinant of lustration. This double premise presumes that while democracy is not sufficient for lustration, democracy not only is necessary for lustration but also significantly affects its prospects. First, it is only after a country achieves a sufficient level of democracy that the elites of the new regime aim at lustration. Second, the higher the level of democracy a country enjoys, the more likely, extensively and lastingly is the country to lustrate. While the existence and intensity of lustration depend on other structural and voluntarist factors (see Chapters 4-6), lustration is fundamentally conditional on, and affected by, democracy. After presenting the model, this chapter will test the argument by using deterministic and statistical approaches as well as case studies of Russia and Georgia.

3.1 Democracy and Lustration

Democracy is essential in explaining lustration. While this hypothesis is not entirely new, it has been generally based on a handful of cases. The argument about the necessity of democracy has been overlooked and its implications have remained unclear and unsubstantiated.

Some have argued that lustration represents an outcome of competition between the communist regime and the democratic opposition and that the competition should favor the anti-communists (Stan 2009a, 268). This claim is valid, but under very limited conditions. For instance, the countries that never transitioned to democracy may exhibit a political alignment in which the opposition is constantly weak. These political regimes decrease the chances of adopting lustration since the competitive relationship is in favor of former communists.
Without the possibility of minimally open competition granted through democratization, new political elites will have weaker incentives to challenge their old-regime rivals through lustration. The weakness of such incentives stems from limited elite change.\textsuperscript{43} The democratic model assumes that underdeveloped elite formation concurs with weaker democratization. To test these claims, it is necessary to look at the whole post-communist world. The next sections provide and test this argument from deterministic and probabilistic perspectives.

### 3.2 Deterministic Effect: Necessary Democracy

The deterministic hypothesis claims that democracy operates as a threshold effect. Countries scoring below a certain level of democracy never adopt lustration while those scoring above may adopt it. Democracy is a pre-given condition for lustration. The absence of democracy disables lustration and democracy facilitates it. Reaching the threshold of a democratic minimum represents a necessary condition for lustration. Other factors, while potentially and causally important, will not play a role in adopting lustration unless they are combined with sufficient levels of democracy. Lustration can only be expected when the country is relatively democratic.

<table>
<thead>
<tr>
<th>Lustration</th>
<th>No Cases</th>
<th>Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Lustration</td>
<td>Negative cases or not directly relevant</td>
<td>Negative cases or not directly relevant</td>
</tr>
<tr>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Lustration</th>
<th>No Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Democracy</td>
<td>[ ]</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cases</th>
<th>Democracy</th>
</tr>
</thead>
</table>

While the democratic minimum must be present for lustration to take place, the inverse is not required. Countries that reach the democratic minimum threshold (DMT) and do lustrate do not violate the logic of necessity. If all cases with the DMT included lustration, then the DMT would

\textsuperscript{43} The first peaceful transfer of power from one independent political party to another by means of an election represents a major milestone in the consolidation of democracy. It also represents a turnover in the leading elite. As transfer of power by election is inherent to democracy, the level of elite change concurs with democracy.
be both necessary and sufficient for lustration. Yet, the DMT is insufficient but necessary. The DMT represents a superset of lustration. Table 3.1 illustrates this logic of necessity. Only cases with lustration and a score equal or above the DMT are relevant. The first premise of the democratic model therefore hypothesizes that only democracies lustrate.

The historical patterns of the post-communist world since 1990 support the deterministic theory. The data point to an overwhelming empirical fact that lustration takes place in democratic environments only. More specifically, in order to adopt lustration, a country needs a score of at least \{4\} on the 1-7 (inverted) scale measuring democracy in terms of political rights (FHPR).\(^{44}\) Lustration has never been adopted in a country with a democracy score lower than that of Georgia in 2011/12 and Albania in 1991-92 or 1996-98.\(^{45}\)

While the data confirm the deterministic hypothesis, the relatively low level of democracy (FHPR \{4\}), required for lustration, comes as a surprise. From the perspective of a trichotomized FHPR democracy scale, lustration does not require a fully consolidated democratic regime. While lustration overwhelmingly takes place in free democracies, in cases of partially (un)free regimes agency can defy institutional constrains (Lieberman 2002). For example, Albania and Georgia lustrated while they were in the “gray zone” of political regimes. At the time of lustration, they suffered from a democratic deficit. They had a “hybrid regime,” combining democratic and authoritarian elements.\(^{46}\) A small number of other countries adopted lustration while having a partially free regime (scoring \{5\} on the FHPR inverted scale): Albania in 1994, Bulgaria in 1990, Latvia in 1994, Macedonia in 2008-10 and 2012, and Slovenia in 1994.\(^{47}\)

\(^{44}\) The FHPR ratings of states are based on an inverted 1-7 scale, with 1 representing the lowest level of democratic progress. The Democracy Score is an average of ratings for the categories tracked in a given year (See Appendix A).

\(^{45}\) This perspective sides with the minimal economic welfare argument for democracy (See Przeworski 2004, 308).


\(^{47}\) Among these, all were also enforced except Albania 1992 and 1994, Macedonia 2008 and Slovenia 1994.
Lustration occurs rarely in partial democracies or hybrid regimes (4.5%, Table 3.2).\textsuperscript{48} Yet, while a minimal share of countries-lustrants has a partially free regime, the question remains as to why hybrid regimes lustrate. The deterministic perspective can offer no explanation. In order to find one, the statistical analysis and case studies are provided later in the chapter. But first, two additional deterministic findings emerge if a 7-level (inverted) FHPR scale is used.

The deterministic analysis shows a high, 6.65 average FHPR score of lustrants. Lustration is a phenomenon of consolidated democracies.\textsuperscript{49} Once post-communist countries are free and democratic, more than half of the time they implement lustration (55.4%). Moreover, in 71.5% of countries enjoying the FHPR score of {7} experienced some type of lustration.\textsuperscript{50} Among the countries scoring {6}, 31.4% were lustrants. These findings do not mean that lustration is a normatively desired outcome of successful democratization. The empirical observations present lustration as a highly frequent outcome of post-communist transitions to democracy.

Finally, lustration does not occur in non-free countries. Countries scoring 1-3 on the FHPR index have never lustrated. The deterministic analysis thus points to an additional axiom. A political environment characterized by a non-free regime represents a sufficient condition for the absence of lustration. While non-free regimes are by no means a necessary condition for the

\textsuperscript{48} Findings are similar for the “institutional adoption” and “implementation” portions of Lustration Index. Lustration is not adopted in non-free countries. In 10.5% of observations from partially free countries has lustration been adopted (but not necessarily implemented). 64.5% of observations from free countries have experienced adoption.

\textsuperscript{49} The (inverted) rankings of regime types follow the conceptualization provided by Freedom House: Consolidated Authoritarian Regimes (1.00-2.00), Semi-Consolidated Authoritarian Regimes (2.01-3.00), Hybrid Regimes (3.01-4.00), Semi-Consolidated Democracies (4.01-5.00), Consolidated Democracies (5.01-7.00). See FH 2012.

\textsuperscript{50} For visualization of these trends, see Graph D.3.1, Appendix D.2.
absence of lustration—as there are democracies that did not lustrate or opt for lustration—wherever there is a non-free regime there is no lustration.

The deterministic approach resolves in part the first and the third puzzle of this study, i.e., why some post-communist states lustrate and others do not—and when. Those countries that lustrate are democratic, or as in rare instances partially democratic. Authoritarian countries do not lustrate. In terms of timing, lustration can only take place when a country holds a sufficient threshold of democracy.

For this reason, lustration primarily occurs in East-Central Europe (ECE), which is more democratic as a region. The authoritarian post-communist regimes, most of which are in the region of the former Soviet Union (FSU), do not institute lustration. The “democracy gap” (FH 2012) between the Central European and Baltic states on the one hand, and the authoritarian regimes of Eurasia on the other parallels the “lustration gap” of the two regions. This association introduces the next section about the probabilistic approach of the democratic model to explaining lustration (for depiction see also Graph D.3.2 in Appendix D.2).

**3.3 Statistical Effect: Significant Democracy**

While the deterministic analysis established that democracy matters, the rest of the chapter determines why democracy matters and what characteristics of democracy affect lustration. The probabilistic democracy hypothesis presumes that the more democratic a regime is the more political competition it will experience. Consequently, politicians will employ all the methods available to eliminate their rivals. In the post-communist world, lustration represents such a tool within the arena of competitive democracy.
The democratic model does not presume that an increase in political competition affects lustration in a positive direction. While the increase in democracy and in political competition could initially lead to lustration, this pattern may not prevail in the long term. The rise in political competition may decrease the chances of lustration as lustration originates in the elites’ maneuvers to decrease competition. While democracy enables lustration, competition may not.

Yet, if political competition decreases the chance of lustration, the question is what other aspect of democracy brings about lustration.

Probabilistic support for the democracy argument comes first from the empirical observation within a bivariate relationship (see quadratic plot, Graph 3.1). The relationship between democracy and lustration is substantial, statistically significant and non-linear.

Graph 3.1. Lustration Index and Democracy: Predicted and Fitted Values
Source: Author (The ECEFSUL 1990-2012 Dataset).

Higher levels of democracy result in a positive impact on lustration and the greater the level of democracy is the stronger its impact. At the lower levels of democracy, the democracy-
lustration relationship is negative and the significance of the statistical relationship is minimal. While the relationship between democracy and lustration remains non-linear, the U-shape of that relationship also comes to the fore. That is because not all the cases with no implementation (level \{0\}) score low on the democracy scale. In fact, the \{0\} implementation level of lustration comprises all the levels of the institutional adoption sub-dimension.

While the quadratic model provides initial statistics about the bivariate relationship, the exact strength of the democracy parameter is still unknown. A variety of tobit models provide such calculations.\(^5\) The relationship for the entire post-communist region since 1990 is analyzed first.

The overall estimated impact of democracy is substantial. The tobit regression censored at 0 reveals that for 651 observations the estimated tobit beta coefficient is 1.48. The causal relationship is highly significant (at a \(z\)-level of 6.85), and the model exhibits a satisfactory level of being correctly estimated (\(rho\) at 0.55). Put differently, the effect of an increase in a democracy variable by 1 on the expected value increases lustration by 1.36 (Table 3.3, Model 1).

<table>
<thead>
<tr>
<th>VARIABLE</th>
<th>Lustration</th>
<th>Adoption</th>
<th>Implement</th>
<th>Implement</th>
<th>Lustration</th>
<th>Lustration</th>
<th>Lustration</th>
<th>Lustration</th>
</tr>
</thead>
<tbody>
<tr>
<td>FH democracy</td>
<td>1.36****</td>
<td>0.87****</td>
<td>1.05*</td>
<td>1.04*</td>
<td>0.60****</td>
<td>0.72****</td>
<td>0.44****</td>
<td>0.26****</td>
</tr>
<tr>
<td>(0.20)</td>
<td>(0.12)</td>
<td>(0.45)</td>
<td>(0.47)</td>
<td>(0.12)</td>
<td>(0.05)</td>
<td>(0.07)</td>
<td>(0.04)</td>
<td></td>
</tr>
<tr>
<td>Observations</td>
<td>651</td>
<td>651</td>
<td>651</td>
<td>651</td>
<td>651</td>
<td>651</td>
<td>651</td>
<td>651</td>
</tr>
<tr>
<td>Rho</td>
<td>0.550</td>
<td>0.507</td>
<td>0.651</td>
<td>0.651</td>
<td>0.651</td>
<td>0.651</td>
<td>0.651</td>
<td></td>
</tr>
<tr>
<td>Model</td>
<td>xttobit</td>
<td>xttobit</td>
<td>xtpoisson</td>
<td>zip</td>
<td>xttobit (&gt;4)</td>
<td>oprobit</td>
<td>xtpoisson</td>
<td>zip</td>
</tr>
</tbody>
</table>

Standard errors in parentheses

\(^{****}\) \(p<0.0001\), \(^{***}\) \(p<0.001\), \(^{**}\) \(p<0.01\), \(^*\) \(p<0.05\), + \(p<0.10\)\(^5\)

---

\(^5\) The quantitative computation is based on STATA software and on the literature related to tobit modeling (Adkins & Hill 2011, 531-532; StataCorp 2011).

\(^5^2\) A short note is in order on statistical significance, i.e., on the measure of whether an observed experimental effect is reliable. Throughout this study, the statistical significance is noted as follows. The plus sign (+) after the coefficient means 90% or more certainty, i.e., there is a 90% or more chance that the same result will be obtained if the study is repeated and that there is less than 10% probability that it is due to chance. One star sign (*) means 95+% certainty. Two stars (**) mean 99+% certainty, three stars (***) 99.9+% certainty and four stars (****)
This interpretation requires qualification. First, one does observe the latent variable (y*) by estimating a tobit model. For this reason, Table 3.3 provides robustness checks by using alternative statistical models. These models largely support the tobit model for the Lustration Index and its sub-dimensions of adoption and implementation. Second, the relationship between democracy and lustration is nonlinear. In order to clarify the non-linear effect of the democracy parameter on the likelihood of lustration, it is useful to calculate changes in probability, i.e., the marginal effect of each level of democracy on lustration. Marginal effects are computed by using the regression function of the expectation of the observed lustration (i.e., \(E(\text{lustration})\) or \(E(\text{lustration}^*|\text{lustration}>0)\)). The marginal effect of lustration is the margin of the effect of democracy, where “effect” means either a derivative or a difference.

Since the degree of influence of democracy on lustration is non-linear, it is useful to compute the marginal effect of democracy at each of democracy’s levels. Table 3.4 reveals that for the expectation of observed lustration (i.e., \(E[\text{lustration}^*|\text{lustration}>0]\)), a country is more likely to lustrate if democracy levels increase. This pattern is highly significant from level {4} up.

Moreover, the marginal effect varies greatly according to the different levels of democracy. First of all, the marginal effects point to a threshold effect discussed above. The impact of
democracy becomes substantial at the FH democracy level of \{4\}. Level \{4\} represents a significant jump from the previous level (cf. Graph 3.2). As soon as a country leaves the zone of authoritarian regimes, the effect of regime type becomes significant and substantial. The democratic minimum not only predetermines but also predicts the likelihood of lustration. Furthermore, the effect of democracy on lustration is especially strong at the higher levels of the FHPR index (levels \{6-7\}). Countries with such high levels are much more likely to lustrate. The more a democracy is consolidated the more likely and the more intensely will it lustrate.

<table>
<thead>
<tr>
<th>VARIABLES</th>
<th>Lustration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1bn.fhpr</td>
<td>0.00</td>
</tr>
<tr>
<td>2.fhpr</td>
<td>0.06</td>
</tr>
<tr>
<td>3.fhpr</td>
<td>0.22</td>
</tr>
<tr>
<td>4.fhpr</td>
<td>0.77**</td>
</tr>
<tr>
<td>5.fhpr</td>
<td>0.71***</td>
</tr>
<tr>
<td>6.fhpr</td>
<td>2.23****</td>
</tr>
<tr>
<td>7.fhpr</td>
<td>3.13****</td>
</tr>
</tbody>
</table>

Observations 628
Left-censored obs. 389
Uncensored obs. 239
rho 0.453

Standard errors in parentheses
**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10
Random-effects Tobit regression, Gaussian (normal) distribution

Graph 3.2. Adjusted Prediction of FH Democracy with 95% CIs on E[Y]
Source: Author (The ECEFSU 1990-2012 Dataset).

The analysis from temporal and regional perspectives provides additional information (see Table 3.5). While the effect of democracy on lustration has a discrete jump at \{4\} in all models, the

\[57\] Unlike in other statistical analyses of this chapter, this particular model (Tables 3.4. and 3.5) excludes the case of Mongolia since the log functions of this regression are not concave with the inclusion of Mongolia.
regional threshold effect of democracy in the FSU countries is less significant and substantial. Moreover, in the 1990-2000 and 2001-2012 periods, the threshold effect at FHPR score of {4} is less pronounced. A sudden increase in predicting lustration occurs mainly at the level {6}.  

<table>
<thead>
<tr>
<th>Table 3.5. Average Marginal Effect of FHPR by level on two regions and two periods, on E[Y]</th>
</tr>
</thead>
<tbody>
<tr>
<td>VARIABLES</td>
</tr>
<tr>
<td>1bn.fhpr</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>2.fhpr</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>3.fhpr</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>4.fhpr</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>5.fhpr</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>6.fhpr</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>7.fhpr</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

Observations | 365 | 263 | 284 | 344 |
Left-censored | 144 | 245 | 190 | 199 |
Uncensored obs. | 221 | 18 | 94 | 145 |
\( \rho \) | 0.515 | 0.175 | 0.478 | 0.678 |

Standard errors in parentheses
**** \( p<0.0001 \), *** \( p<0.001 \), ** \( p<0.01 \), * \( p<0.05 \), + \( p<0.10 \)
Random-effects Tobit regression, Gaussian (normal) distribution

While the data in this section proved a strong nonlinear relationship between democracy and lustration, the rest of this study needs to show that the finding is generalizable, valid and consistent. The study addresses three groups of reservations with regard to the findings above: causal direction, the specificity of democracy, and the potential impact of other factors.

For depiction, see Graphs D.3.5.1 – 3.5.4, Appendix D.2. Moreover, Appendix D provides the calculations of the effect of an increase in democracy on the probability of being uncensored and the marginal effect on observed variable, given uncensored, confirming the here presented analysis.
3.4 First Caveat: Causal Direction

The first concern is causal direction and endogeneity. The “democratic model” is based on the assumption of the causal direction from regime type (democracy) towards lustration. However, democracy may cause lustration as well as be caused by lustration. If the values of the democracy variable are affected by the values of the lustration variable at a prior point in time then the validity of findings presented above may be affected by endogeneity or selection bias (Collier & Mahoney 1996).

Pro-lustration activists often justify lustration as a means to democratization. In June of 2012, a deputy of the Macedonia’s main governmental party told his fellow lawmakers that “the process [of lustration] will make Macedonia a more democratic society” (Pavlevski. 2012). This and similar claims corroborate the theory that transitional justice in general and lustration in particular are constituted by, and constitutive of, political transition (Teitel 2000). While democracy is necessary for lustration, lustration may be endogenous to democracy.

There is little consensus on how best to address the problem of endogeneity. The common rule is to avoid “enigmatic causality,” that is, “complex interactions among numerous variables, low-probability relations between variables, and endogeneity problems or feedback effects” (George & Bennett 2005, 116). Proponents of purely quantitative methods have tried to dodge endogeneity by choosing explanatory variables that are “clearly exogenous and dependent variables that are endogenous” (King et al. 1994). Remedies include a careful selection of observations, transformation of endogeneity to an omitted variable problem, disaggregation of the dependent or independent variable and correction of the biased inference.

Others have claimed that such remedies do too little to help understand “the substantive and theoretical reasons that endogeneity might or might not be a problem in a particular context” and
the “rather stringent assumptions” behind the specific techniques need to be further discussed (Collier et al. 2004, 46). It can be exceedingly difficult to address the problem of endogeneity in both qualitative and quantitative work. Selecting cases to avoid the problem of endogeneity should not preclude, for example, looking at processes of change over time, where endogeneity is commonly present.

Any theory of lustration must recognize that regime type may be endogenous: the democratic elite are likely to invest resources in lustration about which they have at least some expectation to bolster their democracy. This requires an analysis of how conditions that lead to lustration may affect the state’s democracy after lustration has taken place. What is needed is a method that allows for the estimation of the democracy effect on lustration independently of other sources of selection. Otherwise, the effect of democracy on lustration may be overstated.

Another concern is that during the immediate transition period democracy might have been brought about by the same elite who also discussed lustration laws. This could have been particularly true in early lustrations. The political elite responsible for successful democratization have often also been responsible for lustration. What is more, lustration may be causally bi-directional in other ways. Lustration can affect perceptions about the past, which in turn affect views of lustration.59

In order to prevent selection bias and endogeneity, this study controls for time. This strategy is based on the premise that causal direction can be inferred from the information about time since causes precede their effects temporally. This could be determined through time-series-cross-section regressions (implicit in xttobit models) as well as by Granger causality (Granger

---

59 Borrowing the insights from the work of Teitel on transitional justice, one could claim that lustration is constituted by, and constitutive of, political transition. As political transitions affect transitional justice, it may in turn affect political transition (see Teitel 2000; Horne & Levi 2004, 52-74; David 2011).
1969). Principles of Granger causality have already been applied to this study by using the FHPR indices through the “lagged values” of democracy. While the scores of the Lustration Index pertain to the year in question, the FHPR yearly scores describe regime types for the year preceding the year for which the actual score is assigned (FH 2012).

3.5 Second Caveat: Which Democracy

The second concern that this research needs to address with regards to the democracy argument is the specificity of democracy. While this chapter argues that democracy plays a pivotal role in explaining lustration, there may be specific factors of democracy that drive the causal mechanism. Scholars show that while different measures of political regime type are highly correlated they may not be interchangeable (Casper & Tufis 2003). There are important differences between various rankings as they measure different dimensions of democracy.

The concern about which democracy causes lustration may be first addressed by looking at different democracy measures. Not all indices of democracy are equivalent measures of the same concept. Different conceptualization approaches produce different empirical results and therefore warrant closer scrutiny (Pop-Eleches 2007). This section theorizes and analyzes as statistical controls different composite measures of democracy and their putative influence on lustration. It then theorizes and analyzes the most relevant disaggregated indicators of democracy and tests whether the subcategories alone can explain lustration. These include political competition, electoral process and the recruitment of the executive.

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60 “Composite” understandings of democracy include diverse and compatible forms of the democratic political process. For an extended discussion of these three measures, see Gleditsch & Ward 1997, 361-83; Hegre et al. 2001, 33-48; Mainwaring et al. 2001, 37-65; Munck & Verkuilen 2002, 5-34; Munck 2009.
3.5.1 Composite Scores of Democracy

*Freedom House* (FH) produces one of the most widely used measures of democracy. FH scores derive from relevant portions of the Universal Declaration of Human Rights. The *Freedom House political rights* (FHPR) measure defines political rights as enabling “people to participate freely in the political process through the right to vote, compete for public office and elect representatives who have a decisive impact on public policies and are accountable to the electorate” (FH. 2012). This composite definition and index consist of three subcategories: electoral process, political pluralism with participation and functioning of government (FH 2010). This concept avoids the “fallacy of electoralism,” that is, the tendency to equate democracy solely with competitive multiparty elections (Karl 1986; Karl 1995).

The variation in the combination of the three subcategories corresponds to the democratic theory of lustration. These factors all allow the political elites to compete for leverages of power by other means. By emphasizing elections, pluralism and government, the FHPR hypothesis presumes that democracy affects lustration not from a minimalist stance but as a complex system of government in which several dimensions count as important only if combined.

The *Freedom House civil liberties* (FHCL) measure of democracy defines civil liberties as allowing “for the freedoms of expression and belief, associational and organizational rights, rule of law, and personal autonomy without interference from the state” (FH 2012). This composite index consists of four subcategories: freedom of expression and belief, associational and organizational rights, rule of law, and personal autonomy and individual rights (FH 2010). The combination of these components of democracy may not bear directly upon the use of lustration.

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61 Freedom House does not equate constitutional or other legal guarantees of rights with the on-the-ground fulfillment of these rights. Greater emphasis is placed on the latter (See FH 2010).
Lustration could be understood as originating in increased individual rights. Yet because of its political potential, lustration is not primarily driven by the forces of civil liberties.

A third widely used democracy indicator is the Polity IV Regime score (Marshall et al. 2006). Polity is measured as the difference between democracy and autocracy scores, which are based on the weighted aggregation of three components: competitiveness of political participation, openness and competitiveness of executive recruitment, and constraints on the chief executive’s power. As a broader political phenomenon, the competitive nature of democracies makes this conceptualization of democracy analytically compelling. As argued above, democracy is both necessary for lustration and affects the likelihood of lustration. However, Polity IV democracy may not be a significant predictor. The reason is that polity is strongly conceptualized in terms of political competition, which decreases the likelihood of lustration.

3.5.2 Specific Dimensions of Democracy

Specific dimensions of political regimes may affect lustration separately from the broader impact of democracy. Among more relevant dimensions of the composite indices is the durability of regimes. Polity’s concept and measure of Regime Durability captures the persistence and adaptability of each of the contemporary post-communist polities in their authority patterns since the most recent regime change. The duration of regime varies across the post-communist world and higher durability may result in higher likelihood for lustration. Regime is one of the most crucial elements required for political elites to compete.

A second plausible factor in lustration is the dimension of political competition. Competition should be negatively related to lustration for a number of reasons. Competition represents an obstacle to the elites seeking power through the introduction of lustration. Moreover, post-
communist political competition is not necessarily a sign of democracy, but may reflect instability of political parties. More party change is not necessarily more democracy. Finally, the different dimensions on which political elites had been competitive prior to regime change may further undermine the positive impact of competition. Since the nature of competitiveness is shaped by political actors and institutions (Lehoucq 2003), lustration could emanate from the level of power consolidation at the time of regime change. While the post-communist societies have been affected by historical legacies of hostility to competition (Hanson 1995; Jowitt 1992), the introduction of democratic institutions took place amidst intense political struggles that varied from country to country (Ekiert 1999). As elites stymie competition, political competition will be inversely related to lustration.62

An alternative hypothesis to political competition is the competitiveness of executive recruitment.63 The extent to which executives are chosen through competitive means such as elections may affect lustration. The competitiveness of executive recruitment is one of the core features of democracy, which is itself a determinant of lustration. For example, countries where the executive is recruited more competitively—that is, where an election is less opposed or where the incumbent selection of successors is less recurrent—may be more likely to lustrate. Countries with regular elections may be more prone to lustration than other polities.

The final dimension of democracy that may be relevant to lustration is the level of constraints on the executive power. Executive constraints reveal the extent to which a country’s decision-making powers of chief executives are institutionally constrained by accountability groups

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62 This study uses Polity’s variable of political competition. It includes two dimensions: the degree of regulation of political competition (institutional aspect) and the extent of government restriction on competition (aspect of action).
63 According to this Polity index, the recruitment of the chief executive is more competitive the higher the extent to which “subordinates have equal opportunities to become superordinates” (Marshall et al. 2006). For example, “selection of chief executives through popular elections matching two or more viable parties or candidates is regarded as competitive” (Gurr 1974, 1485).
(Eckstein & Gurr 1975, 121). This component may be important for lustration as in post-communist regimes the accountability groups are usually legislatures and the judiciary. The stronger and more independent these groups are in terms of representing the checks and balances between the various parts of the decision-making process, the more democratic a regime will be as it will reduce the concentration of power. However, the strength of these groups may not be positively related to lustration. Since the elite promoting lustration seek political power, they could inadvertently aim at increasing the concentration of power in order to be able to lustrate.

This last aspect of political regimes merits further attention. Scholars of conflict resolution have argued that settlements are more likely and stable when different institutions enhance the accountability and transparency of executive behavior. The rationale behind this argument is that government leaders who operate under a written constitution and a rule of law that is enforced by an independent judicial system will make attractive negotiating partners. The same argument has been extended to voters and competing political parties as they may act as a check on government authority (Magaloni 2008). Yet, this logic is the opposite in regards to lustration.Competing political parties may not advocate for lustration because of accountability or power-agreement interests. Constraints work against lustration. Since the elites are initially constrained by political competition, they avoid such competition in their search for a model of political process that brings them power more easily. As a result, they aim at developing a model of competition by means other than traditional democratic constraints and competition.

---

64 From a conceptual point of view Levitsky and Way further distinguish four meaningful arenas of political contestation: the electoral arena, the legislature, the judiciary and the media (Levitsky & Way 2002, 51-65).
65 Reducing the concentration of the executive may come about by allowing greater public dissent, providing the transparency needed to foster political competition, and supporting economic competition. This, in turn, may lead to an increase in the perception of corruption as a problem for the economy and state Anderson & Gray 2006, 35.
3.6 Cross-National Test of Regime Type Elements

The previous section proposed competing hypotheses to explain the impact of political regime type on lustration. It claimed that more democratic regimes allow for (more) lustration, while specific elements of regime type may allow or thwart lustration. Hence, the analysis should find what conception of democracy most influences lustration processes and to what extent the elements of political regime affect lustration. The presentation of the theoretical argument, empirical expectations and alternative hypotheses with regard to regime type now allows a quantitative analysis. This section interprets the multivariate regression analyses by reporting likelihood estimates, standard errors and significance levels for the entire post-communist world as well as the 1990-2000 and 2001-2012 time periods (see Table 3.6.1).

Table 3.6.1. Influence of Political Regime Factors on Lustration: per Region, Period and Model

<table>
<thead>
<tr>
<th>Variables</th>
<th>Models</th>
<th>ECEFSU</th>
<th>ECE</th>
<th>1990-00</th>
<th>2001-12</th>
<th>ECEFSU</th>
<th>ECEFSU</th>
<th>ECEFSU</th>
<th>ECEFSU</th>
</tr>
</thead>
<tbody>
<tr>
<td>FH democracy</td>
<td></td>
<td>1.57****</td>
<td>1.68****</td>
<td>1.71***</td>
<td>1.08**</td>
<td>0.79****</td>
<td>0.47****</td>
<td>0.25***</td>
<td>0.74****</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(0.29)</td>
<td>(0.34)</td>
<td>(0.50)</td>
<td>(0.36)</td>
<td>(0.10)</td>
<td>(0.09)</td>
<td>(0.07)</td>
<td>(0.16)</td>
</tr>
<tr>
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<td></td>
<td>-0.00</td>
<td>0.03</td>
<td>0.88+</td>
<td>-0.31</td>
<td>0.11</td>
<td>0.02</td>
<td>0.03</td>
<td>0.09</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(0.30)</td>
<td>(0.34)</td>
<td>(0.53)</td>
<td>(0.33)</td>
<td>(0.10)</td>
<td>(0.09)</td>
<td>(0.06)</td>
<td>(0.16)</td>
</tr>
<tr>
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<td>0.53</td>
<td>1.00+</td>
<td>-0.22</td>
<td>0.15</td>
<td>0.39*</td>
<td>0.01</td>
<td>-0.02</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(0.33)</td>
<td>(0.40)</td>
<td>(0.59)</td>
<td>(0.81)</td>
<td>(0.13)</td>
<td>(0.17)</td>
<td>(0.13)</td>
<td>(0.22)</td>
</tr>
<tr>
<td>Political competition</td>
<td></td>
<td>-0.84**</td>
<td>-1.03***</td>
<td>-1.05*</td>
<td>-0.15</td>
<td>-0.26*</td>
<td>-0.37**</td>
<td>-0.04</td>
<td>-0.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(0.29)</td>
<td>(0.35)</td>
<td>(0.51)</td>
<td>(0.60)</td>
<td>(0.11)</td>
<td>(0.12)</td>
<td>(0.10)</td>
<td>(0.17)</td>
</tr>
<tr>
<td>Regime duration (current)</td>
<td></td>
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<td>0.05</td>
<td>0.05</td>
<td>0.05</td>
<td>-0.00</td>
<td>0.01</td>
<td>-0.01+</td>
<td>-0.02</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(0.03)</td>
<td>(0.04)</td>
<td>(0.09)</td>
<td>(0.05)</td>
<td>(0.01)</td>
<td>(0.01)</td>
<td>(0.01)</td>
<td>(0.02)</td>
</tr>
<tr>
<td>Compet. exe. recruit.</td>
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<td>0.90</td>
<td>0.56</td>
<td>-0.99</td>
<td>0.94</td>
<td>-0.05</td>
<td>0.06</td>
<td>-0.05</td>
<td>-0.32</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(0.67)</td>
<td>(0.80)</td>
<td>(1.28)</td>
<td>(1.08)</td>
<td>(0.24)</td>
<td>(0.26)</td>
<td>(0.20)</td>
<td>(0.42)</td>
</tr>
<tr>
<td>Executive constraints</td>
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<td>-1.20+</td>
<td>-1.63+</td>
<td>2.08+</td>
<td>-0.21</td>
<td>-0.54*</td>
<td>0.11</td>
<td>0.03</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(0.52)</td>
<td>(0.64)</td>
<td>(0.93)</td>
<td>(1.13)</td>
<td>(0.20)</td>
<td>(0.23)</td>
<td>(0.18)</td>
<td>(0.31)</td>
</tr>
<tr>
<td>Observations</td>
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<td>283</td>
<td>287</td>
<td>570</td>
<td>570</td>
<td>570</td>
<td>570</td>
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<tr>
<td>Left-censored obs.</td>
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<td>358</td>
<td>112</td>
<td>191</td>
<td>167</td>
<td>423</td>
<td></td>
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</tr>
<tr>
<td>Uncensored obs.</td>
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<td>92</td>
<td>120</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>rho (tobit) or model type</td>
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<td>0.563</td>
<td>0.460</td>
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<td>0.811</td>
<td>oprobit</td>
<td>xt poisson</td>
<td>ZIP</td>
<td>0.696</td>
</tr>
</tbody>
</table>

Standard errors in parentheses

**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

For the effects on sub-dimensions of lustration, see Appendix D, Tables D.1 (adoption) and D.2 (implementation).
The main finding is that the likelihood of lustration is higher in a more democratic system and lower in a more competitive system. In particular, the conceptualization of democracy that is most predictive of lustration is the one provided by Freedom House measuring political rights (FHPHR). This confirms the results above about the impact of democracy in a bivariate relationship. Moreover, lustration does not privilege specific dimensions such as electoral competition over other components of democracy. Composite conceptions of democracy (Diamond 1996) explain lustration better than particular components in isolation.

Other terms for regime type are not consistently predictive of lustration. The Polity IV democracy variable is not a significant predictor. The FH Civil Liberties variable (FHCL) is also not a significant predictor of lustration, except marginally for the 1990-2000 period with a positive effect. Regime duration and executive constraints are only marginally predictive of lustration (at the 90 percent level) for the ECE region and the 2001-2012 period.

Due to the panel nature of tobit regression, the coefficients provided in Table 3.6.1 give only the direction of the effect. Tables 3.6.2–3 provide detailed findings based on marginal effects. They show regressions using the ordinary FHPHR variable and then present the results using the FHPHR factor variable (i.fhpr).

Table 3.6.2 reports a positive and highly significant effect of FH democracy on lustration for the entire region since 1990. The Average Marginal Effect (AME) of FHPHR on the probability of lustration is 0.65 for the expectation of observed lustration ($E[lustration^*| lustration > 0]$). In other words, since the AMEs compute the amount of change in lustration that is produced by a 1-unit change in FHPHR, the probability of lustration changes on average by 0.65 as the FHPHR changes by 1. Less significant is the AME of political competition at -0.35. The AMEs of other variables are not significant, except occasionally for executive constraints.
Table 3.6.2. Average Marginal Effects or Derivatives (dy/dx) of Regime Variables on E[Y]

<table>
<thead>
<tr>
<th>VARIABLES</th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ECEFSUM</td>
<td>0.65****</td>
<td>1.23****</td>
<td>0.61**</td>
<td>0.54**</td>
</tr>
<tr>
<td>ECE</td>
<td>(0.14)</td>
<td>(0.26)</td>
<td>(0.19)</td>
<td>(0.19)</td>
</tr>
<tr>
<td>90-00</td>
<td>0.00</td>
<td>0.02</td>
<td>0.32</td>
<td>-0.15</td>
</tr>
<tr>
<td>01-12</td>
<td>(0.12)</td>
<td>(0.25)</td>
<td>(0.19)</td>
<td>(0.16)</td>
</tr>
<tr>
<td>FH democracy</td>
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<td>0.39</td>
<td>0.36+</td>
<td>0.11</td>
</tr>
<tr>
<td>0.65****</td>
<td>(0.14)</td>
<td>(0.30)</td>
<td>(0.21)</td>
<td>(0.40)</td>
</tr>
<tr>
<td>0.02</td>
<td>(0.12)</td>
<td>(0.25)</td>
<td>(0.19)</td>
<td>(0.16)</td>
</tr>
<tr>
<td>Polity IV democracy</td>
<td>-0.35**</td>
<td>-0.76**</td>
<td>-0.37*</td>
<td>-0.08</td>
</tr>
<tr>
<td>0.13</td>
<td>(0.13)</td>
<td>(0.26)</td>
<td>(0.19)</td>
<td>(0.30)</td>
</tr>
<tr>
<td>0.32</td>
<td>(0.12)</td>
<td>(0.25)</td>
<td>(0.19)</td>
<td>(0.16)</td>
</tr>
<tr>
<td>Political competition</td>
<td>-0.35**</td>
<td>-0.76**</td>
<td>-0.37*</td>
<td>-0.08</td>
</tr>
<tr>
<td>0.13</td>
<td>(0.13)</td>
<td>(0.26)</td>
<td>(0.19)</td>
<td>(0.30)</td>
</tr>
<tr>
<td>Regime duration (current)</td>
<td>0.02</td>
<td>0.04</td>
<td>0.02</td>
<td>0.02</td>
</tr>
<tr>
<td>0.02</td>
<td>(0.01)</td>
<td>(0.03)</td>
<td>(0.03)</td>
<td>(0.02)</td>
</tr>
<tr>
<td>Compet. exe. recruit.</td>
<td>0.37</td>
<td>0.41</td>
<td>-0.35</td>
<td>0.47</td>
</tr>
<tr>
<td>0.37</td>
<td>(0.28)</td>
<td>(0.59)</td>
<td>(0.46)</td>
<td>(0.53)</td>
</tr>
<tr>
<td>Executive constraints</td>
<td>-0.33</td>
<td>-0.89+</td>
<td>-0.58+</td>
<td>1.03+</td>
</tr>
<tr>
<td>0.33</td>
<td>(0.22)</td>
<td>(0.47)</td>
<td>(0.34)</td>
<td>(0.56)</td>
</tr>
<tr>
<td>Observations</td>
<td>570</td>
<td>309</td>
<td>283</td>
<td>287</td>
</tr>
<tr>
<td>Left-censored obs.</td>
<td>358</td>
<td>112</td>
<td>191</td>
<td>167</td>
</tr>
<tr>
<td>Uncensored obs.</td>
<td>212</td>
<td>197</td>
<td>92</td>
<td>120</td>
</tr>
<tr>
<td>rho</td>
<td>0.563</td>
<td>0.460</td>
<td>0.568</td>
<td>0.811</td>
</tr>
</tbody>
</table>

Standard errors in parentheses
**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10
Random-effects Tobit regression, Gaussian (normal) distribution
dy/dx for factor levels is the discrete change from the base level

The average marginal effects analysis represents a rough approximation. It assumes a linear relationship between the various levels of dependent and independent variables as it averages marginal effects across different levels. In order to see the marginal effects at specific values of different covariates, the next step will examine the highest FHPR level.

Using the conditional marginal effects analysis (see Table 3.6.3) with a high degree of certainty (z-value of 3.89), the estimation is that the increase of FHPR from 6 to 7 increases lustration by a score of 1.21. Differently said, holding other covariates constant, the effect of democracy on lustration increases the level of lustration by a massive 121 percent when reaching the level of 7 on the FH democracy index.

From a dichotomous perspective of lustration, the same test shows that when the level of FHPR increases from {6} to {7}, the probability of lustration increases by 25 percent (i.e.,
increases the predicted changes of reaching \{1\} on the binary lustration scale by 0.25). And from a trichotomized FHPR perspective, having all covariates fixed, a change in the level of democracy from non-free to partially free, or from partially free to free, increases the level of the multi-value lustration variable by 2.03.\textsuperscript{67}

<table>
<thead>
<tr>
<th>VARIABLES</th>
<th>ECEFSUM (0-7)</th>
<th>ECEFSUM (0-1)</th>
<th>ECEFSUM (0-7)</th>
</tr>
</thead>
<tbody>
<tr>
<td>FH democracy</td>
<td>1.21*** (0.33)</td>
<td>0.25** (0.09)</td>
<td></td>
</tr>
<tr>
<td>FH democracy (3-level)</td>
<td></td>
<td></td>
<td>2.03*** (0.56)</td>
</tr>
</tbody>
</table>

Observations | 570 | 570 | 570
Left-censored obs. | 358 | 423 | 358
Uncensored obs. | 212 | 147 | 212
rho | 0.563 | 0.703 | 0.601

Standard errors in parentheses

\*\*\* p<0.0001, \*\* p<0.001, \* p<0.01, * p<0.05, + p<0.10

Random-effects Tobit regression, Gaussian (normal) distribution

3.7 Evidence from the Cases

Having demonstrated that democracy represents a crucial factor in explaining the origin, intensity and timing of lustration, this section illustrates how democracy affects lustration through case studies. It begins with an introductory analysis of Armenia, Belarus and Czechoslovakia to show how the structural condition of regime type operates in lustration. The section then dissects the chain of political events related to unsuccessful and successful lustration attempts in Russia and Georgia, respectively. The two cases show that only once a country achieves a minimal level of democracy are its elites enabled to aim at lustration. Moreover,

\textsuperscript{67} Breaking down the effect of the FH democracy variable into its distinct levels by using the “i.fhpr” variable, we obtain several insightful results. With factor analysis, we compute the effect “i.fhpr” on the observed value of lustration (y*). We calculate the AMEs of each of the FHPR values for various regions and time periods, holding the value of other covariates constant. See Appendix D.2 for a detailed factor analysis.
Georgia and Russia address the puzzling empirical finding of hybrid regimes. Both states engaged in lustration attempts while being not particularly democratic.

While Armenia and Belarus barely reached the democratic minimum threshold for lustration in the early 1990s, Czechoslovakia (and then the Czech Republic) excelled in democracy early on. Unlike Armenia or Belarus, Czechoslovakia immediately adopted and implemented lustration. The high levels of democracy in Czechoslovakia allowed the pro-lustration elite to argue forcefully and convincingly for lustration. The regime type of democracy offered an environment contributory to lustration.

![Graph 3.3](image)

**Graph 3.3.** Democracy and Lustration Compared across Armenia, Belarus, Czechoslovakia and the Cz. R.  
*Source:* Author (The ECEFSUM 1990-2012 Dataset).

The initial freedoms in Armenia also encouraged a group of 50 anti-communist deputies to introduce a lustration proposal in 1991 (A 01). However, the bill never made it to a vote. In Belarus, the initial chances for lustration were even lower as the country reached the democratic minimum threshold for lustration only three times (see Graph 3.3). However, even during those
years, when “all of a sudden, there was freedom, debate, parties […] the] nation was not ready to understand and practice freedom [and democracy]. … Maybe the more radical politicians talked about it [lustration]. But on the whole this issue was not present” (B 01). This issue was much more present in two other post-Soviet countries, Russia and Georgia.

The cases of Russia and Georgia illustrate the importance of a minimally democratic environment for lustration. According to this chapter’s democratic model, countries with lower levels of democracy will be less likely to adopt lustration, and countries that do not meet the minimum democracy threshold will not adopt it. Political developments in Russia confirm the theory. They illuminate how the relative lack of democracy leads to the failures of the pro-lustration elite to adopt lustration.

3.7.1 Russia’s Missed Opportunity?

Russia has not reached the democratic minimum required for lustration at any time since 2000. For the period under presidents Putin and Medvedev, the democracy model correctly predicts the absence of lustration. However, before 2000, and especially during the early 1990s, Russia enjoyed relatively more democracy. While the competition between the democratic and the old elites was minimal, competition did exist. According to the Freedom House measure of democracy, Russia scored above the “democracy minimum” between 1991 and 1997. Yet, despite two attempts at passing a lustration draft in the 1990s, Russia’s legislature never adopted any lustration measures.

The first attempt at a lustration law came from the representatives of the Democratic Russia Movement (DRM). The DRM drafted the bill “very quickly and very secretively” (R 09) and after voting internally, sent it to the Supreme Soviet in 1991 (R 01). However, the bill never made it to
the legislature’s floor. The second attempt was made by Galina Starovoitova during the Duma’s plenary session in 1997. The proposal was overwhelmingly rejected by the deputies and was not even put on the order of the day. Since 1997, no political groups or individuals have attempted to introduce lustration to Russia’s legislature.

The fact that lustration was not supported in 1997 makes sense. By 1996, when Yeltsin won his second election, the old structures understood that they were no longer constrained by open competition and needed no formal competition in order to legitimize their power. “They knew that in power structures there were plenty of people with whom they had personal contacts” (R 01). As a result, the second lustration attempt in 1997 was correctly understood by many as a pretense. According to Arias-King, Starovoitova introduced a lustration bill to State Duma “just to upset them [the communists]” (Arias-King 1999). Yet, why did the 1991 attempt fail?

The time surrounding the events immediately after the 1991 August coup represented a unique opportunity, perhaps the only window of opportunity, for lustration. In the late 1980s and early 1990s general Russian society showed relatively great interest in coming to terms with the past. The society Memorial had already published volumes on the totalitarian character of the Soviet Union. Yeltsin and Gorbachev both signed a decree, which resulted in a very active commission investigating the role of the KGB in the coup of August 1991 as well as in the previous regime (R 16). The Communist Party was banned and its role was examined by the Constitutional Court.

As a deputy of the Duma in 1991 noted for this study: “in that first period, [i.e..] 1989 and 1990, the topic of justice was one of the most important ones” (R 19). Another member of the legislature in 1991 points out the influence of democratic elites in that period (R 10):

*The [only] moment when this [lustration] was possible was when the democrats had influence on Yeltsin [...] The period of when it was possible to exercise influence [on Yeltsin] was very short.*
And it ended a month or two after the [collapse of] the Soviet Union. So, this period, August 1991, was the only time when the democrats were able to [exercise] influence on President Yeltsin—as a clique.

After 1991, lustration attempts seemed impossible to succeed and Yeltsin did not support them.68 A parliamentarian from the time of the second lustration attempt said: “It was clear that the law wouldn’t pass because Yeltsin did not support it. And he understood that this law was against his people: not only against the KGB but also against the Communist Party of the Soviet Union” (R 25). While in 1997 the chances for a lustration law were practically nil, in 1991 there still was a window of opportunity. But once the primary advocates of lustration realized that Yeltsin was against the policy, the future of the lustration project became grim: “When Yeltsin said that he will not support it, we stopped—as that was Yeltsin himself speaking” (R 25).69

The comparison between this historical evidence to Russia’s democracy and lustration scores in the 1990s raises a puzzle (see Graph 3.4). Why did Russia not adopt lustration if the institutional environment in the early 1990s was, in relative terms, conducive to it? According to polity2 scores of democracy, Russia was particularly democratic and probably most democratic ever in 1991/1992. While a Russian politician active in that era claims that “The crucial period was the very beginning, from August to November 1991 [and] after that it was almost

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68 Consider the account of one of the insiders about Yeltsin: “Yeltsin was afraid of radical changes. He wanted a gradual change. He thought that [the people from old structures] would eventually leave. He was [himself] from the group of [former] leaders. To think that Ponomarev or Starovoitova should work in high positions would be absurd [to Yeltsin]. For example, Starovoitova was a candidate for the Defense Ministry, but he was afraid of this. While he was afraid of the old cadre, he was also afraid of the new people. He was even afraid of Starovoitova [and others], because they related to him differently. They would tell him what he was doing wrong. Yeltsin girded himself with more than one hundred of old cadres. And the old ones, the generals, were afraid of Starovoitova” (R 025).

69 A potentially important reason for Yeltsin’s lack of support of the law was the general (mis)understanding of the Russian lustration draft. This issue came up in the majority of the research interviews conducted for this study. In the early 1990s, lustration was largely understood as targeting the entire Communist party. “The project that she [Starovoitova] proposed was in fact a blueprint of the law that was adopted in Czechoslovakia” (R 010). The law targeted only the higher positions in the Communist Party and the KGB but it did not target elective positions. However, the general understanding was different. “One of the reasons was that he [Yeltsin] could not dismiss all the communists since he considered it as an “internal” issue and had opponents to lustration in his midst (R 023). “Some argue today that had there been a narrower definition of lustration, which targeted the KGB only, Yeltsin would maybe support it” (R 024).
unthinkable to move the situation” (R 35), why did Yeltsin not support lustration? Why did the pro-lustration elite fail to adopt it if “this rupture [of lustration] was possible [only] in August of 1991” (R 09)? In order to resolve this specific puzzle, one needs to turn to the agency model and additional structural explanations (see Chapters 4-6).

**Graph 3.4.** Democracy and Lustration Compared across Georgia and Russia

*Source: Author (The ECEFSUM 1990-2012 Dataset)*.

### 3.7.2 Prolonged Timeline of Georgian Lustration

The case of Georgia also corroborates the democratic model of lustration. Once the country reached the necessary democratic minimum threshold, lustration became a real option and was eventually adopted and implemented. While the Georgian regime may have rarely exceeded the levels of a façade or “Potemkin democracy” (King 2001), this section shows how the minimal but sufficient elements of democracy allowed for lustration in 2011/12.\(^70\)

\(^70\) Some scholars contest the paradigm of “Potemkin democracy” for Georgia. Free media, active NGOs and political parties acted freely even under Shevardnadze and were not just Potemkin villages in practice (See Nodia 2005, 43).
The Georgian political elites made numerous attempts to adopt lustration. The attempts began in 2001, but failed repeatedly until the parliamentary hearings of October 2010. Before 2010, lustration bills did not enjoy sufficient parliamentary support. Since 2004, the main proponents of lustration, who were always members of opposition parties, counted on the support of the governing United National Movement party (UNM). Although they advocated for lustration before the Rose Revolution of 2003, members of the UNM after 2004 voted the drafts down. However, in May 2011, a lustration law initiated by a member of the parliamentary opposition, Gia Tortladze, was adopted unanimously and put into force shortly thereafter.

The Rose Revolution drastically changed the Georgian political landscape. With new political elites in power, more party competition and many institutional reforms, the political environment offered conditions conducive to lustration. Moreover, the main representatives of the new rulers had advocated for lustration before the revolution or at least signed the well-known document called Ten Steps to Liberty. This document, which presented a vision of a future Georgia, had been prepared in 2003 by major civil society organizations and signed by future President Saakashvili, Parliament Chairperson Nino Burjanadze and others. The first step of the document was the adoption of lustration. The ensuing democratic revolution of 2003 and subsequent developments opened the door to lustration. Georgia succeeded in lustration “because there democrats came to power and emancipated people” (A 01).

Lustration was unlikely prior to 2004. The level of democracy was relatively low and the share of post-communist elites in the government between 1991 and 2003 was high. In such an environment even an anti-communist ruler would have had difficulties in adopting lustration.

Returning to Georgia in 1992, President Shevardnadze brought to power numerous individuals from the former communist Nomenklatura and even the KGB (G 37). Adopting a
lustration law would have decapitated Shevardnadze’s own position as well as the positions of many from his administration. Moreover, as described by several insiders of Shevardnadze’s late government, main positions were often filled with the approval of Moscow (cf. G 24, 034). Obviously, Shevardnadze would never have opted for lustration.\footnote{Shevardnadze explicitly opposed the opening of the KGB archives in 1997, when the debate about the files reemerged. “In general, I was against it. Russians took the files but the time I returned to Georgia. Now they keep them in the archive in Smolensk […] However] I would be the first interested to open the files [had they been complete]” (G 30).}

Towards the end of Shevardnadze’s rule, civil society openly and seriously considered lustration. These considerations emerged as early as 1997 when the influential Liberty Institute debated possible mechanisms to take on the former Nomenklatura, which held crucial political positions. One of the leaders of the Liberty Institute said that for them, these top positions 

were much more important than chasing the hidden spies ... [Our] focus was more on people who were representing the regime openly. Because, it was easier to trace them.[…] We didn’t have an illusion at the time that [this] law could have been actually passed. That was unrealistic and that wouldn’t happen. It couldn’t happen. But [even] without it, it was important to have this kind of pressure” (G 34).

In 2003, such voices from different sections of civil society came together. Members of the civil society formed a large movement, which drafted the Ten Steps document (G 35). While lustration was not the most important point for the majority of the drafters, it fit well a new vision of Georgia. This vision was to “get rid of the Soviet legacy” (R 34). After 2003, this message resonated strongly in Georgian society and legitimised the possibility of passing a lustration law. Once the new and anti-communist elites came into power through the peaceful protests of the Rose Revolution that swept Shevardnadze from power to allow a more open political context, conditions for lustration were set. Yet, there was no lustration for another seven years. One therefore needs to turn to agency factors (Chapter 4) and other structural constraints (Chapters 5-6) to better understand the lag in Georgian lustration.
3.8 Summary

The double theoretical proposition of the democratic model as tested and illustrated in this chapter presents lustration as dependent on the type of political regime. First, democracy is a necessary condition for the origin of lustration. The threshold designating the lowest level of a regime with democratic elements at which states still manage to adopt lustration is a hybrid regime. Second, an increase in democracy is associated with an increase in lustration. Conversely, if the remnants of the old regime are still in place and a post-communist country remains authoritarian—or even if the initial democratic progress erodes into autocracy—lustration cannot be expected.

While this chapter has shown strong support for the deterministic and probabilistic premise of the democratic model, one may wonder whether the findings are all that surprising. Lustration could well be inherent to the nature of democracy. If that is the case, the understanding of lustration as an integral part of democracy lends itself to a new understanding of post-communist democratization processes. This is particularly extraordinary since the chapter has shown that lustration is not due to an increase of political competition as has been claimed so far. On the contrary, lustration and competitiveness constrict each other. Lustration is a democrat’s reign on competitiveness (see Chapter 4).

After the demise of communist rule, democracy as a political regime not only represents a rupture with the old regime but also brings about a certain level of rupture with the ancien élite. Post-communist democratization may therefore be understood as promulgating lustration, which prevents old-regime elites from undermining the new democratic system. From this perspective
lustration represents a check on the ability of the old regime to return as lustration represents a buffer against authoritarianism.\textsuperscript{72}

In explaining the likelihood, intensity and timing of lustration, there may be factors other than democracy that affect lustration. Democracy is a structural factor that has no agency to adopt lustration policies itself. Lustration and democracy may be linked through the mechanisms of collective action in the legislatures. Moreover, democracy is just a first step in explaining lustration. Democracy cannot fully explain why and how the settling of past accounts through lustration can become a viable and potentially lucrative element of the political process. The next chapter explains the ways in which the process of lustration becomes a subject to political warfare and lays forth the voluntarist or actor-based argument of the study.

\textsuperscript{72} The author would like to thank Charles King for this insight.
4 The Elite Model of Lustration Politics

4.1 The Politics and Uses of Lustration

Lustration is an outcome of a particular politics of democratization. It serves the transitional elites to fight political opponents in their power struggle. This chapter addresses the question of how these elites make lustration possible and use it as a tool for political gain. The chapter first substantiates the “elite model” with plausible and alternative agency-based hypotheses. It then presents the results of statistical testing and interprets them in the light of case-based analyses.

The elite model claims that lustration is an outcome of legislative and party politics.73 Lustration represents an institutionalized consequence of a transitional development in which political elites in general, and legislators in particular, are seeking to win positions of power. As in other contexts of competitive political processes, the rational elites of the post-communist world aim at maximizing their chances. The model defines elites as having a relentless interest in power, pushing against, and circumventing, whatever legal boundaries they confront.74

Lustration is an extraordinary instrument for power-thirsty politicians. Aiming at specific political gains, lustration implicates the members of a competing political party. Members of the ruling party—and these change political roles, depending on the outcome of successive elections—are shielded from the consequences of the process. This aspect of lustration could be understood as appropriated, and in some cases as opportunistic realpolitik, since policies and actions are based on power considerations and not on the ideals of transitional justice.

73 Undeniably, the elite model incorporates assumptions that emphasize the impact of institutions and structures that increase or decrease the chances for political elites to mobilize towards lustration (see Chapters 3, 5 and 6).
74 Lustration as a means of increasing elites’ power corresponds to the view of Carothers 2006, 59 on electoral competition in such contexts, when “highly ambitious, power-seeking actors—political parties—enter the fray […] Such organizations gear up campaigns and assert themselves […] they push at whatever legal boundaries they confront. They try to circumvent restrictions on their activities [and] ignore rules that constrain them.”
4.2 The Party, Legislature and Lustration

This section presents three types of claims of the elite model: coalition and opposition size principles, political orientation and nationalism, and the age of actors. It discusses alternative explanations about interest maximization: proximity to elections and electoral fraud. Case studies shed light on the findings, as some explanations cannot be appropriately quantified.

4.2.1 Coalition and Opposition Size Principle

Since lustration is usually adopted through parliamentary procedures (see Appendix B.1), the size of the coalition and opposition plays a crucial role. According to vote maximization theories, a high share of parliamentarians from government parties may offer more capacity to pro-lustration groups to adopt politically contentious measures. While the government coalitions, which these parliamentarians represent, may be formed before or after an election, the chances of a lustration program being adopted grow with the number of votes they receive. This first hypothesis is called legislative overall vote share of the government.

According to the theory of minimal winning coalitions, the pro-lustration parties require tightly-knit coalitions in the legislature and the executive since the issue of settling past accounts is highly divisive and may be politically costly in elections. The majority of post-communist governments require coalition building. However, in order to preserve governmental and legislative strengths in adopting lustration, the fewer the parties, the better. The fewer political actors involved in deciding a lustration program, the easier it is to adopt and change. Hence, the

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75 The coalition size hypotheses rely on Downs and Riker. Riker assumed that politicians aim at forming minimal-size winning coalitions, based on zero-sum principles of electoral and legislative politics. Downs developed the vote maximization theory, understanding elites as primarily office seekers rather than policy makers. As such, they maximize electoral support and forge coalitions as large as possible (Downs 1957, 135-50). Riker presumed the opposite: attracting more votes requires resources and that politicians run to win—thereby minimizing the number of claimants on resources. Politicians form a coalition that is a large as necessary to win but not larger (Riker 1962).
larger the share the first two coalition parties have, the more likely lustration is. Relatedly, the smaller the share of a third coalition party, the higher the likelihood of lustration. A similar assumption can be made about the opposition parties. Lustration is more likely the larger the share of the main opposition party—and the smaller the shares of other opposition parties. The assumption is that the coalition parties have a greater advantage in promoting lustration if the vote share of smaller opposition parties is fragmented. These hypotheses are called vote share of government and opposition parties.

4.2.2 Party’s Political and Nationalistic Identities

Identity is important for understanding the motivations of actors. Identity-defining issues represent a resource that may be used according to political needs by parties and other actors. This section presents two hypotheses: the left-right orientation and nationalism.

The left-right or communist vs. anti-communist divide represents one of the strongest cleavages between the parties of the post-communist world. Anti-communism is a clear-cut and powerful discourse based on a resource that is disputed by many elites (Ursachi 2007, 79). For that reason, electoral swings from the right to the left could affect lustration. Scholars assume that the interests of the post-transition elites are partly determined by the character of the former regime. For instance, the political power of the reformed communists in the new regime may become the decisive element in the enactment of lustration (Welsh 1996), particularly if former communists became a major political force (Nalepa 2010b, 204; Stan 2009d).

76 Traditionally anti-communism was adopted by parties on the right. The left-leaning parties have been associated with communism or with socialist tendencies. This study’s argument combines both approaches to the labeling of political orientation, acknowledging that in the post-communist context, the left-right division may be less useful than a party’s relationship to the communist past (see Tismaneanu 2009; Tucker 2006). On the right side, parties have differed in their support for either pro-Western market reforms or nationalism. On the left side, parties bifurcated between a liberal left and political forces attached to elements of the old order (Carothers 2006, 24).
Nevertheless, the communist vs. anti-communist divide may not represent a strong predictor of lustration. First, as transition progressed over time, lustration did not become irrelevant and the desires for retribution did not weaken (David 2011, 95). Second, even if lustration was used by the opposition, whenever the communists re-emerged (Bertschi 1994; Szczerbiak 2002b), other cases showed the opposite. In Georgia, lustration was attempted by opposition parties even if neither of the sides had been significantly linked to the ancien régime. This alternative left-right hypothesis is labeled party’s political ideology.

As an identity issue, nationalism is more likely to affect lustration than left-right ideology. This hypothesis argues that the more the opposition (but not the coalition) is defined by nationalistic leanings, the less likely lustration is. This is the case because the main nationalistic party is not in the government or because the nationalists represent a smaller party within either the coalition or the opposition. The fact that the nationalists represent the main coalition party may not increase the likelihood of lustration. But their large share in the opposition does reduce lustration’s chances. The reason is that many nationalist parties did not emerge from the pre-1989 anti-communist opposition. On the contrary, nationalist leaders frequently emerged from a communist background, putting on the label and the rhetoric of nationalism. Such elites are less likely to promote lustration. This hypothesis is called main party’s nationalist ideology.

4.2.3 Alternative Hypotheses: The Age of Parties and Leaders

It has been presumed that younger elites are more prone to adopt lustration. The young could not be previously delegitimized because of their potential involvement with the communist elites or with the economic debacles during transition. As claimed, new parties can survive lustration if—or sometimes because—their members are too young to have had been collaborators (Nalepa
While this argument may be true, it is prone to endogeneity. For example, in many late lustration cases the old elites had already left and did not participate in the processes of adopting lustration. Moreover, the ruling cliques have often placed in their parties younger MPs in order to influence them and receive more legitimacy. Nalepa concurs that in Poland pro-lustration parties intentionally selected younger candidates for MPs (Nalepa 2010b, 153). Finally, young MPs supposedly gravitate to parties with pro-lustration agendas, finding that the effect of age is highly significant, albeit small (Nalepa 2010b, 152).

The following reasons overturn these theories. Firstly, the age of legislators might not play a major role from the cross-regional perspective. The reformed socialist parties may well have made it possible for the younger party members to run for parliamentary seats in order to boost their credibility and appeal. Newer parties with younger MPs may embrace pro-youth agendas and distance themselves from the anti-communist agenda. Secondly, the older the party is the more stable it may be. Yet, more parties over time might increase their overall number and cause greater instability of the legislature, thereby reducing the resources needed to adopt lustration. Therefore, the older the leader’s age or the longer the leader’s (party) tenure makes lustration more likely. These hypotheses are called leader’s age and years in office.

4.2.4 Alternative Hypotheses: Proximity to Elections and Electoral Fraud

In proximity of parliamentary elections, successors of the old regime have passed lustration laws that seemingly inflicted harm on themselves. They implemented lustration because of “a preemptive move to appease the median legislator” (Nalepa 2010b, 211). The theory is that when former communists expect to lose an election to anti-communists, who might want to punish

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77 Consider the Youth Party (Slovenia), which had MPs between 2000 and 2004, entered the coalition, significantly lowered the average MPs’ age but was oriented towards the left and aligned with the former communists.
them, they adopt mild lustration laws (Kaminski & Nalepa 2008). Moreover, elections may coincide with lustration insofar as they promote party interests and expectations and yield political gains (Nalepa 2010b). Provided that the anti-communists win, proximity to elections can help them enact lustration or harsher provisions. In order to test the self-lustration theory as a general law of strategic preemption, a variable measuring proximity to parliamentary elections is used.

Besides strategic calculation, the former communists and their successors have often taken advantage of electoral fraud (Fish 2005). Fraud affects the composition of ruling elites by favoring the former communists. Since in general former communists oppose lustration, an increase in electoral fraud may decrease the chances of lustration. However, the effects of fraud on lustration may not be significant. As fraud increases with inequality, competitiveness determines the fraudulent strategies (Lehoucq 2003). For instance, in the absence of competition, voter fraud may be absent as it is not necessary. Yet, political competition may fuel ballot rigging. Without anticorruption legislation and nonpartisan electoral commissions, competition will not be thwarted from propagating fraudulent strategies for winning elections. An increase in competition may increase electoral fraud, and indirectly decrease the chances of lustration.

### 4.3 Statistical Results and Analysis

The previous section theorized the role of legislative and party characteristics in lustration politics. Evidently, other agency factors could be taken into consideration, including the

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78 Nalepa may contradict Stan, who concluded that throughout East-Central Europe, former communists voted against lustration and file access law, while their opposition provided the impetus for them (see Stan 2009, 268).

79 Elections are fraudulent when they do not meet the conditions that ensure that election results express popular preferences. Fraud describes extra-constitutional irregularities in terms of clandestine and illegal efforts to shape election results (see Lehoucq 2003, 233-56). For example, elections are fraudulent when candidate intimidation affects the outcome of elections, when a portion of the population is disenfranchised and barred from seeking office, or when votes are not counted equal (see Dahl 1971).

80 One of the reasons for lack of such a correlation is that as the plurality electoral systems (unlike the PR systems) tends to decrease voter turnout because of the smaller expected utility of a vote cast for a third party (Cox 1999, 387-419), plurality laws could increase turnout so that the impact of stealing votes becomes greater.
infiltration of former collaborators into pro-lustration parties and the fears of revelation of such infiltration. Yet, while more comparative data might resolve this omission, this research already accumulated amounts of data. Appendix A provides detailed descriptions of variables and offers bivariate correlations for numerous elite factors. This section uses only the most significant variables, lays out the statistical analysis and interprets the results.

The statistical effects of the terms for particular legislatures, parties and their characteristics strongly support the argument that lustration is an outcome of politics (cf. Table 4.1). In each of the models, several variables are correctly assigned and represent statistically significant predictors of lustration. The results indicate that lustration is more likely to occur when parties, legislatures and governments are more stable. This also means that there is little to no evidence in the data of the effect of political orientation, proximity of election, electoral fraud, the length in office, party age and the age of the MPs. Numerous other variables are not included in the table (but are presented in Appendix A), as they are statistically insignificant.

A highly significant and important result pertains to the impact of electoral processes (FH elect) on lustration. Its inclusion here is justified since “elections, electoral processes, the development of multiparty systems and popular participation” (FH 2011) represent the immediate pillars on which lustration politics is exercised. For instance, the presence of electoral violations, fraud and postponing elections in the political process decrease the likelihood of lustration as they break the basic rules of democratic political process, which is essential for lustration. Moreover, the use of this variable is appropriate as its significance is not taken away by specific elite measures represented in the model. Also, this variable may well take away some of the effect of specific measures and thus proves them insignificant and irrelevant.81

81 See Appendix D, Table D.4.1 for a table without the FH elect term.
### Table 4.1. Elite Model: Influence of Parties and Legislatures on Lustration

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Standard errors in parentheses,

**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

Random-effects Tobit regression, Gaussian (normal) distribution
The results also support the hypotheses on the minimal winning coalition and legislature’s vote share. The higher the coalition share is in the parliament—particularly the share of the first and second largest government parties—the higher the likelihood of lustration. The effect of a larger vote share in a parliament on lustration is significant but small (holding other variables at their means). If the vote share of the first government party increases by 10 percent, the likelihood of lustration increases only by 0.2 (coefficient 0.02 times 10; See Appendix D.4, Table D 4.2 for similar marginal effects results).

The finding concerning the nationalist orientation may come as a surprise, as nationalist parties tend to be on the right side of the political spectrum. The finding that a nationalistic-leaning opposition decreases the chances of lustration may be explained by the fact that contemporary nationalist parties cover their communist past with the mantle of nationalism. For example, in 1991, Bulgarian Socialist Party (formerly the Communist Party) moved in a nationalist direction. These former-communists-turned-nationalists did not support lustration but wanted to exclude their political opponents by means of ethnic and nationalist strife.

Also, nationalist leanings have affected lustration through the blaming logic of occupation. As political elites seek power by other means, they justify the lustration of their rivals by referring to patriotic and nationalistic sentiments. The pro-lustration parties of the nationalistic type identify and penalize those who worked with the Soviet-era secret police. Such outcomes are often due to the heightened tensions with a foreign country that formerly exercised influence over the domestic elite. For example, the pro-lustration elite in Georgia referred to Russia as

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82 For example, the party has been seen as “unwilling to be perceived as granting concessions ‘to the Turks’” (Ganev 2004, 70). It asked the newly established constitutional court to declare unconstitutional a particular political organization known as the Movement for Rights and Freedoms, which represented ethnic Turks.

83 Table D.4.1 in Appendix D shows a possibility of a positive association between the nationalist government and lustration. This means that once the nationalists are no longer in the opposition, they will be more likely to opt for lustration. However, the addition of other relevant variables to the statistical model takes away this effect.

84 The author is grateful to interviewee R 15 for this insight. See also Chapter 6.2.
occupiers, particularly since the 2008 war in South Ossetia (Sajaia 2010). The pro-lustration parties in Macedonia referred to the impact of the Serbian hegemony in the Balkans.

Russia’s relations to the Caucasus and Serbia’s relations to Macedonia were defined for decades, if not centuries, by the explicit aim of empire building through buying off the periphery in exchange for loyalty (King & Menon 2010). Since, after the national revolutions of the late 1980s, the core no longer controlled the periphery, the periphery reciprocated. However, Georgia and Macedonia did not strike back against the newly foreign states but against those who from within had been associated with the communist empire. Such elite behavior may also explain the absence of lustration in Russia and Serbia. As regional hegemons, Russians and Serbs have been seen as exporting communism. They have been perceived as having benefited the most from the perpetuation of the communist system and the Soviet Union or Yugoslavia, respectfully.

The findings in Table 4.1 counter the theories on election-proximity and self-lustration even if some cases seemingly support them. For example, the introduction of the 1995 lustration legislation in Albania has been often seen as directly linked to the impending elections in 1996. The Democratic Party had just lost a referendum on the constitution, initiated in 1994, learning that “they were not invincible” (Austin & Ellison 2009, 184). In Slovenia, center-left parties understood the 1997 draft as an attempt to resurrect the previous lustration efforts and as a ploy to damage the strong chances for re-election of candidate Kučan, a former Communist Party boss (Kotar 2009, 208). In Hungary, the terms and conditions of the 1990 Demszky-Hack draft (coming from the opposition SZDSZ party) “were very much the product of the political circumstances in which it was created” (Barrett et al. 2007, 268). Prior to the municipal elections of 1990, a conflict developed between the two largest parties in the Parliament (one of which was the SZDSZ). Rumors of blackmailing erupted and the ensuing bill’s aim was to prevent such
abuse. Four years later, a lustration law was approved by the Hungarian legislature—only two months before the second democratic elections were held.

However, David points out that in the Hungarian case “neither MSzP nor its predecessor was targeted by the law […] Although it gave the newly reformed MSzP an opportunity to further distance itself from the past by attributing blame to secret collaborators, the party did not utilize this opportunity” (David 2011, 119). Moreover, these theories may explain lustration in Poland, but it fails to explain the exclusive lustration law in Czechoslovakia and later in the Czech Republic, which was conceived in secret and unrelated to elections (David 2011, 95). It is therefore not surprising that the explanations of election proximity and self-lustration do not find statistical support and can therefore not be interpreted as a general rule.

Statistical results also show only weak support for the argument of left-right orientation of the elites. There is scant evidence that right leaning legislatures are associated with more lustration. Since statistics and cases diverge on this issue, a short examination is in order. In Hungary both the anti-communists and communists legislated for lustration. The center-right parties approved the lustration law of 1994 and the amendments of 2000/01, while the reduced 1996 amendments were approved by the post-communist party, which was forced by the constitutional court to enact them. The 1996 revision dropped judges and district attorneys from targeted positions while the 2000 amendment reinstated them (Barrett et al. 2007, 295). Both the left and the right thus passed lustration laws. In Poland in 2005, the conservative center-right coalition won the Polish elections and in 2006 it approved a sweeping lustration system—confirming the theory. Also in Poland, the post-communist bloc that returned to power in 1993 and in 1996 approved a public employment law, reminiscent of lustration provisions. The law required 7 years of relevant working experience for senior public posts, making them available solely to old
communist cadres (David 2011, 32). The case in part confirms the theory. However, another Polish coalition dominated by the former communists amended the 1996 lustration law in 2002 by narrowing its scope but they did not rule out lustration—challenging the left-right argument.

4.4 In-Depth Case Analysis

The politics model of lustration understands the elites as interest-seeking actors, using lustration for their own benefit. In specific cases, the politics or the “uses” of lustration has been particularly evident. For instance, the Baltic states, Ukraine and Georgia all tried to delegitimize Russian influence on their respective politics (Zhurzhenko. 2007). In Poland and the Czech Republic, some right-wing politicians instrumentalized lustration and the questions of historical injustice for current political interests (Schlögel. 2008; Seckar. 2009). The Macedonian ruling elites and the opposition have been both accused of “creating the mess. And they have done so on purpose, for the purpose of control, to have ammunition in the fight against the political enemy. The problem is that the ‘other’ is indeed the enemy, not an opponent” (Schenker. 2012).

Besides control, the use of lustration for political benefits may amount to hypocrisy. As revealed by one of the interviewees, before the Czechoslovak regime change, the representatives of the opposition did not discuss lustration, as they were caught by surprise by the revolution of 1989. After the regime change certain former dissidents did support it. However, “many who kept silent before the Velvet revolution” also demanded lustration. While “some dissidents did demand lustration, […] those others [now suddenly awakened] did too. After each revolution, there are many heroes” (CZ 01). Substantiating these general elite approaches through extensive elite interviews, this section presents evidence from Russia and Georgia.
4.4.1 Russia’s Weak Democrats

While Chapter 3 ruled out the possibility of lustration in Russia after 1997, Russia initially did experience a certain level of democratization, which allowed democratic elites to contemplate lustration. Nevertheless, Russian politics of the 1990s witnessed a very limited emergence of democratic elites. The specificity of elite formation and high prevalence of the communist elites surviving the political change represented the main elite factors in the failed lustration attempts of 1991 and 97. The impact of these factors was particularly visible with regard to the legislature, power structures, ideology and president Yeltsin with his entourage.

The composition of the legislature in the early 1990s—when the type of regime allowed for lustration—reflected a relatively low level of elite change in comparison to the countries of East-Central Europe. The majority of the legislature before and after the failed Soviet coup attempt of August 1991 was not supportive of lustration. Elections for the legislature of the Supreme Council in 1990 gave 86% of the seats to the Communists. While this was the first relatively free election in Russia since 1917, the democratic opposition consisting of the independents won only about 190 out of 1068 deputy seats. From this constellation it was evident that the careers of many communist elites would be directly affected by lustration. The communists opposed and probably even feared lustration, particularly after Yeltsin banned the organizational structures of the Communist Party of the Soviet Union (CPSU). The share of the opposition deputies (who were not allowed to form a party) was too small to push for lustration. This confirms the argument about the government-opposition share tested above. Even if the pro-lustration elite are present in government as a party or movement, the size of their share matters significantly. Moreover, why would a legislature with an overwhelming presence of (former) communists vote for a law that would require most of its members to remove themselves from politics?
The ambiguous role of the Russian pro-lustration elite in the government in the early 1990s may be explained by the fact that the regime change came as a surprise. While the Interregional Deputy Group and its pro-lustration faction the Democratic Russia Movement (DRM) won major positions in crucial cities in the 1990 elections, they were not prepared for their relative victory. “Nobody was getting ready to take power” and “there was no program” related to the aftermath of a potential regime change—remembers one of the leading DRM members (R 16).

These democrats supported Yeltsin, who came to power from a group of reform-oriented communists. While Yeltsin came to power as a representative of the highest communist Nomenklatura, the democrats supported him as he strongly opposed the communist hardliners who later became involved in the 1991 August coup (R 23, 16, 04). Two highly influential former communists and academicians acknowledge that, while the DRM looked for its own political benefits, the DRM provided Yeltsin with extremely significant and crucial legitimacy (R 17, 18).

Besides lacking a clear post-regime change strategy, democratic elites were internally divided. Lustration divided them into moderates and radicals. While the majority within the broader Interregional Deputy Group referred to the liberal communists “very tolerantly” (R 16, also R 32), the DRM faction remained critical of all communists and insisted on lustration (cf. R 10, R 16, R 24, R 25). The former, including two highly respected soviet-era dissidents and legislators at the time, opposed lustration, (R 22, R 23). The latter were active in lobbying for lustration, such as the DRM members Lev Ponomarev and Gleb Yakunin, “our famous and radical couple” (R 16). Yet, “The most radical” member was Galina Starovoitova (R 16). Starovoitova was the “main agitator” (R 24) and the “engine” (R 25) behind the drafting and promotion of lustration.

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85 The terms “moderates” and “radicals” fractions (the democratic elite), and the “hardliners” and “softliners” (the communist elite) are borrowed from four-layer game theory (See O'Donnell & Schmitter 1986, 55s).
Starovoitova, together with Sergei Yushenkov and Konstantin Borovoi, as well as Ponomarev and Yakunin, pushed forcefully for lustration (according to R 10). As remembered by one of the members of the DRM, the “Democratic Russia Movement had one and only one goal: remove from power the Communist Party of the Soviet Union” (R 01).

The DRM group was aware of the limited parliamentary support for potential lustration. While Yeltsin “was elected by the Supreme Soviet […] the communist hardliners] held 70 percent of the vote on major issues” (R 01). Besides, the DRM was a rather small group in the 1991-93 legislature. And while the parliament allowed for a special commission to work in the KGB archives in the aftermath of the 1991 coup, one of the DRM members recalls that lustration policies would not have passed the Supreme Council. “Legislatively we couldn’t have done it because of the lack of a majority” (R 24). “The majority were the communists” (R 10).

The driving forces and ideologies behind the elites with regards to regime change account for the particularity of Russia’s elite formation and the absence of lustration. Among the majority of the pro-lustration DRM members, there was a belief that merely “changing the Soviet Constitution will do the work. They had a romantic view of regime change: break down the former system and democracy will come automatically. They had no specific projects” (R 01).

By the end of 1993, many so-called democrats of the first wave—who came to power with Yeltsin and advocated lustration—were forced out of the governing system. When Starovoitova called for the need for lustration at a conference in 1993, she admits that lustration had become impossible since

87 Chapter 6 evaluates in more detail the role of the initial balance between the old and new elites. The chapter shows that the only country to have adopted lustration despite the initial transitional balance favoring the communists was Romania. Yet Romanian lustration only occurred 16 years after the change of regime (2006-08).  
88 A former dissident and democratic politician even claims that the DRM was itself responsible not only for the absence of lustration but also for the stalled democratization (R 30).
Nowadays the surprised western nations and our own people are watching, puzzled, the coming back of nomenklatura, surrender of the already achieved democratic gains, whereas the CPSU leadership and its armed unit, the KGB, using their old masters’ posts are now taking the key positions in the economy and politics (Starovoitova 1993, 19-20).

A democrat of the era admits that “from the very beginning we [and Yeltsin] considered ourselves as colleagues in the battle [soratniki], who have one privilege, to speak the truth. Starovoitova, myself, Sobchak, Popov, Afanasiev kept this status for a time. But in 1993, he [Yeltsin] turned away from his colleagues to functionaries. We became a burden to him” (R 16).

One of the reasons for their ousting may have been their supposed renunciation of power. “Yeltsin and his team wanted to be above politics, […] as for example [being] not involved in the elections” (R 01). The democrats were not ready to take and use power: “they thought that by 1995, the communists would be out anyway, but then everything happened so quickly. So nobody was ready for lustration” (R 10).

The early beliefs of president Yeltsin and of the Russian democrats reflected a similarly deterministic ideology. Their ideology became visible through the reform of the KGB, Interior Ministry and other power structures. A politician from Yeltsin’s inner circle remembers that Yeltsin understood the power structures as “non-reformable organizations” (R 25):

He thought that the process will develop on its own and that [the old regime] people will be eventually replaced by new ones—since many from the [old] Nomenklatura worked in business already. And he thought that these had accepted the new rules of the game. [… Yeltsin] wanted to maintain [the old] power structures because he was afraid of the collapse of the state, which was [itself] very ineffective. So, either you have them all new, or you make a pact with the old elite. Yeltsin went the second way.

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89 In 1993, a move occurred within economic elites as well. Yegor Gaidar was soon replaced by Victor Chernomyrdin, “who was a typical Soviet Nomenklatura figure. Chernomyrdin brought with him his own team” (R 01). Yet, even the democratically leaning Gaidar believed in Russia’s economic determinism: a prosperous economy would create good political conditions for political reform. “The focus of the government was not justice but the economy and the economy was soon filled with the former Nomenklatura” (R 01).
This account is supported by Russian scholarship, which claims that the former Soviet Nomenklatura remained in key positions in the ministries of interior, defense and security. The post-Soviet elite formation in Russia underwent a very gradual evolution, characterized by an acute struggle between the Nomenklatura and the oligarchs. Both groups consisted mainly of the former communist elite. While the 1991-1996 period was in relative terms the most democratic one, the process of elite formation substantially favored the Nomenklatura.\textsuperscript{90}

An illustration of the perseverance of the Nomenklatura in power structures was the relationship between the president and the influential cohort around the figure of former KGB general Alexander Korzhakov.\textsuperscript{91} Korzhakov was Yeltsin’s chief bodyguard and the head of the Presidential Security Service. Protecting and even saving Yeltsin’s life, Korzhakov earned Yeltsin’s trust. Yet, Korzhakov “opposed lustration and everything else” (R 16). As in other matters, Yeltsin took his advice seriously (R 15, 17, 18, 22). Between 1993 and 1996 Korzhakov became one of the most powerful men in Russia and a major player in Kremlin decision-making, from personnel matters to economic policy. A person, who had significant influence on Yeltsin in 1991 stated (R 24):

\textit{Yeltsin did not listen to his advisors. He girded himself with Petrov, Korzhakov. They had no relationship to democracy. Burbulis was quickly removed […] and the same with Gaidar […] Ponomarev and I ran after Yeltsin to keep at least Chubais. Yeltsin made too many mistakes.}

On the one hand, Yeltsin understood the presence of the former KGB members as a potential threat, particularly after the 1991 coup (R 06, 09). For that reason he dismantled several of the KGB structures and created a new security service. On the other, he allowed many members of

\textsuperscript{90} For a detailed process-tracing analysis of the struggle between the bureaucracy and oligarchy as the central collision element of the post-Soviet politics see Guman-Golutvina 2006, 319-320.  
\textsuperscript{91} For instance, in March 1996, Korzhakov and his close ally, FSB chief Mikhail Barsukov, almost succeeded in persuading Yeltsin to close down the Duma and postpone the presidential elections. “Only the cooler heads of Yeltsin’s political advisers and the minister of internal affairs Anatoli Kulikov, a rising silovik, averted another potential violent showdown for power. Yeltsin, in short, had a silovik problem” (Taylor 2006, 2).
the KGB to stay in power. Some of these, such as Korzhakov, provided him and the democrats with particular services, including protection. Others, helped maintain the power structure functioning. For example, Yevgeny Primakov, the first post-1991 coup deputy chairman of the KGB, eventually became the head of the president’s administration. As a result, Primakov put his own people in the administration (R 25).

*It was very hard to get into Presidential administration without a KGB background [...] because the KGB was a security issue for Yeltsin. With the [subsequent] arrival of Primakov to power in 1995, all ended. What [Primakov] said happened. Of course, Starovoitova had some influence on Yeltsin but she also saw that these structures have influence. And, at the time of the Chechen war, Yeltsin depended on these structures.*

While Yeltsin considered the communists as his primary opponents and could have used lustration against them, he was unwilling to implement such policies. While he was aware of the lustration bill and considered it, Yeltsin never supported it. “He was not ready to lustrate the communists. That is for sure” (R 23; also R 04, 24). The influence of the heterogeneous but ever more KGB-like entourage of Yeltsin played a major role in the absence of lustration (R 10).

*Boris Yeltsin, when signing the August 1991 decree on the ban of the activity of the CPSU on the territory of Russia could have solved [affirmatively] the question of lustration. But his entourage convinced him that lustration was not necessary.*

The members of Yeltsin’s entourage agreed that his inner circle consisted of two strongly competitive wings, some of the old elite and the democrats. Yet, “the first wing started to take over as Yeltsin’s health and popularity deteriorated; and especially during the Chechen war” (R 29). By the time Putin took over the presidency, the old elite had been securely entrenched. Putin’s system, beginning in 2000, represented in a way the prolongation of former practices.

“All the roots of the current system [of Putin] lie in the year of 1994, [when] “the democrats of
the first wave were forced out of the government, [the ruling of the administration was handed over to] Soviet *Nomenklatura*” and the war in Chechnya started (R 01).

During the presidencies of Vladimir Putin and Dmitry Medvedev, the likelihood of passing a lustration law became even lower. The low levels of elite change visible from the late 1990s and onwards additionally thwarted any possibility for lustration. Soon after his installment, Putin brought to power thousands of individuals who had previously served the KGB and FSB secret police. The period of Putin’s rule also witnessed a rise to power of the significant parts of the Soviet *Nomenklatura* and the security services (Soldatov & Borogan 2011). This has made lustration an unlikely political decision.

### 4.4.2 Georgian Laggards

While the failure of lustration attempts in Russia and their subsequent absence reflects the composition and the nature of the ruling elite in early 1990, Georgia’s elite became lustration prone a decade later and adopted lustration only twenty years after the fall of the Soviet Union. Georgians could have adopted lustration much earlier. The more democratic and institutional environment after the 2003 Rose Revolution opened the door to lustration as a potential tool to fight the opponents competing for power. Moreover, representatives of the new political elite of 2003 had previously promised lustration. This section explains the puzzle of Georgian “lustration laggards” with regard to the elite model and introduces the early 1991 period in which lustration was briefly discussed.

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92 Politkovskaya claims that “in the wake of Putin’s rise to power, every nook and cranny in the power structure was filled by people who had been employed by the KGB. Information from independent sources (not surprisingly, there is none from the official ones) suggest that more than six thousand ex-KGB/FSB people followed Putin to power and now occupy the highest offices” (Politkovskaya 2004, 68).
The first small window of opportunity for lustration opened during the rule of Zviad Gamsakhurdia. Gamsakhurdia was the first president of Georgia, in office from April 1991 to January 1992. Propelled into power by the significant support of an overwhelmingly anti-Soviet electorate, Gamsakhurdia represented for many the new anti-communist elite. Many attributed their support of Gamsakhurdia in 1990 and 1991, as well as of their protests against Shevardnadze’s return to Georgia, to the killings of Georgian demonstrators for independence in April 1989 by special forces, for which Shevardnadze was claimed to be in part responsible (Gierycz 2010, 152). As a Soviet-era dissident, Gamsakhurdia frequently and publicly referred to his opponents as linked to the former KGB (G 34, others). Even Shevardnadze said that “Gamsakhurdia called all his opponents KGB agents” (G 30).

Some speculate that Gamsakhurdia was behind the 1991 publication of the names linked to the former KGB and to the higher echelons of the Communist Party (G 15; G 37). Moreover, in 1991 the Georgian parliament discussed the declassification of the KGB files (G 18). Like Yeltsin, Gamsakhurdia banned the Communist Party after the August 1991 coup in Moscow. The deputies elected to parliament in 1990 on the communist ticket were deprived of their seats. However, there was no lustration in Georgia in 1991.

The absence of lustration in 1991 may be attributed to the hierarchy of political priorities. The democratically elected government moved towards authoritarianism and nationalism, suspending registration of political parties and enmeshing itself in violent secessionist conflicts, while dealing at the same time with an economy in a free fall. Many of Gamsakhurdia’s former anti-communist allies joined the opposition, which consisted of an uneasy coalition. “The reality was that all the intelligentsia turned against him at some point. So, there was a strange amalgam collation in the opposition: liberals, like myself, and the communist were there” (G 37, also G
This opposition demanded a new election and supported demonstrations and barricade building. As Gamsakhurdia and the opposition were unyielding, the events escalated into fatalities and eventually a military *coup d'état* in January of 1992, when Gamsakhurdia was ousted and the parliament ceased to function. It was in this troubling context that Gamsakhurdia demonstrated inconsistent, weak and politically marred de-communization efforts such as banning the Communist Party. His approach to de-communization may have simply been a pragmatic political move. “He wanted to get rid of the MPs who were in opposition to him. It was in tune with his rhetoric, of course” (G 34).

Gamsakhurdia did not reform the old, soviet-Style state bureaucracy or open the KGB archives as he had threatened. Instead, he appointed to power people with direct links to the former KGB (G 27). Many claim that he may have been linked to the KGB after having made a public confession and recantation to the Soviet leaders in 1979. One of the reasons that might explain why Gamsakhurdia did not open the parts of the KGB archives that had not been transferred to Smolensk was his complicity. Shevardnadze claims that Gamsakhurdia “facilitated the kidnapping of the archives. There were his testimonies (or confessions) in Moscow. His avowal and testimony. That is what he was afraid of” (G 30). Also, Gamsakhurdia may have been aware of potential collaboration with the KGB by his father Konstantine Gamsakhurdia, an influential Georgian academician (G 05). The opening of KGB files would thus hurt or even destroy the president’s career. With Gamsakhurdia’s overthrow in 1992, and the return of the former Communist Party First Secretary Shevardnadze as president of Georgia, the tiny window of opportunity for lustration closed for more than a decade.

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93 Shevardnadze claims that Gamsakhurdia is directly responsible for the transfer of Georgian KGB files to Smolensk, Russia. Shevardnadze says that Gamsakhurdia “was not happy with the [idea of] publication [of files]. [The files] shed bad light on Gamsakhurdia and on those who interrogated him” (G 30). Upon the interviewer’s question whether Shevardnadze was familiar with Gamsakhurdia’s files, Shevardnadze approvingly nodded.
While under Shevardnadze lustration was unlikely for several structural reasons, the absence of strong party politics additionally explains the absence of lustration. Like Yeltsin in Russia, Shevardnadze avoided party affiliation in order to maintain his independent position. “Because no other candidate emerged, Shevardnadze was convinced to forego partisan politics and grasp this opportunity for national leadership” (EN. 2012). In the absence of partisan politics and strong parties, the elite searching for its own unity had little incentive to employ lustration. 

A decade later, Shevardnadze’s regime became internally weaker. Partisan politics re-emerged and the opposition to Shevardnadze grew stronger and demanded lustration. In October 2001, the secret police raids on the Rustavi 2 television headquarters, which had been in strong opposition to Shevardnadze, resulted in mass street demonstrations in support of the independent media. The events forced the president to fire his entire cabinet and set the stage for the subsequent Rose Revolution. Shevardnadze formed a new cabinet and appointed Valeri Khaburdzania as the Minister of State Security. At his appointment in November 2001, Khaburdzania “promised MPs he would work on the draft-law of lustration” (Civil.Ge. 2001). Shevardnadze seems to be referring to this instance when he claims: “Even in my time there was lustration. We introduced it to the parliament but it did not pass” (G 30).

This interpretation of events comes as a surprise as one would not expect Shevardnadze or his cabinet to favor lustration. A former general in the defense ministry explains the position of his former superior Khaburdzania (G 17).

94 Shevardnadze resisted invitations of the Democratic Union, composed mainly of former communists, and other parties. From the time of his return to Georgia in 1992 Shevardnadze enjoyed unparalleled respect and recognition. Because of his unique position, the interim military council that Shevardnadze presided over acted to separate him from party politics by creating a potentially powerful post, chairman of parliament. This post was contested in the elections of October 1992, which Shevardnadze secured with approximately 96 percent of the vote.

95 This argument is consistent with the claim that while in hybrid regimes strong parties help incumbents manage intra-elite conflict and mobilize support, the lack of a single highly institutionalized ruling party and an underfunded state with weak coercive capacity makes it harder for leaders to preserve elite unity in the face of crisis and deprives incumbents of key tools of repression. As a result of such weakness, autocrats such as Shevardnadze have frequently fallen even in the face of modest opposition challenges (See Way & Levitsky 2009).
Khaburdzania was progressive, the youngest in the cabinet and had no communist background. I was the head of the information bureau. Khaburdzania tasked me to declassify the archives for the Stalin era. He was the first to open a website on this, even though at the time there were not many internet users. Shevardnadze and his cabinet did not like him. They thought he was a traitor. He was in the State Security but not trusted! [... Yet, Khaburdzania] had no time for this as he was in only for 2 years. During the first year, he had to change the old head within the department. The second year he fought for Pankisi [to liberate it from terrorists and warlords]. Lustration was not at the top of his agenda.

Lustration was at the top of the agenda of the growing opposition. The opposition emerged victorious during the Rose Revolution, led by Saakashvili as well as Burjanadze and Zhvania, a close ally to Burjanadze and an established politician. However, despite the fall of Shevardnadze in 2003, Georgia had no lustration until 2011 while having the new and anti-communist elite in power and while a more open political environment allowed for lustration. The specificity of Georgian politics played a major role. One of the reasons may have been the age of the elites. When asked in 2012 for this study why the new elite did not deliver on the promise about lustration President Saakashvili replied:

“You should look at the age of our officials to understand that [lustration] had been already done. [...] Every single public official in my government is younger than me! [...] For a society to move forward we need all the time to have fresh blood [...] Moving away from non-free society to free society, we needed to do very unconventional things, including this generational change that happened by nature, age, by itself. We didn’t push or force it [lustration].”

The rejuvenation of the administration, however, did not prevent the opposition from demanding lustration. Calls for lustration after the Rose Revolution did not come from the new anti-communist elite in power but from the anti-communist opposition. Several opposition parties put together lustration drafts and introduced them into the parliament. However, from 2004 onward, the ruling United National Movement (UNM) party voted them down. Many

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96 For the entire interview see GU 2012 [cited 2012].
considered this rejection as a fight against the opposition. At the time, the UNM did not want to
give the opposition a chance to win on such a symbolically important issue (G 31).

Soon after the revolution, Saakashvili became the center of a public scandal when a Russian
documentary alleged that he had served in the Russian border troops, “a post typically requiring
lifelong collaboration with the KGB” (Stan 2009b, 239). Many sources in Georgia confirm
Saakashvili’s engagement in the border troops (G 28 etc.). Some explain his rise during the late
Shevardnadze era through his presumed collaboration with the KGB, aided particularly by his
uncle Timur Alasania, a well-known officer of the KGB First Directorate and arms trader.

Most importantly, the ruling UNM, which had once been supportive of lustration, became
internally divided over lustration. The most vocal opponent of lustration in the UNM was Nino
Burjanadze. Burjanadze, Shevardnadze’s goddaughter, was a highly influential politician and
lawyer. She served as chairperson of the parliament from 2001 to 2008 and interim president in
2003/04 and 2007/08. While Burjanadze had signed the Ten Steps document, she opposed
lustration together with other reform projects (G 34). Since she was one of the most influential
politicians within the ruling party and could not be dismissed, other members of the coalition had
to remain pragmatic. An insider to the ruling clique says that she “resisted from the inside. So, in
order to keep the coalition, [the coalition] had to agree at least on something. No need to weaken
the group [with lustration]” (G 08). Another insider adds that the core group around Saakashvili
“considered that lustration was not the most important to push her over” (G 34). The bill
introduced to the parliament in July 2005 was overwhelmingly rejected in February 2007.

In that particular elite setting, the promised lustration project was halted until Burjanadze
suddenly left the UNM in 2007/08. As interview evidence reveals, her departure was due to
internal disagreements over the composition of the list of candidates for the 2008 elections. She
was accused of proposing candidates who were linked to the communist regime or to current Russian politics (G 34). The strong objection to Burjanadze meant that she may have lost her intra-party influence. “I was not able to be a part of the team. […] I had some influence because of my personal relationship [with Saakashvili] and because he often had to agree with me” (G 29). However, for the particular list of 2008, Saakashvili seemed no longer to need her. Saakashvili’s rejection of her candidates may explain the fact that since the UNM 2008 legislative victory, the ruling party no longer objected to lustration.

Since 2008, Burjanadze has been the most visible opponent of Saakashvili’s administration. But while previously her opposition to lustration prevented it from receiving support, once she left the ruling clique, lustration faced no serious opponents. “From 2008, they had free hands. There was no Burjanadze” (G 08). When the next lustration policy was proposed by an opposition group in 2010, support of the UNM was still crucial to its success. Tortladze, the initiator of the law, “needed the UNM; if the [crucial] people were opposed, this law would not be adopted” (G 08). But now, the ruling team and the parliament, on which Burjanadze had exercised much influence, were free to let anyone, including the opposition, have a say on lustration.97

Specific elite circumstances theorized above additionally support and explain this outcome. As presented in Table 4.1 above and confirmed by the case of Georgia, the legislative influence of the ruling party at the time of adopting lustration was extremely high. From 2008-2012, the UNM held 119 out of 150 seats. This accords with the general finding that the stronger the main

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97 The passing of the law may have been facilitated by the fact that Burjanadze revealed for this study, “Tortladze is paid by the government. He had a lot of debts before […] I know that it [the payments and lustration] comes from the government.” Furthermore, interviewee G17 noted that “By lustration, he revived himself as a politician. Now, looking at this law, the young generations will all remember who the initiator of the draft was. A good trick for him. Just good public relations. Our foreign friends are interested in these topics and now he’s on the surface. He was sinking. This lustration law was a lifebuoy for him.”
coalition party is the more likely the chances of lustration will increase. Moreover, the case of Georgia refutes the argument according to which lustration is a left vs. right issue. The introduction of the 2011 lustration law witnessed no split between the former communists and the anti-communists. Moreover, the law was adopted unanimously and helped its supporters to strengthen their own political support base. The Georgian 2011 lustration law was proposed by the opposition and was not targeting the (only) party in government. Having achieved a certain level of political stability by 2011, lustration also became less costly for Saakashvili.

4.5 Summary

This chapter has shown that the motivations behind, and the composition of, political elites significantly affect the origin and intensity of lustration. Elites raise the issue of the past for the sake of immediate political gains (Elbasani & Lipinski 2011). The cross-national study and examples from Georgia and Russia have indicated that legislative and party politics play a major role. Through the examination of sequencing effects, the elite model has explained who pursues lustration and why they pursue it. The model complemented the static explanations of political regime. Specifically, tightly knit coalitions with a maximum of two parties or legislative fractions are more likely to adopt lustration. If these coalition parties have a larger overall share lustration is even more likely. The share of post-communist nationalists in the opposition also explains lustration. These three causal factors are significant even when tested against the levels of electoral democracy and a host of alternative explanations. While there are different ways to understand political actors as maximizing their advantage, not all those ways are causally significant from a comparative perspective. The factors of elites’ age, political orientation or
even preemptive self-lustration do not explain lustration from the perspective of the entire post-communist world.

Nevertheless, the motivations and characteristics of political elites change as the elites not only grow older or are replaced but also as they face new challenges. For this reason, an analysis of broader structural and institutional factors that constrain changing elites is needed. The next chapters will theorize and conceptualize such contextual and structural influences. They will focus on two crucial types of influence that may reduce or increase the ability of elites to legislate for lustration and implement it. Chapter 5 will explain from a domestic and international perspective how and why the elites are constrained by the institutional structure that surrounds them. Chapter 6 will show how, when and why past legacies matter. This twofold conceptualization of contextual influences will be drawn from numerous studies of democratization and transitional justice as well as from field research in Georgia and Russia. Finally, these arguments will be threaded into one parsimonious model in the concluding chapter.
5 Constrained by the Present

Institutional environments condition relations among post-communist political actors in important ways. The democratic model has shown that democracy determines the pro-lustration elite competing for power. This chapter will show that while lustration is not predetermined by structural conditions other than democracy, it is affected by factors that do not depend directly on the choices made by elites. Economic, political or cultural characteristics influence the political process under any regime as they represent ingrained political issues. The chapter will show in what ways the political and social factors since 1990 affect lustration. It will theorize and test the constraints of institutional choice, international environment and broader society.

5.1 Institutional Choice: Systems of Government and Transitional Justice

If institutional choices leave behind rules that are catalyzing for the future political process (Linz & Stepan 1996), do such measures affect lustration and, if so, in what ways? The variation within and across three types of institutional arrangements may be revealing of lustration: government systems, electoral rules and transitional justice.

First, the electoral system hypotheses are of particular interest, as they bear directly upon party politics. Secondly, institutionalized mechanisms of transitional justice (TJ) that are different from lustration may affect lustration. Four mechanisms will be examined: truth commissions, trials, amnesties and reparations. In addition, a potentially endogenous component of lustration will be examined, that is, lustration programs.

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98 In the post-communist world, TJ has covered issues beyond lustration and often larger than lustration: justice for perpetrators (e.g., trials); justice for victims (reparations); fact finding (truth commissions and access to secret files); amnesties and memorialization. See Appendix B.1 for a detailed discussion on different mechanisms of TJ.
5.1.1 Presidentialism vs. Parliamentarism

Parliamentary systems of government may be more conducive to lustration than presidential ones. For example, in Kyrgyzstan, soon after the April 2010 riots and the ensuing constitutional changes that made the Kyrgyz system a parliamentarian one, the demand for lustration increased dramatically (CAO 2011; HB 2010). This link between parliamentarism and lustration may be first due to the fact that in the post-communist world stronger legislatures lead to stronger democracies (Fish 2006). Second, the rigidity of a president’s fixed term in office makes the losers of an election wait four to seven years without any access to executive power and patronage. In presidential systems, losers do not share in the formation of cabinets (Linz 1990). The terms of prime ministers are less fixed since they are vulnerable to frequent negotiation over policies with other coalition parties. Presidential systems thus offer more limited opportunities for a takeover of power and decrease the incentive to use lustration, as there are less available spoils to be reaped by it.

Presidentialism also offers more power to former communists. Scholars have found that post-communist presidentialism tends to ensure their continuation in political office, reinforce procedural irregularities and stimulate the leadership interventions characteristic of the past (Bunce 1999, 778). These trends have been particularly visible in the countries of the former Soviet Union and Yugoslavia, many of which have chosen different forms of presidentialism.99

Furthermore, the institutional choice of presidentialism vs. parliamentarism may itself represent an outcome of a process that fosters or inhibits lustration. The ingrained structures of

99 Even the presidents in East-Central Europe with their frequent dissident background have shown relative “leniency” towards the questions concerning the legacy of the communist past and the treatment of former officials and informers”. Due to the conciliatory imperatives of these presidents’ position, nearly all presidents in ECE have come under attack for tolerating the continued presence of the nomenklatura in key positions. Many of these attacks have been delivered by the prime minister’s allies or even the prime minister himself (see Baylis 1996, 309).
the old regime, which are determined by the former elite’s level of continuity and the access to resources, may explain the preference for presidentialism in the countries of the former Soviet Union. The way elites emerge or reemerge after a regime change may be crucial as elites seek access to power resources by specific choices of institution-building (Easter 1997).

Research also shows that presidential systems are hard on parties (Linz 1990; Linz & Valenzuela 1994). Instead of competing with one another, parties end up as a means used for presidential campaigns. As a result of their diminishment, parties may no longer aim at hurting one another through lustration. In short, presidentialism could decrease the chances of lustration. However, since legislatures tend to enhance non-democratic regimes as they allow for co-optation and safer negotiation between core members of the regime and outsiders (Kim & Gandhi 2010; Wright 2008), the negative effect of presidentialism may not be significant.

5.1.2 Proportional Representation

Electoral systems have been theorized as an important institutional factor in the literature on transitions but not on lustration. This omission is troubling because of the extensive role electoral systems play in democratization by regulating competition through a system of constitutional provisions, laws and party rules (Cox 1999, 387). Many post-communist countries have chosen the electoral system of proportional representation (PR). Since the PR system closely links the vote to a party and electoral competition, PR may be related to lustration.

Under PR, the inclusion of parties in strict proportion to their share of the vote takes precedence over effective governments and legislatures. PR leads not only to multi-partyism and coalition cabinets (Duverger 1954) but also to representation of minority groups (Lijphart 1999)

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100 Carothers finds that the competition in political systems, in which capturing the presidency is the central goal, “reinforces the already marked tendency of parties in new or struggling democracies to be top-down, leader-centric organizations” (Carothers 2006, 65).
and does not prevent fringe groups from acquiring representative legitimacy (Norris 1997, 305). As a result of PR, governments depend upon the support of minority parties, including the extreme ones, which will give the ruling elite more opportunity not only to make compromises but also to compete in order to gain influence. PR systems may therefore contribute to lustration.

5.1.3 Party Lists: Closed vs. Open

Party list systems usually represent a subgroup of PR electoral arrangements and are most frequently put to practice under closed and open lists. The most important variant in this system is the ability of the voter to influence the party list. In closed lists, voters choose a party list but cannot express preferences within the list. It is the party that decides which candidate gets the seats they win (Soudriette & Ellis 2006, 82). In open lists (OLs), a vote expresses the voter’s candidate and party choice. Yet, this preferential system tends to produce less powerful parties without means to sanction legislators who defect from party lines (Carey 2009). OLs also favor clientelist party-citizen linkages as they encourage stronger constituent connections by allowing voters to determine each candidate’s rank (see Kitschelt et al. 1999, 54).

Due to its impact on party strength, the variation in party lists is of consequence for lustration. Research on the Polish legislature shows that under OL, members of parliament who win more votes tend to be less loyal to their parties (Carroll & Nalepa 2011). Lustration may in turn result as a tool of balance seeking party discipline. In closed systems, the ranking of candidates is determined by the party and results in greater intra-party control. The future MPs are preselected.

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101 Open lists allow a candidate from a party that receives fewer votes than its stronger rival to still obtain a seat. This occurs even if the second-place candidate from the other party gets more votes than for example a 3rd-place candidate from the winning party. While under the closed list rule only the winning party would get seats, under the open list both parties get a seat. However, it has been found that since in most of these systems, the vote for a candidate as well as a party is optional and, because most voters mark their ballots for parties only rather than candidates, the candidate-choice option of the ballot often has limited effect (See ACE 2012 [cited 2012]).
and answerable to the party. It can be presumed that because of possibility of lustration, the party will keep its ranks clean from infiltration by former secret agents and others who could damage its reputation. Moreover, closed lists prevent voters from knowing the candidate’s potentially “tainted” past, allowing the candidate to enter the legislature and thwart lustration.

5.1.4 Truth Commissions

Institutionalized settings of historical justice such as truth commissions could explain the variation in lustration. As truth commissions (TCs) encourage the truth about the past, they produce diverse effects. TCs may catalyze former collaborators to reemerge and threaten the anti-communists with their infiltration and reduce the chances of lustration (Nalepa 2010b). TCs also raise expectations about justice and lustration but if unfulfilled, these expectations may undermine lustration by helping the former elites prevent it.102

The argument of this study is that TCs have a positive effect on lustration. Truth empowers lustration by providing information about “tainted” individuals. In countries such as Lithuania where the perception of the tainted mattered to the electorate, TCs facilitated lustration.103 TCs thus enhance lustration as they themselves may be driven by the same demand to deal with the “tainted” personnel. Moreover, post-communist elites have learned about TCs from cases elsewhere in the world. This learning process could have impacted the origin, timing and nature of lustration. For example, the use of the confession principle in the 1997 Polish lustration program conforms to the South African amnesty model (David 2006). The experience of the South African Truth and Reconciliation Commission could induce the rest of the post-communist world to establish TCs. TCs should therefore increase the likelihood of lustration.

102 For a detailed explanation of this argument see Olsen et al. 2010, 146.
103 As found by Stan, lustration combined with the access to secret files “can sort victims from victimizers, and help an identification process that can form the basis of lustration” (Stan 2009, 11).
5.1.5 Trials, Amnesties and Reparations

Other mechanisms of transitional justice could also have their separate impact. Trials could affect lustration for reasons similar to TCs. By criminally prosecuting former authoritarian officials, the public and elites become more aware of the “tainted” persons. Trials may decrease the legitimacy of the officials of the former regime who still hold onto their positions. Such a development provides the pro-lustration elite with more maneuvering space for advocating lustration. For example, in Hungary and Poland the observance of criminal law standards in a non-criminal administrative procedure prolonged the lustration process and resulted in a low number of processed cases (David 2011, 92). Amnesty, to the contrary, is often understood as forgiving or even overlooking past crimes and may lower the trends toward accountability. Unlike the hypothesized effect of TCs and trials, amnesties should have a negative impact on lustration. Moreover, amnesties in the post-communist world occurred predominately in civil war contexts such as in the Balkan states, most of which did not use lustration. Reparations, finally, may affect lustration in a positive or negative direction. On the one hand, more reparations may lead to more awareness about the crimes of the past elite. On the other, reparations might appease the negative perceptions towards old elites and decrease the chances of lustration, as the victims have been recompensed.

5.1.6 The Effect of Lustration Programs

Views of lustration are often formed on the basis of past lustration processes, debates and specific lustration programs (LPs). An original conceptualization and a measure of LPs is provided in Appendix C. Since the three dimensions of past targets, protected positions and methods are defined and coded separately, it is possible to analyze their potential impact. For
instance, a harsher dimension of LPs may lead to more screenings since a comprehensive view of past “suspect” positions would result in more candidates for the screening procedure. However, while previous lustration experience may facilitate the adoption of lustration, it may limit its implementation as it could act as a deterrent. People falling under the categories mentioned in a LP may not choose a public position that requires screening as they may be sanctioned. In Hungary, for instance, the existence of the law is seen as having deterred former agents from taking on public positions (Barrett et al. 2007, 301).  

Once it has been discussed or put in practice, lustration may be difficult to avoid in the future. Once the implementation of the Czech lustration law started, the former Communist Party became politically isolated and marginalized as it represented a political cost to others parties needing to form coalitions (David 2011, 140). Previous lustration thus weakens the former communists in opposing further lustration. Also, a harsh lustrative method could produce weaker implementation of lustration, while a lenient method may yield in having more people screened and lustrated. In Hungary, the limited number of lustration cases and procedures has been attributed the strict evidence procedure laid out in the lustration law (David 2011, 84).

5.1.7 TJ Mechanisms Combined

A mechanism of transitional justice (TJ) may not always produce the desired effects if it is used in isolation from other mechanisms. Single mechanisms may prove inadequate for strengthening democracy as they operate on single levels of society (Olsen et al. 2010b, 134). A combination of TJ mechanisms may have a greater effect on lustration. A combination of

---

104 Low numbers of people screened could be a result of self-censure. A harsh method of a lustration program that is certain to be implemented may convince a potentially “tainted” official not to strive for a “protected” position since the candidate would be later denied the position if found “suspect” by the provisions of a lustration program.
mechanisms may provide a middle ground of accountability and appeasement, signaling no tolerance with past crimes and with those potentially “tainted” (Olsen et al. 2010b, 147).

### 5.1.8 Statistical Findings on Institutional Choice Factors

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<td>(0.78)</td>
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<td>FH judicial (avg)</td>
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<td>0.97****</td>
<td>0.98****</td>
<td>0.64*</td>
<td>0.72*</td>
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<td>(0.43)</td>
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<td>(0.36)</td>
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<tr>
<td>LP: Protected targets</td>
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</tr>
<tr>
<td>PR</td>
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<td>18.48</td>
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<tr>
<td>(1.23)</td>
<td>(285.47)</td>
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</tr>
<tr>
<td>Lustration program</td>
<td>1.55****</td>
<td>1.66****</td>
<td>1.94****</td>
<td>1.03****</td>
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<td></td>
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<td>(0.12)</td>
<td>(0.13)</td>
<td>(0.24)</td>
<td>(0.12)</td>
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</tbody>
</table>

| Observations | 502 | 465 | 380 | 380 | 380 | 248 | 176 | 204 |
| Left-censored obs. | 306 | 270 | 217 | 217 | 217 | 95 | 111 | 106 |
| Uncensored obs. | 196 | 195 | 163 | 163 | 163 | 153 | 65 | 98 |
| rho | 0.644 | 0.544 | 0.465 | 0.279 | 0.282 | 0.280 | 0.285 | 0.520 |

Standard errors in parentheses

**p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10
Random-effects Tobit regression, Gaussian (normal) distribution

Before introducing other structural factors that constrain elites from opting for lustration, a preliminary test of the effects of the institutional choice on lustration may be performed. Table
5.1 shows mixed results about the weight of the factors of institutional choice. The hypotheses of TJ and electoral system find empirical support, while the governmental system finds none. The initial causal weight of the PR system and parliamentary system is taken away by the party list variable.

Closed lists consistently, significantly and negatively affect lustration. Truth commissions have the expected positive impact and reparations a negative one. All other variables become insignificant when controlling for the variable accounting for the quality of judicial processes, provided by Freedom House. The inclusion of this analysis matters as a measure of justice in addition to the mechanisms of transitional justice.\textsuperscript{105} Moreover, the impact of lustration programs (LPs) on lustration is highly significant and important. While the result most probably stems from endogeneity, as lustration basically depends on LPs, they point to the fact that a more comprehensive LP leads to more lustration. Finally, the regression analysis shows no significant effects of combined transitional justice mechanisms on lustration (see Appendix D, Table D.5.1).

5.2 Domestic and International Social Conditions

The success of elites in lustration depends on socio-economic factors on the domestic and international level. A party’s representation in the legislature or the executive could depend on the support it receives from the international community or the electorate, both of which are sensitive to questions of economy, welfare and society. It has been shown that the influence of economic assessments on individual responses to regime change in terms of old and new elites is significant (Rose & Mishler 1994). Moreover, elites are subject not only to public pressure but

\textsuperscript{105} Judicial framework and judicial independence affect lustration in terms of implementation through the capacity of judicial institutions in carrying out lustration. The \textit{judicial framework} component provided by the Nations in Transit highlights constitutional reform, human rights protections, criminal code reform, judicial independence, the status of ethnic minority rights, guarantees of equality before the law, treatment of suspects and prisoners as well as compliance with judicial decisions (FH 2011).
also to policy factors competing for attention. Lustration is not the only issue on the elites’ agendas. Post-communist societies have faced enormously complex tasks and conflicting objectives about the simultaneous transformation of political, economic and social structures (Bunce 1995). Also, while elites craft democracies during country-specific regime transitions (Di Palma 1990), they do so in the environment of the international community. For instance, post-communist elites faced external pressure towards democracy and bureaucratic reform in their accession process to the European Union and NATO. But, in trying to comply with the international norms, elites may lustrate their ranks without being asked to do so by the international players.

This section first theorizes on the impact of the domestic factors. It focuses on the effect of welfare, urbanization, education and population age. Social perceptions such as regime support and participation in parties as well as trust in friends and in the legal system are also factored in. The section proceeds with the analysis of the role of the international environment and argues that the international factors offer substantial facilitating conditions to pro-lustration groups.

5.2.1 Domestic Welfare, Education, Age, Exclusion and Social Capital

Scholars claim that public concerns about economic inequality may fuel lustration. One reason is that former secret service networks had often moved to the private sector (Horne 2009a). Another is that due to a legacy of state-run economies, citizens may be accustomed to holding government accountable for their personal welfare as well as for general macroeconomic conditions (Mishler & Rose 1997). However, the welfare predictions may not be predictive of lustration as post-communist political parties exhibit other identity issues in regards to the economy. Parties identified with the introduction of reforms may perform better in the regions
that are economically vibrant and the parties associated with the pre-transition rule are expected to be more successful in the depressed areas.\textsuperscript{106} Measured through a country’s GDP \textit{per capita}, a better performing economy would give greater leverage to the parties of the new regime and represent a contextual advantage for pro-lustration groups.

Another alternative hypothesis is the impact of education. While education is associated with democracy in general terms,\textsuperscript{107} it may have an inverse relationship to lustration. As MPs with lower education tend to gravitate towards parties with pro-lustration agendas (Nalepa 2010b), higher overall education could limit lustration. Higher education may lead to more tolerance towards the “tainted” personnel. More importantly, the level of education may be related to communist nostalgia. For example, while the pre-communist Belarusian territory was probably the most illiterate area in Europe, the introduction of schools and universities by the Soviets made the Belarusians more educated and supportive of communism. The inverse relationship between education and lustration may be particularly true for the transition years when the former Soviet states proved to have the highest rates of tertiary education enrollment ratio.\textsuperscript{108}

As a particular demographic characteristic, population age may have behavioral and political implications for lustration. Differences in age may produce distinctive patterns of dealing with the past. For example, the recent surge in European memory politics has been often attributed to generational change. Young intellectuals carry fewer burdens of the past and “have no blanks in their biographies” (Zhurzhenko. 2007, 2). Younger voters have little memory of the past regime while for some older voters memories may be fading (Horne & Levi 2004, 61). While these

\textsuperscript{106}This transitional identity model predicts that an improving regional economy penalizes the old regime parties and benefits the reformist ones, even when the latter are out of office and cannot claim credit for success (Tucker 2006).

\textsuperscript{107}According to Lipset, “education presumably broadens peoples’ outlooks, enables them to understand the need for norms of tolerance, restrains them from adhering to extremist and monistic doctrines, and increases their capacity to make rational electoral choices” (Lipset 1959, 79). Others have followed this line of thought and found that educated people are more likely to reject authoritarian alternatives to democracy (See Almond & Verba 1963; Dalton 1988).

\textsuperscript{108}Data on tertiary school enrolment in 1991 based on the WDI dataset (World Bank 2012).
claims suffer from endogeneity as the passage of time results in a decrease of “tainted” persons and in fewer grievances, states with younger populations may exhibit more eagerness to lustrate.

Ethnic and other polarizations could also reduce the ability of political actors to push for lustration. Reinforced ethnic identities may make cooperation between groups difficult (Gurr 2000, 66). In the cases of tightly knit pro-lustration coalitions, ethnic exclusion should not hamper the pro-lustration activists. Yet, if lustration requires a broad coalition in divided societies, the chances of lustration may decrease. More divided societies are more likely to create more parties for appropriate political representation, which yield more competition and thus less lustration. Finally, ethnic grievances or insurgencies may destabilize the state and enhance the security apparatus, thwarting lustration (King & Menon 2010; Soldatov & Borogan 2011).

Since social capital has been often seen as sustaining democracy (Howard 2003; Putnam 1994), it is opportune to test if specific categories of social trust sustain lustration. The first is the support for the current political regime. Since the early 1990s, support for the post-communist systems of government has risen substantially. Support for the new regime could correlate with lustration since the new regimes are perceived as breaking with the past.

The second category of social capital is friendship networks that developed under the communist regime when the state was seen as an alien and hostile entity (Schöpflin 2002, 100). Those people who have maintained their vibrant friendship circles may feel less need to participate in civil society. Measured through trust in friends, strong friendship networks could

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109 It has been claimed that indicators of social capital are more important than economic variables in explaining citizen support for democratic procedures and the new regime (Kunioka & Woller 1999, 577-96). Yet, while new elites capitalize on popular support for TJ when it is at its highest (Elster 2004), contrary to politics-supply theory, Nalepa claims that voter demand has little predictive power (Nalepa 2010, 119).

110 Howard notes that these private networks “arose because the shortage economy created a climate in which people needed connections and help to acquire many goods and services, and because the public domain was so controlled and politicized that people formed trusting ties with their close friends and family” (Howard 2003, 107).
limit lustration directly since in clannishly knit societies any revelation of past collaboration with
the oppressive regime could unravel the fabric of social and family capital.

Finally, political party membership expressed through the percentage of the population active
in parties may shed light on lustration. Citizens of formerly authoritarian countries are often
suspicious of political parties, intrinsically perceived as self-interested actors in the tainted
domain of politics (Carothers 2006, 63). Developing a party base through membership may be
important for lustration politics since the party plays a major role in it. Yet, while higher levels
of party membership may boost the support of pro-lustration parties, the same support could be
given to anti-lustration parties. Since the growth of parties might facilitate political openness
(Fish 2005, 178), which is negatively related to lustration, party development may restrain
lustration.

5.2.2 International Factors of Diffusion, the EU and NATO Accession and Aid

Explanations based on the conditions of the international environment complement domestic
models. This section explores the impact of learning effects, EU and NATO memberships and
international aid. Firstly, a substantial literature describes the impact of diffusion effects (Fortna
2008; Starr 1991; Walter 2002). The degree of proximity of different post-communist societies to
capitalist markets tends to support democracy and transitional justice (Hanson 1995). Once a
country adopts a particular mechanism of TJ, others follow a similar pattern (Fithen 2009;
Mayer-Rieckh & De Greiff 2007). Neighboring states copy techniques from each other and may
follow the states that first chose to confront their past using lustration.

The diffusion effect could explain the occurrence of lustration after the German and
Czechoslovak pioneering examples. Lustration programs have often alluded to the Czechoslovak
law as a point of reference. Once Czechoslovakia and Germany adopted lustration, a significant diffusion of similar measures took place in the region (Czarnota 2009). For instance, Hungarian right-wing politicians attributed the success of the Czech democratization process to successful lustration (Barrett et al. 2007, 264). The expectation therefore is that the countries more geographically proximate to Czechoslovakia will be more likely to adopt lustration.

A second plausible international explanation is the variation in EU and NATO memberships. Pro-lustration groups have often justified the use of lustration in order to address the requirements of the accession process to the European Union and NATO (Radojević 2003). For example, prior to Romania’s entry into the EU, many of its legislators claimed that lustration is a requirement for accession, although the policy was never included among the political conditions Romania had to fulfill to become a member (Stan 2012, 286). EU and NATO memberships could also affect lustration because the countries attempting to enter may want to signal reform initiatives to international agents by enacting tough lustration measures (Horne 2009b).

Behind the lustration argument of EU and NATO memberships, lustration agents weaken and besmirch their opponents (Cakić 2010). The externally-influenced accession processes offer elites an excuse and an available platform for promoting their agendas through lustration. Domestic political forces use the international actors to legitimize their own interests (Tóth Manó 2010). Furthermore, some EU sources have provided advice and pressure for post-communist transitional justice. Like citizens, political parties have been faced with a host of

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111 While economic perceptions tend to have little impact on international memberships (cf. Cichowski 2000, 1267), citizens, who are satisfied with democracy and favor the free market may favor EU and NATO more. The “mix of distrust in one’s own state and a quasi-mythical trust in ‘Brussels’ (largely derived from the old, Communist-era conviction that anything coming from the West is good, or at least better)” offers a background against which the possible contribution of the accession process to the state of democracy can be assessed (Sadurski 2004, 374).

112 Consider the Resolution of the Parliamentary Assembly of Council of Europe no. 1096 (27 June 1996) on measures to dismantle the heritage of former communist systems with the guidelines for lustration and de-communization laws if they are to be compatible with the principles of democracy and the rule of law.
issues, benefits, and consequences that international memberships provide. For instance, the EU has played a role in increasing the power of national parliaments by creating a platform on which some democratic forces could base their pro-lustration arguments and on which parties opposed to authoritarian tendencies could campaign (Sadurski 2004). 113

In order to account for the effect of EU and NATO on lustration, this study considers three interrelated variables. The first is a country’s EU application status, coded {1} for every year the country spends as a candidate. The second is a country’s affiliation level with NATO. The third accounts for the fact whether in any particular year a country is a NATO member. In addition, the analysis explores the potential impact of the EU environment through the financial aid the EU provides to specific post-communist countries. The overall expectation is that particularly during the application period to the EU and NATO and through the support of the international aid, a country is more likely to lustrate.

5.2.3 Domestic and International Social Factors: Initial Findings and Analysis

Table 5.2 presents the statistical effect of domestic and international social factors on lustration. These initial results show support for the domestic arguments of economic welfare and overall youth population. More well-to-do and younger societies are more likely to lustrate. The arguments of contemporary ethnic exclusion and societal violence receive some support: societies with higher levels of ethnic exclusion and lower levels of violence have a positive effect. The support of the post-communist regime in the early 1990s also correlates positively

113 The rewards of EU and NATO memberships may be effective in combination with low adaptation costs for the political parties in the target countries. In countries in which major parties are pro-Western and reform-minded, the political costs of adaptation are low and elections have led to an alternation between elites. Strategic calculation of national elite may explain the uneven outcomes of democratic international socialization in the post-communist countries. “EU and NATO membership incentives have been effective in countries with liberal or mixed party constellations, but not in authoritarian systems” (Schimmelfennig 2005, 827-828).
Finally, the effect of two international factors is particularly strong and significant. The more distant a polity is from Prague, which pioneered lustration, the less likely the country is to lustrate. The EU applicant status greatly increases the chances of lustration.

Table 5.2. Influence of the Domestic and International Social Factors

<table>
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<td>(5.87)</td>
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</table>

Standard errors in parentheses

**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

Random-effects Tobit regression, Gaussian (normal) distribution

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114 The effect of this support is highly significant but not highly substantial; moreover since this variable provides few observations (model 3) is not the most appropriate to explain lustration (the rho level amounts only to 0.15).
Other factors in the table do not receive consistent or significant support. For example, the levels of urbanization are not correlated with lustration within a general perspective.\(^{115}\) Additional variables that are not in the table proved to be irrelevant in lustration. For example, the impact of social trust in the legal system, trust in the government, and population’s interest in politics are statistically insignificant.\(^{116}\) However, those factors that proved to be significant still have to be tested against the broader context of present constraints.

5.3 Quantitative Analysis and Case-Based Evidence

Table 5.3 contains 7 models that relate to lustration from the perspective of the present structural factors. Case-based evidence then finds support for the statistical findings.

5.3.1 Regression Results and their Interpretation

In all models in Table 5.3, the truth commissions (TCs) term is positive, substantial and highly significant, suggesting that polities that engage with TCs lustrate way more than the polities without TCs. Next, consistent with the predictions above, pro-lustration elite perform better under the constraints of proximity to Prague. The less distant they are from Prague, the more likely are they to lustrate. While this variable is correlated with proximity to the West and

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\(^{115}\) The inclusion of urbanization in the test is worth exploring since it may affect factors such as civic capital and electoral systems, which may relate to lustration. Assuming a broad distinction between the traditional rural community and the large, technologically advanced but impersonal urban society, which may induce self-seeking individualism, the level of urbanization could be inversely related with the stock of social capital (See Kunioka & Woller 1999, 577-96). While this view contrasts with the claims that the least civic areas may actually be the traditional villages, marked by hierarchy and exploitation (Putnam 1994, 114), it has been assumed that urban population is associated with higher education standards and life expectancies and with the concentrated availability of citizens who may be mobilized (See Barbieri et al. 2008). As a consequence, the post-communist areas with high urbanization may show a preference for parliamentary government over a more authoritarian one, for pro-reform parties over the old-regime parties, and finally for pro-lustration policies.

\(^{116}\) One of the reasons for this might be their high correlation with other variables of civic capital discussed above. Also, while the confidence of citizens in legal and government systems may relate to their positive perception of a functioning state and further improve their trust and reliance in the institutions of jurisprudence and justice, because of that trust the society may have come to a conclusion that lustration is not necessary, leading to insignificant results of this regression analysis.
the EU, it shows that post-communist polities relatively closer to the West, where lustration also originated, experience more lustration. This finding is corroborated by the statistical term of the EU accession process, which does not take away the proximity effect but additionally explains the success of pro-lustration elite.

Table 5.3. Influence of Institutional Choice and Social Factors: Domestic and International

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<th>(4)</th>
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</table>

Standard errors in parentheses

**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10
Random-effects Tobit regression, Gaussian (normal) distribution

Terms accounting for societal violence and closed list electoral system receive important but less consistent support. The effect of other variables is either taken away by these crucial factors
or is not evident in the first place.\textsuperscript{117} The evidence thus undermines the explanations that lustration is facilitated or constrained by factors such as economic welfare, younger polities and friendship networks.

In brief, Table 5.3 distills and refines the hypotheses about the effect of present structural constraints. The empirical test shows that lustration is decisively facilitated in societies that engage with their pasts through truth commissions and that are closer to Prague. Also, societies aiming at entering the European Union and societies not suffering from violence tend to be more lustration prone. In order to illuminate these statistical models, the following section presents qualitative evidence. The cases of Russia and Georgia add leverage to quantitative analysis, while examples from other countries provide additional insight into the causal mechanism.

### 5.3.2 Case-Based Evidence

The impact of truth commissions (TCs) on lustration has not been thoroughly systemized in the literature and their strong statistical effect requires case-based examination.\textsuperscript{118} Post-communist TCs have been political in nature. They were set up by the parliament (as for example in Germany) or the presidents (as for example in Estonia, Latvia, Lithuania, Romania and elsewhere). The intention has been to signify a radical break with the repressive past and its practices of human rights violations (Stan 2009e). For instance, Estonia used a TC with lustration in order to establish a commission investigating the crimes of the KGB in the late 1940s (Jaskovska & Moran 2006). The countries that set up TCs also granted access to secret files and

\textsuperscript{117} The term for judicial processes provided by Freedom House moderates or even takes away the effect of all but TCs variables (See Model 3, Table 5.3). However, since the judicial process variable used here is time invariant, which creates more observation but reduces variation, causes the model to be specified (cf. rho) with less precision—in relation to other models. (Table D.5.2 in Appendix D corroborates the findings without this variable).

\textsuperscript{118} The study of particular cases of TCs and lustration is additionally important since the causal direction of the effect is not entirely clear. For instance, Germany and Estonia passed laws on lustration and file access before creating TCs. Latvia and Lithuania enacted lustration before TCs and file access after establishing their TCs.
 adopted lustration. Germany served as a model for the region, when it included lustration in the 1990 Unification Treaty and opened up the archives. The Baltic states adopted a similar mechanism and were the only former Soviet republics to pursue both lustration and file access.

As TCs seem to supplement, rather than to replace, other mechanisms of transitional justice (Stan 2009e), the societies that acknowledge their past through TCs support lustration more. The post-communist countries with working TCs have opened historical institutes that publish archival documents from the former secret police and Communist Party. While the incomplete nature of these archives and the spurious ways of secret informing during communism remain highly sensitive topics, the variation in the opening up of the files often coincides with lustration outcomes. On the one hand, countries like Russia and Ukraine may not lustrate because the availability and authenticity of the archival documents are questionable. Russia in particular has been engaged in the legal “regulation” of the interpretations of history through the access and treatment of archives (Miller 2010, 121-122). On the other hand, Romania’s lustration attempts in 2010 point to environments supportive of historical truth. Associations of victims of the communist regime have lobbied policy-makers to promote lustration (Dix 2010). In short, data point to a simple rule about TCs and lustration. Elites who find political resources to adopt working TCs also find ways to adopt lustration. According to the ECEFSUL dataset of this study, no country that has had a working truth commission has lacked lustration.  

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119 The countries opening their archives to the public include the Czech Republic, Germany, Hungary, Lithuania, Poland and Slovakia. For more details see Schiller-Dickhut & Rosenthal 2009.

120 As a result, the level of nostalgia for the Soviet period remains high in Russia (Ghodsee & Henry 2010, 1-7) and some even claim that the growing nostalgia about the superpower communist past represents the crucial element in the debate on the survival of communist symbols (Tóth Manó 2010). For example, the new President of Ukraine, Victor Yanukovich, has abandoned the aggressive line of “history politics” promoted by his predecessor.

121 Exceptions represent Croatia, Bosnia, Yugoslavia and Uzbekistan. However, except in Bosnia, these countries’ TCs did not produce relevant results (See Grodsky 2009, 687-706 and personal correspondence with Grodsky about Uzbekistan). Bosnia moreover, while not experiencing lustration, adopted sweeping vetting procedures.
The finding concerning the variation in party list electoral systems also deserves case-based attention. The data show that open lists (OLs) are used by only a few post-communist countries, the majority of which has opted for some version of lustration. In OL systems, candidates compete with each other for votes within the same party. Such intra-party competition leads to party fragmentation. Yet, OLs may also result in greater transparency and more democratic executive recruitment, which in turn leads to lustration. The finding about the impact of party lists thus points to one of the trade-offs of lustration. While closed lists consolidate political parties and their programs, lustration represents a bad strategy for political elites competing in a closed system. The uneasy relationship between lustration and strong party development based on closed lists has been particularly visible in the case of Georgia.

Georgian parties recognized very early the electoral weight of party lists. In the 1992 elections, party coalitions Peace Bloc and Unity Bloc put prominent cultural figures at the top of their electoral lists to gain attention (Curtis 2004, 139). As their candidates consisted mainly of former communists or those who had been involved with the former Soviet regime, their ensuing vote-share guaranteed the absence of lustration, as predicted by the theory in this chapter.

Fifteen years later, the closed-list rules sparked the disagreement between Burjanadze and Saakashvili (see Chapter 4.4). In 2007, the UNM party leaders were careful not to choose the potentially “tainted” candidates from Burjanadze’s list. The UNM put “safe” or uncompromised candidates near the top of the list. These were checked by Saakashvili who may have wanted to maintain a “clean” image of the UNM. As predicted, the closed list institutional arrangement of elections did not cause lustration in 2007-08. However, the dispute around the appropriate

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122 Countries with open lists include the Czech Republic, Estonia, Hungary, Kosovo, Latvia and Slovenia.
123 Georgia’s electoral system allocates seats according to both proportional party lists and single-member constituency victories. As a party list system, Georgia uses the closed lists system.
candidates disfavored Burjanadze, without whom lustration was more easily adopted five years later. Ironically, the final legislative step in the passage of the law occurred during the massive protests against Saakashvili in 2011 that were organized and sponsored by Burjanadze.

Finally, a closed list may not necessarily create “cleaner” parties but simply permit the candidacy of both “tainted” and “untainted” candidates. A case from East Germany’s pre-unification elections of 1990 is telling. “The top-ranked candidate of one party was exposed as a secret-police informer only four days before the election, and immediately expelled from the party; but because lists were closed, electors had no choice but to vote for him if they wanted to support his former party” (ACE. 2012). The victory of such a “tainted” candidate would subsequently slow down lustration processes in the legislature or the executive. Because of the closed list institutional arrangement, the electorate was not able to punish the tainted official but allowed for the continuation of his career. In open list systems, such an anti-lustration candidate would not be elected, which is consistent with the prediction and results provided above.

A significant predictor of lustration at this stage is distance from Prague, a proxy for the learning effect hypothesis. While scholars provide evidence for the role of the diffusion effect among countries that adopted lustration, Russia represents an important but under-studied example of the copy-cat effect in states where lustration was attempted without success. The Russian anti-communist elite were highly knowledgeable about lustration in the early 1990s. A legal expert to the 1991 investigative Commission on the role of the KGB reports that “not only were we familiar with the German Gauck Commission, but also a lot was published about the de-communization and lustration cases of Germany and Czechoslovakia” (R 09). Moreover, once the same Commission started to publish excerpts from the secret files in late 1991, a heated
debate took place in the broader Russian society. The pro-lustration elite were highly familiar with other countries adopting de-communization and lustration mechanisms. During the first international conference on the KGB held in Moscow, Galina Starovoitova called for lustration by providing country specific details on lustration. She mentioned not only Germany and Czechoslovakia but also Lithuania, Latvia and others (Starovoitova 1993).

However, a specific understanding of lustration repelled many from adopting lustration views. The lustration program (LP) proposed by the Democratic Russia Movement and Galina Starovoitova was a mild one. Yet, the great majority of political elites (wrongly) thought that the LP was excessively harsh. Among the elites interviewed for this study, the majority questioned the definition of lustration. Even twenty years later the most common reaction was: “Lustrate, lustrate whom?” (R 09). “Lustration? Lustrate whom?” (R 11). Elites resisted harsh lustration vehemently. A LP thus understood would target the entire Communist Party. Lustration would encompass millions of people, which could divide the entire society.

Yeltsin was careful about, and afraid of, social divides and thus opposed lustration (R 11). An influential professor of moderate views said: “Just because I was a member of the Politburo, should I have been lustrated too?” (R 14). Others claimed that even the pro-lustration elites would find it difficult to survive lustration (R 15, 18). Even the dissidents found the harsh approach inappropriate (R 22, R 17). This comprehensive definition alienated even younger anti-communists from lustration. If such lustration were to be implemented, several reform-minded and pro-democracy oriented former communists would be lustrated (R19):

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124 For more details on this opinion, see the intervention of Nikita Petrov from Russia’s Memorial society at the roundtable debate on the subject of “Lustration as a Stimulus for Political and Social Transformation in Post-Soviet Countries” from 18 March 2011 at the Andrei Sakharov Centre in Moscow.
Under lustration we always understood one thing: members of the CPSU cannot hold certain positions. But we never considered this seriously because the percent of communists in the Inter-Regional group was high.

Surprisingly, the LP put forward by the Democratic Russia Movement and its proponent Galina Starovoitova was much milder in comparison to these perceptions. It allowed the “tainted” elites to run for office as long as their past was known. Since the drafters were aware that with a harsher lustration law they would lose Yeltsin, whom they considered the main pro-democracy political actor (R 04), they opted for a mild LP.

The effect of the nature of the Russian LP is consistent with the prediction that a decrease in the severity of LPs lowers the likelihood of lustration. What is not consistent with the prediction is the common societal perception of a LP as extremely harsh. These perceptions could well have prevented lustration from occurring in Russia. What could be learned from this unclear causal relationship is that while LPs correlate positively with lustration, the broader perceptions about lustration may be inversely related to it. Finally, perceptions about, and intensity of, LPs are connected to other factors competing for attention and thus affecting lustration.

Salient issues at the time of transition have been often given priority in political agendas, making lustration a second degree issue. Priorities of political leadership may be more pro-democratic institutional reform than retroactive punishment (Costa Pinto & Morlino 2010), thus preventing or delaying lustration in even democratic countries. Russia represents an example where issue salience played a major role in the absence of lustration within a less democratic environment. The elites in the 1990s were concerned that lustration would be detrimental to the economy and state stability as it would put millions of former communists out of work (R 03, 14,

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125 By contemporaneous salience, it is meant that the political actors thought the issue was salient at the time they were resolving it. The interest here is to understand salience as it pertains to political elite, that is, the actors making the decisions. For a detailed theoretical and methodological issue of salience see Epstein & Segal 2000, 67.
15). During the economic turmoil in the 1990s, elites may not have been able to “afford” lustration. Another salient issue in Russia has been the high level of societal violence (R 12). Throughout the post-communist periods, Russia has experienced minor and major events of political and social violence, which additionally restrained elites from adopting lustration. This fact is consistent with the prediction and the overall findings. Societies with lower levels of societal violence are more likely to lustrate than societies suffering from substantial violence.

Issue salience also thwarted lustration in Georgia in 1991 and 2003. In 2003/04, lustration was not the first priority in a country where police corruption was widespread, the educational system lagging behind, and the economy underdeveloped. Similar reasons explain the absence of lustration in 1991. As Gamsakhurdia was (G 37)

afraid that the state property would be given into the hands of the former communists, he did not create the political or economic class that would support him. During the first months when Gamsakhurdia was in power, they were watching him. [...] Gamsakhurdia waited for one final event for the Soviet Union to be finally destroyed [...] But time was lost.

Finally, the EU and NATO accession processes have had a major impact in stimulating lustration efforts across East-Central Europe (ECE). The results of this chapter point to a strong effect of EU membership as providing a major incentive for lustration. The same is occasionally but not consistently found for the effect of NATO membership. While some scholars may find that European institutions have done little to actively encourage top-down or pan-European processes of historical reckoning, political elites have been often very able to identify ways in which the environment of the EU can be leveraged to support the realization of lustration.126

126 In Romania, advocates of historical reckoning have attempted to draw “Europe” behind projects that encourage national audiences to engage with particularly national experiences of communist rule (Gledhill 2011, 482). In Poland, European resources have been drawn behind efforts to promote confrontation with the past at the national level, and also behind efforts to raise pan-European awareness. In the Czech Republic, European resources have regularly been used to support projects that aim to foster collective remembrance of the crimes of communism, and the transition from communist rule, at the international level.
Since the EU enlargement process has set out an incentive structure for democratization in such a way that compliance is attractive and noncompliance costly (Ekiert et al. 2007), the ensuing development of the democratic environment in ECE has indirectly facilitated lustration. For example, accession processes have been shown to be providing independent incentives for better governance and institution building in transition countries (Melnykovska & Schweickert 2011). These factors in turn affect lustration.

Specific cases point to the causal relationship between the international environment and lustration. In 1997 an influential right-wing politician Janša authored the Slovenian lustration bill with a justification that NATO’s eastward expansion required Slovenia to “directly confront the individuals with a questionable communist past in order to prove that the new member state could be trusted with sensitive NATO secrets” (Kotar 2009, 208). After Slovenia was not included in the first wave of NATO expansion, Janša’s party blamed the failure on the lack of lustration. In 2001, the Slovak pro-lustration elite were more successful and carried out limited vetting of selected categories of public officials in view of becoming a NATO member.

The case of Slovakia in 2001 is illustrative of the causal link between the EU and NATO accession processes and lustration. In 2001, Czech Interior Minister Gross alleged that the Czech Republic had wrongly vetted nearly 120 StB agents in the early 1990s (Nedelsky 2009, 50). The 2001 press reports suggested that a number of these agents still worked in the Slovak Interior and Defense Ministries and Slovak armed forces, as they had received fake lustration clearances and used them to hold on to their public positions. Palko, chairman of the Defense and Security Committee, noted that some former agents were able to work in Slovakia because the 1991 Czechoslovakian lustration law was not enforced in Slovakia until it expired in 1996. The press reported that when Defense Minister Stank met Czech Defense Minister Tvrdik in Brussels in
early June 2001, he refused to accept the names of fifteen Slovaks alleged to have received faulty screening certificates because the list did not contain all necessary data (Simon 2004, 223). However, Stank supposedly wanted access to the Czech documents not to restore a lustration law, but in order to have sufficient information to make credible the “Law on State Secrets” and to demonstrate to NATO that Slovakia was sufficiently credible. As the lustration law in Slovakia became obsolete because of disuse after 1993, certain figures from the pre-1989 army remained in the service. This prevented younger officers, untainted by their political past, from being promoted (Mihalikova 2000). NATO’s Office for Security expressed dissatisfaction with the approximately 5,000 Slovak officials having potential access to classified information and had been exempted from security screening (Barany 2003, 69). While many have been exempted from screening—not because they may have been communist agents but because of the refusal of lustration-like procedures—a great number of the military was de facto lustrated.

Finally, the geographic structural characteristic of Central Asia and the South Caucuses hinders the prospects of lustration. These countries are unlikely candidates for EU. Their economic and political dependence on Russia, which has had little interest in lustration, shields these regimes from transnational political forces of the EU. Georgia represents an exception, confirming the findings about the EU impact. Besides the Baltic states, Georgia has been the most open post-Soviet country to adopt the reforms imposed by the EU in exchange for opportune trade agreements. As a member of parliament and an opponent to lustration noted (G 17), lustration succeeded “because it’s a crazy […] idea to be like the Baltic states or European states; to be more European or German than they are themselves.”
5.4 Summary

Lustration represents a complex outcome of a combination of structural factors that have affected the post-communist elites since 1990. From a statistical perspective, the international environment is decisive in explaining lustration. If EU and NATO memberships represent the ultimate guarantee of a free market economy and democracy, then those who support the free market and democracy may be more likely to support not only EU and NATO memberships but also lustration. These memberships can justify lustration and function as an implicit pledge that the economic and democratic reforms undertaken since the end of communism will not be reversed (Tucker et al. 2002). The cross-national analysis of this chapter also points out the effect of institutional choice through electoral systems and truth commissions. As the closed list arrangement tends to result in more party control, it produces “cleaner” parties and decreases the chances of lustration. As truth commissions provide detailed accounts of the past, truth facilitates lustration by providing information about “tainted” individuals. The results also show that the chaotic, fluid and anxiety-ridden socioeconomic environment that accompanied the post-communist world did not particularly effect lustration.

However, the present cannot explain lustration entirely. The past also plays a crucial role in the origin and intensity of lustration. The analysis in Chapter 6 shows that history is important. It brings into consideration the analytic focus on the variation of past legacies. It demonstrates that historical legacies matter as they condition both structure (Chapter 5) and agency (Chapter 4).
6 Constrained by the Past

The environment for lustration is not a tabula rasa. Past institutional contexts have lasting effects on post-communist transitional justice. Historical legacies limit or increase the scope of current actions and account for lustration in contemporary politics. Yet, while scholars agree on the explanatory importance of the past, it remains unclear how, why and when the past matters in lustration. Moreover, the significance of historical legacies needs to be gauged through a differentiated understanding of specific inheritances and of their relevance in particular contexts.

The historical model of this chapter complements the presentist approaches of the previous chapter. The model provides an analysis of factors that qualify as historical antecedents to lustration. It assesses lustration through the potential impact of pre-communist, communist and immediate post-communist pasts. The model will argue that the historical environments of Christian religious tradition, pre-communist statehood experience and a short duration of communism are most conducive to lustration. Recognizing that the concept of legacy is “especially slippery” (Jowitt 1992; Kopstein 2003, 233; LaPorte & Lussier 2011), a theoretical framework must be presented first in order to better specify and evaluate historical factors.

6.1 Theoretical Framework Connecting Present with Past

The historical model explains the link between legacies and lustration from a combination of three theoretical perspectives: new institutionalism, increasing returns and platform effects. From the perspective of “new institutionalism,” the past shapes institutions and institutions shape political outcomes. While institutions are manipulable they can have repercussions long after the institutions have vanished and their history has been forgotten (Banerjee & Iyer 2002, 5). New
institutionalism regards the institutionalized legacies as the fundamental conditions of lustration. For instance, the demise of Soviet hegemony could thereby be understood as the removal of the main obstacle for deeply rooted historical trends. Such historical trends then unfold and shape subsequent socio-political trajectories (Schimmelfennig & Scholtz 2010, 447).

From the perspective of “increasing returns,” historical developments place one country ahead in terms of human or social capital. Initial differences turn into larger discrepancies over time because of increasing returns (Kitschelt 1995). This path-dependent view assumes that inherited legacies, sequencing of events and earlier events in the sequence matter more than later ones (Pierson 2000). This emphasis breaks with monolithic historical narratives by pointing to case-specific particularities and cross-case variations that have gradually emerged. For example, the one-time impact of a historical event of independence before communist occupation may set the society on the search for freedom from oppression. Post-communism political structures are thus more a consequence than a cause of political developments (Bunce 1995, 97).

Thirdly, the perspective of “platform effects” assumes that historical legacies do not drive lustration as such but facilitate or impede its effectiveness. If the two perspectives above help understand how the past conditions present structures, the platform effects emphasize the impact of the past on political agency. Experiences and predispositions provide the pro-lustration elite an environment in which lustration becomes a convincing and justifiable practice. While the link between past factors and present elites is indirect, the past provides a platform for a pro-lustration discourse. As a complex factor explaining lustration, “history is not destiny, but it matters a lot” (Stan 2009a, 269)—particularly when political elites draw on historical narratives, symbols and common roots to forge new identities (Grodsky 2007).
A careful combination of these perspectives assumes that the past does not matter directly for lustration but has persisting effects. Variations in historical structures explain lustration because the region’s overlapping cultural and socioeconomic legacies shape the preferences of political actors as well as the constraints on their choices.\footnote{The author would like to thank Harley Balzer for this theoretical insight on how both structure and agency are influenced by legacies from the past.} In this view, legacies represent those “patterns of behavior or thought that are transmitted from the past and enacted in the present” (Kubik 2003, 318). The historical model also assumes lustration as affected by manifold institutional legacies that remain stable over time. More specifically, it assumes that pre-communist legacies had an influence on the communist regime, which has ultimately had an impact on post-communist politics.

The next section provides an analysis of the role of several legacies thus understood. The most plausible legacies will be hypothesized: the impact of pre-communist religious democratic and statehood experiences, the duration and type of communist rule and transitional factors such as initial balance of power and support for the new regime.

6.2 Pre-Communist Past

6.2.1 Religious Legacies

Religious legacies are conducive to lustration in direct and indirect ways.\footnote{The premise that religion affects lustration indirectly and directly comes from the empirical observation that democracy and lustration share some of the same guiding principles (see Chapter 3). Religious legacies are strongly correlated with post-communist political trajectories (Pop-Eleches 2007, 913). Lustration and religion are associated through levels of democracy as countries with Protestant and enlightenment traditions are more likely to democratize (Lipset 1959) and those with Muslim traditions have been seen as resistant to democratization (Huntington 1991).} Indirectly, religious traditions shape a society in a way that is differentially responsive to regime transitions.

In contrast to the Orthodox, Muslim and other civilizations, Western Christianity seems to be
more characterized by individualism and the rule of law (Katchanovski 2000).129 As a result, predominantly Western Christian societies have been by far the most likely to develop and sustain liberal democracy in the post-1989 era. Predominantly Orthodox countries show lower levels of democracy on average but are clearly ahead of the Muslim countries (Schimmelfennig & Scholtz 2010, 457). As Christianity is conducive to democracy, the religious causes of democracy may indirectly contribute to lustration.

Religious traditions directly shape the policy preferences of contemporary believers, which ultimately affect lustration. For instance, different types of religious heritages may shape the degree of the religious officials’ complacency with the former regime. This complacency leads to a variation in policy pressures and explains why Protestant or Catholic traditions may be more likely to use lustration than Orthodox, Muslim and even Buddhist societies. A highly ranked Orthodox Church official said that “[a]ll the episcopate was [collaborating]. One couldn’t become a bishop if the man was not recruited. The bishops had no desire for lustration. […]” They say that by doing so [spying] they saved the Church” (R 24). That being said, religious heritage must be theoretically coupled with other institutional legacy differences. The Orthodox and Muslim societies were largely those where religion was basically suppressed. In some cases, the Soviet regime liquidated religious elites and allowed for religious practices only if the emerging religious hierarchy was totally controlled by the communists.

6.2.2 Previous Democratic Experience

Democratic experience before communism is an important factor for lustration because it allows the era of authoritarian rule to be seen as an illegitimate political interruption (Linz 1978, 129). Christian cultures may be less family-oriented, emphasizing individual responsibility and having higher regard for the state (Holmes 2006, 181). While Muslim traditions tend to foster greater loyalty, the Western ones are symptomatic of “exaggerated independence and rugged individualism” (Augsburger 1992, 271).
Seeking hegemony in the political arena, the discourse of lustration and interwar democracy may help separate “collaborators” from “pro-democratic politicians” and boost the pro-lustration elite.\textsuperscript{130} Moreover, countries with a more democratic past may have more political will and capacity to pursue accountability mechanisms (Nino 1996; Olsen et al. 2010b). Those countries that had a distinct pre-communist history and Western political culture to fall back on were often the ones who have pursued transitional justice most vigorously (Stan 2009b, 241).

Anti-communist elites have often and explicitly referred to the interwar democratic experience as legitimizing lustration. Their rationale consisted in defining democracy as requiring individuals to uphold human rights (Harrison 2003), wherefore prior democratic experience may make individuals more aware of human rights’ violations. What is more, the states with this experience may pursue lustration to prevent the reemergence of authoritarian structures. Finally, pre-communist democratic experience may facilitate lustration by strengthening anti-communist forces in cases where prewar democratic parties were revived following the collapse of communism. Such parties are more likely to demand lustration.\textsuperscript{131}

6.2.3 Independent Statehood and Occupation

The legacy of pre-communist statehood puts the pro-lustration elite into a particularly favorable position. Foreign authoritarian influence makes it easier for pro-lustration actors to demand lustration since they can interpret the ancien régime as a foreign and occupying system. The fact that the post-communist dictatorship was for many imposed from the outside is a “historically defensible but also comfortable conviction” (Garton Ash 1998). The settlement of

\textsuperscript{130} The author thanks Ela Rossmiller for this theoretical suggestion.
\textsuperscript{131} A caveat is in order with regard to the argument about previous democratic tradition. As claimed by Bunce, the entire pre-communist world and even Eastern Europe had no democratic tradition as the relative democracy there was either short-lived or resembled “authoritarian politics in democratic disguise” (Bunce 1995, 89). For this reason, the predictive power of the interwar variable may not be significant.
prior statehood has even been found as a prerequisite for post-communist democratization (Pop-Eleches 2007, 912; Schimmelfennig & Scholtz 2010, 448).

The claim to prior statehood offers several venues for the advocates of lustration in cases where state independence preceded communist occupation or influence. Firstly, Soviet domination has been often presented as the imposition of a new system which forced countries to look away from the West and turn towards Moscow. The imposition of communism represents a deviation from development towards functioning and independent democratic regimes. Such claims have been made even if the democratic countries in the interwar period were unable to provide full economic and political stability.

Secondly, the influence the Soviet hegemonic sphere exercised through the Warsaw Pact agreement made it possible for the satellite states to interpret communism as a foreign occupation. The communist secret police were perceived as the extension of the Soviet KGB (Nalepa 2010b, 231). Working with the KGB and the Soviet troops on the ground amounted to collaborating with the representative of an occupying force (Leffler 1992; Trachtenberg 1999). The “occupation” discourse hence raises the issue of homegrown vs. imposed-from-the-outside communism. The argument creates a different dynamic in the societies formerly under the Warsaw Pact or Soviet hegemony than in Russia or the former Yugoslav republics and Albania, where communism ruled with comparatively little outside influence.

Thirdly, dealing with the “foreign elements” and their domestic collaborators could represent a process of channeling the collective guilt. Such processes have offered an empowering

132 While Warsaw Pact membership may be endogenous to the “harshness” of the communist regime on the whole, there are important exceptions. In Albania, communism was harsh despite being outside of the Pact. In Slovakia communism was perceived as less harsh despite Czechoslovak membership in the Pact. Romania was a member but it did not take part in crushing the Prague Spring or the boycott of the 1984 Los Angeles Olympics. To that end alternative hypotheses are accounted for: crushing of organized dissent, past oppression and communist regime type.
experience to victims and a demand to purify the rest of society (David 2011, 52). Claims like these provide the pro-lustration elite a powerful platform for a lustration discourse. These claims help depict certain individuals as betraying the nation to a foreign power and make them easier to lustrate. What is more, elites who had once been ruling a country independently and later became dominated by a foreign power found themselves in positions that were lower in the social hierarchy. Lustration may represent a process of channeling the decades-long frustrations and aspirations of the anti-communist elite to regain social status.

Conversely, a limited or absent pre-communist experience of statehood hinders lustration. One of the reasons is that the fall of communism left behind multiethnic states populated by minorities that sought statehood. While in some cases the revolutions of 1989 resulted in new states that corresponded more closely to the ethnographic map of the region, in others, the national revolutions created states that were ill equipped to cope with the problems of the remaining ethnic diversity (Roeder 1999). New states may inhibit lustration as it represents an additional issue to be dealt with by the new regime (see Chapter 5). In short, the hypothesis is that the earlier a state was created the more likely it will lustrate. The Soviet occupation or the Warsaw Pact membership may additionally correlate with lustration.133

6.3 Communist Legacies

Specific elements of the communist past provide key theoretical insights into post-communist transitional justice (Huyse 1995). While post-communist countries share a common history of

133 The nationalism argument provides additional justification for the “occupation” discourse (see Chapter 4.2.2). As the ideals of self-determination in the post-communist world were often affected through historical contingency and schooling (Darden 2013 forthcoming), some claim that the political empowerment of the national idea imported from the West was transformed but continued with the rise of communism and its programmatic school curricula. Post-communist societies may thus have been well situated to privilege nationalism in the struggles over new political regimes (Bunce 2005, 406-42). Such legacies helped perceive the “occupiers” (directly through the Soviet Union or indirectly through the Warsaw Pact) as related to communism and therefore to be lustrated.
one-party rule, they exhibit important institutional differences from the communist period. The differences within communist regimes in turn account for lustration in the present (Moran 1994). The failure to explain lustration through the past often stems from a misunderstanding of the specific nature of the dictatorship that existed before regime change (Killingsworth 2010a, 275).

6.3.1 The Duration of Communist Rule

The key hypothesis related to the communist past reflects the length of communist rule. The experience of a prolonged and systematic condition of communist domination represents such an embedded condition that the pro-lustration elite will find it difficult to overcome. Prolonged and direct institutional penetration of communism will affect lustration negatively.

Several arguments support this claim. The longer individuals live under communism, the more they may be affected by its anomic legacy. Particularly in the former Soviet bloc, the harsh one-party rule pushed citizens to distrust new democratic political parties (Pop-Eleches & Tucker 2011). Such a context provides the anti-communists less ground for promoting lustration since lustration cannot be envisaged outside the context of party and legislative politics. New regimes also struggle against more deeply entrenched repression and fear in the case of a longue-durée authoritarian rule (Olsen et al. 2010b). Furthermore, a repression that had occurred a long time before regime transition has been seen as lowering the demands for justice (Chandra 2004; O'Donnell & Schmitter 1986).\(^\text{134}\)

More importantly, a long period of authoritarianism destroys memories and political cultures that existed prior to them. First of all, without the experience of institutions that are different from the communist ones, the development of a competitive democracy will be inhibited and the

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\(^{134}\) Repression was not a constant feature of communist regimes but varied importantly across and within countries. See section 6.3.3 for a detailed account of possible influence of past repression on lustration.
demand for lustration hindered. Also, the longer a former regime is in power, the more indoctrinated functionaries it will produce, and the harder it will be to replace them. Finally, former bureaucrats and officials are valuable since they are professionally often more experienced than the new democratic elites.

6.3.2 Communist Bureaucratization

Institutions that were inherited from the communist regime exhibit a stark variation with regard to the level of their past bureaucratization. While bureaucratic systems were usually massive across the post-communist world, they ranged from fairly incompetent and patrimonial to formal and professional (Ekiert 1999). The resources of actors that defended or attacked regimes’ various levels of bureaucratization varied accordingly. During transition, such diversity translated into different configurations of bargaining power between communists and non-communists. Also, this diversity affected the choice of a new set of formal institutions and attitudes (Kitschelt 2002). For example, the more the state bureaucracy and legal system became institutionalized along the legal-rational principles of democracy, the greater the freedoms they produced for actors to seek their interests (Howard 2003, 34).

Bureaucratic legacies affect lustration predominately through the type of the subsequent political regime. In countries where a modicum of bureaucratic professionalization existed, it has been more difficult for the communist elites to maintain influence and to undercut public scrutiny (Kitschelt et al. 1999). That has allowed the political actors following the legal-rational principles of democracy to become stronger and better compete for limited sources of power such as legislative or executive positions. Finally, a history of bureaucratic competence may influence the decisions about the composition and the quality of new regime’s bureaucratic
apparatus. For instance, the countries with a history of weak bureaucratic competence will not be able to lustrate the already poor-performing bureaucrats inherited from the previous regime.

6.3.3 Communist Regime Type, Past Oppression and Crushed Dissent

Alternative explanations include communist regime type and state-generated violence. Since lustration builds on the idea that former elites and their collaborators can be held responsible for the crimes or even the ideology of the previous regime, states where the authoritarian regime exerted greater control and committed more crimes may be more likely to lustrate. However, as scholars provide opposing findings about these factors, their overall effect may not be significant (Ekiert 1996; Grzymała-Busse 2002; Moran 1994).

It has been claimed that when state oppression was less harsh, lustration may be milder or even absent. Conversely, widespread human rights abuses including the levels of police state or of penetration of the secret police in society may increase the demand for justice (Elster 1998). However, if a communist state had engaged in massive violence against its population only during earlier periods and rather heavily policed its population later on, then such a state “did not need to resort to high levels of explicit violence during that time in order to keep its population repressed” (Wood & Gibney 2010, 370). Moreover, in more repressive regimes, more people might have needed to make petty political compromises on a daily basis than did people in less repressive regimes (David 2011, 96). This could lead to a more complicit society with many collaborators, fewer anti-communists and decrease the chances of lustration.135

In addition to overall violence, an experience of a violent suppression of massive dissent could also account for lustration. As expressions of the unmediated will of the population to

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135 Two proxies measure the “harshness” of communism: the average Polity IV regime type score for the post-war communist period and state terror throughout the 1980s, using the Political Terror Scale. The latter factor accounts for potentially fresh memories and perceptions of the citizenry about of the communists as “nasty” or “mild.”
work together to create a new political beginning, suppressed popular uprisings are powerful reminders of a regime’s oppressive nature and of the people’s desire to take control of their government (Arendt 1965). While the hypothesis of crushed revolts captures in part the general nature of oppression, a sudden crushing of massive dissent produces different effects. Public opposition and forms of massive expression of discontent represent some of the pillars of democratic culture. According to the exit and voice theory, the experience of a crushed revolt helps to persuade nascent democracies to remove individuals associated with the communist regime from the political arena. Conversely, the experience of a past regime as permitting a certain degree of dissent may persuade the new regimes to forgive and forget (Moran 1994). The advocates of lustration policies have often referred to the examples of the uprising in Eastern Germany in 1953, the Hungarian Revolution in 1956, the Prague Invasion of 1968, the putting down of Croatian Spring in 1971 and the Polish martial law of 1981.136

6.4 Transition Period

Political and social elements of transition have been long seen as affecting transitional justice (TJ). Scholars agree that the progress of transition has been uneven across the post-communist region (Ekiert 1999, 10). In general, they claim that the kind of transition affects the kind of TJ (Posner & Vermeule 2004, 770).

The mode of transition may impact the types of institutions that develop. For example, the level of continuity of the old regime’s various elites, as they emerged from the break down phase, may explain institutional choices such as government systems and TJ. This claim relies on

136 In Czechoslovakia the contemporary considerations of the Prague Spring led to an influential theory of ‘two communisms,’ sharply distinguishing the regimes before and after 1968 (Elster 1998, 7-48). In this sense, crushed dissent could explain harsh lustration in the Czech Republic, where communism after 1968 did not allow dissent, and mild lustration in Slovakia, where post-1968 communism allowed for some dissent (Nedelsky 2004, 65-115).
the assumption that institutional choice becomes a strategy by which elite actors seek to gain access to power resources, which in turn affect lustration (see Chapters 4-5). In other words, the way elites deal with the past depends on the power relations at the time of transition (Halmai 2007, 19). The policy choices of TJ thus may depend on the mode of transition and its ensuing impact on the balance of power between old and new elites (Elster 1998; Huyse 1995).

6.4.1 Elite Change and Balance of Power in Transition

Strategic interaction between authoritarian incumbents and the democratic opposition could affect lustration since one’s status in the wake of the transition has represented a powerful determinant of support for a critical issue (Tucker et al. 2002). For instance, the societal division of the transition’s winners and losers has proven to determine support for parties, electoral participation and support for incumbent post-communist governments (Schedler 2002, 49). The extent of change in old elites during the transition and around the first multi-party elections may set in motion a path-dependent reform process that yields regime outcomes related to the outcome of the initial elections (Fish 1997; Fish 1998).

Since lustration is tightly related to party and legislative politics, the first elections may determine the success of the pro-lustration elite. If pro-lustration politicians fail to make a good showing in the first election or two, their subsequent success may be impaired and the chances of lustration reduced. Conversely, parties that did well in the first elections, may have more room to adopt stronger and more long-term party building. If the anti-communist parties represented a winner of the transition then the chances of subsequent lustration would be higher.

However, while the removal of communist elites may create an opportunity for democratization and even lustration, it does not ensure such an outcome (Levitsky & Way 2002,
59). For example, in Albania, Ukraine and Belarus, newly elected leaders continued or even intensified many of the authoritarian practices of their communist precursors. Conversely, continuity of elites from the communist period has not necessarily meant an absence of democratic change, but a relatively high degree of security that has been conducive to democratic competition (Higley et al. 1996, 145).

In order to account for the potential impact of elite turnover on lustration at the time of regime change, this study adopts the balance-of-power typology at the first election (McFaul 2002). This measure corresponds to other indices of elite change, communist displacement and continuity (Easter 1997; Fish 1997; Huntington 1991a; Szelenyi & Szelenyi 1995). \(^\text{137}\)

### 6.4.2 Nostalgia vs. Support for New Regime

The evaluation of the new political order has differed importantly across the post-communist region. A more solid establishment of democracy and protection of rights grants more legitimacy to the new social order (Ekiert 1999; Rose 2007). As at the micro level some individuals favor the new and others the old regime, they create aggregates of supporters of the new regime on the one side and opponents or nostalgists on the other (Rose & Mishler 1994).

On the one hand, citizens show support for the current regime not only because it is not the old Communist regime, which they may continue to fear and reject, but also because they harbor hopes for relative prosperity in the future (Mishler & Rose 1994, 23). The more favorably the citizens view the current regime the more they may prefer a multi-party system in which elites compete for power. Such an environment could be more conducive to lustration.

\(^{137}\) McFaul’s typology is based on the first multi-party legislative elections that determined the composition of a state’s legislature for the immediate transition period (1989–92). Various elections demonstrated the balance of power in favor of the ancien régime, of the challengers, or it remained unclear or even (the middle category).
On the other hand, nostalgia for the old regime and the demand for previous policies may correspond to the longing for material security, stability and prosperity (Ekman & Linde 2005). It can also reflect the feeling of loss for a specific form of sociability (Ghodsee & Henry 2010). Moreover, nostalgia encompasses generational differences and political socialization in the past regime. It may relate more to dissatisfaction with the present system’s ability to produce output than to genuine nondemocratic values (Ekman & Linde 2005). The public may have legitimate expectations of state assistance and justice, inherited from the previous regime (Cook et al. 1999; Kluegel et al. 1999; Lipsmeyer 2002). Nostalgia thus corresponds to greater legitimacy of the former communist regime, which would decrease the chances of lustration.\footnote{As for example communist Poland enjoyed more legitimacy than did communist Czechoslovakia, the severity of lustration and the comparative speed of implementation were greater in the latter. And, as found from another perspective “The more severe the law, the less legitimacy the regime enjoyed” (Killingsworth 2010, 89).}

Political legitimacy given to the new or the old regime parallels the support the two receive. While the legitimacy of former communists could co-vary with the harshness of the communist regime, it has been assumed that the lower this legitimacy is, the higher the chances for lustration will be (Nedelsky 2004).\footnote{The critics of this “post-communist legitimacy” approach claim that even its supporters such as Nedelsky recognize that the level of repression in the Czech part of Czechoslovakia was higher—where the level of legitimacy of the former regime was lower—than in the Slovak part. For more on this debate see Jaskovska & Moran 2006, 488-489. Ensuing scholarship modified the argument focusing on legitimation techniques (see Holmes 2010).} For some authors, the level of legitimacy is an even stronger predictor of lustration than the lustration politics itself (David 2011; Stan 2009d). These scholars claim that transitional justice has been more stringent where communist rule was enforced through repression and ideological rigidity (such as Czechoslovakia, GDR or the Baltic countries) than in countries that had allowed some level of reform (like in Hungary or Poland).
6.5 Quantitative Test and Evidence from Cases

Having presented the main and alternative hypothesis that link the past to lustration, the task of this section is to incorporate the historical theses in one systematic model and analyze them from a statistical perspective. Examples from various countries provide case-based support and illustrate the causality between past constraints and lustration.

6.5.1 Interpretation of Statistical Results

Table 6.1 presents a random-effects Tobit regression analysis, investigating which historical factors are more likely to be significant and relevant. Looking at the estimates, several variables emerge as consistently significant, while some display a particularly strong effect. As predicted, the effect of religious legacies and the length of the communist regime show highly consistent results. Pre-communist independence, communist bureaucratization and communist regime type are also important predictors at the level of the historical model.

More specifically, the statistical test shows that the countries with Christian tradition are much more likely to lustrate. The longer a country experienced communist rule, the less likely it is to lustrate. The earlier the country became independent and the more functional bureaucracy it had, the more likely it is to lustrate. Finally, the less authoritarian the communist regime was, the more likely its successor regime lustrates its former elite. Among these factors, the most substantial predictor is religious legacy. The coefficient size of religious legacy is noticeably larger than the coefficient of state creation. It is also larger than the one for the communist regime type and the level of bureaucratization.

Before moving on to a more detailed and case-based analysis of these findings, other results need to be presented (see Table 6.1). The test demonstrates that regime support is not a
significant predictor. The terms for communist state terror and the factor of political balance between communists and anti-communists at the first election are also insignificant. Several other historical variables do not show statistical significance either.

Table 6.1. Influence of the Past on Lustration

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Standard errors in parentheses
**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10
Random-effects Tobit regression, Gaussian (normal) distribution

6.5.2 Case-Based Evidence

Institutionalized historical legacies have shown long-term effects on lustration. The impact of the past on post-communist elites and institutions has often been stronger than the ability of the pro-lustration elite to legislate for lustration and implement it. Evidence from different countries
illustrates how the lingering effects of religious legacies, pre-communist independence and the communist regime’s duration shape the potential efforts of new regimes to lustrate.

The Legacy of Religious Traditions

Religious traditions powerfully influence the post-communist regimes in their attempts to break with the past. Indirectly, religious traditions affect the development of political regimes. Directly, they induce the religious elite to different degrees of compliance with the former regime, limiting the potential attempts at lustration. Examples from the traditionally Catholic Czech Republic and from Orthodox Russia and Georgia support these claims. While all religious communities in the post-communist world witnessed cooperation of some of their members with the communist regime, the levels of collaboration varied among religions.

Vaclav Maly, one of the main Czechoslovak dissidents and signatories of the Chapter 77 says that in the 1980s his superior Cardinal Tomášek was against him joining Charter 77.140

While John Paul II supported the Charter 77 movement—even if not in public—at the beginning, Tomášek didn’t like 77 because some communists were participating in it. Towards the end, he did meet the spokespersons from the Chapter 77. Then, Cardinal Tomášek became a symbol of resistance. After 1985, the Church raised its head. There was the pilgrimage to Velehrad. The faithful said: We do not agree; We are the basic part of the society; We want religious liberties. The Cardinal was no longer a general without the army. The Church became one of the main actors of regime change. While the Church had many collaborators it also had many martyrs.

In other countries, such as Poland and even Soviet Lithuania, the Catholic Church played an important role in regime change and subsequent calls for lustration. This was particularly the case in the 1980s. The same cannot be said about the Orthodox Church in the Soviet Union.

The story of “R24” presents evidence corroborating the connection between Orthodoxy and the absence of lustration in Russia. In 1991, “R24” had direct access to the KGB files on the

140 For the entire interview see Rožič 2012, 8.
Church. His participation in the investigation prompted first his excommunication from the Church, and second it led Patriarch Alexei II to try to influence Yeltsin to stop the Commission on the KGB from functioning.

The Patriarch told Yeltsin: “You have the authority. We vote for you. We support you. And these materials will only worsen relationships within the Church and towards the Church. In the name of the Moscow Patriarchate, we ask, please, stop this”. To this Yeltsin replied: “You know that I’m afraid of [those] extremely radical democrats. I’m afraid of their impeachment. Unfortunately.” Alexei run to and fro [because of the files ... as he had] received an Honor Certificate for his undercover agential activity, for his active operative research activity. And then he went to Khasbulatov [the Chairman of the Supreme Council]. The commission was under [the sponsorship of] the Supreme Council [which soon suspended the Commission].

In this sense, “R24” sees a difference with the Church in East-Central Europe. “Unlike the Church in East-Central Europe, the Russian Church was liquidated.” Comparing the Russian and Georgian Orthodox Churches, “R24” draws similarities.

I met Gamsakhurdia who asked me to hear his confession. And I said him that he has his [own] patriarch [to hear his confession]. And he [Gamsakhurdia] said: I will show you about this patriarch if you come to me. And he showed me the records of the KGB [...] about the recruitment [and the collaboration of the Georgian Patriarch].

A Catholic Church official, who was active in Georgia in the 1990s, confirms these allegations by referring to the events surrounding the papal visit to Georgia in 1999 (G 22).

Shevardnadze invited the Pope. The Catholicos [the Patriarch of the Georgian Orthodox Church] was against the visit [claiming that] it will not bring peace to the country. Then, Shevardnadze threatened to open the KGB archives. At that point, the Church agreed––and did not oppose the papal visit any more. [...] The same [about the past involvement] could be said about the Grand Mufti in Azerbaijan and the Muslim Office there.

Shevardnadze confirms the past involvement of the Georgian Catholicos, claiming that he had seen the Catholicos before regime change. “In Moscow, […] was the first meeting. When I came to Georgia [after 1991], we very frequently met and conversed” (G 30).
Many disagree about the past involvement of the Orthodox Church’s leadership. For example, a member of the former Christian Democratic Party of the early 1990s from Russia claims that no proofs exist to support the collaboration of the Russian Orthodox Church hierarchy (R 11). Yet, the argument against lustration has often been linked to the Orthodox religious authorities. When in Georgia the people from the Liberty Institute wanted to have a harsher lustration law than it was initially envisaged, a Christian Democrat opposed the law and claimed that (G 17)

*I’ve talked to several [members of the Church hierarchy] about lustration. They’re against it as they don’t want contradictions in society. As to their links with the KGB, I cannot exclude that, maybe. Those who might have collaborated are on the lower levels of the hierarchy. [...] So, there’s no benefit! The Church was almost destroyed under Stalin. The Church is a victim.*

Even if the Orthodox hierarchy did not collaborate with the former regime, the Orthodox Church leaders pressured their respective governments not to open the files and pursue lustration much more than the authorities of the Catholic Church.

**The Legacy of Pre-Communist Independence**

The creation of the new-old states with the democratic revolutions of 1989 brought into the region a particular social and political dynamism related to lustration. Lacking the experience of pre-communist independence, several countries in Central Asia or in the Balkans did not lustrate former communists. This was particularly true if the communists were related to the independence struggles of the late 1980s. For example, Slovenia’s relative absence of lustration could correspond to the fact that the country had never been independent and that many of its perceived heroes of the 1989 independence process came from the ranks of the communist elite. In other cases, such as in the Caucasus or in the Baltic states, the post-89 independence movements have been strongly linked to the period of the pre-Soviet independence or to the period prior to the hegemony of the Warsaw Pact. These countries often demanded lustration. A
Czech State Secretary at the Ministry of Foreign affairs concurs. “I still vividly remember my parents telling me about the interwar democracy in Czechoslovakia.” Their experience and narrative led him to be proactive regarding lustration (CZ 02).

The Georgian case illustrates the causal pattern by which the crushed national independence and subsequent Soviet occupation become open to political exploitation once democratic competition was assured. Perceived Russian threats to Georgia’s current independence have offered a vast maneuvering space for pro-lustration groups to use past independence discourse as a platform to justify lustration. One of the main ideologues behind the Rose Revolution concurs: “Whenever we feel that the times are not good, we should always compare our situation with 1921 [i.e., the Soviet occupation]. And it always feels better, much better. We are much better now” (Bokeria. 2011).

It does not come as a surprise that Georgia celebrates April 9th as a public holiday to mark the Day of National Unity. On April 9th 1990, Georgia adopted a Declaration of Independence. The Tbilisi Massacre occurred exactly one year earlier. These tragic events of 1989 were the culmination of weeks of demonstrations for Georgian independence. The killings in Tbilisi greatly accelerated Georgia’s push for independence and for an end to Soviet domination. In the days after the massacre, hundreds of thousands of people rallied in the streets. On 26 April 1989 the crowds marked the memory of the 71st anniversary of the declaration of the Georgian Democratic Republic in 1918.

Linking 1918 to the pro-independence events in the late 1980s, Georgia’s first president Gamsakhurdia emerged victorious and pushed the country towards independence. Yet, as a

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141 Interestingly, the troops of the Soviet Special Forces causing the massacre were commanded by Colonel General Igor Rodionov, who later became a member of the Russian parliament and minister of defense under Yeltsin.
member of Gamsakhurdia’s inner circle reveals, the mere fact of independence was insufficient (G 37).

We were so naïve [to think] that it was enough to declare independence and the whole West would support us. Of course we had no political experience. We didn’t even have a political vocabulary. But, we wanted to create a democratic state. I remember exactly when Gamsakhurdia told me to say to American diplomats that Georgia is ready to have NATO and American military bases [...] against Russia.

The independence movements of these countries sought international support. The cooperation with the West and the turn away from former Soviet policies has proven to be directly correlated with the independence they have achieved (Cornell 2011). The main ideology behind the Rose Revolution confirms this observation for Georgia (G 34).

Baltic states have [shown us that while we are stuck] in the post-Soviet mud, they [have already] reformed their countries. We had there a big, healthy envy, a big inspiration. Germany too popped up quite soon as an example. Rhetorically it was a right point to make. But at the beginning it was shocking to say that Nazis and the Soviet communists are the same. It was both shocking and enlightening for the people. [...] The Baltics were successful in getting rid of it. They were a good example; and lustration was just a part of it. [...] Also, the communist period there was shorter and they had some 20 years of European statehood and democracy. The generations still remembered that and some of the institutions. Memory of that past was still present since they were under oppression for less time. Had Georgia been independent until the 1940s, that would be a big change.

In agreement with these convictions, an unexpected event affected the fate of lustration in Georgia. The 2008 war with Russia helped consolidate the perception by the majority of Georgians that the Soviet past is directly linked to Russian political interests. One of the closest allies of Saakashvili said that these perceptions became particularly visible when Russian tanks defended a monument to Stalin in the city of Gori. “This was an eight-meter high monument. Tanks occupying Gori were protecting Putin’s policies, which are the policies of Stalin” (G 24). To remove Stalin’s monument from the central square would have been unlikely before the war.
But after the war, Soviet legacies became anathema in Georgia since they were seen as directly linked to the Russian invasion. The statue of Stalin was removed.

Not long after the war, Gia Tortladze added to the lustration draft that “he had copied from the former opposition, a section on banning Soviet symbols and another on anti-terrorist measures à la the U.S. Patriot Act” (G 26). Tortladze made the law more appealing to those MPs who may have still been reluctant to support it (G 12). The law derived additional legitimacy by appealing to the sentiment of an unjust past repression and of the “occupational” character of the Soviet regime. With the 2008 war, these memories became salient and open to use by the elites.

The lustration bill was passed and politicians began to reap the rewards. Tortladze, for example, who had previously lost much of his popularity, made a comeback in the ratings and gained significant public attention (G 26). The ruling UNM party lost nothing by not having initiated the law from within their midst (G 36). Instead, the UNM was able to prove itself as being open to the suggestions of the opposition. Finally, the UNM profited from the process since their opponents with potential, arguable or invented links to the Soviet past were sufficiently discredited (G 25).

Communist Duration and Other Communism-Related Factors

Closely related to the pre-communist statehood factor is the length of the communist regime. One of the main advisors to Yeltsin in 1991/92 (R 16) thinks that there was resistance to lustration in Russia because

[in] contrast to Eastern Europe, where communism was imposed by force and took place during a short period, in Russia, the political system existed for 74 years. And it very strongly grew from within. Entire generations were linked to the crimes of the regime. They were linked even to mass political repressions.
This goes in line with the finding that societies with a longer exposure to communism have been less likely to lustrate. A staunch opponent to lustration claims that for the “countries of East-Central Europe, the issue of lustration was a technical one. For us, [the question of] lustration is a question of our being” (R 18). Russian society may have perceived that lustration would act against its own historical identity.\footnote{An exception to these claims and findings is German lustration. The GDR has had a continuous history of nearly 57 years of repressive regime, from early 1939 to late 1989. This was longer than that of any other state in Central Europe. However, to warrant the discussion on the relationship between the more distant historical influences and the immediate post-communist political configurations, the German case may provide substance to the claim that an interplay between the communist and the post-communist period conditions could lead to the establishment of strong lustration laws and procedures. The widespread impression that de-nazification was an aborted attempt to clean the state and the experience should not be repeated, combined with the strong stand of the East German democratic movement, and to West German state capacity to provide bureaucrats to fill the gap left by de-communization could be understood as leading to the establishment of the Gauck commission.}

The role and the quality of communist bureaucratization are also related to the duration argument. With some relevant pre-communist experience, post-communist countries could afford lustration as their new elites would have inherited some of the legal bureaucratic expertise from the past. In the countries with a long communist rule, the only bureaucrats the new state could rely on were the old ones. In fact, at the time of regime change, old bureaucrats were more experienced than the new democrats, who lacked bureaucratic savoir-faire. Two accounts from Russia’s immediate post-Soviet era confirm this phenomenon.

\textit{After the coup [of 1991], nobody wanted to work for the [administration of the] Russian Federation. All were afraid of responsibility. All understood that the country is in a very difficult state, on the border of starvation. [...] I was offered to work in the [state] administration, in the building of the Government of the Russian Federation. In there were long corridors and many empty offices. There was no one. My acquaintances told me: “Volodya, what do you need? Here’s an office, a computer. We’ll give you a secretary. Please, work [here].” [...] This was in the Fall of 1991, in the period of vacuum. I refused because I wanted to work in sciences, sociology, and generally I don’t like administrative work. I was there by coincidence visiting friends, economists. Anatoly Chubais [and others] saw me and said: “Do you want to work in the government?” If they offered that to me, it means that they offered it to many people. (R 13)
A similar account comes from another social scientist who had been close to Yeltsin and worked in his administration (R 29).

Even if Yeltsin wanted lustration, it would be practically impossible to carry it out because harsh lustration would eliminate professional functionaries. Communism lasted for 74 years. Only members of the Party were allowed into the state and security apparatus. Selection according to a formal attribute was impossible. I was never a member of the Communist Party and [after regime change] I soon became a functionary. I couldn’t stand communism. But, I wanted to see the state apparatus with more of the old functionaries. They knew how to write documents on time and well. The mild and new liberal democrats could not provide such quality work in the state apparatus. That was the tragedy of the situation. [...] The new regime of the first few months was a nightmare, absolute chaos. When the old bureaucrats returned, there was order.

6.6 Summary

This chapter examined the nature of the link between the different pasts and lustration, as well as the type and timing of causally important legacies. The chapter found support for the claim that historical legacies constitute the fundamental point for the systematic analysis of lustration as they affect both the elites and the institutional environment that constrains the elites. On the one hand, the elements of past legacies can be reconstructed in ways that facilitate the mobilization of the pro-lustration elite. On the other, historical legacies are bound within specific contexts and enable multiple pathways of institutional change.

More precisely, the religious, social and institutional legacies of the pre-communist and communist pasts have a strong and lasting effect on lustration. The variables of pre-communist statehood and religion as well as communist duration proved to have persisting effects. While these factors do not matter directly for lustration, they shape both the behavior of the elites and the constraints on their choices.

The paired comparison of Russia and Georgia suggested that more than any communist-era legacy, it is the experience of pre-communist independence that matters in shaping lustration. In
Russia, the legacy of pre-communist independence was not coupled with a type of communism imposed from abroad. In Georgia, pre-communist independence was followed by the invasion of the Soviet Red Army. Particularly after the 2003 Rose Revolution and the 2008 war, the use of the historical memory of the crushing of independence in the 1920s allowed the pro-lustration elite to label the formerly communist elites as occupiers, collaborators of Russia and a threat to the Georgian society.
7 The Big Picture: Conclusions and Implications

In the post-communist world, transitional justice has largely been reduced to a contentious mechanism of lustration. The use of lustration has raised important puzzles of regime transitions. The first is the variation in the likelihood of lustration. The second addresses the massive variation in the intensity of lustration. The third targets the surprising variation in its timing. Previous chapters have presented theoretical and empirical explanations to account for these variations. Empirical results have shown that elite bargaining, coupled with the emergence of democracy, best explain lustration in some countries and its absence in others. Lustration policies vary due to specific institutional environments that constrain elites. And while the composition of the benefit-seeking elites in democratizing contexts explains most of the variation, past legacies as well as domestic and international factors affect the timing.

The study has contained four distinct models (Chapters 3-6). The first model discusses the role of democratization, the second the impact of political elites, the third the constraints of the present and the fourth the constraints of the past. Not surprisingly, these four models develop into four bodies of literature, each addressing its particular focus respectively: the literature on transitions and democratization, the literature on elite bargaining, the literature on institutional choice and the literature on comparative historical analysis.

These models and literature are not distinct; rather, they can be brought together into a parsimonious explanation of lustration. In order to develop a single framework and derive predictions from it, the task of this chapter is first to summarize the main arguments. These arguments are then distilled into a “big-picture” model, which tests the extent to which the arguments interact. The chapter concludes by discussing the implications of the model.
7.1 Summarizing the Argument of the Study

This study has explored what the issues of rupture and continuity tell about the legacy of previous authoritarian regimes, about the birth of new political and legal institutions and about the nature of political transition. Since lustration scrutinizes previous authoritarian leadership and has the power to affect elites of the new regime, lustration sheds light upon the broader understanding of regimes in transition. Analyzing lustration from the perspective of four different models, this study has pointed to several new insights.

First, in the post-communist world much is as it was before the regime change. In most cases, lustration has not seen the day. Relatedly, elite turnover, institutional reform, and for that matter democratic breakthroughs have not taken place either. The absence of lustration thus tells a story of a weak regime change. While communism has given way to new political regimes, this newness overwhelmingly represents a façade. Behind the appearance of change a strong structure of continuity persists.

Second, lustration is an odd story of democratization. The basic argument of this study has been that democracy matters for lustration. What is more, the story of post-communist democratization cannot be understood without its link to the massive presence of lustration. However, this study also argues that lustration originates in practices often incommensurable with the regular process of liberal democracy. The fluid environment of transitions to democracy allows emerging elites to circumvent the democratic practices of competition and to rewrite the rules through lustration. With this unexpected effect of democracy it becomes evident that lustration has been under-studied for its importance.

The democratic model of lustration substantiated these claims in Chapter 3. The model first showed that once democracy begins to appear on the political scene, or once an authoritarian
government has been overthrown by pro-democracy forces, lustration can occur. Democracy is a prerequisite of lustration. Second, an increase in the levels of democracy leads to a higher likelihood to lustrate in not only democratized countries but also in hybrid regimes. Democracy thus represents a crucial predictor of lustration.

Democracy plays the main role in the lustration story because only in a democratic environment does lustration benefit the political elite. Democracy lessens other institutional constraints on the elite. The elite, in turn, start looking for available opportunities to discredit their opponents. They also aim at solidifying their political base through lustration. As a result, lustration becomes a powerful tool for political competitors. Conversely, the absence of lustration stems from the absence of democratic practices visible through leadership styles of the post-communist elite. A democratic deficit prevents the advocates of lustration from persuading a parliamentary plurality that the safeguarding of democracy may require it.

The elite model of lustration shows that lustration is an elite-driven process (Chapter 4). It is thus a consequence of institutionally informed political choice. Lustration occurs only if pro-lustration groups and political elites are successful in crafting sufficient support in the legislature or in the executive. The key to lustration is the differing access of these groups to political power, and their ability to assemble a pro-lustration coalition in the legislature (Williams et al. 2005, 35). The elite-based argument emphasizes the crucial role of “lustration politics.” In order to stay in power or to gain positions of influence, political elites innovate new techniques through a contentious process of politicking. Political parties in particular aim at lustration as an electoral and legislative rule that best suits them.

Chapters 5 and 6 presented and tested the structural models that account for the present and past factors. Historical legacies, institutional choices and the international environment further
enable or constrain the ability of elites in attempting lustration. These models and case-based analyses demonstrated how the institutional choice for truth commissions and open party lists affects lustration. The environment of EU and NATO accession processes has also been proven as conducive to lustration. Last but not least, the historical factors of religious traditions, pre-communist independence and regime duration have separately confirmed their long-term impact. The task of the “big-picture” model is now to show the extent to which these various groups of factors concisely explain the three puzzles presented in the introduction.

7.2 The Big-Picture Model: Weaving it Together

Regime change and post-transitional political settings raise important theoretical, methodological and empirical questions with regard to the study of continuity and rupture with the former authoritarian elite. A number of scholars have provided pertinent explanations for these questions and introduced the question of lustration to the broader field of social science. However, it has remained largely unclear what causal mechanism drives the substantial variation in the likelihood, intensity and timing of lustration across the post-communist world.

In order to provide a parsimonious explanation for the three puzzles, this section will present comprehensively integrated statistics for each for the three puzzles (see Tables 7.1-7.3). A substantial number of corroborating regression analyses will back the parsimonious results (see Appendix D). In fact, the analyses will begin by including all plausible explanations by employing the procedure of “sophisticated residualism” (Hesli et al. 2012). When testing specific hypothesized relationships, the study will control for other relevant predictors. If the differences remain significant after controlling for other variables, the evidence of particularism becomes readily apparent. These tests will pertain to the dichotomous measure of lustration for exploring
the likelihood of lustration. The multi-level measures of the Lustration Index will account for the intensity of lustration. Finally, the periodization of the data will help to account for timing. 143

7.2.1 Preliminary Reductional Analysis

“Sophisticated residualism” helps uncover the most relevant determinants of the origin of lustration by reduction. As a robustness check, it demonstrates which variables are to be dropped from previous models. Repeated preliminary testing reveals that several variables are not significant from a larger perspective. Given other controls in the models, the tests suggest omitting the variables that include the geographical position, several regime type factors, the mechanisms of transitional justice other than truth commissions, as well as societal welfare, education and various terms for social trust. Factors of the immediate transition period such as political orientation, initial balance of power and societal violence are also dropped.

Preliminary testing also excludes other variables. These are highly correlated with similar indicators or represent a concept already included in the main model. For example, after repeated testing, the analysis drops the terms for lustration program and its sub-dimensions. The model also drops the terms of the distance from Brussels, regions of former Yugoslavia and the Soviet Union, communist occupation, Warsaw Pact, ethnic fragmentation, corruption, civil liberties and others. As a result, only the most prominent controls are kept in the model as “residuals”.

7.2.2 Puzzle One: The Binary Likelihood of Lustration

The puzzle of why some countries lustrate and others do not is explored through the binary measure of lustration. Table 7.1 shows the results related to the puzzle of the likelihood of

143 The study performs additional tests for the adoption and implementation portions of lustration (see Appendix D).
Illustration. As the models in the table indicate, the following variables play a statistically significant role across the models.

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</table>

Standard errors in parentheses

**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10
Random-effects Tobit regression, Gaussian (normal) distribution
First, societies that had experienced pre-communist statehood offer a substantial advantage to the pro-lustration elite. The inverted state creation variable (ranging from 1 for early periods to 4 for the post-1989 period) shows that an increase in just one level raises the chances of a country to become a lustrant by almost 0.7.

Second, the term of truth commission (TC) is likewise very strong. The results indicate that the pro-lustration groups in countries with TCs enjoy more than a 0.5 point advantage (i.e., 50%) over elites in countries with no TCs. While this finding is substantial it is also highly significant.

Third, scoring higher on the FHPR democracy scale represents another crucial advantage. If a regime in average terms moves up the scale by just one point, the chances of a country to lustrate increase by about 30 percent. The effect is highly significant. Political competition has a similar but inverse impact. While the finding is less significant it still consistently shows that a decrease in political competition is associated with the higher likelihood of lustration. Notably, the effects of democracy, as well as political competition and state creation are attenuated after accounting for the terms for first government party share, NATO affiliation and liberalization.

Fourth, the parties that have stronger coalition shares in the parliament prove to have a statistically significant although small advantage. Also, a highly significant advantage is given to elites in countries that are closer to full NATO membership or are NATO members.

Finally, the findings about the impact of liberalization at the outset of transition and the level of competitive executive recruitment come as a surprise. The term for liberalization points to a slightly significant but substantial impact on the binary likelihood of lustration. The predictive power of this unweighted mean of indicators of economic progress as measured in 1989 is extremely high. Economic reforms at the time of regime change theoretically do not have a direct relationship to the question of transitional justice. Nevertheless, post-communist transitions
showed that political liberalization was initiated simultaneously with economic reforms. The high speed of democratization after 1989 in some post-communist countries was found to correlate with the concomitant economic liberalization. Economic performance during transition and initial conditions affected the progress in democratization. Scholars show that countries that were more developed at the outset of transition and those that grew faster during transition in turn implemented a greater degree of democracy (Fidrmuc 2003; Rodrik et al. 2004). Impacting directly the prospects of democratization, economic liberalization may have indirectly affected the ability to lustrate.

The results of the impact of competitive executive recruitment, as hypothesized in Chapter 3, are analytically intriguing. Competitive recruitment has a consistently negative impact on the binary likelihood of lustration. While its effect is not as significant and substantial as that of other predictors, competitive executive recruitment represents a puzzle of its own. The more executives are chosen through competitive means such as elections the more likely the state will not lustrate. This negative statistical association coincides with the statistical insignificance of political competition. Usually the political competition variable takes away the effect of executive recruitment. Here, competitiveness of recruitment seems to take over and shows a pattern similar to the one of political competition. From a statistical perspective, countries where the executive is recruited more competitively—where an election is less opposed or where the incumbent selection of successors is less recurrent—are less prone to lustration. The results show again that while democracy increases the likelihood of lustration, competitiveness does not.

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144 Other models show that this same variable has a positive impact on adoption (Table D. 7.2.C) and on the overall Lustration Index (Table 7.1).
7.2.3 Puzzle Two: The Intensity of Lustration

Table 7.2 reflects the result pertaining to the second puzzle of this study. It shows the variables that statistically best explain the massive variation in the intensity of lustration practices. Table 7.2 replicates the estimates of table 7.1, while accounting for the differences on the multi-level measure of lustration. Table 7.2 points to clear and consistent results. The most powerful predictors are party list electoral systems, truth commissions and democracy. In addition, NATO affiliation level and vote share in the parliament as well as past legacies of pre-communist independence explain lustration as predicted.

Some of the findings are similar to the findings presented in the model explaining the binary likelihood of lustration while others point to important differences. The terms for FHPR democracy and truth commissions remain consistent, strong and highly significant predictors. The levels of NATO affiliation and the share of the leading governmental party affect lustration from the perspective of intensity. Finally, the term for the period of state creation is strong albeit significant only at the 0.90 level.

What is substantially different about the second puzzle is the role of the electoral system. The term for party lists becomes highly determinative and significant when controlling for other variables. The coefficient on this variable indicates that for a change from a closed list to an open party list electoral arrangement, lustration garners between 3 and 4 levels on the 0-7 scale. The effect of party lists in models 2 and 3 would be stronger without controlling for the length of communism (compared to the same models in Table D.7.1.B, Appendix D). This can be attributed to the correlation with years under communism (r = 0.40).¹⁴⁵

¹⁴⁵ Note that the results in Model 5 are questionable. The weak predictive power of the model (rho of only 0.01) is most probably due to a smaller number of observations and a higher number of covariates.
In fact, the term for the duration of communism also emerges. Albeit significant at only the 0.90 level, the results show that the more time a society experienced communism, the less likely it is to lustrate. An added ten-year difference in communist regime decreases the likelihood of lustration by approximately a full point on the lustration scale.

### Table 7.2. The “Big-Picture” Model: Explaining the Intensity of Lustration

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<tr>
<th>VARIABLES</th>
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<td>(0.33)</td>
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<td>-0.45*</td>
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Standard errors in parentheses

**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

Random-effects Tobit regression, Gaussian (normal) distribution
The “big-picture” model makes it clear that institutional influences help decrease or increase the chances of the pro-lustration elite. Present constraints such as democracy, truth commissions and open lists have a great effect on lustration while the contextual influences of the past and of the international environment have a more modest impact.

While these findings hold true from the general perspective of lustration for the entire post-communist world since 1990, the nature of this relationship differs slightly for lustration understood separately as an institutional adoption and implementation. If lustration is understood through its various adoption levels in the legislature (Table D.7.1.C, Appendix D), the results do not substantially differ from the previous models. The only variable that becomes more significant and substantial in its effect is the competitive executive recruitment (as it was the case in Table 7.1 above).

More important changes are noticeable in the model that explains lustration as a measure of the number of people screened per capita (Table D.7.1.D.1, Appendix D). The effect of democracy from this institutional perspective of implementation becomes less consistent and substantial. What comes to the fore in these models are geopolitical factors such as distance from Prague and the West as well as NATO membership. For this reason, the question of democracy is further elaborated (see Table D.7.1.D.2, Appendix D). Testing for a number of specific indicators of democracy, the approach of “sophisticated residualism” shows that these factors take away the effect of the overall FHPR democracy. These factors remain insignificant except for the component of the performance of the judiciary (FH judicial). This latter finding is consistent with the prediction that higher levels for the overall capacity of judicial institutions correlate with the success of lustration commissions.
7.2.4 Puzzle Three: Periodization of the Big Picture

Table 7.3 explains lustration according to the question of timing. Breaking down post-communism into several periods, a complex picture emerges. While most of the main predictors analyzed above continue to play a major role, they do so differently across different periods.

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<td>-0.19+</td>
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<td>1.88*</td>
<td>0.48</td>
<td>1.71****</td>
<td>2.04****</td>
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<td>0.230</td>
<td>0.480</td>
<td>0.537</td>
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Standard errors in parentheses
**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10
Random-effects Tobit regression, Gaussian (normal) distribution
Certain factors affect lustration only in a specific period.\footnote{For a detailed analysis of general effects of periodization see Chapter 2 as well as Lieberman 2001, 1018.} For example, the legacy of more legally effective communist bureaucratization aided the pro-lustration elite only in the first decade after the fall of communism but not in the second. The same goes for pre-communist statehood, the experience of which increased the overall chances for lustration only in the first decade. Democracy too was a more important factor in the first than in the second decade. Yet, the term for judicial framework, accounting for constitutional reform or human rights protection, played a bigger role in the second decade.

Other factors play the opposite role in different periods. For instance, political competition had a negative impact on lustration in the first decade and a positive one in the second. The communist regime type had a negative impact on lustration in the first decade but a positive one in the second—meaning that the memory of a more harsh communism contributed to lustration in the first decade and the memory of a less harsh communisms contributed to lustration in the second. The same logic holds for the memories of pre-war democracy: in the first decades the experience of pre-war democracy contributed to lustration while in the second decade elites pushed for lustration while bemoaning the lack of democracy in the interwar period.

To summarize the empirical findings of the big-picture model, the following conclusions emerge. The first puzzle is best explained by the country’s level of democratization in the relative absence of political competition. Other factors such as presence of truth commissions, the experience of pre-communist independence, economic liberalization and legislative advantages provide the pro-lustration elite additional contextual resources for making lustration happen.
The model addressing the second puzzle shows a slight difference between two corresponding measures of lustration. Both the adoption and implementation levels of lustration mutually depend on some of the same factors explaining the binary outcome of lustration. Yet, the adoption levels depend more on factors constraining elites directly, such as the legislative share of the first coalition party and the party list electoral arrangement. The implementation levels depend more on the quality of the rule of law, citizens’ support of the new regime at the beginning of transition and the geographic proximity to the West.

Finally, the model accounting for the timing of lustration showed a more complex picture. While some factors play opposing roles in different time periods, the overall finding is that democracy and truth commissions played a more important role in the first years after the fall of communism while the rule of law more so in the second.

7.3 Lustration Within and Beyond Post-Communism: Prospects and Implications

This study has sought to offer comprehensive explanations for the origin and implementation of lustration. It has sought to defend the claim that political elites in democratizing societies use lustration as an excuse for political gain. The theory of “lustration politics” predicts not only the likelihood of lustration, but also its intensity and timing. Once a sufficient level of democracy appears in the arena of political process, the pro-lustration elite use the discourse of the oppressive past, of membership in international organizations and of the quest for justice as a pretext to gain and maintain political power. Such developments may imply important prospects for the post-communist world and beyond.

While a genuine desire for security, reform and justice on behalf of elites should not be excluded, the numerous examples and data of this study point to the political origins of
transitional justice. Elites design lustration to serve their political ends. If lustration proves to be opportune for the political elite, they perpetuate it in order to have available a ready and effective resource for political competition. As an Albanian politician put it: “Lustration went wrong because it was always introduced to further other goals.”

Such political behavior may result in a variety of political consequences. As a tool of elimination, lustration can be used against former authoritarian elites as well as former dissidents. It can result in a political game of blaming and unwarranted exclusion. A member of the Georgian opposition put it colorfully (G 17):

This is a popular way of blackmailing, of blaming. Now, we have to blame the Russian agents. This is the same shit, the same deadlock. And that’s the point: the [lustration] law will revive [the past by] going around the same circle of blaming each other.

The findings of this study have important policy implications. Several post-communist societies continue to debate and adopt lustration. Twenty years after the fall of communism, regional elites are booming with lustration proposals. Even after 2010, lustration is being inserted into media debates, politicking and even voting. The pro-lustration elite are igniting a powerful yet divisive type of political discourse at the fledgling levels of the democratic processes. Examples span from Armenia and Georgia to Russia and Ukraine as well as from Kirghizstan to Macedonia and Romania. None of these countries are fully democratic. To the contrary, most of these are hybrid regimes at best. Yet, while many of these countries have declined in aggregate scores of democracy in the last decade, their political elites seriously consider the prospects of lustration. While the likelihood of lustration is not nil because of the renewed hopes of political competition, the real chances of current lustration are low. Such prospects, however, have not stopped politicians and activists from attempting it. An Armenian

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147 Arben Imami, an interview from 2005 (Austin and Ellison, 2009: 196).
pro-lustration actor from the opposition answered the question. “Why talk about lustration while you know that lustration cannot pass?” (A 01)

For many decades I knew that the independence [of Armenia] was impossible but I talked about it and fought for it. And we got independence. New generations will come, and are coming, who want to know [about the former collaborators]. The states that had this [lustration], such as Poland and Germany, had significant changes and got rid of this [problem through lustration].

As countries such as Ukraine and Kirgizstan undergo precarious transitions and discuss lustration, they may use lustration for particular political benefits.\textsuperscript{148} One of the implications in their lustration struggle is a conceptual one. This study has treated collective responsibility as a conceptual attribute of lustration’s sub-dimension of past involvement (see Chapter 1; Appendix B). While this attribute distinguishes lustration from vetting and purges it does not require the former regime to be declared criminal. This goes against, for example, the claim of the Kyrgyz former prime minister Kulov, who said that “for the legislation on lustration to be passed all previous ruling regimes must be declared criminal” (HB. 2010). Such conceptual misuse could either prevent the regime from dealing with the old elites or lead to large-scale purges.

Another implication is that countries considering lustration may engage in processes that end up increasing divisions within the society and polarizing the political elite. A possible way to address this challenge is through the participation of international actors. The international arena has proven to influence lustration prospects (see Chapter 5). International players such as the European Union or NATO could provide those countries in transition, many of which aspire to join various EU and NATO programs, unambiguous guidelines regarding transitional justice and the EU’s expectations with regard to lustration processes.\textsuperscript{149}

\textsuperscript{148} For example, since the summer of 2010, there has been a strong increase in the demand for lustration in Kyrgyzstan from the public and the elites alike (see RFI 2010 [cited 11/20/2010]).

\textsuperscript{149} For reasons of misuse or abuse of lustration, the international community often approves of lustration only as “an extraordinary intervention against individuals who might normally not be removable, and is justified by exigent
Furthermore, the variations touched on in this study provide some indication that several theories of lustration have insufficient power to predict it from a broader comparative perspective. Within the current post-communist world, prominent theoretical alternatives—such as proximity to elections, party left-right orientation and harshness of the previous regime—have proven to play a modest or no role. Still other hypothesis remain valid only under limited conditions of lustration models.

The results also point to clear avenues for future research. Firstly, the findings have implications for countries beyond the post-communist world. Based on the determinants uncovered in this study, some countries may not experience lustration. Cuba is one such example. Even after Cuba’s potential regime change and democratization, elites competing for power may be significantly constrained by their institutional environment. More precisely, the long duration of Cuba’s single party regime, the absence of democracy before the coup of 1959 and the presence of homegrown communism (vs. foreign occupation) would heavily restrain the prospects of pro-lustration elites. While only limited predictions can be made about the impact of institutional choice on subsequent legislative and party politics, lustration in Cuba represents a possibility but its chances are low. Based on these broader premises, similar predictions can be made for countries such as Vietnam, North Korea and China. That being said, the crucial empirical unknown that may prove this prediction wrong for Cuba is the impact of the international environment and the country’s proximity to the United States. As the U.S. policies political circumstances, such as the political transition immediately after 1989” (EU Monitoring and Advocacy Program 2001, 194). Theorists express a number of other concerns related to lustration. One danger is that lustration tends to deal with classes or categories of people without regard to individual criminal responsibility. Lustration may tend to produce a number of cases of individual injustice (cf. Bassiouni 1996, 21). These concerns represent a serious dilemma because the nature of lustration could be seen as a punitive, a disciplinarian or maybe an administrative one, or a combination of the three. In that sense, Trkulja argues, “it is useful to remember the statements of some German dissidents who said that they had expected justice and were awarded, instead, the rule of law” (Hatschikjan 2004, 22). Many years “after the event, the introduction of such rules at the least raises reasonable concerns that the motivations are more immediate and narrowly political” (EU Monitoring and Advocacy Program 2001, 194).
represented a major cause of de-Ba’athification in distant Iraq, its influence on more proximate Cuba may not be negligible. The Cuban diaspora in the U.S. could play a role in Cuba’s lustration politics.\textsuperscript{150} Many individuals from a large exiled Cuban-American population and particularly from the Cuban-American lobby are not only heavily opposed to the current communist regime but also actively engaged in abuse documentation, embargo and regime-change support. Moreover, the ongoing U.S. democracy promotion programs through Cuban exile groups could create a structural framework favoring the removal of the communist elites from power through lustration. Nevertheless, such a prediction may overly assume a relentless interest of the exile community to return and influence the Cuban politics from within.

Secondly, lustration has outlived the normative expectations about the “transitional” nature of transitional justice. The often theorized legal and moral exigencies of political transition may have been satisfied in the past two decades. Moreover, most of the post-communist regimes are consolidated (in one type of political regime or another) and can hardly be considered to be in a transition phase (Carothers 2002; Rustow 1970). Yet, lustration continues to mark the political process of new regimes (Stan 2009c; Tanasoiu 2009). Their political elites continue to discuss, use, reject and abuse lustration. The origins of lustration are therefore not merely legal. Nor are they merely an outcome of normative desires of reconciliation, justice or national security. While lustration may carry symbolic meanings, reset value systems and pass moral judgment, lustration is first and foremost a political arrangement. It is a means of political competition more than a means to achieve transitional justice. It is a political tactic rather than a just measure. In short, lustration represents a political tool producing political results at politically defined times.

\textsuperscript{150} The author would like to thank Eusebio Mujal-Leon for this insight.
This study has demonstrated substantial support for the political explanation of the origin and implementation of lustration. The empirical support has been established by the powerful joint influence of historical legacies and of post-communist regime developments on political elites. The narrative reinforced by case studies of Georgia and Russia has strongly implied that actors involved care far more about political power than justice. Moreover, the use of an original variable and an original dataset has shed new light on the role of the transitional elites. The contribution of the Lustration Index and the ECEFSUM dataset compel scholars to reconsider lustration. The findings based on these data problematize the contemporary understanding of democracy, autocracy and transitional justice. Lustration must be considered as a product of politics in democratizing regimes. As shown above, the choices of benefit-seeking elites depend on inherited social capital and institutional constraints that affect transitional justice in ways that account for lustration as a political means.
Addenda

Appendix A: Coding of the Variables and Summary Statistics

This appendix describes the nature and source of the data used throughout the study.

Variables in Tables A.1 and A.2 are listed by the chapter structure order of this study.

Table A.1. Overview of Variables, Definitions, Coding and Data Sources

<table>
<thead>
<tr>
<th>Variable</th>
<th>Definition, Coding and Measurement</th>
<th>Data Source</th>
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</thead>
<tbody>
<tr>
<td><strong>Lustration Scores</strong></td>
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<tr>
<td>Lustration</td>
<td>A 0-7 scale based on the number of screened persons per capita, coded as: 0-4 no lustration, 5-7 lustration. I.e., 0= LP non-existent; 1 = LP introduced; 2 = LP attempted, 3 = adopted, 4 = implemented w/o screening; 5 = 1StD from median (0) of screened per capita; 6 = Between 1st and 2nd StD from median; 7 = Above 2nd StD from median.</td>
<td>Author; See Appendix B</td>
</tr>
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<td>Lustration binary</td>
<td>Dichotomized lustration dummy variable, coded 1 if lustration is implemented in a given year; 0 otherwise</td>
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</tr>
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<td>Lustration Adoption</td>
<td>A 0-4 scale measuring the degree to which a lustration program has been adopted through legislative or executive procedures</td>
<td>See above</td>
</tr>
<tr>
<td>Lustration Implementation</td>
<td>Variable measuring the number of screened persons per capita in a given year (in percent)</td>
<td>See above</td>
</tr>
<tr>
<td>Lustr. Impl. Trichotomized</td>
<td>See variable Lustration above</td>
<td>See above</td>
</tr>
<tr>
<td>Lustration program</td>
<td>Sum of scores for the scope of lustration program’s sub-dimensions (past positions, protected positions, and method) Sub-dimensions: 1 = harsh, 0.5 = mild, 0 = absent</td>
<td>Author; See Appendix C</td>
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<td>LP: Past Targets</td>
<td>See above</td>
<td>See above</td>
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<tr>
<td>LP: Protected Targets</td>
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<td>See above</td>
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<td>LP: Method</td>
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<td>Surface area (in square kilometers; natural log)</td>
<td>WDI (World Bank 2012)</td>
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<td>Distance between Brussels and a country’s capital (in kilometers; natural log); Time invariant</td>
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<td>Distance to Prague</td>
<td>Distance between Prague and a country’s capital (in kms; natural log; Time invariant)</td>
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<td>A country is a successor state of the Soviet Union: 1 = yes, 0 = no; Time invariant</td>
<td>Author</td>
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<td>Religious legacy</td>
<td>Religious/cultural heritage: 3 = Western, 2 = Orthodox, 1 = Muslim; Time invariant</td>
<td>Author’s modification of: (Pop-Eleches 2007; Schimmelfennig &amp; Scholtz 2010)</td>
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<td>Imperial legacy</td>
<td>3 = Western, 2 = mixed, 1 = Russian/Ottoman; Time invariant</td>
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<td>State creation period</td>
<td>The period in which a state is created (regardless of potential subsequent occupation): 4 = post-1989, 3 = post-1945, 2 = post-1918, 1 = pre-1918; Time invariant</td>
<td>Author’s calculations based on: (Schimmelfennig &amp; Scholtz 2010)</td>
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<td>State created after 1989 for the first time: 1 = yes, 0 = no; Time invariant</td>
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<td>Post-18 state creation</td>
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<td>See above</td>
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<td>State age</td>
<td>Continuance of independence since the creation of a state: 3 = new states (post 1989), 2 = renewed states, 1 = old states (continuous independence since WWI); Time invariant</td>
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<td>Occupation</td>
<td>Independence crushed by a communist state: 1 = yes, 0 = no; Time invariant</td>
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<td>Average Polity II Regime score 1919-1939; Time invariant</td>
<td>Author’s calculations based on: Polity, (Marshall et al. 2006; Pop-Eleches 2007)</td>
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<td>Axis Powers membership</td>
<td>Membership in the Axis alliance: 3 = yes, 2 = puppet states, 1 = no; Time invariant</td>
<td>Author’s coding based on: (Tismaneanu 2009b)</td>
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<td>Duration of communism</td>
<td>Number of years under the communist rule; Time invariant</td>
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<td>Communist bureaucracy</td>
<td>Levels of formal communist bureaucratization: 1 = high (bureaucratic-authoritarian), 2 = mix, 3 = intermediate (national-accommodative), 4 mix, 5 low (patrimonial); Time invariant</td>
<td>(Kitschelt et al. 1999)</td>
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<td>Post-war regime type</td>
<td>Average Polity 2 regime scores for a country’s post-war communist period; Time invariant</td>
<td>Author’s calculations based on Polity: (Marshall et al. 2006)</td>
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<td>Crushing mass dissent</td>
<td>A country’s experience of violent crush of massive organized dissent: 1 = yes, 0 = no; Time invariant</td>
<td>Author</td>
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<td>State terror 1980s</td>
<td>Political Terror Scale, average 1980 – transition: 1 (low human insecurity) -5 (high); Time invariant</td>
<td>Author’s calculations based on: PTS (Wood &amp; Gibney 2010)</td>
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<td>State terror at transition</td>
<td>PTS average two years before transition; See above</td>
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<td>Years (before and) since the transition</td>
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<td>First elections sequence</td>
<td>Chronological placement of first country election in regards to other states; Time invariant</td>
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<td>Power balance at transition</td>
<td>After the first multiparty Legislative elections demonstrate the balance of power in favor of: 1= ancien régime, 2 = even/unclear, 3 = challengers; victory is winning more than 60 percent of the vote; (TI)</td>
<td>(McFaul 2002)</td>
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<td>Economic liberalization 89</td>
<td>Unweighted mean of the eight EBRD indicators of progress in transition; Time invariant</td>
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<td>See above; variable for 1994</td>
<td>(Fidrmuc 2003)</td>
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<td>See above; variable for 2000</td>
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<td>The largest ethnic group as a proportion of total population, prior to 1989; Time invariant</td>
<td>(Roeder 1999)</td>
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<td>Public support for the new post-communist system of government</td>
<td>(Rose 2007)</td>
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<td>Supporting Regime 06</td>
<td>See above</td>
<td>(Rose 2007)</td>
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<td>Fractionalization</td>
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<tr>
<td>Cultural diversity</td>
<td>Measuring cultural differences between groups, ranging from 0 (perfectly homogeneous) to 1 (highly</td>
<td>(Fearon 2003)</td>
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<tr>
<td></td>
<td>diverse); In percent; Time invariant</td>
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<tr>
<td>Ethnic fractionalization</td>
<td>Ranging from 0 (perfectly homogeneous) to 1 (highly fragmented); Time invariant</td>
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<tr>
<td>Largest minority share</td>
<td>Population share of the second largest group (largest minority); Time invariant</td>
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<tr>
<td>Plurality group</td>
<td>The population share of the largest group (plurality group) in the country; Time invariant</td>
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<tr>
<td>Religious fractionalization</td>
<td>Share of religions in a country in early 1990s; Higher the ratio, the more religiously</td>
<td>(Alesina et al. 2003)</td>
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<td></td>
<td>heterogeneous is a country</td>
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<tr>
<td>Ethnic exclusion</td>
<td>Percentage share of excluded population in total politically relevant population in a given year</td>
<td>(Cederman et al. 2009)</td>
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<td>Violence &amp; HR violations</td>
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<td>State terror</td>
<td>Political Terror Scale; per year: 1 (lowest) to 5 (highest human insecurity)</td>
<td>Author’s calculations based on: PTS (Wood &amp; Gibney 2010)</td>
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<td>Interstate violence</td>
<td>Major Episodes of Political Violence (MEPV); score of international violence and warfare involving</td>
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<td>and war</td>
<td>that state; 1 (lowest) – 10 (highest), 0 = no episodes</td>
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<td>Societal violence</td>
<td>Total summed magnitudes of all societal MEPV involving that state in that year; 1 (lowest) to 10</td>
<td>(Marshall 2010)</td>
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<td>Total violence</td>
<td>Total summed magnitudes of societal and interstate violence</td>
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<td>Military costs</td>
<td>Military expenditure as percent of GDP</td>
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<td>Youth share</td>
<td>Percentage of total youth population 15 to 34 years old (both males and females).</td>
<td>Author’s calculation based on: (US Census Bureau. 2011)</td>
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<td>Youth share, males</td>
<td>Percentage of total youth population 15 to 34 years old (males).</td>
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<td>Youth share, females</td>
<td>Percentage of total youth population 15 to 34 years old (females).</td>
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<td>GDP per capitu a year at PPP (constant 2005 international $), in thousands</td>
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<td>Public perceptions of corruption (and other criteria) by year; the original 1-7 FH scale was reversed, ranging from 7 (highest) to 1 (lowest, i.e., corrupt)</td>
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<td>Corruption average</td>
<td>“AvgCorr” = averaging “Corr” based on the 1999-2010/11 period; Time invariant</td>
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<td>Judicial framework</td>
<td>Constitutional reform, HR protections, judicial independence, etc.; FH scale reversed: from 7 (highest) to 1 (lowest);</td>
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<td>Each pair of political rights (PR) and civil liberties (CL) ratings is averaged to determine an overall status of &quot;Free&quot; (7.0-5.5), &quot;Partly Free&quot; (5.0-3.0), or &quot;Not Free&quot; (2.5-1.0); FH scale reversed</td>
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<tr>
<td>Civil liberties</td>
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<tr>
<td>Democratic governance</td>
<td>NIT’s national democratic governance score, examining the character and stability of the governmental system; See above for range</td>
<td>(FH 2012)</td>
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<td>Electoral process</td>
<td>NIT’s measure examining elections, electoral processes, the development of multiparty systems, and popular participation; See above for range</td>
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<td>Electoral process (average)</td>
<td>Averaging “ElPro”, based on 1997-2010/11 period; Time invariant</td>
<td>Author’s calculations based on: NIT data (FH 2011)</td>
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<td>Polity IV regime</td>
<td>Revised combined polity score: -10 (autocracy) to 10 (democracy)</td>
<td>(Gurr et al. 2010)</td>
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<td>Regime durability</td>
<td>The number of years since the most recent regime change</td>
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<tr>
<td>Competitive exec. recruitment</td>
<td>A measure of the extent to which subordinates have equal opportunities to become super-ordinates. Scale ranges from 1 (selection) to 3 (election)</td>
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<td>Executive constraints</td>
<td>The extent of institutionalized constraints on the decision-making powers of chief executives. Scale ranges from 1 (unlimited authority) to 7 (executive parity)</td>
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<td>Political competition</td>
<td>The index measures the degree of institutionalization of political competition and the extent of government restriction on political competition. Scale ranges from 1 (suppressed) to 10 (competitive)</td>
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<td>Presidential power</td>
<td>The index is based on the presidential powers stipulated in a country’s constitution. Higher the number on the scale, more power is granted to president by constitution</td>
<td>Author’s calculations based on: (Frye 1997; Metcalf 2000)</td>
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<tr>
<td>System of the executive</td>
<td>The executive system of a country ranging from Parliamentary (3), Assembly-elected President (2) to Presidential (1); Author’s recoding</td>
<td>(Keefer 2010)</td>
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**ELITES**

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<tr>
<td>Legislator's age at term</td>
<td>Average age at election of all MPs</td>
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<td>Legislator's age at year</td>
<td>Average age at year of all MPs</td>
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<td>Leader’s age</td>
<td>Age of each leader in a given year; Data available until 2004</td>
<td>(Goemans et al. 2009), after 2004 Author coding</td>
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<tr>
<td>Executive in office</td>
<td>Years are counted in which the chief executive was in power</td>
<td>(Keefer 2010)</td>
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<tr>
<td>Executive’s party age</td>
<td>Party age from the first year that the party was founded under its current name; if founded prior to 1989, coded 0 in 1989</td>
<td>(Keefer 2010), recoded by Author</td>
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<tr>
<td>Party age: Gov 1 (largest)</td>
<td>Largest [2nd, 3rd] government party’s age; Time since formation; if founded prior to 1989, coded 0 in 1989</td>
<td>(Keefer 2010), recoded by Author</td>
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<tr>
<td>Party age: Gov 2</td>
<td>See above</td>
<td>See above</td>
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<tr>
<td>Party age: Gov 3</td>
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<td>See above</td>
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<tr>
<td>Party age: Opp 1</td>
<td>Largest opposition party’s age; time since formation, see above</td>
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<td><strong>Legislature &amp; Parties</strong></td>
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<td>Largest party’s size</td>
<td>Counts the largest party’s number of seats divided by the legislative assemblies’ total number of seats, expressed in fractions. Data until 2008</td>
<td>(Hadenius &amp; Teorell 2007)</td>
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<tr>
<td>Government vote share</td>
<td>The total vote share of all government parties per parliament; Percentage</td>
<td>(Keefer 2010)</td>
</tr>
<tr>
<td>Opposition vote share</td>
<td>Records the total vote share of all opposition parties per parliament; Percentage</td>
<td>(Keefer 2010)</td>
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<tr>
<td>Party share: Gov 1 (largest)</td>
<td>The vote share of the largest [2nd 3rd] government or opposition party; Percentage</td>
<td>(Keefer 2010)</td>
</tr>
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<td>Party share: Gov 2</td>
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<tr>
<td>Party share: Gov 3</td>
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<tr>
<td>Party share: Opp 1</td>
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<td>Party share: Opp 3</td>
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<td><strong>Pol. orientation</strong></td>
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<tr>
<td>Executive political orientation</td>
<td>Executive (Party) orientation in regards to economic policy. Range: Right (1); Left (3); Center (2); No information (0); I recode 0 values as missing observations</td>
<td>(Keefer 2010)</td>
</tr>
<tr>
<td>Nationalists in government</td>
<td>The government’s largest party is listed as nationalist (1), otherwise 0</td>
<td>(Keefer 2010)</td>
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<tr>
<td>Nationalists in opposition</td>
<td>The opposition’s largest party is listed as nationalist (1), otherwise 0</td>
<td>(Keefer 2010)</td>
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<td><strong>Elections</strong></td>
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<tr>
<td>President’s 1st round share</td>
<td>The percentage of votes a president gets in the 1st round; If not an election year, records most recent election</td>
<td>(Keefer 2010)</td>
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<td>Election year</td>
<td>1 = election year, 0 = otherwise</td>
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<tr>
<td>Years to election</td>
<td>Denotes how many years needed to the next election; 0 = election year</td>
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<tr>
<td>Proximity to elections</td>
<td>Denotes years difference from election; 0 = election year</td>
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<tr>
<td>Voter fraud</td>
<td>Extra-constitutional irregularities: 1 = fraud or candidate intimidation serious enough to affect the outcome of elections, 0 = otherwise; If not an election year, refers to most recent election</td>
<td>(Keefer 2010)</td>
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<tr>
<td>Proportional representation</td>
<td>1 = yes (at the national level, candidates are elected based on the percent of votes received by their party), 0 = no</td>
<td>Author’s calculations based on: DPI data (Keefer 2010)</td>
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<td>Closed lists</td>
<td>Closed list are coded a 1 if voters cannot express preferences for candidates within a party list, 0 if voters can</td>
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<td>EU applicant status</td>
<td>Dummy variable coded 1 for all the years of a country having EU applicant status, 0 otherwise</td>
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<td>Dummy variable coded 1 for the year a country joined the EU, 0 otherwise</td>
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<td>EU membership year</td>
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<td>Dummy variable coded 1 for all the years of a country being a NATO member, 0 otherwise</td>
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<td>NATO affiliation scale</td>
<td>NATO affiliation scale: Membership in Partnership for Peace is coded 2, membership Action Plan 3, membership in NATO 4, 1 otherwise.</td>
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<td><strong>Social Capital</strong></td>
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<td>Civil society</td>
<td>Assesses NGOs’ growth, organizational capacity, sustainability and political environment. FH scale reversed, ranging from high (7) to low levels (1); Data: 1997-2010</td>
<td>(FH 2011)</td>
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<td>Civil society average</td>
<td>Averaging &quot;CivSoc” from the 1997-2010 period (See above); Time invariant</td>
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<td>Political interest</td>
<td>Percentage of respondents who frequently discuss politics; Data for 1995</td>
<td>(Raiser et al. 2001; WVS. 1995)</td>
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<tr>
<td>Process-based trust</td>
<td>Percentage of respondents who value friends a lot; 1995</td>
<td>See above</td>
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<td>Confidence in legal system</td>
<td>Confidence mean scores in the institution (1 = low, 4 = high confidence); 1995</td>
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<td>Confidence in government</td>
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<td>Population active in parties</td>
<td>Percentage of the population active in political parties; in 1995; Time invariant</td>
<td>(Fish 2005; Raiser et al. 2001; WVS. 1995)</td>
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<td>Trials</td>
<td>Dummy variable coded 1 for when perpetrators of HR violations are held criminally accountable in a court of law and a verdict is rendered, 0 otherwise</td>
<td>Author; (Olsen et al. 2010b)</td>
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<td>Dummy variable coded 1 for a commission investigating past HR abuses, officially sanctioned by a state or an international governmental organization, 0 otherwise</td>
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<td>Amnesties</td>
<td>Dummy variable coded 1 for official state declarations that those accused or convicted will not be prosecuted or will be released from prison, 0 otherwise</td>
<td>(Olsen et al. 2010b)</td>
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<td>Reparations</td>
<td>Dummy variable coded 1 for an official state policy granting monetary payment or restitution of monetary value to victims or their relatives, 0 otherwise</td>
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<td>Lustration Policies</td>
<td>A dummy variable coded 1 for when the state enacts official policies denying employment in public positions to individuals because of their former political acts or identity, 0 otherwise</td>
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Table A.2. Summary Statistics of the Variables and Bivariate Correlation with Lustration (“Lustr”)  
*Note on Correlations:* ECEFSU 1st & 2nd column, ECE 3rd; e-4: significant at p-value 0.001; e-11 at 0.00000000001

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Appendix B: The Concept behind the 1990-2012 Lustration Index

Introducing the Concept

Appendix B provides a detailed theory of the concept of lustration. It introduces a three-level theoretical framework of the concept. After the main challenges to concept-building are reviewed (Section B.1), the appendix presents the basic level of the concept of lustration and provides an original theoretical structure (Section B.2). On the basic level, the concept consists of two essential characteristics: the “lustration program” and the program’s “implementation.”

The concept-building strategy uses the “family resemblance” approach to construct the secondary level of the concept. Analyzing lustration programs (Section B.3) and implementation (Section B.4), this approach employs the mathematical principle of union from logical set theories. It presents the multidimensional aspect of lustration and provides “conceptual adequacy” between the different levels of the concept (Gerring 1999; Goertz 2006; Wittgenstein [1953] 2001). Finally, the third level attributes of the concept provide specific indicators that enable the concept to be consistently and coherently measured (Appendix C).

B.1 Challenges to Concept-Building

Scholars and policy makers have faced a growing complexity surrounding the question of lustration since the early 1990s. Scholars in particular have attempted to provide a generalizable, reliable and valid concept behind the variety of lustration policies. Yet, these conceptualization efforts have often proved insurmountable. The first challenge to concept-building has been the newness of the term. The second are its normative undertones. The third is a great variety of lustrations.
B.1.1 The Newness of the Concept

Lustration as a concept represents a relatively recent label for phenomena that are related to the vetting procedures of transitional justice in democratization processes. Since 1989, lustration has become one of the dominant concepts and mechanisms of transitional justice in the post-communist world. Moreover, while other regions and historical periods witnessed similar mechanisms, the post-communist region has reinvented lustration as a concept. However, the term has remained too vague to adequately describe the institutional arrangements in the process of government reform that regulate political participation of discredited bureaucrats and elites. The newness of the concept in the post-communist world, and the lack of terminological agreement in the early 1990s, has challenged the conceptualization efforts ever since.

Geographically, lustration is not limited to post-communism. Since 2005, Afghanistani election organizers have had a system to screen potential candidates for links to illegal armed groups and other criteria constituting violations of the electoral law and the constitution (Ayub et al. 2009, 3). In post-Mubarak Egypt, the provisional government adopted a lustration law in order to prevent former regime officials from running for office.151 Similar processes have taken place in Iraq with the 2003 de-Ba’athification (David 2006; Dobbins et al. 2009).

Historically, lustration dates back to ancient Greek (catharsis) and Roman (lustratio) examination and purification rituals (Heitland 1909; Valpy 1928). Examples of political lustration include the British Act of Settlement of 1701, which as a result of religious wars

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151 In Egypt the word lustration became prominent after a Georgetown PhD candidate from the Department of Government, Hesham Sallam, helped a news agency find an English language equivalent. “I was actually in the news room right before they ran that particular article when they were trying to find a word in English for this law […] and I told them it's "lustration" and that I know that because my friend Peter Rozic is working on a dissertation on lustration laws. And they were so impressed that was able to bring that very elusive term to their attention.” (Personal correspondence, November 28, 2011). For more details, see Raslan 2011; NOW 2012 [cited 4/29/2012] ; BBC 2012 [cited 4/29/2012].
prevented Catholics from succeeding the throne in the United Kingdom (Hall 2005). The U.S. Reconstruction era witnessed postbellum lustration of confederate officials. The lustration provision of the Fourteenth Amendment involves the power to bar from office experts and candidates who had fought for or served secessionist states (Posner & Vermeule 2004). Since 1945 the de-nazification efforts have served as a model for other lustration-like practices. Postwar France used épuration légale to remove individuals who had collaborated with the Vichy regime from public office. Belgium and the Netherlands underwent similarly dramatic postwar purges. Greece as part of its democratization after 1974 purged the state apparatus and the military of the members of the junta regime (Herz 1982).

The contemporary use of the concept has been regionally stimulated by its early implementation in post-communist Czechoslovakia. Ironically, the term emerged during communism to describe screening processes by the communist secret police. Lustrace was a counter-intelligence program designed to root out spies and double agents, who provided information to the West. Lustrace meant to determine whether any information existed about a person of interest in the databases of the Czechoslovak secret police (David 2011, 66; Stan 2011).

After the fall of communism, the meaning of the term was reversed. Lustrace was “revived to describe the process of weeding out members of the old Nomenklatura and their agents and collaborators” (Bertschi 1994, 436). This conceptual reversal, however, maintained the same basic principle. Lustrace describes “the examination of certain groups of people, especially politicians, public officials and judges, to determine whether they had been members or collaborators of the secret police, or held any other positions in the repressive apparatus of the totalitarian regime” (David 2003, 388).
A researcher at the Institute for the Study of Totalitarian Regimes (USTR), which is in part carries out lustration processes in the Czech Republic, explains the word usage (CZ 03):

*We use lustrace even today at the USTR. Lustrovat means to check the names in the files. It can be also used in a negative sense of checking one’s past: Ne lustrovit means don’t unfairly use somebody’s name from the past in the discussion, don’t speak about the past.*

In a similar but more technical sense, *lustrace* stands for searching an archive for a particular name or other information, such as searching a database of stolen vehicles for car data verification (David 2011, 66).

This aspect of vetting was adopted early by Czech scholars and judges when discussing lustration. In the early 1990s, for example, Czech constitutional court justice Cepl defined lustration from the perspective of vetting in a political sense. For him, lustration is the “examination of records seized from the secret police to discover whether people in position of authority had been, during the communist era, among the more than 100,000 collaborators secretly informing on their fellow citizens” (Cepl 1992, 24). However, over the years the same authors added to this vetting or examining component of lustration the exclusion from governmental power and political life of those individuals whose actions have manifested hostility to democratic principles (Cepl 1997). After the passage of the 1991 Czechoslovak lustration law, lustration started to represent “screening whereby those whom secret-police files show to have been collaborators are barred from holding certain key governmental or societal posts” (Gillis & Cepl 1996, 118).

While the contemporary use of lustration still contains “examination” as one of its basic conceptual components, the meaning evolved through time and space. The heterogeneous operations of lustration programs of the post-communist world significantly affected the broadening of the term. For example, in the Czech Republic, lustration refers to disqualification,
in Hungary to revelation, in Poland to confession, and so on. The use of verification thus depends on the specificity of the lustration method provisioned in a lustration program.

While the conceptual origin of lustration as a mechanism of transitional justice is Czech, many have presumed that the Czechoslovak law of October 1991 was also the first lustration law ever adopted. However, some post-communist lustration programs had been discussed and implemented earlier and under different forms. In Germany, from October 1990 until the passing of the Stasi Records Act (StUG) in December of 1991, the Gauck’s office gave out information for the purposes of the background-checking of delegates and employees of public administrations (Birthler 2009, 26). So-called Sicherheitsüberprüfung (also Überprüfung, for vetting) was first proposed in Germany in the autumn of 1989 and started in the spring of 1990 based on the Unification Treaty and the legal interpretations of West German jurists (Blankenburg 1995). The subsequent legal bases for German lustration framed the policy as an attempt to assess the employee’s current and future reliability in a democratic public sector although the vetting was initially conceptualized as a response to past misconduct (Halmai 2007).^{152}

Other countries besides Germany passed or attempted lustration prior to Czechoslovakia. In 1990, Poland passed a so-called “light” lustration law. The Polish parliament wanted to ensure that police officers and prosecutors who had been involved in repressing opposition activity lost their jobs (cf. Calhoun 2002; Killingsworth 2010a). In Hungary the first draft law aiming at the treatment of the agents and security files was tabled in October 1990 by the opposition. The

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^{152} Several legal acts regulate German lustration: the Unification Treaty, the StUG archives law, the civil service codes and constitutions of the new states in the East, and the Federal Civil Service Code. The StUG archives law, which also deals with lustrative practices, replaced a number of temporary provisions of the Unification Treaty, which had themselves replaced a similar GDR law of August 1990. The Stasi records were available for the purposes of prosecuting crimes in the first of several trials of former East German border guards that began in September of 1991 (McAdams 1996, 53-80). However, due to the multiplicity of these acts, the practice of lustration has been uneven across sectors, states, and departments (See Wilke 2007, 391; Crossley-Frolick 2007, 197-213).
October draft had been preceded in June by a broad governmental “Justitia” draft (Williams et al. 2005). While these drafts were voted down, they created pressure for a lustration policy. In May 1991, the Hungarian government tabled another bill, which, extensively amended, was adopted in 1994 (Barrett et al. 2007). In Romania, the Timisoara Declaration of 1990 (point 8), which was never put into practice, would have banned any functionaries of the Romanian Communist Party from participation in political life (Dix 2010, 1). These attempts and policies, all of which preceded the Czechoslovak law, did not explicitly refer to “lustration.”

Yet, while even the Czechoslovak law did not include the term as such, the term achieved its prominence with the debates surrounding the influential Czechoslovak law and the term appeared in the international arena.

B.1.2 Normative Undertones

A second challenge related to the definition of lustration comes from an understanding of transitional justice that exhibits strong ideological, ethical and normative undertones. In fact, research has been challenged by a contested debate about the role of broader expectations and purposes of lustration. For instance, the International Center for Transitional Justice has considered vetting and lustration as linked to “the state’s duty to prevent the recurrence of human rights abuses” and as “reforming abusive institutions” (ICTJ. 2008).

Other authors claim that lustration entails not only an institutional component with tangible purposes but also symbolic ones. For instance, lustration can symbolically signal a break with the past and bureaucratically change the composition of public institutions and the government.

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153 Serbia’s 2003 lustration law was one of the earliest adopted legislative measures to use the word lustration.
154 In terms of defining transitional justice (TJ) from a normative perspective, the Secretary General of the United Nations issued a report defining TJ as a “society’s attempts to come to terms with a legacy of large scale past abuses, in order to ensure accountability, serve justice, and achieve reconciliation” (UN Security Council 2004, 4).
The media and politicians often describe lustration as symbolic acts. For instance, the 2011 Georgian law or the 2012 Romanian law would have presumably produced their effects two decades ago and have now only a symbolic effect, marking an attempt to break with the past (Ciocoiu. 2012). In this sense, lustrations carry a symbolic meaning that affects their propensity to generate political and social effects. For example, different types of lustration may send different ideological messages that affect trust in government and the social standing of former adversaries (Choi & David 2012; David 2011). Lustration may guarantee the moral and professional standards of top public officials and thus increase public confidence in state institutions. Such normative prescriptions have been based on the argument that the influence of former communists and conformists on the new bureaucracy needs to be limited because of presumably impaired values of the communists and because of the lack of integrity of the conformists (Letki 2005, 78).

Moreover, according to more radical normative views it has become “quite clear that to successfully consolidate democracy, it is necessary to remove from power, as thoroughly as possible, all institutions and individuals associated with the past regime” (Balaš 2010, 172). The Albanian lustration law of 1995 explicitly refers to the use of lustration as a means “to secure the purity of the democratic life of the [...] state in the period of post-communist transition” (The People's Assembly of the Republic of Albania 1995). The safeguarding of democracy would thus require lustration in a form of a rupture with the past.155

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155 Similarly, Meierhenrich claims that “although lustration is just one of many institutions of jus post bellum, it is arguably one of the most important. The pursuit of administrative justice affects the reconstitution of the public sphere—literally and figuratively—in more fundamental ways, and thus more far-reaching ways, than most other institutions of transitional justice” (Meierhenrich 2006, 103). Moreover, lustration encompasses other forms of justice as well, such as retributive justice, in that it punishes perpetrators, or distributional justice, in that it can lead to the redistribution of resources (See Duthie 2007, 35). From a normative perspective, lustration would not only reestablish the rule of law in the process of societal transition and disclose the truth about the past by identifying perpetrators throughout the administration and victims in all social groups. Lustration would also “establish a
Scholars and policy makers have frequently understood lustration as a normative good addressing a variety of relevant aspects of democratization. These include justice, reconciliation, public trust, economy, institutional reform and national security. Even minor democratic efforts through lustration would lead to changes in the makeup of the personnel of a public institution (Mayer-Rieckh 2007). In order to accomplish and safeguard democratic changes, lustration efforts have aimed at neutralizing the influence of people who were closely connected to the former regime.

The normative assumptions behind these efforts have been that “officials and collaborators of the former regimes would undermine the new democratic, free market systems created in their countries after the demise of communist rule” (Boed 1998, 359). Such policy and normative justifications have been based in the promotion of accountability, democratization and credibility—by purging the public service, especially the security services, of corrupt, abusive and incompetent officials (Fombad. 2012). In short, lustration can normatively aim to “redress past injustice, allow for elite replacement, strengthen democracy, and prevent the blackmail of the new political elites” (Stan 2011; Stan & Nedelsky In Press).

The issue of the new regime’s national security is one of the most compelling arguments for lustration. For example, in analyzing Polish parliamentary debates in the early 1990s, Maria Łoś identified the issue of national security as the most popular and important pro-lustration argument. The claim was that “former agents who now hold high state posts could hurt the state interest.” This fear was fueled by the argument that the security department of communist Poland was dependent and subservient to Soviet command and to potential KGB blackmail. It was argued that the “key positions in the state apparatus should be open to persons who are totally loyal to the state” (See Łoś 1995, 148; Bohdanowicz 1992; Romaszewski 1992).

Chiu sees four justifications as consistent with moral individualism and due process for lustration: (1) complicity in a group agent that was wrong for having defended an illegitimate regime; (2) representative responsibility for an epistemically-unreliable system; (3) holding a political appointment made from above (executive) or below (people); and (4) dissolution of the social contract. Each defense justifies condemning slightly different sets of people and each has peripheral features and applications, but within the overlapping core is the notion that lustration (of the military in particular) is morally permissible (Chiu 2011, 440-64).
The importance of normative and policy considerations in the processes of bringing justice to the victims of oppressive regimes is undeniable. These considerations point to the merits of democracy in bringing about lustration. However, the fact that a political arrangement such as lustration serves a desirable purpose cannot explain its adoption and implementation (Kunicova & Nalepa 2007, 2). Nor can such desires adequately explain the concept of lustration.

B.1.3 A Variety of Lustrations

The elusive reality of diversified lustration policies has presented a third and most important analytical challenge to find a general and falsifiable definition. Since the 1991 adoption of the influential Czechoslovak law and the German Stasi Act, lustration has encompassed a variety of norms and facts. Some scholars have even claimed that the lustration processes of each country possess their own specific meaning due to the multiplicity of solutions to the problems of dealing with the past (Czarnota 2009). The concept has become convoluted as lustration started to include numerous defining attributes.

In order to provide a generalizable definition, the next section will define the core or basic conceptual dimensions of lustration. The section will justify those dimensions by a theoretical approach that understands the concept of lustration as a data container, and data as conceptual containers (Sartori 1970). In other words, attempting to find a coherent definition that is in

\[ \text{158} \] Lustration has often been designed to deal with abuses of power by previous regimes and as a means of rebuilding society after transition (See Choi & David 2012, 1175). Lustration would ideally benefit the victims in terms of justice, it would benefit the perpetrators in terms of protection and it would help the broader society in terms of moral cleansing and reconciliation. As a form of social and administrative justice in particular, lustration has been referred to as containing a “distinctive potential for restructuring the relation of the individual to the political community in the transition” (Teitel 2000, 8). In order to address a legacy of human rights abuses, the removal of those who operated the repressive state apparatus could provide a psychological break with the past and mark a new chapter in the nation’s history. See Appendix B.1 for a detailed discussion on the normative aspects of lustration.
dialogue with reality (Gerring 1999), the next section will introduce lustration as a continuous concept, it will discuss current definitions, and it will provide a justifiable alternative.

B.2 Concept’s Basic Level

B.2.1 Lustration as a Continuous Concept

The first conceptual premise of this study is that the concept of lustration is a continuous concept and includes dichotomous measures only as a special case. Defining lustration as continuous has the advantage of distinguishing between different degrees of lustration across time and space. More sensitive to gradations of a phenomenon, the continuous concept addresses the problem of the gray zone and decreases measurement error. The “gray” cases are fundamental to thinking about the concept of lustration because of its numerous attributes. While at this basic level the concept is still unmeasured (Goertz 2006, 56) it provides a theoretical foundation to produce measurement indicators from the subsequent conceptualization levels.

Another advantage of considering lustration as continuous is to explicitly theorize the negative end of the conceptual spectrum. The reality of lustration includes a reality of its absence. In order to distinguish among different types of lustration on a continuum between the positive and negative poles and thus examine all the parameters under which a theory of lustration could be valid, the absence of lustration needs to be theoretically defined. Except in part for Stan’s seminal work (Stan 2009d), the literature has avoided negative outcomes.

Research has selected on the dependent variable, omitting the reality of negative cases and the

159 Under theoretical approaches to conceptualization, this study has in mind ontological approaches in particular. Through a set of explicit principles, an “ontological theory” of the structure of the concept helps to “designate the core characteristics of a phenomenon and their interrelationships” (Goertz 2006, 5). Theories about concepts can be best understood as paradigms and their scientific study as a paradigm-inspired research. Such paradigms provide model problems and solutions to a community of scientific practitioners for a particular time and within a particular tradition (See Kuhn 1962).
theory of the possibility principle. The possibility principle contends that cases where the outcome is possible should be included in research (Mahoney & Goertz 2004). The omission of this principle has led scholars to minimize its leverage for making valid causal inferences. After discussing the currently established definitions, this section explores the positive and negative ends of the conceptual spectrum and proposes a new definition of lustration.

B.2.2 Discussing and Rebuffing Current Definitions

There is a lack of agreement on basic terms such as lustration, vetting, screening, administrative justice and purging. The terms are often used interchangeably. Some refer to lustration as “administrative justice, that is, purges in the public administration” (Elster 2004). Others note that “the removal of categories of people from public office or benefits [is] sometimes called a purge, and sometimes lustration” (Minow 1998, 136). Still others define it as “the systematic vetting of public officials for links to the communist-era security services” (Williams et al. 2005, 23).

Meierhenrich takes lustration to refer to “the purification of state institutions from within or without [by] first, the screening of candidates for public office; second, the barring of candidates from public office; and third, the removal of holders from public office” (Meierhenrich 2006, 99). David defines lustration more narrowly as screening against secret police archives (David 2011, xi). He coins “personnel systems” to denote a theoretical abstraction of transitional public employment measures that regulate access to non-elected positions in public administration (David 2011, 42). Finally, Karstedt defines lustration as consisting of two types of public procedures: “criminal proceedings against members of the elite and authorities over the lower ranks of the state bureaucracy” and “mass screening procedures, which are conducted against
collaborators, party members or employees mainly from the middle and lower ranks of the hierarchy” (Karstedt 1998, 16).\textsuperscript{160}

In many cases lustration is understood as representing a form of employment vetting. This vetting legislation regulates the processes of examining the involvement with the repressive communist regime of a job applicant or a job holder. According to David, lustration laws refer to “a special public employment law that regulates the access of members of the former repressive apparatus to public positions in the new democracy” (David 2006, 350). As a specialized form of employment vetting, lustration stipulates conditions for the access to certain public positions. It helps to determine “whether a person holding [or to hold] certain higher public positions worked or collaborated with the repressive apparatus of the communist regime” (David 2003, 388; Letki 2002, 530).\textsuperscript{161} In addition, a law is often called a lustration law if the screening or vetting of public officials is done “against the archives collected by the secret police under their socialist regimes” (David 2011, x). For some, the use of the secret police files thus becomes a necessary element of lustration.

Others understand lustration exclusively as a legal framework. For instance, Letki sees countries as “lustrated” only if they introduced “legal screening procedures” (Letki 2002, 531) Following the claim that lustration processes must be based on law (Karstedt 1998, 16), Letki emphasizes as “extremely important” that lustration be regulated by law, as a part of a legal framework, and “should never become a part of political purge” (Letki 2005, 76). She also advocates against the inclusion of the Communist Party membership as a lustratable offense and

\textsuperscript{160} According to Karstedt, the criminal proceedings are conducted according to existing or specifically established rules that can differ from the traditional legal culture, as in the Nuremberg Trials. The second, mass screening procedures represent typical procedures of de-nazification, destalinization, and de-communization (See Karstedt 1998; Loś 1995).

\textsuperscript{161} Lustration in a form of laws frequently concerns the employment in new regimes’ personnel systems Choi & David 2012, 1172-201; David 2011.
focuses on the collaboration and involvement in Communist secret services (in Hatschikjan 2004, 21).

While the conceptual approaches above might be correct for some cases, they overlook the instances of other lustrative practices. First, in terms of parliamentary laws, lustration practices have been based not only on specific lustration laws but also on citizenship laws and election laws. Election laws have often produced lustrative effects, as for instance in Lithuania. In Latvia and Estonia, the requirements of citizenship laws have denied the Russian-speaking minorities a host of rights. They include the right to be elected to or nominated for public office. These laws have mirrored the structure and function of lustration and have been directly compared to and considered lustration programs by others (Horne 2011; Stan 2009a; Stan 2011).162

Second, other definitions have proven to be conceptually narrow in terms of defining past involvement and its dimensions. For instance, Calhoun and others define lustration as “the screening of bureaucrats and political leaders to ascertain who had collaborated with the Communist-era secret police” (Calhoun 2002, 4949; Williams et al. 2005). While some lustration laws often do target these positions of former intelligence or secret services, other laws include more numerous positions related to past involvement.

Third, lustration practices that did not result in administrative purges have been initiated by not only the legislature but also the executive as well as non-legislative and non-judicial bodies.

162 Unlike these definitions, Stan has provided probably one of the most adequate ones so far. Stan defines it as “the banning of communist officials and secret political police officers and informers from post-communist politics and positions of influence in society” (Stan 2009, 11). While the first part of the definition is too narrow, as it leads to exclusion of suspect positions in the prior regime that have been targeted by various lustration programs, she is correct to include the broader category of targeted positions in current regimes. Moreover, this definition allows for inclusion of lustrative practices that go beyond lustration laws. This study broadens Stan’s seminal definition and includes insights from other scholars and policy makers. For example, other conceptual distinctions rightly include broader elements. Some authors point to the negative portion of the conceptual spectrum such as instances of a lustration bill being rejected or merely passed—but not implemented (Hatschikjan 2004). Others include an often overlooked but crucial conceptual element, the implementation of the laws (Letki 2002, 529-52; Horne 2011, 7).
Third, lustration practices that did not result in administrative purges have been initiated by not only the legislature but also the executive as well as non-legislative and non-judicial bodies. For example, non-legislative acts such as presidential or ministerial decrees have occasionally banned individuals from certain public positions for their links to the past. In other words, laws as well as executive decisions can result in a “lustrative effect,” which this study defines as a visible manifestation of lustration, that is, of a lustration program being implemented.

Starting with the positive portion of the lustration concept continuum, the next section provides a detailed differentiation within the concept. A combination of two basic characteristics of “lustration program” and “implementation” represents a necessary and sufficient condition for a political practice to be defined as lustration. Discussing these two dimensions, this study also determines their positive and negative conceptual poles and thus points to the multilevel structure of the concept of lustration.

**B.2.3 What Lustration Is**

This study defines lustration as follows. Lustration is a mechanism of transitional justice that scrutinizes individuals for links to the previously authoritarian leadership, bureaucracy or security services and limits their degree of participation in the new political and civil service positions. This definition makes the continuum between the positive and the negative poles of lustration possible by incorporating two basic conceptual dimensions. The first, lustration program, defines past and present targets as well as a method. The second, implementation, requires a level of actual enforcement. These two core characteristics are combinatorially necessary and sufficient for conceptualizing the phenomenon of lustration.
The first basic conceptual dimension is a “lustration program,” laid out in a form of a law or decree. A lustration program (LP) entails three necessary sub-dimensions: past and present targeted positions and a lustrative method. The sub-dimensions of past and present each consist of several logically sufficient conceptual attributes. These attributes constitute the base for the secondary-level dimensions of the main concept. The dimension of a lustration method entails a procedure such as verification and/or sanctioning, and a threat. Both the procedure and the threat consist of further secondary dimensions.

The second basic-level conceptual dimension of lustration is implementation. Only if actual persons have been lustrated (i.e., screened, banned, removed, etc.) can a lustration program be considered as implemented. Moreover, the implementation of a lustration program must be carried out by a legitimate state body rather than private citizens or groups. Implementation can occur in varying degrees, which span on the positive and the negative portions of the conceptual spectrum. The positive and negative portions each follow a distinct conceptual logic since the positive and negative poles are not fully symmetric.

Despite the fact that the definition on the basic level consists of necessary conditions, the concept of lustration remains continuous. The reason is the presence of several sufficient conditions from the secondary levels of the concept. The parameters of this theoretical framework thus reflect the dimensions on primary and secondary levels.

Having made the basic analytical distinctions explicit a universal conceptualization of lustration is no longer impossible. A definitional approach distinguishing between different secondary-level conceptual attributes not only allows the comparison of a range of cases that share distinct characteristics but also enables variation within the concept.
B.2.4 What Lustration Is Not

Lustration is conceptually delimited by a combination of the two basic dimensions of lustration (i.e., LP and implementation) and the three sub-dimensions of a lustration program. Lustration is thus distinct from de-communization, criminal and civil adjudication, as well as from broader vetting and political or administrative purges following a change in government. These forms are sufficiently distinct from lustration that they cannot be measured on the same spectrum. Yet, some of these observable phenomena may overlap with lustration. This study first defines these phenomena with regard to lustration. Second, this study analyzes the negative portion, i.e., instances where “no lustration” has occurred. This negative side of the spectrum, moreover, includes the absence of a lustration program.

B.2.4.1 Not Lustration: Phenomena Different from Lustration

Post-communist states have pursued a mixture of transitional justice measures. They have used forms of broader social justice. They have sought to decrease the influence of the Communist Party by confiscating its property, by penalizing the use of communist propaganda, by applying criminal law against former officials, and by opening communist and secret-service files to the public (Czarnota 2007; Sadurski 2005). Lustration processes have often relied on, and worked in conjunction with, these mechanisms.

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163 Other TJ mechanisms include measures of justice on perpetrators (e.g., war crime trials), measures of justice for victims (e.g., property restitution, reparations), fact finding (e.g., truth commissions and access to secret files), and memorialization. In some cases, these programs have affected larger numbers of people than lustration.
De-communization

As a broader process, de-communization attempts to diminish the legacies of the communist past. For example, de-communization efforts attempt to change culture, symbols and even mentality. De-communization could also target former Communist Party members but not their (secret) collaborators. De-communization could refer to the wider exclusion of the functionaries of the Communist party or related institutions (Williams 2003, 4). It can take the form of screening of selected categories of the Party’s former members or excluding them from certain functions. Yet, while some scholars equate lustration with de-communization in terms of purging of former Party members (e.g., R 03, R 19),164 this approach has been avoided because in some cases a massive percentage of the adult population would be affected.165 Lustration as such does not exclusively target Communist Party membership.

Declassification

The opening of secret archives allows access to files and their publication. Various historical institutes have pursued this policy in the Czech Republic, Georgia, Germany, Hungary, Lithuania, Poland and Slovakia, and their number is growing. Some institutes have made the majority of the files available to the public. Lustration commissions have frequently used such files to obtain evidence. Yet, while access to files may be necessary to carry out lustration in some cases, granting access to classified documents is by no means sufficient for lustration. Though declassification is reminiscent of truth-telling procedures, it does not target individual

164 A Russian legal scholar and former member of the Constitutional Court of Russia (R 03) considers lustration in terms of de-communization and complete replacement of the old bureaucracy: “Where could such a great number of more or less prepared people to be found for the replacement? There were never that many people (to be found available).”

165 The paralysis, which has come from full-scale vetting policies, has been particularly seen in post-2003 Iraq.
occupants or candidates of important public positions and sanction the individual as lustration does.\textsuperscript{166} While revelations made by historians, non-governmental organizations or journalists lack the authority of the state’s adjudication and cannot count as lustration, investigations of files can—provided they are pursued by the state for employment consideration of former elite.

That being said, there have been cases, in which declassification without a lustration program yielded a lustrative effect through unlawful but unperceived discrimination. In both the public and private sectors persons were dismissed or banned from applying for a post based on the employer’s knowledge of the files and awareness of the (potential) employee’s “taint”.

**Civil and Criminal Adjudication**

Lustration is not directly related to criminal or civil procedures. Important distinctions define those convicted of criminal violations by having their freedom restricted while those convicted of political violations have their political rights restricted (Jaskovska & Moran 2006, 490). Lustration is essentially used as a political sanction that does not avail individuals of their due process rights (Bassiouni 1996, 21). Unlike in civil procedures, lustration is not carried out by private individuals, companies or organizations for their own benefit. Lustration programs are carried out by the state, in an attempt to generate social benefit. When civil adjudication is related to addressing the wrongs of the past, it usually involves the redistribution of property to those determined to have been victims of past confiscations.

\textsuperscript{166} Interpreting the Polish lustration law of 1997, an argument can be made that lustration is not always about the screening and removal from public office but also about truth telling. However, that lustration provision not only targeted specific public positions, access to which needed to be secured by the applicant’s truth telling, but also consisted in lustrative actions against potential “liars”. Consider the notorious case of Ryszard Smolarek, an important Polish politician and functionary, who lost his position as a result of a court order, which considered him a “lustration liar” (See Internetowy System Aktów Prawnych 2001).
Moreover, unlike in criminal adjudication, which involves trials of those who committed gross violations of human rights, lustration concerns mass restriction of political rights. The issue of political adjudication in general and lustration in particular represents “mass collusion (silence, informing, collaborating) rather than individual crimes or gross human rights violations” (Cohen 1995, 25). If the consequences of criminal acts are defined in retributive measures, the consequences of the “lustratable offence” are not taken automatically (as in the case of criminal persecution) but only in particular circumstances, such as when a person aspires to certain public positions (Letki 2002, 534).

That being said, lustration programs can establish judicial procedures that are connected to criminal law. If according to the Polish 1997 lustration law an official proves to be dishonest, a court procedure is initiated. Similarly, the initial draft of the 2010 Romanian lustration law required the persons who are responsible for appointments in public offices to check whether the people they appoint are in a situation defined by the law and take the necessary measures. Failure to do so would be followed by criminal charges (Dix 2010, 2). Furthermore, some lustration procedures follow other criminal-procedures criteria such as making clear that the burden of proof does not rest with the person being vetted. Yet, while the situation of lustration persons can thus be similar to persons accused under criminal law, the criminal charges are related not to past involvement but to lack of compliance with the law.

167 See Resolution 60/1994 AB of the Constitutional Court of Hungary relating to the 1994 lustration law.
168 While the collaboration with, or the membership in, secret services or the government was not a crime under the former regimes, lustration for some authors remains a measure “punitive in nature” (Boed 1998; Bassioumi 1996, 21). For other scholars, however, lustration does not fulfill the condition of the maxim nullum crimen, nulla poena sine lege praevia by which without a violation of penal law as it existed at the time, a crime cannot be committed nor punishment meted out. Lustration is analogous to criminal law since it can bring about harsh consequences for a lustrated individual. However, while crimen in criminal law encompasses specific crimes, lustration programs usually understand crimen as violating human rights Zidar 1996, 110. Criminal activity and violating human rights are not identical incriminations. Moreover, lustration programs do not involve sanctions and therefore do not entail the nulla poena maxim of criminal law. Lustration programs in essence determine only “additional qualification
Vetting

Vetting is in practice most similar to lustration and thus conceptually most challenging to distinguish from it (Bruce 2009; Mayer-Rieckh & De Greiff 2007; Olsen et al. 2010a). What separates vetting from lustration is the extent to which vetting aims at checking on past human rights abuses. If it assumes verification of past involvement in a regime recognized as collectively and institutionally abusive of human rights then, and only then, can vetting be considered as a subset of lustration. ¹⁶⁹

When unrelated to mechanisms of transitional justice, the term “vetting” is used to describe screening processes of public employees for criteria that do not include human rights considerations (Duthie 2007, 18). For instance, vetting can focus on the security of the post-conflict state, such as in South Africa (Klaaren 2007) and Northern Ireland (McEvoy & White 1998). Vetting or background checks can be also used in security clearance procedures as well as in the selection processes of political parties. ¹⁷⁰

There are authors, however, who refer to vetting and lustration interchangeably or define lustration as a subcategory of vetting. Some treat lustration as a form of employment vetting

¹⁶⁹ While like lustration, vetting represents an extrajudicial screening process, vetting should not be equated with lustration as lustration necessarily involves screening against potential past involvement that bears collective responsibility for past abuses. Vetting excludes, on an extrajudicial basis, those officials who committed serious abuses from public office that not necessarily related to a collectively abusive past regime.

¹⁷⁰ ICTJ’s impressive volume on vetting uses the term to refer to processes for assessing an individual’s integrity as a means of determining his or her suitability for public employment—where integrity is understood as “a person’s adherence to relevant standards of human rights and professional conduct, including her or his financial propriety” (Mayer-Rieckh & De Greiff 2007). According to Duthie, vetting processes are aimed at screening public employees or candidates for public employment to determine if their prior conduct warrants their exclusion from public institutions (Duthie 2007, 17). De Greiff goes further by distinguishing vetting measures from massive, summary dismissals or purges, and uses the term to refer to processes for assessing the integrity of individuals to determine their suitability for continued or prospective public employment. For him vetting correctly designates “processes in which the criteria of assessment relate to individual behavior, which therefore calls for individual review, and for offering individuals some procedural guarantees. Mere membership in groups, including political parties, should not be the primary criterion of exclusion” (De Greiff 2007, 524).
through laws that regulate the processes of examining an applicant’s involvement with the repressive communist regime (David 2011). Others even refer to lustration as a variant of vetting of the post-communist region (Horne 2011). Others still define vetting the public service as “usually entail[ing] a formal process for the identification and removal of individuals responsible for abuses, especially from police, prisons services, the army and the judiciary” (UN Security Council 2004, 17-18). In this sense, Bosnia and Herzegovina implemented comprehensive vetting measures after the 1992-95 war (Finci 2007; Fithen 2009). However, the Bosnian mechanism points out the difference between lustration and vetting. Bosnian screening of the local police forces and electoral candidates was not only imposed by the international community but it also ignored the communist era. The Bosnian type of vetting contrasts with lustration. It fails to represent a political mechanism of transitional justice addressing collective responsibility for past abuses (Kritz 2002)—a necessary element of the past positions conceptual dimension of lustration.

Chart B.1. Distinguishing Lustration from other Mechanisms of Transitional Justice

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171 While an argument can be made that Bosnians first needed to address more immediate concerns, the recent war was connected to the ancien regime as many of the country’s leading politicians during the civil war came from the communist Nomenklatura. This argument sides with the framework proposed by Jon Elster, which claims that in the case of the aftermath of the civil war in Yugoslavia, it is difficult to both contrast the old and the new regime, and neglect the influence of the exogenous factors such as international organizations (Elster 1998, 7-48).
Purging

Lustration is distinct from administrative and political purges. Purges do not necessarily represent instances of lustration since they do not necessitate legally binding programs that include the targeting of both past involvement and present positions. While from a normative perspective one may note that “There is probably no such thing as a good purge, even if it is politely called lustration” (Garton Ash 1999, 276), lustration and purge remain distinct for the precise reasons mentioned above.

Some distinguish purges from lustration on the basis that unlike executive-style purges, “it is much more difficult to amend a law, since parliaments include a wide diversity of political parties” (Stan 2011). However, if an implementation of an executive decree has a lustrative effect because it has met the criteria of a lustration program, then what Stan labels a “purge” is in fact lustration. In those cases, purges can be considered a partial subset of lustration.

For example, in March 2011, Hungary’s Foreign Ministry fired employees revealed as former agents of the communist secret police soon after a list of hundreds of agents was released by historians on the Internet. While the Ministry did not name the seven officials dismissed (The Associated Press 2011), the executive-based lustrative policy did not follow the Hungarian lustration law but had a de facto lustrative effect. Also, Latvia’s mixture of lustration and citizenship laws (1994, 1995) relied on a combination of anti-Russian policies and lustration.

The literature nevertheless recognizes de facto lustration in Latvian elections as well as within

172 For this reason, it may be imprecise to distinguish purges from lustration on the basis that purges were decided with little input from the opposition and adopted or imposed by the executive, while lustration laws were debated, amended, and voted on in parliaments (Stan 2011). Were that true, lustration might justly be called “a legalized ‘controlled purge’ of collaborators” (Jordan 2011).

173 Stan, however, suggests an important distinction between purges and lustration in terms of their transitional nature: last, purges were mainly transitional in nature, being enacted for relatively short periods of time (of only several years), whereas lustration programs have been more lengthy, instituting the ban for periods of over five years, and even extending it indefinitely, as was the case in the Czech republic (See Stan 2011).
public sector (Horne 2011, 12; Letki 2002). Curiously, the same authors deny similar examples of *de facto* lustration in Albania. Soon after the victory of the anti-communist Democratic Party in March 1992, the Albanian government passed a law on political parties. The law included provisions that clearly satisfy the conceptual criteria of a lustration program. While some considered the implementation of that law as “huge purges of the public administration” and the process as heavily influenced by political vengeance, without granting the right to appeal (Austin & Ellison 2009, 176), one can hardly separately measure purges and lustration in that case.

While some lustration provisions include the right to appeal, this study does not treat the possibility of appeals as constitutive of lustration in order to distinguish lustration from purges. For example, the Macedonian 2008 lustration law provided no such option (The Assembly of the Republic of Macedonia 2008/09). However, it produced significant lustrative effects in 2009 before it was overturned by the constitutional court (SIGMA 2010, 10). Similar effects occurred in Albania after the 1992 and 1996 elections, where lustration coincided with a purge. Georgian lustration law of 2011 also provided practically insignificant rights of appeal.

**Amnesty and Impunity**

Impunity defined as exemption from punishment applies when referring to crimes of current governments. “But when talking about atrocities committed by the previous government, impunity might refer to a gradual historical indifference or be the result of a conscious policy” (Cohen 1995, 28). Some authors see accountability as the antithesis of impunity. They consider

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174 Since many people who lost their jobs were merely Socialist sympathizers or their relatives with minimal connection to the old regime, Austin and Ellison claim that the Albanian process should be called “pseudo-lustration” instead (See Austin & Ellison 2008, 383).

175 Stan rightly claims that in Eastern Europe the lustrati had recourse to national and international courts, while many victims of purges did not have these advantages. However, she presumes that purges did not occur in Eastern Europe but elsewhere, that without the possibility of appeal, a lustration program becomes a purge (Stan 2011).
impunity as occurring either *de facto* or through amnesty. However, “amnesty is essentially a form of forgiveness, granted by governments, for crimes committed against a public interest. [...] While amnesty is a deliberate positive action (the act of amnesty), impunity is an act of exemption, an exemption from punishment, or from injury or loss” (Bassiouni 1996, 19).

Positive acts of amnesty should not be conflated with the absence of justice or legal measures. Amnesties in fact often occur under law. For instance, the government may take specific measures to curtail or prevent prosecutions.

**B.2.4.2 No Lustration**

While lustration is theoretically possible in all post-communist states, some countries have not enforced lustration and therefore represent negative cases. The non-enforcement has occurred in several degrees. Some lustration mechanisms were short lived. Others rejected lustration in the constitutional court or in a parliamentary vote. These cases are considerably different from countries in which lustration has never been considered an option. Moreover, even the non-implementation of a passed law or a decision of the executive can occur in several ways: a lustration law or decree can be passed, attempted, introduced only or completely absent—but never implemented (cf. Table 1.1, Chapter 1).

Instances in which practically no action has occurred represent the category of lustration being “non-existent.” If no lustration program exists, or if a lustration program exists but has not been implemented in a country, then that case lies in the negative portion of the spectrum and represents its negative pole. Likewise, if in a given case the program in question lacks any of the
three required elements that constitute a true lustration program, the case represents the negative end of the spectrum.\(^{176}\)

Analyzing the negative end of the conceptual spectrum includes the benefits of applying the “possibility principle”, by which negative cases can be chosen as long as lustration is possible in them. This study interprets the concept of “possible” according to the rules of inclusion and exclusion (cf. Mahoney & Goertz 2004). Following the rule of inclusion, a negative case is relevant if its value on at least one crucial independent variable predicts its occurrence. According to the rule of exclusion, a case becomes irrelevant if its value on any eliminatory independent variable predicts the nonoccurrence of lustration.

The possibility principle is important in testing the overall theory of this study, based on the full range of relevant cases. And in terms of conceptualization, the possibility principle identifies relevant cases on the grounds of scope conditions, i.e., the parameters within which the theory of this study is expected to be valid (Cohen 1989; Walker & Cohen 1985). By applying these rules, the following section provides a detailed structure of the concept by accumulating knowledge from existing and possible lustrative phenomena.

### B.3 Lustration Program: The Concept’s Secondary Level

This section designates conceptual distinctions between different “lustration programs” within and across countries. While previous sections formalized the positive and negative poles of the

\(^{176}\) The establishment of the negative pole allows an analysis of the substantive content of the continuum between the positive and negative poles and reveals that lustration can best be treated as a continuous concept. The ideal positive and negative types become particularly tangible during the analysis of the secondary-level dimensions of the concept. Further, the inclusion of the negative pole is further important from a theory-building perspective. Given that post-communist actors learn from each other, it is puzzling to see some countries not opting for lustration. Research cannot neglect the importance of the non-occurrence of lustration, where it is theoretically possible. Moreover, while implementation plays a necessary part in defining lustration and while “no legal act can be effective if it is not enforced” (Letki 2002, 544), the absence of adoption or implementation of lustration have had social and political impact through debates in the legislature or the media.
basic concept structure, it is only at the secondary level that the multidimensional character of lustration appears. To formalize the concept’s secondary level, the “family resemblance” approach is used. This approach relies on the mathematical principle of the Aristotelian logical “or”, i.e., on the union principle from set theories. Unlike the (necessary) intersection principle in set theory, the union principle justifies the continuous aspect of the concept and its corresponding measures. Put differently, using the family resemblance approach, the concept requires only sufficiency logic at the secondary (and tertiary) level. As a result, one secondary sub-dimension can substitute for another. For example, there can be multiple types of “past positions” in theory with any one of them being sufficient.

Lustration programs vary in different ways. The first is the level of breadth and depth with regard to the targeted positions of the past and present. This variation reflects lustration’s scope, defined as the magnitude of backward-looking and forward-looking provisions of lustration programs (Offe 1993).177 Second, lustration programs vary because of distinctions between the different methods proposed to carry out lustration. The past and present aspects of lustration programs can be pursued institutionally by dissolving or exposing entire departments or individually by screening selected personnel.

177 By definition, lustration programs include prospective and retrospective justice (Teitel 2000, 6; Huyse 1995, 51-78; Scarrow & Stein 1994), combining forward-looking and backward-looking justification Offe 1997, 93-94. Curiously, Letki argues that “although based on acts that took place in the past, [it] does not have a retroactive character, it is embedded in the forward-looking perspective.” Her claim relies on the Polish lustration law, according to which “there is no punishment for the act of collaboration with the secret service as such, but a person is ‘disqualified’ if proven to have lied about their collaboration” (Letki 2002, 535).
B.3.1 “Past Involvement” and “Protected Positions”

The secondary-level dimensions of the concept of lustration reflect the broad constellation of meanings and practices assigned to lustration. This variation is most visible in different lustration programs in terms of both past involvement and the public positions that a regime chooses to “protect”.

Lustration programs first target authoritarian-era positions and activities. Past involvement includes “suspect positions”\textsuperscript{178} of the Communist Party or government, membership in or collaboration with the intelligence services or Communist militias, as well as the activities performed by such organs. Then, lustration programs define the new regime’s “protected

\textsuperscript{178} This term is borrowed from the Czechoslovak lustration act of 1991 (The Federal Assembly of the Czech and Slovak Federative Republic 1991).
Protected positions can be provided by election, nomination or appointment by a state body.

Having disentangled the concept on the secondary level into its constitutive parts, the structure of the concept can now be theoretically organized. The presence of a particular sub-dimension within the conceptual level of suspect and protected positions are fully sufficient for a phenomenon to count as lustration. Yet, a specific position within past and protected categories is an insufficient but nonredundant part of an unnecessary but sufficient condition for lustration (i.e., an INUS condition). For example, a particular “suspect position” is an INUS conceptual condition for lustration. It is first an insufficient part because it cannot define lustration on its own; other conceptual conditions such as present positions, lustration program, and its implementation should be present. It is, nonetheless, a nonredundant part because, without any “suspect positions” in a lustration program, the rest of the conditions are not sufficient for a phenomenon to be called lustration. Past positions are thus just a part, and not the whole, of a sufficient condition which includes other dimensions. Also, this whole sufficient condition is not necessary since other clusters of the past position dimension may suffice for lustration.

The INUS logic, combined with the family resemblance approach, allows for adding or subtracting the indicators of the secondary-level dimensions of “suspicious” and “protected” positions. Because of the cross-national and cross-temporal nature of the variety of lustration, this study adopts the substitutability principle for building the concept of lustration at the

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179 This term is borrowed from the Czechoslovak lustration act of 1991 (The Federal Assembly of the Czech and Slovak Federative Republic 1991).
180 Borrowing from the terminology of INUS methodology, the dimensions referring to past and present positions have a “plurality of causes” Mackie 1965, 245-64. A certain definition can be justified by a number of distinct clusters of conceptual sub-dimensions. Using the first letters of the italicized words, John Mackie has called such a factor an INUS condition. For a debate on conditions that are mutually sufficient and necessary, and at the same time INUS conditions, while avoiding irrelevant sufficient conditions by using minimum sufficient conditions, see Mackie 1965, 245-64; Mackie 1966, 441-66 Denise 1984, 49-52 Dale 1984, 186-8; Denise 1986, 126-30.
secondary and indicator levels (Locke & Thelen 1995). The disaggregation of past involvement and present position conditions receives primary attention. In the following sections of this study, a standard set of criteria designate the secondary-level indicators in order to provide measurement indicators through adding and subtracting the sub-dimensions (Adcock & Collier 2001; Collier & Levitsky 1997; Sartori 1970).

B.3.2 Formalizing Past Involvement

In order to address, limit or exclude various aspects of “the negative influence of the past” (Letki 2005, 79), lustration programs first target persons associated with the former regime. The main conceptual indicators of past involvement are two: the past period and the “lustratable offence”. The past period relates to the time during which potential involvement with the past regime occurred, while a “lustrable offence” represents involvement in terms of “suspect” or “tainted” positions as well as actions and omissions performed.182

Period

Lustration programs (LPs) specify distinct past periods of a former regime, the involvement or collaboration with which could provide a basis for lustration. The most obvious period has been the communist era. Lustration has targeted communist regimes, spanning usually from 1944 or 1945 to 1989 or 1990 in East-Central Europe, from 1921 in the post-Soviet states, and until 1991 in the Balkans. These targets depend on how a LP defines the communist era.

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181 According to the author’s knowledge, the term “lustratable offence” first appears in Letki 2002, 534. Others refer to it as “lustrable offence” (Kunicova & Nalepa 2007, 31).
182 According to this backward-looking perspective, a lustration program will, for example, investigate whether a person holding or seeking a particular position in the present had worked or collaborated with the security service of the former regime within a given period.
Moreover, LPs have oftentimes transcended time boundaries to pre-communist and post-communist eras. Certain LPs target tainted activities and positions from the Second World War era. For example, the 1994 Hungarian lustration law includes the members of the Nazi Arrow Cross Party. Others include periods following the fall of the communist regime. For instance, the 2008 Macedonian lustration law applied to the 1944-2008 period (which was subsequently shortened to 1991 by the Constitutional Court).

In addition to the three main periods, LPs have targeted involvement during shorter and more specific time frames. For example, the Hungarian law of 1994 particularly broadened the scope of past involvement for the period between 1956 and 1957 in order to target those who collaborated with the Soviets or the Nazi Arrow Cross Party, which attempted to prevent the overthrow of the communist regime (David 2011, 83). The Czechoslovak law considered as tainted the positions of those held by members of the ad hoc purge committees established after the communist takeover in 1948 and after the Soviet invasion in 1968. Moreover, certain former elite members could be exempted from lustration if they held positions within a specified past period that have been seen as conducive to democracy. According to the Czechoslovak law, those members of the communist elite who held positions during the period between January 1, 1968, and May 1, 1969, are exempt from lustration—as they were seen as the protagonists of the Prague Spring.

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183 The rationale for such inclusion is debatable. As claimed by David, “no one could seriously expect that former Nazis would be able to hold any public position. Their inclusion may have served to divert the blame from ex-communist officials to uncontroversial scapegoats. Everyone could condemn Nazism, but not everyone was ready to condemn socialism” (David 2011, 84).
In order to capture the entire variation of past involvement, a valid conceptualization needs to address the scope of involvement within LPs. This scope of “lustrable offence” has varied in two important aspects: the depth and breadth of past involvement (See Diagram B.3).

One variable is the depth of past collaboration. The scope of backward-looking provisions may include all the levels of a particular institution targeted or only their top echelons. For instance, while some programs target only higher levels of involvement in former security services, others are more comprehensive. The other aspect of variation is the breadth of positions and activities targeted. For instance, a lustration program may concern the former security service only, or include other sectors such as the executive and the Communist Party.

The conceptual sub-dimension of past involvement defines a “lustratable offence.” The “offence” committed, as it is usually defined, targets various levels and degrees of the so-called “tainted” elites and their collaborators. The “offence” is usually incompatible with the functions sought or held in the new regime as it is based on the premise that the targeted persons might have been part of the repressive apparatus. The targeted persons held or performed what the early lustration laws called “suspect” positions and activities. 

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183 According to some lustration laws, the “lustratable offence” may not be directly related to a past position. The 1996 Polish law defines the offence in terms of lustration lie, based on individuals’ signed statements on whether they had worked for the secret service or not. And, even if they had worked for the secret service (a lustratable past position) it was still possible for them to obtain a protected position—under the condition of truth telling.
Depending on the nature of backward-looking provisions, lustration programs can be status-based, activities-based or both. Status-based provisions classify people according to their association with repressive departments of the old regimes while activities-based provisions target those who engaged in activities resulting in human rights violations (David 2011, 41).

In activities-based lustration programs, persons are scrutinized to see whether they had a lustratable role in the ongoing operation of the previous surveillance state. An example of an activity representing a lustratable offence is “carrying out activities on behalf of state security organs as an official agent or informer” or “receiving reports from the political department of the secret police” on a par with working as an informer or undercover officer (National Assembly of

Status-based lustration programs have targeted senior Communist Party or government positions, membership in the intelligence services, and collaboration with the secret police. Some provisions target the diplomatic corps, judges, assistant judges, prosecutors, and officers in the judicial police of the former regime. Others target civil positions and holding managerial, legal, religious, or media positions. Still other lustration programs may deny citizenship to former agents of communist intelligence and security services of a foreign state.

However, past activities and positions often overlap semantically. For example, the Macedonian 2008 lustration law targets the activity of “cooperation …with national security” and at the same time refers to the person having performed it as a “collaborator” (The Assembly of the Republic of Macedonia 2008/09art. 4). Status-based and activities-based provisions often take place within the same lustration program without a clear distinction.

**B.3.3 Formalizing Protected Positions**

This section conceptualizes the “forward-looking” aspect of lustration programs (LPs). This aspect concerns those positions in the new regime that by a LP require “purification” or “protection”. Three conceptual sub-dimensions emerge as crucial. The first is which and how many of these positions are targeted. The second is whether these positions are about to be taken,
have already been taken/occupied, or both. The sub-dimension addresses the period during which a position needs to be protected or purified (cf. Diagram B.4).

**Diagram B.4.** The Concept Structure of Protected Positions

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**Breadth and Depth**

Defining the scope of protected positions has represented the battleground for much of the policy and scholarly debate. Should only politicians and public administrators be lustrated? Or should a lustration policy target members of the wider society such as journalists or church officials? Many definitions of lustration have followed the first normative question, understanding lustration as a personnel policy focusing on non-electable officials (Choi & David 2012; David 2011). However, as lustrations have often targeted elected elites and even non-state institutions such as the Church or the media, conceptualizing lustration as a personnel issue for a new regime unjustifiably narrows these systems’ scope provisions (See Diagram B.5).
LPs have targeted a range of posts within the public or private sectors. Their scope varies in terms of breadth and depth. ¹⁸⁶ These posts include elected, appointed and assigned positions of the new regime. For example, lustrations target the rights of citizens to run for legislative office.

While such laws usually target national levels, ¹⁸⁷ some aim at the candidates for the European

¹⁸⁶ The inclusion of various posts has been often justified by the nature of the society that was undergoing transformation from total state control (David 2011, 82). Other purported objectives of checking these positions have been to prevent privatization scams, the twisting of public opinion and student or research manipulation.

¹⁸⁷ Exposure of the private lives of public officials had previously been considered legitimate in European jurisprudence, which recognized that the scope of privacy for public officials is narrower than that of ordinary citizens (See Łoś 1995, 132-138).
Parliament. At the governmental level, LPs also target the employment of high government officials and bureaucrats, judges and Supreme Court justices.

Some LPs include non-governmental (but state owned or managed) institutions such as banks and enterprises with majority state ownership, as well as academia and public media. Lustration provisions have also included non-state institutions such as the private media, political parties, churches and trade unions as well as private law practice.

Serving or to Serve?

Another variation in protected positions concerns the distinction between present and future posts. While certain LPs exclude vacant or prospective positions open to election or appointment from their scope by grandfathering them, other programs include currently held positions. A lustration program could specify which persons lose their position immediately after their previous “tainted” involvement is confirmed or prevent such a person from obtaining a determined position in the future.

Effective Term

LPs vary in defining the time period of enforcement, that is, when the lustrative effect is to take place. First, some provisions are effective immediately after their promulgation while others specify a particular starting date of enforcement. Second, some provisions specify a sunset

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188 In the case of Latvia, the European Parliament Election Law in 2003 defined more lenient criteria for candidates than the law for national elections, and thus allowed Latvians who remained secret agents or Party members after independence to run (Stan 2009, 235).
189 An example is the Albanian 1993 law nr. 7666, which targeted the exercise of the profession of advocacy, including professor at the faculty of law (See The People’s Assembly of the Republic of Albania 1993).
190 Under the grandfathering provisions of certain lustration programs, the current position does not need to be screened for but the next person will need to be screened. Grandfathering provisions thus protect the people in their positions.
provision, i.e., a limited term of the enforcement of a lustrative method. Others extend their validity and effectiveness for a specific or indefinite period (the 1995 and 2000 amendments to the Czech lustration law). Still others enforce them in perpetuity (e.g., Georgian lustration law of 2011). Finally, some scope provisions are added to, or reduced from, an existing lustration program. For example, the Czech parliament in 2007 extended the scope to the police (Tóth Manó 2010, 18). Or, the EU Parliament Election Law in 2003 defined more lenient criteria for Latvian candidates than the law for national elections as provided in the Latvian lustration (Stan 2009b, 235). Many LPs have been withdrawn for revision as in Hungary in 1993 when, for instance, as many as 50 amendments were introduced.

B.3.4 Methods

Lustration programs vary with regard to the methods they employ in order to produce a stipulated lustrative effect. While some include disqualification or a ban “tainted” persons from holding a present or future position, others require revelation or confession under a threat of exposure. Adopting a binary classification of these variants, two categories can be distinguished. The first category consists of exclusionary systems. These exclude persons from positions through dismissal, disqualification or prohibition. The second, inclusive category consists of disclosure systems. These are based on exposure or confession. Some LPs entail both types of methods.

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191 For example, the Romanian lustration draft of 2010 targeted persons who are to run for or already hold public offices, both in the central and local administration or in state agencies, the judiciary or military structures, for a specified period of five years. As to the persons already holding public offices, who, would be affected by this draft, the law distinguishes between two categories: those who have been elected will continue to exercise their function until the end of the mandate, when the five year interdiction starts while the mandate of those appointed to a public position ends in three months from the coming into force of this law Dix 2010.

192 This classification adapts most recent classifications, such as the one proposed by David 2011, 132-133.
Exclusionary Method

The exclusionary method is based on an incompatibility provision. It aims at preventing persons associated with the past regime from holding certain public positions. Once evidence about previous collaboration is established, a person is deemed unsuitable for the position. The person can be dismissed immediately or after the expiration of the position—or prevented from acquiring the position in the future. Under this method lustration represents “acts designed to deprive categories of perpetrators of their material possessions and/or civic status” (Offe 1997, 88).

Disqualifications can occur even under a non-exclusionary method or conditional upon a prior and inclusive method. For example, the German Unification Treaty required applicants for a public post to submit a questionnaire on the extent of potential past collaboration. Those who concealed their involvement were usually removed but those who admitted it were asked for further explanation, followed by interviews, which would result in keeping the office, being transferred to a lower position, or being dismissed—depending on the particular case (David 193).

The exclusionary method uses two forms of exclusion. The first is dismissal or disqualification. Relying on an incompatibility provision of a lustration program, the dismissal is automatic. Persons found to be “tainted” are dismissed and in some cases publicly discredited. The second is a prospective prohibition. Relying on an incompatibility provision, persons applying for a specific position or running for office may be banned from doing so if found “tainted”. While banning relates to future positions, dismissal under exclusionary methods can occur immediately after the verification has proven a person’s past to be incompatible with the requirements of a lustration program. Exclusionary methods have been pursued or attempted in countries including Albania, Bulgaria, the Czech Republic, Georgia, Latvia, Lithuania and post-war Bosnia and Herzegovina (Mayer-Rieckh 2007, 190). In the April 2012 attempt to employ an exclusionary method in the lustration program, the Bulgarian parliament adopted a project, under which “collaborators of the former communist regime’s secret service, the State Security (DS), and repressive bodies, will not be able to hold leading posts in the state and municipal administration for a period of 10 years” (SNA 2012 [cited 4/29/2012]).

Even under the exclusionary method, people targeted are not entirely excluded from public life. An exclusionary lustration program prevents a “tainted” person from occupying very specific “protected” posts and not necessarily all public positions—let alone the private sector. The exclusionary type of lustration represents a method according to which access to certain positions is only limited. Moreover, the exclusionary method is perpetrator-centered and does not impose punishment other than dismissal. Not all dismissals or even exclusionary methods automatically represent a subset of lustration. A regime policy resulting in dismissal might be a by-product of another measure, such as rehabilitation for victims or the wrongdoers’ punishment (David 2011, 29).
The 1997 Polish lustration law has required dismissal only if persons were involved in the past regime but did not reveal this fact while retaining their public position.

Methods of Exposure and Combined Methods

Methods of exposure, also called inclusive methods, occur in several variants. Exposure offers the tainted officials a second chance in exchange for greater transparency in public life through the exposure of their past or their confession. For example, following the 1994 Hungarian lustration law, public officials were confronted with evidence about their past and could either step down or face public exposure of their past. Those who left office voluntarily were exempted from the explicit sanction, that is, publication of the decision of the lustration commission. According to the 1996 Polish law, an official has to disclose prescribed relevant facts related to the past. It is the truthfulness of this public disclosure that is verified. The occupant can keep the post, but faces dismissal in case of dishonesty or concealment.

Lustration programs may combine exclusionary and expositionary procedures. For example, the 2003 Serbian lustration law combined dismissals with exposure. Tainted persons from the lower echelons of the state administration were supposed to be exposed while persons having occupied top positions were supposed to be dismissed (Assembly of Serbia and Montenegro 2003).

Each of the two methods involves screening procedures at some stage of the process. Screening or verification refers to the involvement determining process, i.e., an individual’s assessment against established data. Screenings are based on the information about the individual’s potential past involvement as well as on the provisions with regard to a “protected”

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195 In practice the option to resign may function as an incompatibility regulation as vetted persons may choose to resign instead of having their name published.
position held or sought.\textsuperscript{196} What most distinguishes exclusionary and inclusive methods is at what stage of the lustration process the screenings occur and what kind of consequences a lustration program stipulates based on the findings from the screening process.

For instance, methods for determining previous involvement may consist in submitting a lustration certificate. Such certificates are issued by institutions that examine evidence, such as the Interior Ministry (e.g., CZE 1991) or a Lustration Commission (e.g., Hun 1994).\textsuperscript{197} In other cases, individuals submit an affidavit as a self-incriminating confession (e.g., CZE 1991). In order to meet the criteria of proof of lustratable activity, a commission may also evaluate various types of evidence.

\textbf{Threats and Consequences}

The targets of lustration programs may experience severe consequences. The consequences of lustration can range from loss of a job and ineligibility for employment to stigmatization of the targets and their families (Bassiouni 1996; Boed 1998, 364-365). The sanctions for proven collaboration vary from announcing that a person collaborated with the authoritarian regime to self-disclosure or even to bans and disqualifications (Kunicova & Nalepa 2007, 7).

Besides facing the consequences of dismissal or exposure, the candidates for, or occupants of, specific positions may be challenged by other deleterious consequences. For example, while an untrue lustration declaration under the Polish lustration law is supposed to result in a person losing a position, retired Polish judges also lose what amounts to their retirement pensions—since in Poland judges do not retire but rather, after reaching retirement age, are in inactive

\textsuperscript{196} The original meaning of the Czech term \textit{lustrace} exactly describes this part of the screening processes.
\textsuperscript{197} A commission (Hun 1994) can issue: a declaratory decision that the vetted person did perform the activity; a dispensation (i.e., where incriminating data was found but there was insufficient evidence to prove the activity); a decision to terminate the procedure (for example, because an individual resigned from office).
service and receive not a pension but a percentage of their actual salary (Czarnota 2007, 237). Or, according to the 2008 Macedonian lustration law, the so-called “disobedience” of a candidate/occupant is made public if the person’s written document was not submitted to the Commission (The Assembly of the Republic of Macedonia 2008/09). Similarly, the Bulgarian lustration law of 2006 stipulates sanctions and penal provisions (art 33), according to which “any official who fails to fulfill an obligation originating from this Act shall be punished with a fine of between BGN 15,000 [Bulgarian Lev] to BGN 30,000.”

B.4 Implementation Indicators

This section lays out an original conceptual structure of the “implementation” dimension of lustration (See Diagram B.6). This structure provides consistent degrees to which the provisions of lustration programs are acted upon. The concept of implementation is continuous and consists of negative and positive sides, each of which is further disaggregated. The crucial difference between the negative and positive sides is whether people have actually been lustrated, i.e., submitted to a lustration program procedure. This norm applies regardless of the fact whether an individual was found to be “tainted” during the lustration process or not. Based on this simple criterion, this section develops a conceptual innovation of subtypes of the implementation.198

B.4.1 Subtypes of Negative Implementation

Non-implementation is conceptualized on an ordinal scale of four degrees (see also Table 1.1 in Chapter 1). All types are related to the degree to which a specific program, if existing, has not

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198 Collier and Levitsky complement Sartori’s ladder of generality, which allows for conceptual iterations between several subtypes of the concepts as instances of a phenomenon. Relying on the methodological strategy of “concepts +/- adjectives”, this study uses a process of conceptual stretching and subtracting. The study refers to attributes that are not full instances of lustration (See Sartori 1970, 1033-53; Collier & Levitsky 1997, 430-51).
been implemented. The first and lowest degree is absence of any lustration program. A higher degree is dependent on the presence of a lower degree that immediately precedes it.

**Diagram B.6. The Concept Structure of Implementation**

Non-Existent

Under this conceptual subtype, lustration is completely absent since lustration programs do not exist. The implementation of lustration is “non-existent” if a country has never tried to introduce let alone attempt any lustration programs. This subtype represents the actual negative pole of the concept of lustration on two main dimensions: no lustration program and no implementation.

The conceptualization of the negative pole allows the employment of the possibility principle (Mahoney & Goertz 2004) in order to include the cases where lustration could have occurred but never did. For instance, while several countries of the former Soviet Union had experienced severe repression and abuses by the Communist regime, they have not had serious discussion
about either lustration or access to secret files or court trials. To date, that is still the case in Azerbaijan, Belarus, Kazakhstan, Tajikistan, Turkmenistan, as well as Kosovo and Montenegro.

**Introduced**

The next level of implementing a lustration program is called “introduced”. This conceptual dimension contains the instances in which LPs are formally presented to the executive or legislative bodies such as parliamentary committees. Yet, the implementation of these LPs stops at this level. They do not make it to the parliament floor for the members of parliament to vote on or to the head of state to consider making it a binding decree. Nevertheless, the processes of writing and submitting LPs create space for discussion on lustration.

For instance, immediately after Armenian independence, about 50 deputies introduced a lustration bill. A parliamentary committee then blocked a vote on it (cf. A 01). In 2011, Kyrgyzstan’s Central Election Commission ruled out the referendum, proposed by a public movement, on whether government officials must reveal the extent of their involvement with the former regime (CAO. 2011; EOL. 2011). Croatia attempted to pass lustration bills in 1998 and 1999, and while the parliament did not vote on them, the bills stirred an ongoing debate. In Russia, a project on lustration was proposed to the parliament in 1992 but was never voted upon. The same bill was on the desk of Boris Yeltsin, who never issued a decree related to this initiative (Amsterdam. 2008). However, as the Democratic Russia movement approved the draft law at its congress in 1992, it provoked “a public debate on the project” and, ironically, resulted in the Supreme Soviet adopting a law “protecting records on secret informants of the security services from public disclosure” (Starovoitova 1995, 141). The same law was reintroduced to the Duma by Galina Starovoitova in 1997 but never made it to the agenda.
Voted On

The next category defines the possible instances in which a LP is considered to be passed by the legislature or the executive. This type encompasses the cases where a LP is debated and voted upon. However, the adoption process is unsuccessful as the legislature votes it down or the executive rejects it. For example, the Parliamentary Assembly of Slovenia voted on and rejected a lustration amendment to the electoral law in September of 1992 and a lustration bill in November of 1997 (Kotar 2009, 207; Zidar 1996, 273). A radical lustration bill was proposed by the Hungarian opposition in 1990. While it was voted down, it created pressure for a lustration policy: A years-long parliamentary debate ended in the adoption of the 1994 law.

Adopted

The category “adopted” refers to instances of a LP being enacted by a parliament or an executive body but not put into action. The non-implementation in these cases could be a consequence of a subsequent judicial, executive or legislative decision or of weak political will and poor institutional capacity. This category also includes the possibility of an actual abandonment of the initial implementation. While the LP is theoretically still in force, the lustrative effect could be nil not because no lustrati are found but because the institutions carrying out lustration stop carrying out the implementation of an adopted program.199

199 For example, a category belonging to the level just below the positive threshold of the implementation continuum could be called “overturned”. While a lustration program can be enacted by the legislature or decreed by the executive, its implementation could be prevented, revoked or halted due to judicial or executive review. This category is different from the “adopted” category, as the non-implementation of a LP did not result in the lack of political will but in a higher instance and was struck down. Surviving the filter of judicial or executive review represents an additional hurdle that the implementations of LPs could face. The possibility of this ultimate negative step (and highest no-lustration degree) is conditional on the success of all the previous ones. In reality, many LPs have been rejected after having been approved by the legislature or the executive. For instance, LPs have been declared partly or fully unconstitutional by constitutional courts (as Poland in 1992 or Hungary 1994). They have been struck down by a presidential decree (as in Poland in 2002) or the parliament (as in Bulgaria in 1995). In case
For example, in Serbia soon after the 2003 adoption of a lustration bill, the law became a dead letter (Cakić 2010). Similarly, Slovenia’s 1994 Judicial Service Act prohibited judges who had participated in trials violating basic human rights to be appointed justices. In only one case was a candidacy rejected. While the person appealed to the Supreme Court, the Court avoided making a decision before the judge was 70 years old and thus ineligible because of age (Petrovčič 2011). Slovenia’s 1994 Judicial Service Act prohibited judges who had participated in trials violating basic human rights to be appointed justices. In only one case was a candidacy rejected. While the person appealed to the Supreme Court, the Court avoided making a decision before the judge was 70 years old and thus ineligible because of age (Petrovčič 2011). Similarly, Slovenia’s 1994 Judicial Service Act prohibited judges who had participated in trials violating basic human rights to be appointed justices. In only one case was a candidacy rejected. While the person appealed to the Supreme Court, the Court avoided making a decision before the judge was 70 years old and thus ineligible because of age (Petrovčič 2011). Similarly, Slovenia’s 1994 Judicial Service Act prohibited judges who had participated in trials violating basic human rights to be appointed justices. In only one case was a candidacy rejected. While the person appealed to the Supreme Court, the Court avoided making a decision before the judge was 70 years old and thus ineligible because of age (Petrovčič 2011). Similarly, Slovenia’s 1994 Judicial Service Act prohibited judges who had participated in trials violating basic human rights to be appointed justices. In only one case was a candidacy rejected. While the person appealed to the Supreme Court, the Court avoided making a decision before the judge was 70 years old and thus ineligible because of age (Petrovčič 2011). Similarly, Slovenia’s 1994 Judicial Service Act prohibited judges who had participated in trials violating basic human rights to be appointed justices. In only one case was a candidacy rejected. While the person appealed to the Supreme Court, the Court avoided making a decision before the judge was 70 years old and thus ineligible because of age (Petrovčič 2011). Similarly, Slovenia’s 1994 Judicial Service Act prohibited judges who had participated in trials violating basic human rights to be appointed justices. In only one case was a candidacy rejected. While the person appealed to the Supreme Court, the Court avoided making a decision before the judge was 70 years old and thus ineligible because of age (Petrovčič 2011).

Slovakia between 1993 and 1996 represents a case of abandoning the screening policy it inherited from Czechoslovakia. Its lustration law lapsed by desuetude, that is, by lack of implementation. The Slovak case therefore “cannot be recognized as successful in terms of lustration” (Letki 2002, 544).

B.4.2 Subtypes of Positive Implementation

Only once a lustration program successfully passes the above-mentioned institutional hurdles can it produce a lustrative effect by screening individuals. Only at that stage can a lustration program be considered as implemented. The threshold separating the negative and positive sides of the implementation continuum is a lustration of at least one person seeking or holding a lustrable position. This threshold serves as an operationalization criterion for the coding of the cases and a divide for a dichotomous understanding of lustration.

Beyond this binary concept of implementation, lustration can be implemented in a variety of ways by affecting different numbers of people in different countries and time periods. This variation, however, represents a major difficulty in assessing implementation.

Firstly, while defining various forms of implementation is theoretically possible, difficulties arise with providing consistent measures of the “lustrative effect”. The challenge is specifically
to conceptualize on the same continuum the different “methods” of lustration programs. This difficulty can be resolved by focusing on screening. Since screening is a necessary part of any LP, it is possible to operationalize its implementation across cases.

More difficult is a valid comparison between disqualification, and exposure or confession, i.e., between the implementation of exclusionary and disclosure-based methods. For instance, the information about the effect of the inclusive often remains un-measurable. In the case of Hungary, it is impossible to obtain any information about those who left office because the vetting procedure does not allow their names to be published. Moreover, the existence of the Hungarian law “may have deterred some former agents from taking on public positions; this effect cannot be measured but could be significant” (Barrett et al. 2007, 301).

Another difficulty with developing the precise indicators of the outcome of lustration is endogeneity. The design of a LP in terms of size, scope, duration, and severity can affect the efficacy of the program and its outcomes. The harshness or mildness of a LP can predict the numbers of those affected by screening.  

The next section addresses these concerns. It begins with a discussion of measurable indicators. It also discusses the institutional capacity of state bodies responsible for the enforcement of lustration programs. The section concludes by operationalizing the duration of enforced LPs.

B.4.2.1 Measurable Indicators

In order to provide some definition and measure of positive implementation, this section develops a simplified framework covering the possible implementation outcomes of lustration

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200 LPs thus predict directionality in terms of not only affecting institutional trustworthiness or trust in national government and other outcomes (Kaminski et al. 2006, 295-302) but also the number of screened people as such.
programs. Relying on the Czech, German, Hungarian, Polish and other models, two factors emerge as potential conceptual categories that are conducive to a reliable measurement across the regional and temporal variations of lustration. The first measurable indicator of implementation is the number of individuals screened or verified for their past involvement over a nation’s population. In this first case we look at the number of persons screened: total number of persons vetted (as in Hungary), or total lustration declarations (as in Poland), or total number of lustration certificates issued (as in the Czech Republic). The second measurable indicator is how many of these screened individuals were found to be “tainted” and thus subject to a sanction stipulated by a lustration program. In this case we look at the number of “tainted” persons found: incriminating data found (as in Hungary) or positive lustration declarations (as in Poland), or positive lustration certificates (as in the Czech Republic). The coding decisions for creating a lustration index depend on the combined intensity levels of these factors that define a particular implemented lustration policy. The numbers are given per year, all the laws combined.  

While there are several other indicators available, they are difficult to operationalize and cannot be measured consistently across all cases or they cannot be measured at all. For example, they may pertain to specific provisions of a lustration program that are unique to a country. Or, the lustration program does not allow for publication of the results. These indicators are specific to the publication and the confession procedures of the inclusive method. Still, these indicators provide useful information with regard to specific coding decisions. Let us briefly examine the indicators pertaining to publication, confession and institutional capacity.

The implementation of lustration can also be examined through institutional capacity such as the work of lustration commissions, institutes and archives. The level of institutional capacity, resources and organization of screening bodies represents a proxy of lustration implementation as well as its cause. As separate state bodies, lustration commissions are usually called “Authority for checking” (ALB 95), “Judicial Committees” (HUN 94), Lustration Courts, or are incorporated into the Ministry of Internal Affairs (CZE 91). For example, according to the Hungarian lustration law of 1994, there are supposed to be two to three commissions, employing three judges each. A commission issues decisions such as declaratory decisions, dispensational decisions, decision on terminating the procedure, or others (Barrett et al. 2007, 289). In reality, except for cases such as Germany or the Czech Republic, the institutional capacity has often not been commensurate with the legal expectations of lustration programs that a government has signed. Administrations have been relatively weak in carrying out the undertakings that a government has agreed to. Relatedly, one could observe the progress of post-communist countries with regard to the implementation of different EU standards. These countries have all shown a high degree of formal acceptance and formal compliance to the EU’s *acquis communautaire*. However, after being admitted to the EU, some post-communist countries have shown a disappointing degree of the implementation of the EU standards.

In order to measure implementation through the institutions involved in lustration procedures, the following indicators can be considered. Most obvious are budgetary provisions and the funds allocated for lustration and declassification commissions. Another indicator is the number of employees in these commissions. For example, the
Number of Screened

Successful implementation can be first recognized through the number of persons and positions screened in a particular country every year. Since screening is a necessary and insufficient part of a lustration method, the number of screened people per capita represents a crucial and complimentary indicator of the level of implementation.202

In terms of numbers, Czechoslovakia and Germany adopted the most sweeping measures. In Czechoslovakia, 168,928 lustration certificates were issued by 1992; and in the Czech Republic about 345,000 by 2001, and 473,389 by March of 2009 (David 2011, 76). In Germany, while the overall numbers are only partly available because of the decentralized processes (Wilke 2007, 351), researchers estimate that at least 1.5 million have been screened since 1992 (Crossley-Frolick 2007, 208).203 In Poland, only about 23,000 affidavits of senior public servants and judges were screened within the initial four years (David 2011, 88). As of 2012, over 25,000 public officials were required to submit affidavits in Poland.204 In Hungary, 9,548 persons were vetted by the end of 2004.205 Bulgaria only lustrated a few individuals (Kosar 2008; Schwartz 1994).

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202 The ratio of the number of persons screened to the number of protected positions. There could be a 100% implementation if the law required lustration only of the post of the president, and a country fulfilled it. Put differently, this is the ratio of lustrated over lustrable.
203 In the most intense years of lustration, 1990-1997, there were 1,505,583 queries to the BStU, accounting for 86 percent of the 1.75 million queries registered as of April 2007 (Crossley-Frolick 2007, 208).
204 Czarnota notes that “At the time of writing, 23,598 people have filled out lustration declarations, which, according to the lustration law, are all subject to the commissioner’s scrutiny” (Czarnota 2007, 239).
205 Or, by December 2003 the total number of persons vetted was 7,872 (See Barrett et al. 2007, 277).
The differences between the Czech or German numbers and the Hungarian, Polish or Bulgarian ones point to speedy or lengthy processes, which originate in specific lustration programs. In most cases, the levels of implementation followed the scope of specific LPs. However, Albania lustrated tens of thousands despite the narrow provisions of the LP (Austin & Ellison 2009). This might be a sign of lustration justifying political and administrative purges.

**Number of Tainted Individuals**

Positive lustration certificates can result in actions such as dismissals, bans, or exposure by publication. In the Czech Republic, out of 473,389 issued lustration certificates, 10,325 were found to be positive and thus dismissed due to their membership or collaboration with the secret police. In Germany, about 3 percent were disqualified (Crossley-Frolick 2007, 208-209).

Some claim that early on more than 500,000 individuals dismissed for prior Stasi collaboration (Rosenberg 1995, 326). Others contend that by 1997, 42,046 were dismissed out of a total of 1,420,000 persons vetted (McAdams 2001, 73).

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206 For example, due to the provision of the Hungarian law of 1994 and 1996, lustration targeted only the network persons from the III/III section of the communist Interior Ministry, totaling 27,133 persons altogether (Barrett et al. 2007, 277).

207 Several difficulties may arise when considering the number of positive lustration certificates as a proxy to the level of implementation. In the Czech Republic, for instance, some individuals applied for certificates even if certificates were not mandatory—as for example election candidates. Or, people applied for the certificate without applying for any post in order to ensure that they had a clean record. Or, the actual number of those dismissed may be lower because it does not take into account those who received positive certificates without applying for any public positions David 2011, 76.

208 Of the 6.3 percent revealed to have Stasi ties, it is estimated that a mere 3 percent were removed from jobs. If one includes investigations outside the civil service, the total number dismissed was no more than 54,926 (McAdams 2001, 73). “Taken as a whole, therefore, a “positive” report from the BStU revealing past cooperation with the Stasi did not, by and large, translate into automatic termination. But the picture is incomplete, because the BStU does not collect any data on dismissals related to “political” factors” (Crossley-Frolick 2007, 209).
B.4.2.2 Duration

The final conceptual dimension of implementation is the period during which a lustration program is being actively enforced. The beginning of the implementation period is defined when a single person is lustrated in a given country. Duration is operationalized as followings. If a LP is implemented in a given country, a positive value is assigned to every year when a specific lustration law was enforced and produced a lustrative effect. The year during which no lustration occurs is coded as zero.\textsuperscript{[209]}

For example, the observations for Albania from 1995 to 2002 are coded (1), when the bans of the so-called “genocide” lustration law were in force and actively implemented (See Table C.2, Appendix C). In the case when two or more lustration programs are being enforced at the same time within one country, the observation is still coded as “1” since the variable does not measure intensity but duration of an implemented LP.

The conceptual indicators of implementation now allow for the construction of an index of lustration. Based on the theoretical framework of concept of lustration, Appendix C incorporates the indicators that distinguish between the different lustration types and creates a new lustration scale. These indicators allow for measuring the intensity of lustration, based on original data for the entire post-communist world from 1990 until 2012.

\textsuperscript{209} An alternative to this coding is provided by Horne, who codes the timing of lustration in order to reflect standard practices used in similar policy models, introducing a nonlinear functional representation for time. Before lustration is enacted, the absence of lustration is coded as the difference between the year of measurement and the year of regime change. After enactment, timing is coded as the difference between the year of the lustration policy and the year of regime change (Horne 2011, 30). However, this coding remains less clear in cases where lustration is present even after the program’s sunset provision or its expiration and before a new program is adopted and implemented.
Appendix C: The Measure behind the 1990-2012 Lustration Index

Appendix C first introduces the project of increasing the consistency between the concept of lustration and the measure of lustration (Section C.1). It then presents the indices of lustration that are currently available in the literature (Section C.2). Finally, the creation of a double index is explained: of lustration programs and of lustration (Section C.3).210

C.1 Concept-Measure Consistency

This study provides a high degree of correspondence between the concept of lustration and field data. It bridges the gap between the concerns for valid concepts and reliable measures. Moreover, the study does not assume an a priori coherence between the dimensions of the concept and numeric measure. Implicit arguments have proven inconsistent in lustration research as they neglect the mathematical properties of the concept and the measure. The coherence between the data and concepts is achieved only when a particular concept both differs from other concepts and combines depth and parsimony.

Applying extension and intension techniques allows this study to increase the concept-measure consistency. Their use has been made possible by the theory of the concept as presented in Appendix B. The process of producing a valid quantitative measure relies precisely on the structured designation of the core characteristics of lustration. As a result, the structure of the concept will correspond to the mathematical structure of the Lustration Index.

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210 This Appendix contains additional material that cannot be accommodated in the main text due to length restrictions on the dissertation. Some of the additional material is currently provided under Endnotes. Other type of data such as the ECEFSUM dataset and the 1990-2012 Lustration Index can be obtained from the author.
Research problems that have arisen on the level of measuring lustration have recurred on the theoretical level of constructing the concept of lustration.\textsuperscript{211} Research has avoided a clear discussion of a logical fact of ontology that different concept structures have different empirical properties.\textsuperscript{212} Lustration literature has produced inconsistence as it often defines lustration through necessary attributes but then applies a measure by relying on addition or averaging. Yet, while currently available indices are incomplete, their measurement logic provides useful insights on the operationalization process. The next section presents the most coherent indices.

\section{C.2 Current Lustration Indices}

Natalia Letki uses three factors in assessing the completeness of lustration (Letki 2002, 543):

\begin{itemize}
  \item The actual implementation (not simply enacted laws);\textsuperscript{213}
  \item The practicality of the scope (a program designed for real change);
  \item The impartiality of programs (not designed as a tool against political opposition).\textsuperscript{214}
\end{itemize}

\textsuperscript{211} A specific structure of a particular concept is actually a theory of the phenomenon. Theoretical questions need therefore to address the understanding of our conceptual schemes with which we observe political data from different historical periods and regions. An accepted albeit implicit theory determines much of what one observes. In order to acknowledge the theoretical and ontological perspectives, this chapter attempts to be explicit in what ways the empirical data describing lustration are theory laden and in constant communication with concepts. Only through connecting the concept of lustration to the operationalization levels of transitional-justice research design can research provide “verified scientific explanations” (King et al. 1994, 16-17; Popper 1959 [1934]; Shapiro 2002, 596-619; Adcock & Collier 2001, 529-46).

\textsuperscript{212} As demonstrated by Jürgen Habermas, the choice of a paradigmatic framework and of basic theoretical predicates has to correspond to a tentative preconception of the object (cf. Habermas 1990 [1971], 245-72). The process by which theories constitute the political world is strongly affected by the presence or absence of paradigmatic philosophical elements, which are always linked to a particular tradition. In the words of Hans-Georg Gadamer, understanding of the world always implies a structure of prejudgments, which are certified by tradition. The very conditions that allow the construction of the theories and methods of political science are therefore tradition-based and context-given. As Gadamer points out, a hermeneutic “situatedness” causes that objectivity cannot be secured by an abstraction from preconceived ideas or even prejudgments. Objectivity can only be obtained by the process of reflecting upon the context of history, which connects a perceiving subject to his object (Gadamer 2004 [1975]).

\textsuperscript{213} The criterion of implementation has also been one of the most important guides for conceptualization and coding procedures of this study. Lustration to be recognized as enforced, should apply to a practicable number of people.

\textsuperscript{214} Letki claims that “Although in all cases the lustration acts were aimed at certain social groups and emerged from the political struggle between the post-communist and post-opposition parties, only in Albania was the bill designed as a tool for disqualifying the political opposition” (Letki 2002, 544).
Letki’s index from 2002 classifies as “sufficiently lustrated” Germany, the Czech Republic, Hungary, Poland, with Lithuania as a borderline case; as “insufficiently lustrated” Bulgaria, Slovakia and Albania; and as de facto non-lustrated Estonia, Latvia, Romania, Ukraine and Belarus.

Cynthia Horne builds upon Letki’s early index by assessing the scope, intensity and actual implementation of programs. While Horne’s coding differs importantly from Letki’s, Horne provides meaningful criteria on a trichotomous coding (Horne 2011, 11).

- “Sufficiently lustrated”: Lustration laws implemented; Some screening of individuals (either public or private sector or both); Some removal from office or positions; Citizen fatigue-symbolically done with process.
- “Insufficiently lustrated”: Failure to implement laws on the books; False starts and stops to lustration; Lustration stalled for political reasons; Constitutional Court blocks implementation but does not rule lustration process unconstitutional; New rounds of expanded lustration demonstrate population not done with measures.
- “Non-lustrated”: countries in which laws are in place but no real implementation; No removal from office; Targeting non-political positions and office holders.

Kaminski and Nalepa present an index based on lustration as a sanctioning mechanism. Looking at the severity of lustration, they distinguish between “harsh,” “mild” and no lustrations (Kaminski & Nalepa 2006). For the “harsh” category they require that lustrated individuals must prove they did not commit targeted activity, a removal from office, and severe sanctioning (e.g., not just publicizing information). Cases falling into this category are Albania, Bulgaria, the Czech Republic, Lithuania and Estonia. For the “mild” category, they stipulate truth telling, information release and that sanctioning tends to be the release of compromising information.

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215 This coding results in these countries non-implementation, too narrow scope of screening, and manipulative character of the implementation of legal regulations (Letki 2002, 545)/
216 Horne codes as “sufficiently lustrated” the Czech Republic, Hungary and the Baltic States; as “insufficiently lustrated” Poland, Romania and Slovakia; and as “non-lustrated” Albania and Bulgaria.
Respective cases are Hungary and Poland. For the no lustration category, they require that no lustration measures are legally enacted.\(^{217}\)

Finally, Lavinia Stan offers a comprehensive transitional justice index, with lustration as a primary but not exclusionary component. Stan categorizes the index in terms of “the severity and timing” of efforts. In descending order she classifies them from “vigorous and quick,” to “mild transitional justice,” to “weak transitional justice,” and to “resisted attempts at transitional justice” (Stan 2009a, 248). The most “vigorous” cases are Czech Republic, Latvia, Lithuania and Estonia. The “mild” ones are Hungary and Poland. The “weak” ones are Bulgaria and Romania. The “resisting” ones are Albania and Slovakia.

For the purpose of providing a more adequate degree of correspondence between the systemized concept of lustration and the structure of its numeric measure, this appendix and Chapter 2 explicitly present measurement tradeoffs and justify them by the aim of the research. This study also discusses the implications that the competing theoretical considerations pose for the construction of numeric measures of lustration. These tradeoffs concern in particular the tradeoffs between parsimony and depth, parsimony and differentiation, as well as parsimony and field utility (Gerring 1999).

C.3 New Measures and Indices: Lustration Programs and Lustration Index

The operationalization of lustration reflects a particular country’s level of the implementation of lustration programs. Lustration programs and their implementation are operationalized and measured on interrelated typological scales. In the cross-time and cross-section dataset created

\(^{217}\) Similar coding procedures have been employed elsewhere. Analyzing lustration in Afghanistan, researchers have differentiated between effective vetting process; soft vetting (e.g., revelation prior to elections and an opportunity to withdraw); and other mechanisms (Ayub et al. 2009).
for this study, each yearly observation measures the presence or the absence of the indicators presented in the previous sections. A combination of these indicators allows for a composite measure of lustration programs and lustration. This section begins by discussing the coding procedure of lustration programs. The section continues by coding the event data and then develops dichotomous and multi-value scales.

C.3.1 The Index of Lustration Programs

The indicator of the index for lustration programs (LPs) represents a composite score of different characteristics that rely on basic attributes. The score relies on specific underlying categories in order to demonstrate the logic behind the coding procedure. From the diagrams in Appendix B, it is clear that different combinations capture distinct authority structures, being sensitive to the many forms that LPs might take.

The index for LPs is based on an explicit aggregation rule, justifying the weighting scheme avoiding conceptual problems and redundant dimensions. The weighting scheme is a summation of the qualities of lustrative traits. The values that contribute to the separate scales are coded on several component variables (see Appendix B), but those components are similarly scaled. Because there is no overlap in traits between the separate scales, the combination of those scales should not be problematic.

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218 The coding decisions depend on the combined intensity levels of several factors that define a particular LP. The number of indicators in the measure thus follows the structure of the concept of lustration. Moreover, each sub-dimension of the concept of lustration is measured independently and a clear discussion on the measurement indicators is provided. In most of the cases, this study adds (or averages) the values of the various indicators. The final measure is the sum of the values of the score on the indicators. The different levels are defined as a particular score on the sum of the indicators, distinguishing among different types of lustration on a continuum between the positive and negative (non-occurrence) ends of the spectrum. The theoretical logic of this research relies on the insights provided by Goertz 2006, 97
This study provides trichotomous measures for the three dimensions of a LP: past positions, protected positions and methods. A dimension of a LP is coded as either comprehensive \{1\} or mild \{0.5\}. In cases where a dimension is absent, it is coded zero \{0\}. For example, if in the “present” dimension both electable and appointed positions are targeted, the cases are coded as comprehensive, i.e., \{1\}. The LP scale thus ranges from zero to 3. For instance, the Hungarian LP is coded \{0.5+0.5+0.5\}. The Czechoslovak lustration program is coded \{1 + 0.5 + 1\}.

A case is coded with the same values for all the years a LP is enforced. If a LP is not enforced, it is coded only during the year it was adopted (or implemented but not enforced by screening). Otherwise, it is coded zero \{0\}. Finally, if more LPs are being enforced, the sum of all is provided, with a maximum coding \{1\} per category.

In short, lustration programs are measured both separately on their sub-dimensions—past targets, protected positions and methods used—and combinatorially as one measure. Appendix A provides a detailed summary statistics for these four separate indices of lustration programs.

**C.3.2 From Event Data to Lustration Index**

The most basic measure of lustration is the frequency of events in a given year that fall under specific conceptual categories. That is, event data reflect the occurrence of a lustration program under the different categories on the lustration spectrum.

This study first creates several variables explaining different aspects of lustration through event counts of respective categories. This is justified by the precision of a lustration practice being explored. For example, the variable “IntroCnt1” counts any number of introduced LPs in a particular year regardless of possible subsequent steps. If during that same year the introduction of a LP was neither rejected nor voted on then the following yearly observation receives the
same value. For example, the following yearly observation receives a \{1\} even if no bills were
troduced; the value is “inherited” from a previous year (e.g., Georgia 2010-2011, Moldova
2001, and Romania 2006). The following yearly observation can also receive a higher value if
during that following year another law was introduced. However, if the introduced law is passed
to a higher level (e.g., voted on, adopted, etc.) or rejected, the value of the following yearly
observation for the introduced variable is reduced (to zero).

If a LP is introduced in the same year when another LP is under the introduced status (in that
year or previous years), the value of the existing yearly observation increases by the number of
LPs introduced. For example, if two different bills are introduced during the same year, the
yearly observation is coded \{2\}—even if it received a higher level that year, or had it from a
previous year. As for the lustration index criteria, the count categories are thus collapsed by the
level of intensity. An additional event increases the intensity of a particular measure.

The variable “IntroCnt2” accounts for the fact whether a bill changes status from “introduced”
into “voted on.” If a bill during that year or in the next years passes onto a higher level, it is
coded \{0\}. If the bill is rejected as introduced, it is coded \{1\}. This logic is also used for the
subsequent levels. In cases where there are more laws such as in Bulgaria when in 1992 4 out of
5 were not implemented, it is coded \{4\}.

Variable “IntroCnt3” codes an observation \{1\} if that year (like “IntroCnt1”) and the years
afterwards are not changed to a higher or lower status or annulled (e.g., Serbia in 2003). The
country keeps the “introduced” level that year or for the number of years it is legally in place.
This allows focusing on the duration of a particular level of a lustration measure. Relatedly, the
“EnforceCnt1” and “EnforceCnt3” variables show how many laws or amendments are put into
implementation that year only for the first time, and how many laws are being implemented
during that year until they go to another level or expire, respectively.

For the cases when more than one category is present in a single yearly observation (e.g.,
several laws passed; some lustrative programs of the same year are implemented and others not;
some are adopted while others rejected), the following solutions are provided.\footnote{If at least one
law is implemented, then the observation under the implementation column [variable “4Mult3”]
is coded \{4\}. Number \{4\} represents a value of a country implementing a law that year,
regardless of the exact level of enforcement, and more importantly, regardless of other legislative
attempts potentially occurring during the same year. The assumption is that they are equally
weighted. The level \{4\} on the overall lustration index means that a lustration program is being
implemented but no one is screened (i.e., this does not mean that lustration program is not being
enforced). This leads into the question of the Lustration Index.}

\subsection{Lustration Index}

This study distinguishes two scales within the Lustration Index: dichotomous and multi-value
indices.\footnote{The coding procedure and the lustration measures rely on a number of specific
indicators since “variables measured with greater precision contain more information than those
measured with less precision” (Singer & Willett 2003). The indicators presented in Appendix B
allow for measuring the likelihood, intensity and duration of lustration within one index. The
indicators are based on the theoretical framework, presented above, and rely on original data for
the entire post-communist world from 1990 until 2012.}
First of all, LPs are coded within the Index only once, even if there were two laws of similar kind during the same year (e.g., Bul 2001).\textsuperscript{221} Ensuing coding decisions that concern the number of persons being “screened” and “tainted” are the following. The entire dataset operates only with the average number of screened or tainted per year. Next, for the case of Albania and Bulgaria, which both combine measures of purge and lustration, and Estonia, the disqualified persons are treated by their LPs as persons both screened and found “tainted.” In cases of Albania and Czechoslovakia the available real number per year is used, using it for subsequent averaging. Finally, the Lustration Index also reports the level of duration assigned only for years of implementation when the law was in force. For example if a yearly observation is coded \{5\} and the country is introducing a new law, it still remains \{5\}.

Tables C.1 and C.2 follow the coding procedures discussed above and present the differences among post-communist countries in terms of adopting lustration, as well as in the duration of their respective lustration mechanisms.\textsuperscript{222} Each coding is followed by endnotes, which provide thoroughly treated information on every instance of negative or positive lustration. These details include, if possible, country abbreviation and year, lustration policy, date of introduction or passage, sources, and parsimonious notes. The database is generated from primary and secondary literature sources as well as this authors’ interview and archival work. As the information is being collected on an ongoing basis, the details may not be always complete but they are sufficient to justify a coherent coding procedure and related Index.

\textsuperscript{221} The current excel formula is the following “=IF(JT270>0, 4+IF(JP270=1,1,0), KD270)”.

\textsuperscript{222} Table C.1 is a replica of Table 1.1 from Chapter 1, substantiated here with background information.
### Table C.1. Cross-Country Differences in Adopting and Implementing Lustration with detailed Endnotes

<table>
<thead>
<tr>
<th>Lustration</th>
<th>Law or Decree</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Existent</td>
<td>Aze; BiH; Blr; Kaz; Kos; Mnt; Tjk; Tkm</td>
<td>0</td>
</tr>
<tr>
<td>Introduced</td>
<td>Arm(91, 11); Cro(98, 99); Geo(01, 05, 06, 08); Kgz(10); Hun(91, 93, 98); Mld(05); Rom (93, 99, 05); Rus (92, 97); Ukr (05, 12)</td>
<td></td>
</tr>
<tr>
<td>Attempted / Voted On</td>
<td>Bul(92abcd; 98(reduced)); Geo(07); Hun(90ab, 94b, 02b); Mld(00/01); Pol(92abcdef); Rom(97); Svn(92, 97)</td>
<td></td>
</tr>
<tr>
<td>Adopted</td>
<td>Alb (08); Bul(98); Hun(05); Pol(92g, 06, 12); Srb(03); Svk</td>
<td>1</td>
</tr>
<tr>
<td>Overturned: Judicial</td>
<td>Alb (93, 09); Bul(92abcd, 11); Hun(94, 95, 05); Pol(92, 07); Rom(08, 10, 12); Mac(10, 11, 12)</td>
<td></td>
</tr>
<tr>
<td>Overturned: Presid./Exec.</td>
<td>Cz</td>
<td></td>
</tr>
<tr>
<td>Upheld: Jud. Review</td>
<td>Alb(96); Bul(93); Cz(01); CZE(92); Hun(94); Lat(95: 98, 02, 03, 06; 94: 04); Ltu(99)</td>
<td></td>
</tr>
<tr>
<td>Upheld: Presid./Exec</td>
<td>Cz(00)</td>
<td></td>
</tr>
<tr>
<td>Screening &amp; Disclosure</td>
<td>Bul(01a, 06); Hun(94a, 96); 00 &amp; 01; 02a</td>
<td></td>
</tr>
<tr>
<td>Screening &amp; Ban/Removal</td>
<td>Alb(91a, b, 92a, 93b, 95a, b); Bul(90a, 91, 92); GDR(90, 91); Cz(92); Est(95); Ltu(91ab, 98, 99, 07); Mac(08, 10, 12); Pol(96)</td>
<td></td>
</tr>
</tbody>
</table>

Abbreviations: ALB Albania; ARM Armenia; AZE Azerbaijan; BiH Bosnia and Herzegovina; BLR Belarus; BUL Bulgaria; CRO Croatia; CZ The Czech Republic; CZE Czechoslovakia; EST Estonia; GEO Georgia; GDR the German Democratic Republic; HUN Hungary; KAZ Kazakhstan; KGZ Kyrgyzstan; KOS Kosova; LAT Latvia; LTU Lithuania; MAC The Republic of Macedonia; MDA Moldova; MNT Montenegro; POL Poland; ROM Romania; RUS Russia; SRB Serbia; SVK Slovakia; SVN Slovenia; TJK Tajikistan; TKM Turkmenistan; UKR Ukraine; UZB Uzbekistan; YUG Yugoslavia (Serbia and Montenegro).

Sources: Author (see Appendix A).

223 Complete rejection of a program (not just of certain provisions)
<table>
<thead>
<tr>
<th>Country</th>
<th>Duration and Implementation</th>
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</thead>
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<tr>
<td>CZE</td>
<td>1992-ongoing</td>
</tr>
<tr>
<td>EST</td>
<td>1995-ongoing</td>
</tr>
<tr>
<td>GDR</td>
<td>1990-2011</td>
</tr>
<tr>
<td>GEO</td>
<td>2012-ongoing</td>
</tr>
<tr>
<td>HUN</td>
<td>1996-ongoing</td>
</tr>
<tr>
<td>LAT</td>
<td>1994-ongoing</td>
</tr>
<tr>
<td>MAC</td>
<td>2008-2010; 2012</td>
</tr>
<tr>
<td>POL</td>
<td>1990; 1999-ongoing</td>
</tr>
<tr>
<td>ROM</td>
<td>2006 – 2008</td>
</tr>
<tr>
<td>SVK</td>
<td>2001</td>
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<tr>
<td>SVN</td>
<td>2001</td>
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</table>

*Note: Coding decisions are based on country legislations and extensive literature review presented in Endnotes.*

*Source: Author (The ECEFSUL 1990-2012 Dataset).*
Appendix D: Descriptive and Statistical Proofs to Chapters 2-5 and 7

D.1 Chapter 2

Graph D.1 presents the inflation of zeros in the Lustration Index from a regional perspective. This inflation is visible in East-Central Europe and to a greater extent in the region of Mongolia and the former Soviet Union region (excluding Baltic states).

Graph D.1. Lustration Index 1990-2012: Regional Perspective
Note: Lustration Index: No Lustration {0-4}, Lustration {5-7}
Region: East-Central Europe {1}, Form. Sov. Union (Baltics Excluded) and Mongolia {0}
Source: Author (The ECEFSUM 1990-2012 Dataset).
Chart D.2 represents the categorical probability distribution if the Lustration Index is truncated at zero.

**Chart D.2.** Dependent Variable’ Probability Densities if Truncated at 0  
*Source:* Author (The ECEFSUM 1990-2012 Dataset).
D.2 Chapter 3

The following graph depicts the deterministic analysis of binary lustration and multi-level democracy scale (as used in Chapter 3.2).

Graph D.3.1. Lustration and 7-level FHPR Democracy
Source: Author (The ECEFSUL 1990-2012 Dataset).
Graph D.3.2 depicts a relatively strong relationship between democracy and lustration. This is particularly true for the region of East-Central Europe.

Graph D.3.2. Average Combined Lustration and Democracy Scores per Region.

*Note:* ECE Dem: Avg. FHP (1-7) in East-Central Europe (Including Baltic States); ECE Lus: Avg. Lustration Index (0-7) in ECE; FSUM Dem: FHP (1-7) in Former Soviet Union and Mongolia; FSUM Lus: Avg. Lustration Index in FSUM.

*Source:* Author (The ECEFSUL 1990-2012 Dataset).
Graphs 3.3.1-4 depict the effect of marginal effects of democracy on lustration for different regions and time periods. The statistical relationship is bivariate.

**Graph D.3.3.1.** Adjusted Prediction of FH Democracy with 95% CIs in East-Central Europe on \( E[Y] \) and

**Graph D.3.3.2.** Adjusted Prediction of FHPR, 95% CIs, in the Region of the Former Soviet Union, on \( E[Y] \)

*Source:* Author (The ECEFSUL 1990-2012 Dataset).

**Graphs D. 3.3.3 and D. 3.3.4.** Adjusted Prediction of FH Democracy with 95% CIs: 1990-2000 and 2000-12

*Source:* Author (The ECEFSUL 1990-2012 Dataset)
### Table D.3.1. Influence of Political Regime Factors on Adoption: per region, period and model

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<thead>
<tr>
<th>VARIABLES</th>
<th>ECEFSU</th>
<th>ECE</th>
<th>1990-00</th>
<th>2001-12</th>
<th>ECEFSU</th>
<th>ECEFSU</th>
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<td>0.90****</td>
<td>1.01***</td>
<td>0.67**</td>
<td>0.72*****</td>
<td>0.45****</td>
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<tr>
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<td>(0.30)</td>
<td>(0.23)</td>
<td>(0.11)</td>
<td>(0.10)</td>
</tr>
<tr>
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<td>0.09</td>
<td>0.43</td>
<td>-0.14</td>
<td>0.21+</td>
<td>0.07</td>
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<tr>
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<td>(0.32)</td>
<td>(0.22)</td>
<td>(0.11)</td>
<td>(0.11)</td>
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<tr>
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<td>(0.35)</td>
<td>(0.45)</td>
<td>(0.13)</td>
<td>(0.18)</td>
</tr>
<tr>
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<td>-0.75***</td>
<td>-0.65*</td>
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<td>-0.27*</td>
<td>-0.43**</td>
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<td>(0.21)</td>
<td>(0.30)</td>
<td>(0.34)</td>
<td>(0.12)</td>
<td>(0.13)</td>
</tr>
<tr>
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<td>0.04+</td>
<td>0.03</td>
<td>0.05+</td>
<td>0.02</td>
<td>0.01</td>
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<td>(0.03)</td>
<td>(0.01)</td>
<td>(0.01)</td>
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<td>287</td>
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<td>570</td>
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</table>

Standard errors in parentheses

**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

Random-effects Tobit regression, Gaussian (normal) distribution
### Table D.3.2. Influence of Political Regime Factors on Implementation: per region, period and model

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<td>0.02*</td>
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<td>(0.01)</td>
<td>(0.76)</td>
<td>(0.75)</td>
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<tr>
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<td>0.02</td>
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<td>-0.17*</td>
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<td>xtreg. re</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>**** p&lt;0.0001, *** p&lt;0.001, ** p&lt;0.01, * p&lt;0.05, + p&lt;0.10</td>
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</table>

243
Table D.3.3. Average Marginal Effects\textsuperscript{224} or Derivatives (dy/dx) of Regime Variables on $E[Y]$ ("y*"), $E[Y|Y > 0]$ ("e") and $E[Y>0]$ ("pr") for the ECEFSU and ECE regions and 2001-2012 period\textsuperscript{225}.

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<th>(2)</th>
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<th>(4)</th>
<th>(5)</th>
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<td>(0.35)</td>
<td>(0.27)</td>
<td>(0.38)</td>
<td>(0.32)</td>
</tr>
<tr>
<td>Regime duration (current)</td>
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<td>0.02</td>
<td>0.00</td>
<td>0.06+</td>
<td>0.05+</td>
<td>0.06*</td>
<td>0.05+</td>
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<tr>
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<td>(0.02)</td>
<td>(0.00)</td>
<td>(0.04)</td>
<td>(0.03)</td>
<td>(0.03)</td>
<td>(0.02)</td>
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Observations
Number of ccode
Left-censored observations
Uncensored observations
rho

Standard errors in parentheses

\textbullet\bullet\bullet p<0.0001, \textbullet\bullet p<0.001, \textbullet p<0.01, * p<0.05, + p<0.10

Random-effects Tobit regression, Gaussian (normal) distribution
dy/dx for factor levels is the discrete change from the base level

The tobit model provides useful information on the expected value of $y$, i.e., $E[Y]$ (Golder. 2012; Roodman 2009; Wooldridge 2002). The coefficients obtained from ME on the expected value for the censored (corner) and uncensored parts of the variable $y$ (i.e., censored and uncensored) indicate how a change in $x$ affects together the conditional mean of $y*$ in the positive part of the distribution and the probability that the observation will fall in that part of the distribution.

This last interpretation points to the so-called observed model in which an observed $y$ that equals $y*$ if the value of $y*$ is greater than the censoring point (zero) but equals the censoring

\textsuperscript{224} AME are not to be confounded with Conditional marginal effects (if “atmeans” command added), which is the Marginal Effect at the Means.

\textsuperscript{225} The results for the 1990-2000 period are statistically invalid or non-obtainable.
point (zero) if the value of the “unobserved” y* is less or equal to the censoring point (zero). In other words, we can interpret the Tobit \textit{beta} coefficient as the combination of the change in lustration of those above zero, weighted by the probability of being above the limit, and the change in the probability of being above the limit (i.e., zero), weighted by the expected value of observable lustration variable if above. This understanding of marginal effect, called the “McDonald-Moffit” decomposition (McDonald & Moffit 1980), allows now for more nuanced a calculation and interpretation of the effect of various determinants on lustration.
In the multivariate analysis of regime factors on lustration, the following analysis goes beyond the linearity assumption. It uses the “factor variable” of FH democracy for non-linear modeling. Table D.3.6.4 presents the margins for each level of FHPR on the censored level of lustration (censored prediction), i.e., on the expected value of the latent dependent variable y* conditional on the FHPR. The results show anew that levels 6 and 7 of FHPR have the highest marginal effect on lustration across the various models. The countries with higher levels of FHPR are highly likely to “succeed” in lustration strongly.

Table D.3.6.4. Average Marginal Effects of Regime Variables and FHPR Levels on y*

<table>
<thead>
<tr>
<th>VARIABLES</th>
<th>(1) ECEFSUM</th>
<th>(2) ECE</th>
<th>(3) 90-00</th>
<th>(4) 01-12</th>
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<td>(0.00)</td>
<td>(0.09)</td>
<td>(0.00)</td>
<td>(0.00)</td>
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<td>1.89**</td>
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<td>0.86</td>
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<td>(0.69)</td>
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<td>5.fhpr</td>
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<td>1.42**</td>
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<td>(0.45)</td>
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<td>(0.00)</td>
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<td>6.fhpr</td>
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<td>Regime duration (current)</td>
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<td>(0.03)</td>
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<td>Left-censored obs.</td>
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<td>Uncensored obs.</td>
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<td>0.605</td>
<td>0.565</td>
<td>0.578</td>
<td>0.822</td>
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Standard errors in parentheses; **** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10
Random-effects Tobit regression, Gaussian (normal) distribution
NOTE: dy/dx for factor levels is the discrete change from the base level; For the 01-12 column, the variance matrix is non-symmetric, yielding biased results. However, if Mongolia is excluded, the 7.fhpr level is significant at “+”.
For a better illustration of these results, see Graphs D.3.6.1–3.6.4, based on the “factor variable” approach and show predictive marginal effect of FHPR at its distinct levels.

Graphs D.3.6.1. and D.3.6.2. Predictive Margins of FHPR with 95% CIs on y* for the Post-Communist Region and ECE

Source: Author (The ECEFSUL 1990-2012 Dataset).

Graph D.3.6.3. Predictive Margins of FHPR with 95% CIs on y*(on E[Y]) for the Entire Region 1990-2000 and Graph D.3.6.4. for the Entire Region 2001-2012

Source: Author (The ECEFSUL 1990-2012 Dataset).
Table D.4.1. Elite Model: Influence of Parties and Legislatures on Lustration (without FH elect)

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<th>(4)</th>
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<td>0.02*</td>
<td>0.03**</td>
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<td>(0.01)</td>
<td>(0.01)</td>
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<td>0.01</td>
<td>0.01</td>
<td>0.03**</td>
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Standard errors in parentheses

**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

Random-effects Tobit regression, Gaussian (normal) distribution
### D.4 Chapter 5

**Table D. 5.1. Influence of the TJ Mechanisms Combined**

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<td>(442.20)</td>
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<td>*** p&lt;0.001, *** p&lt;0.001, ** p&lt;0.01, * p&lt;0.05, + p&lt;0.10</td>
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<td>Random-effects Tobit regression, Gaussian (normal) distribution</td>
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Table D.5.2. Influence of Additional Institutional Factors, Domestic and International

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Standard errors in parentheses

**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

Random-effects Tobit regression, Gaussian (normal) distribution
### Table D.7.1.A. The Big Picture Model: Intensity (Alternative Models)

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| Observations               | 549        | 441        | 366        | 263        | 240      | 203      |
| Left-censored obs.         | 337        | 263        | 195        | 105        | 82       | 48       |
| Uncensored obs.            | 212        | 178        | 171        | 158        | 158      | 155      |
| rho                        | 0.359      | 0.278      | 0.286      | 0.309      | 0.0      | 0.0      |

Standard errors in parentheses

**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

Random-effects Tobit regression, Gaussian (normal) distribution
Table D.7.1.B. The “Big-Picture” Model: Intensity

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Standard errors in parentheses
**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

Random-effects Tobit regression, Gaussian (normal) distribution

Results in Table D.7.1.A present minimal changes as communist duration does not factor in the equation (as it does in Table 1, Chapter 7, or Table D.7.2). Specifically, the absence of communist duration variable increases the effect of democracy and of the party list electoral arrangement.
### Table D.7.2. The Big Picture Model: Intensity (Alternative Models)

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Random-effects Tobit regression, Gaussian (normal) distribution
Table D.7.1.C. “Big-Picture”, using the “Adoption” Measure of Lustration

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Random-effects Tobit regression, Gaussian (normal) distribution
Table D.7.1.D.1. “Big Picture”, using the “Implementation” Measure of Lustration [scrpop]

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<td>Support regime 1990</td>
<td></td>
<td></td>
<td></td>
<td>0.01*</td>
<td>0.01+</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(0.00)</td>
<td>(0.00)</td>
<td>(0.00)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Observations</td>
<td>549</td>
<td>441</td>
<td>366</td>
<td>263</td>
<td>240</td>
<td>203</td>
</tr>
<tr>
<td>Left-censored obs.</td>
<td>402</td>
<td>318</td>
<td>247</td>
<td>144</td>
<td>121</td>
<td>84</td>
</tr>
<tr>
<td>Uncensored obs.</td>
<td>147</td>
<td>123</td>
<td>119</td>
<td>119</td>
<td>119</td>
<td>119</td>
</tr>
<tr>
<td>rho</td>
<td>0.392</td>
<td>0.277</td>
<td>0.256</td>
<td>0.215</td>
<td>0.265</td>
<td>0.151</td>
</tr>
</tbody>
</table>

Standard errors in parentheses
**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10
Random-effects Tobit regression, Gaussian (normal) distribution
### Table D.7.1.D.2. Main Models, using “Implementation”

<table>
<thead>
<tr>
<th>VARIABLES</th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distance to Prague</td>
<td>-0.03***</td>
<td>-0.02*</td>
<td>-0.02*</td>
</tr>
<tr>
<td></td>
<td>(0.01)</td>
<td>(0.01)</td>
<td>(0.01)</td>
</tr>
<tr>
<td>State creation (inv.)</td>
<td>-0.05*</td>
<td>-0.10**</td>
<td>-0.10**</td>
</tr>
<tr>
<td></td>
<td>(0.02)</td>
<td>(0.04)</td>
<td>(0.04)</td>
</tr>
<tr>
<td>FH judicial (avg)</td>
<td>0.06**</td>
<td>0.11**</td>
<td>0.11**</td>
</tr>
<tr>
<td></td>
<td>(0.02)</td>
<td>(0.04)</td>
<td>(0.04)</td>
</tr>
<tr>
<td>Compet. exe. recruit.</td>
<td>-0.02</td>
<td>-0.05</td>
<td>-0.05</td>
</tr>
<tr>
<td></td>
<td>(0.03)</td>
<td>(0.04)</td>
<td>(0.04)</td>
</tr>
<tr>
<td>Political competition</td>
<td>0.01</td>
<td>0.02*</td>
<td>0.02*</td>
</tr>
<tr>
<td></td>
<td>(0.01)</td>
<td>(0.01)</td>
<td>(0.01)</td>
</tr>
<tr>
<td>Truth commission</td>
<td>0.06**</td>
<td>0.08***</td>
<td>0.08***</td>
</tr>
<tr>
<td></td>
<td>(0.02)</td>
<td>(0.02)</td>
<td>(0.02)</td>
</tr>
<tr>
<td>NATO affiliation</td>
<td>-0.02*</td>
<td>-0.02*</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(0.01)</td>
<td>(0.01)</td>
<td></td>
</tr>
<tr>
<td>Support regime 1990</td>
<td>0.01*</td>
<td>0.01*</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(0.00)</td>
<td>(0.00)</td>
<td></td>
</tr>
</tbody>
</table>

Observations: 532, 263, 203
Left-censored obs.: 406, 144, 84
Uncensored obs.: 126, 119, 119
rho: 0.352, 0.202, 0.202

Standard errors in parentheses

**** p<0.0001, *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

Random-effects Tobit regression, Gaussian (normal) distribution
Appendix E: Interviews with the Elites

The field work for this study was carried out between 2010 and 2012. Most of the interviews were conducted in Russia and Georgia. A few interviews took place in Armenia, Belarus, the Czech Republic and the United States. The interview work consisted of two phases. The first served to obtain the broader picture by conducting “informal” and “introductory” interviews. The second consisted of “semi-structured” interviews. This appendix first presents the logic of the two interview phases and of the sampling and coding techniques. It then provides remarks on archival work, it describes characteristics of interviewees and it presents an interview protocol.

E.1 First Interview Phase

During the first phase, informal interviews were carried out as a part of a process of observing the social arena of transitional justice in the post-communist world. They helped develop an understanding of lustration and transitional justice, particularly in the post-Soviet region. The nature of informal interviews also helped the respondents to talk more freely and gain their trust.

Informal interviews were conducted with scholars and journalists. The information received was about what has been done in terms of transitional justice in the region, about what are the expectations of various political and non-political actors about transitional justice, and about potential candidates for the next phase of interviews. For example, the interviews inquired about the importance of pre-authoritarian independence. They also aimed at uncovering to what extent can political competitiveness explain lustration.

The first interview phase continued by so-called introductory interviews. These interviews were open-ended and included a limited control on the contribution of a respondent. They
allowed testing the initial understanding of lustration. For example, they helped discern between different strategies that elites use in order to bring about or prevent lustration. Also, they helped refine semi-structured questions for the second phase of interviews and recruit candidates for interviews. Introductory interviews were taken with scholars, journalists and political activists.

### E.2 Second Interview Phase

The second interview phase consisted of longer and in-depth interviews. This phase included interviews with elites that significantly influenced the lustration process. For instance, these elites had been involved in drafting procedures of a lustration law, discussions in the legislature or the executive or voted on lustration. They consisted of parliamentarians, who held office while lustration laws were discussed, of politicians and high-level state bureaucrats, whose carriers could have been influenced by lustration laws, and by other key actors, who considerably influenced the debate on lustration. These interviews revealed the reasons why and how parliamentarians in specific periods voted on lustration. They showed what kind of experience, information, and motivation led them to a specific political action with regard to lustration.

The second-phase interviews followed a semi-structured and formal protocol. (An example is included at the end of Appendix E.) Interviews took an average of one hour. Interviews were conducted in Russian and in English. Since for many respondents lustration represented a highly sensitive topic, oral consent was asked for. Questions were tailored to the interviewee. The more sensitive the topic for the interviewee, the broader the questions were.

---

Some of the risks to the interviewees and precautions taken were the following. First, in a country with limited freedom, such as Russia, interviewing a subject about the crimes of the former regime and their demand for, or the opposition to, lustration, minimally required complete confidentiality. Interview settings were screened from outside observation. In Georgia, interviews were conducted at a site of an interviewee’s choice, due to higher political freedom. Finally, the gathered data were securely protected and encrypted. However, if during an interview the respondent required his/her name be explicitly related to the contents of the interview and his/her name be used in
E.3 Interviewee Selection, Sampling and Coding

Interviewees were selected with a snowball technique asking various groups of people if they were able to provide the names of crucial elites involved in regime change and lustration. Also, subjects were recruited from the author’s database of people that are known to have opinions on transitional justice for the post-Soviet region, particularly in Georgia and the Russian Federation. This database was created predominately during the first phase of interviews.

In order to obtain representative opinions from a variety of actors, this study sampled the respondents in terms of their political affiliation or ideology: communists, post-communists (reformed communists), liberal democrats (open to form coalitions with communists or post-communists), and anti-communists (open to very minimal cooperation with communists or post-communists).

This study uses the following coding nomenclature to enable the reader identify the interviewee—in case the identity was withheld at the request of a respondent—while relying on the sampling strategy presented above. The first letter stands for the country (A = Armenia, B = Belarus, C = the Czech Republic, G = Georgia and R = Russia). Affiliation related to sampling uses the following abbreviations: C = communist; FC = former communist, LI = liberal, AC = anticommunist. The number is randomly assigned. The coding partly follows the procedure used by (Nalepa 2010b), with her permission in 2010.
<table>
<thead>
<tr>
<th>Interview Respondent Characteristics</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A AC 01</td>
<td>politician; dissident</td>
</tr>
<tr>
<td>B LI 01</td>
<td>academic</td>
</tr>
<tr>
<td>CZ AC 01</td>
<td>dissident, advisor to the President, HR advocate</td>
</tr>
<tr>
<td>CZ LI 02</td>
<td>politician</td>
</tr>
<tr>
<td>CZ LI 03</td>
<td>academic</td>
</tr>
<tr>
<td>G LI 01</td>
<td>politician, academic</td>
</tr>
<tr>
<td>G LI 02</td>
<td>academic, HR advocate, archivist</td>
</tr>
<tr>
<td>G LI 03</td>
<td>academic</td>
</tr>
<tr>
<td>G LI 04</td>
<td>academic, former CPSU member; advisor to the administration</td>
</tr>
<tr>
<td>G AC 05</td>
<td>archivist, academic</td>
</tr>
<tr>
<td>G LI 06</td>
<td>academic</td>
</tr>
<tr>
<td>G LI 07</td>
<td>academic</td>
</tr>
<tr>
<td>G AC 08</td>
<td>academic, advisor to the administration, media</td>
</tr>
<tr>
<td>G LI 09</td>
<td>archivist, HR advocate; activist</td>
</tr>
<tr>
<td>G LI 10</td>
<td>politician; former Komsomol member</td>
</tr>
<tr>
<td>G AC 11</td>
<td>politician, drafter of lustration bills</td>
</tr>
<tr>
<td>G AC 12</td>
<td>academic, lawyer; drafter of legal documents</td>
</tr>
<tr>
<td>G LI 13</td>
<td>politician</td>
</tr>
<tr>
<td>G LI 14</td>
<td>lawyer, HR advocate, parliamentary secretary</td>
</tr>
<tr>
<td>G LI 15</td>
<td>archivist; state administration</td>
</tr>
<tr>
<td>G LI 16</td>
<td>academic, politician, former CPSU member</td>
</tr>
<tr>
<td>G LI 17</td>
<td>politician; state administration</td>
</tr>
<tr>
<td>G LI 18</td>
<td>politician, academic, lawyer; former CPSU member</td>
</tr>
<tr>
<td>G LI 19</td>
<td>state administration, politician</td>
</tr>
<tr>
<td>G LI 20</td>
<td>academic</td>
</tr>
<tr>
<td>G PC 21</td>
<td>politician; former CPSU member</td>
</tr>
<tr>
<td>G LI 22</td>
<td>Church official</td>
</tr>
<tr>
<td>G LI 23</td>
<td>Constitutional Court</td>
</tr>
<tr>
<td>G AC 24</td>
<td>politician; state administration</td>
</tr>
<tr>
<td>G LI 25</td>
<td>politician; HR advocate; security expert</td>
</tr>
<tr>
<td>G LI 26</td>
<td>politician</td>
</tr>
<tr>
<td>G LI 27</td>
<td>academic</td>
</tr>
<tr>
<td>G LI 28</td>
<td>politician</td>
</tr>
<tr>
<td>G LI 29</td>
<td>politician; state administration</td>
</tr>
<tr>
<td>G PC 30</td>
<td>politician; state administration</td>
</tr>
<tr>
<td>G AC 31</td>
<td>politician; lawyer</td>
</tr>
<tr>
<td>G LI 32</td>
<td>Constitutional Court Justice</td>
</tr>
<tr>
<td>G LI 33</td>
<td>state administration</td>
</tr>
<tr>
<td>G AC 34</td>
<td>politician; state administration</td>
</tr>
<tr>
<td>G AC 35</td>
<td>state administration</td>
</tr>
</tbody>
</table>

227 This section does not provide detailed characteristics of respondents due to safety concerns of the interviewees.
E.4 Archival Work

Archival research represented a supporting strategy for testing the main hypotheses of this study. Archives, secret files, declassification, online documentation and the handling of the
classified files are closely related to the causes of lustration. Archives represented a source of subjects for interviews. Also, their study provided information on the type of collaboration with the former regime that constitutes the subject of lustration laws (i.e., working as an informer for the authoritarian security apparatus or working as a professional undercover agent of the secret political police). Some of the names of former collaborators helped understand the role of the former communists and secret agents in current legislatures that argue for or against lustration.

Secondly, while governments may deny access to the secret files, there is a growing number of journalists and human-rights advocates that compile the files and the stories of (previous) authoritarian abuse. While such compilations of stories are not directly related to this study, the way a country deals with such journalists has consequences on lustration. Information from these sources additionally revealed how legislators are connected with the previous regime and how they vote on lustration.

E.5 Example of an Interview Protocol for Elite Interviews

Personal Experience and Warm Up

- Could you, please, tell me about your work as a politician and parliamentarian in the 1990s? For, example, what were your most important political concerns? What kind of professional pressures did you find most difficult to deal with? What was your role in your party?
- To what extent were you involved in the process of regime change? Were you politically active before, or during, or after regime change
- Do you think that the early promises of regime change were fulfilled and why? What did you find most desirable about regime change? Most problematic?

Bigger Picture: Early 1990s

- Among other tasks of democratization (market reform etc) what importance have you given to the questions of regime change, justice, and political accountability?
What was the degree of certainty that the regime would eventually change and the communists leave the cabinet? What kind of transition was this (e.g., negotiated etc.)?

How threatening to your country do you say communists were during the regime change in the early 1990s?

How threatening to your country do you think were secret agents (KGB) at that time?

Would the communists leave the government if they were not guaranteed that the new democratic institutions would to prosecute them?

To what extent have former dissidents replaced the communist cabinet?

Do you think that these dissidents delayed lustration because they feared their own “skeletons” – were the former dissidents infiltrated?

Do you think the (post) communist opposition knew about the levels of infiltration among the former dissidents? Did the post-communists hold the dissidents hostage?

What kind of promises were made during the regime transition (e.g., amnesty etc.)?

Key Moments and People: 1990-2010

Looking back at your vote on lustration law, what was the most influential in developing and making your vote? Could you identify: Key people? Key moments? Key organization?

During your vote on lustration, what factors did you consider crucial in your decision (and can you rate their importance): public demand; personal experience; the pressure of your constituency; party affiliation; ideological convictions (promoting democracy; nationalism, etc.); threats to democracy; the harshness of the previous regime; revenge; other

Did you consider other TJ models and examples?

Has that vote (and the surrounding debate) had a lasting effects on you and your views

Bigger Picture Today

To what extent do you agree with the following statements: Members of the former regime should be banned from running for public office? E.g., former highly ranked communist officials, former KGB servants, etc.

Do you believe that lustration should be carried out (e.g., examining the links of politicians to the former secret police) in your country?

How should have the society treated the informants, who worked for the secret police?

Who should lustration (not) apply to?

What negative consequences could lustration have in your opinion?

Do you know anyone who before the regime change had worked as an informer for the regime?

Do you have any suggestions about concrete people that I should talk to in regard to these questions?
Endnotes

Notes for Table C.1

---

i Arm 91

*Date of Introduction:*

*Notes:*
- A 01 talks about introducing a bill to the parliament with about 50 MPs.
- It is not clear if the draft was a lustration program or a declassification bill;

*Sources: A 01*

ii Arm 11

*Date of Introduction: Nov 14, 2011:*

*Notes:*
- The Armenian fraction "Heritage" has initiated talks on bills on lustration; offered a bill;
- Introduced for discussion. Was it voted upon?
- "The amendments to the law on lustration are to declassify people who worked for the Committee for State Security, intelligence services and investigators of the former USSR before the referendum on Armenian independence of September 21, 1991. The initiative is to dismiss officials working for special services and prevent them from taking position in other structures. Voluntary resignation is welcomed."


iii Bul 12

*Date of Introduction: April 2012*

*Notes:*
- "The right-wing Union of Democratic Forces (UDF) has proposed a lustration draft bill and constitutional amendments that will prevent the possibility of it being overturned by the Constitutional Court(KS). … Under the project, collaborators of the former communist regime's secret service, the State Security (DS), and repressive bodies, will not be able to hold leading posts in the state and municipal administration for a period of 10 years." (SNA 2012 [cited 4/29/2012])

iv Cro 98 and Cro 99

*Date of Introduction:*

*Notes:*
- Both attempts were introduced by Hrvatska Stranka Prava
- They were rejected by the parliament while the HDZ party ("anti-communist") had the majority.

*Sources: Hatschikjan 2004; Hatschikjan et al. 2005*

v Cro 12

*Date of Introduction:*

*Notes:*
- Regional politicians demand the President to enact lustration in Croatia—in a letter.

*Sources: [http://www.hdpz.htnet.hr/broj239/Lustracija.htm](http://www.hdpz.htnet.hr/broj239/Lustracija.htm)*

vi Geo 01

*Date: March 2001*

*Notes:*
- A draft law presented at the current committee hearings - Committee for Defence and Security: only senior civil servants to reveal their links with foreign special services.

*Sources: Author*

Sources: Author

Civil.Ge 2006 [cited 15 May 2010]: Парламентский секретарь Георгий Хурошвили … заявил, что законопроект не сможет работать эффективно, так как Грузия не имеет никаких инструментов для идентификации тех агентов, которые служили в КГБ СССР. => Депутаты от правящей партии Национального движения поддержали мнение Георгия Хурошвили

Is this the bill that was attempted in 2007(↓)?

Sources:

(KG) The initiative group for referendum on lustration law submitted the application on 3 November 2010 and said signatures in support of the lustration law referendum are being collected.

The Central Election Commission of Kyrgyzstan made the decision on February 14 to turn down the application. The period for submission of collected signatures in support of this initiative expired, said Central Election Commission Chair Akylbek Sariev. This is why the Central Election Commission decided to turn down the application for referendum (EOL 2011 [cited 2012])

A lustration law would bar those linked to abuses under ousted president Kurmanbek Bakiyev from holding office. CAO 2011 [cited 2012]

The Kyrgyz former prime minister Felix Kulov said that “For the legislation on lustration to be passed all previous ruling regimes must be declared criminal” (HB 2010 [cited 2012]).

Government tried to introduce the L bill in May 1991. Because of an excessive number of amendments (i.e., 250) the government withdrew it for revision in 1992 (See Barrett et al. 2007, 268);

Date: Reintroduced in 1993
Notes: Approved in March 1994 (2 months before second democratic elections)
I code the two cases as “introduced” in 1991 and 1993

Sources: David 2011, 118; Barrett et al. 2007, 260-307

xi Hun 98
Date:
Notes:
- Csucs (MP) introduced a new, harsh draft (T/378), which would have extended L to the upper ranks of the media
- Csucs withdrew his draft; However, some elements were included in subsequent draft (2000).
Sources: (Barrett, 271).

xii Mld 05?
Date: 2005?
Notes: LP coded {0.5} on all levels (minimal default).
Sources: (Vague) argument is found in Verdery 2009,

xiv Rom 93?
Notes (on sources):
- STAN does not mention it.
  So, NO LL in 1993?

xv Rom 99
Date: May 27 1999
Notes: (some) Christian Democrats introduce “the George Serban bill” in Parliament. The legislative committee/council turned it down and the bill was not included in agenda
Sources: (Stan, 2009, 134-35).

xvi Rom 05
Date: 2005 (introduced); 2010 adopted
Notes: The initial draft of the 2010 Romanian lustration law was first submitted in 2005 by four liberal parliamentarians.
Lustration provisions had a more far-reaching scope.
- The persons who worked for the former regime would, according to this first draft, lose their function immediately after their previous position is confirmed.
- Moreover, persons who are responsible for appointments in public offices have to check whether the people they appoint are in one of the situations defined by the law and take the necessary measures. Failure to do so would be followed by criminal charges
Sources: Dix 2010, 2

xvii Rus 92
Date:
Notes (from my dissertation draft):
- In Russia, a law project on lustration was proposed to the parliament in December 1992, which was never voted upon. The same bill proposal was on the desk of Boris Yeltsin, who never issued a decree related to this initiative (See Amsterdam 2008 [cited 2012]).
As the Democratic Russia movement approved the draft law at its congress in 1992, it provoked “a public debate on the project” and resulted in the Supreme Soviet adopting a legislature “protecting records on secret informants of the security services from public disclosure” (Starovoitova 1995, 141).

xviii Uk 05
Date of introduction: September 2005
Notes: A law registered by the parliament (Verkhovna Rada) in September 2005;
Sources:
http://www.grani.ru/Politics/World/Europe/Ukraine/m.83944.html
mat=GNBFI&sort=RELEVANCE&startDocNo=1&resultsUrlKey=29_T10766724135&csb=22_T10766724134&t
reeMax=true&treeWidth=0&csi=10962&docNo=8

xix Uk 12
Policy: законопроект "О люстрации"
Date of Introduction: October 2012
Notes: LP is harsh on all three dimensions (past and present positions and method)
Sources: UNIAN 2012 [cited 05 Oct 2012]

xx Bul 92 abcd
Lustration Policy:
1. The Law on Overcoming the Consequences of Communist Rule,
2. the Law on Recommunization in the Sphere of Government,
3. the Public Servants Act,
4. the Law on Democratization.
[two made it - see later] [TRUE?]
Notes:
• “Four proposed lustration laws, submitted to Parliament in 1992, would have prevented anyone in a leadership position between September 9, 1944 and January 1, 1990 from holding public office for five years.
• Not one of the four draft laws made it to a vote. The primary obstacle was a Constitutional Court ruling on several "lustration restrictions" added to the Banking Law and the "Pension Law," passed on March 4, 1992 and June 12, 1992, respectively. On July 27 and July 29, 1992, the Court held the restrictive provisions unconstitutional.”
Source: Ellis 1997, 188:
• Non-socialist governments made several attempts to achieve a breakthrough for lustration, one example being the ‘law on the decommunisation of science’ which was to make it more difficult for incriminated persons to rise to leading positions in scientific institutions but was abolished in 1995. In October 1994, four days prior to its dissolution, the National Assembly passed a law that cleared information about the methods and means of the secret services for publication. Although this law is still valid today, it is not applied.
Source: (from Christiana Christova; Dirk Förger: Lustration – Addressing the Consequences of the Communist Regime in Bulgaria, p.1)
• Source: Ellis 1997, 188

xxi Geo 07
Date of vote: Feb 16 2007
Notes:
• Feb 16 2007: 45 vs. 37 votes the Parliament of Georgia rejected the lustration bill.
• In favor: Kakha Kukava
• Introduced in 2006?
Sources:
http://www.civil.ge/rus/article.php?id=13034&search=%EB%FE%F1%F2%F0%E0%F6%E8
Hun 90 ab

Dates of Introduction: June 1990 (Justitia Plan); October 1990 (Hack-Demszky bill);
Notes: (TWO PROPOSALS)
1. Justitia plan:
   - check if voted or only introduced?
   - proposed by the Hungarian Democratic Forum (MDF) – center-right political party: draft included criminal proceedings, wage regulation, pensions reduction (backward looking approach)
Sources: (David 2011, 30), in Barrett 2007)
See also: http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA347616
2. Hack-Demszky bill:
   - a radical lustration bill, proposed by Hack and Demszy (SzDSz),
   - October 1990 – opposition party after 1990s. Their Consistent HR concerns – former dissidents; defeated in the parliament (in David, 11, 118);
   - “in spite of the nature of its Communist regime and its negotiated transition to democracy, there were immediate demands for lustration in Hungary and there had been no fewer than ten legislative initiatives by late 2002 (Williams et al in a working paper, p. 6 - SEI Working Paper No 62)
Sources: Barrett et al. 2007, 268-269.

Hun 94b

Date:
Notes:
A part of the package was accepted (and implemented) the other (considered here) was not.
Sources:

Mld 00/01

Date of Vote: 31 May 2001 (Introduced: 2000)
Notes:
- The parliament on 31 May rejected a draft bill proposed by the opposition Popular Party Christian Democratic (PPCD)
- The law would have instituted lustration for holders of the office of president, parliamentary deputy, and cabinet members, as well as for judges and journalists, RFE/RL's Chisinau bureau reported.
  - I code the lustration program as harsh ({1} on past, present, method for 2000 and 2001(?))
- Sixty-one deputies from the PCM and three from the Braghis Alliance voted to reject the draft, which was endorsed by only 13 deputies.
- The envisaged bill would have also made access to personal files in the former KGB and NKVD archives possible. In presenting the bill, PPCD Deputy Stefan Secareanu said former members of the communist secret police are now "in control of [important] economic sectors" and are "blackmailing" politicians who are afraid that their past collaboration with the communist secret police will be revealed. MS
Sources:
In 'Moldovan Parliament Rejects Lustration Bill', RFE/RL Newsline, 1 June 2001. -
(Stan 2009, 238 copied this without reference/quotation): Introduced in parliament in 2000 by deputies representing the Popular Party Christian Democrat, heir to the Popular Front, the artisan of Moldova’s independence (Stan 2009, 238).

Pol 92 abcdef

Date of Vote: September 1992
Notes:
- the Sejm debated six lustration bills (differed in terms of scope, duration, method). None of these proposals was approved (David 11, 123; from Grzelak, Wojna o Lustracje, 2005, 219-26);
- Lustration law passed in September 1992 (See below and Yasmann 1993, 11)
Draft of a law was brought in the Parliament but rejected as violating the Constitution – voted down.  
I code it as “attempted/voted upon”; as a LP, I code it as “1” (harsh) on all the levels. 
Sources: (APSA 2011 paper: Andreea Maierean: ralucamaieran@gmail.com (Boston University); Notes (on sources): Stan (2009, on ROM) does not mention it.

Sources: Kotar 2009, 207

Notes:
- The vote failed to garner two thirds of the vote. 
- The law intended to prevent secret service collaborators from taking seats in the Slovenian National Assembly: a candidate would be required to sign a written declaration. If positive, prevented from running or, if occupying a seat (by falsely denying collaboration) would lose it.

Sources: Kotar 2009, 208

Notes:
- It is unclear whether the policy is implemented before the constitutional court strikes it down (or suspends it) on Feb 16, 2009 (see Alb 09); 
- The time limit for its applicability: 2014; 
- The law bans people who co-operated with the secret services during the communist regime from running for public office

Sources: Balaš 2010, 170-90

Notes:
- A harsh policy: A strong, Czech-style, far-reaching lustration law 
  - Tradeoff: While another law in 1998 was implemented, I code lustration program {1} for all its dimensions (for 1998).
- The constitutional court rejected it on 21 January 1999

Sources:
Sadurski 2005, 249

Notes:
- Amendment to the Constitution failed to gain the necessary support; but the draft law was adopted (T14320);
• CC partly annulled it;
• unclear if implemented by 06 (!)

Sources: Barrett et al. 2007, 275

xxxii Pol 92 g

Date: Passed in September 1992 Yasmann 1993, 11

Notes:
• “The non-communist political parties elected in 1991 strived to approve a lustration law. In September 1992, the Sejm debated six lustration bills [!], which differed in terms of their scope and duration but also in their methods … The sudden surge… was a response to a previous attempt to determine the nature of the past activities of high state officials.
Source: David 2011, 123, referring to Grzelak 2005.
• By the end of the year this bill (with other bills of 1992) were deemed unconstitutional by the Constitutional Tribunal of the Republic of Poland
Source: Maciej Chmielewski, 2010

xxxiii Pol 06

Lustration Policy:

Date:
• Enacted in 2006, into effect in March 2007, invalidated by the Polish Constitutional Tribunal in May 2007 (David 2011, 189); Any implementation?

Notes:
• Coding: the introduction of this law does not change the overall coding for 2006/07 as an existing law was being enforced at the same time. However, I code it in terms of count data.
• The 2006/07 LL modified its method and considerably expanded its scope – e.g. gave authorities discretion to determine whether a second chance would be granted in cases of honest confessions, while the dismissal for dishonesty remained mandatory as in the original law
Source: David 2011, 189
• The law “broadened the scope of those who were required to be lustrated to include a vast number of professions. This new law included inter alia judges, lawyers, tax advisors, certified accountants, court enforcement officers, journalists, diplomats, municipal officials […] Additionally, under the new law, non-submission of an affidavit had the same consequences as being a lustration liar. In both cases the consequence was the exclusion from public life for 10 years. While the past law had affected about 36,000 people, the new law was estimated to affect between 400,000 and 700,000 people.”
• For additional presentation of the 2006-07 lustration law see http://www.scribd.com/doc/54507181/Lust-Ration

xxxiv Rom 10

Lustration Policy:

Date of Passage: May 19, 2010

Sources:

Comments, Amendments, etc:
• On table since 2005: introduced into parliament Dix 2010, 2
• “The Constitutional Court on Monday (June 7th) struck down the so-called lustration law
• The legislation, adopted by parliament on May 19th, bars such personnel from holding or running for important government positions for a period of five years after the law is enforced. Once parliament approved it, 29 members of the senate and 58 lawmakers from the chamber of deputies challenged its constitutionality. The Court’s decision is binding and final.
Chamber of Deputies Speaker Roberta Anastase says amendments would be made to bring the bill in line with the constitution after the Court explains its ruling.” (AFP, Mediafax - 07/06/10)


** xxxv Rom 12

*Lastration Policy:*

*Date of Passage: February 2012*


*Comments:*

- The law, which had already been passed by the upper chamber, the Senate, in 2006, now needs presidential approval before coming into force. All current high-ranking officials will be required to declare whether they held important positions under the 44 years of communist rule between 1945 and 1989. The ban on holding office runs for five years.

*Source: [http://www.budapesttimes.hu/2012/03/06/slow-process-as-romania-tackles-communist-hangover/](http://www.budapesttimes.hu/2012/03/06/slow-process-as-romania-tackles-communist-hangover/)*

- Struck down by the constitutional court.

** xxxvi Srb 03


*Date of passage: 30 May 2003.*

*Notes:*

- Sunset provision: art 34: “(3) This Law shall be applied for 10 years after entering into force.”

- Period: *Time of Application:* All human rights violations occurring after 23 March 1976, the day that the International Covenant on Civil and Political Rights came into effect

- Protected positions – persons holding, or are candidates for following office:
  - Deputies of the National or Provincial Assemblies;
  - President of the Republic
  - Prime Minister and members of the national government or provincial executive councils;
  - Mayor and municipal president and deputy president;
  - … …
  - 21. Chief of staff of the army and/or head of counter intelligence service.

*Sources: [http://www.lustration.net/human_rights.pdf](http://www.lustration.net/human_rights.pdf):*

*Comments:*

- Zoran Đinđić was assassinated in March 2003
- Parliamentary elections were held in the Republic of Serbia on 28 December 2003.
- While the countries of former Yugoslavia have not implemented lustration laws, some adopted for truth commissions after the conflict in the Balkans but they poorly or did not implement them (Grodsky 2009, 687-706).

** xxxvii Svk

*Notes:*

- After the 1993 split, Svk did not implement the CZE 1991 lustration law;
- Svk dropped the LL in 1996;
- In 2002, Svk adopted a declassification law.
- Possible lustration occurred in 2001 (see Svk 01).

** xxxviii Alb 93

*Date: May 1993*

*Notes:*

- Implemented for a few months (cf. Alb 93);
- “In May 1993, Albania's Constitutional Court struck down the country's first lustration law designed to screen and revoke the license of any lawyer with party affiliation or connections to the former Secret
The 2008 lustration law suspended by the country's constitutional court on February 16:

Notes:
- At the request of the Constitutional Court of Albania, the constitutionality of the Albanian law of 22 December 2008 on lustration which allows a newly created administrative body to terminate, for an indefinite period of time and through a specific procedure, the mandates of the President, the MPs, the ministers, the judges of the Constitutional and the High Courts.

Sources:

Notes on Venice Commission:
- In its opinion CDL-AD(2009)044, the Commission found that lustration may be legitimately effected by Albania, even almost twenty years after the end of the communist regime, on condition that the constitution and the principle of the rule of law are respected.
  Source: http://www.venice.coe.int/site/newsletter/Newsletter_2009_11_E.htm;

However, minimal lustration did take place (see Bul 11).

The Court held the restrictive provisions unconstitutional before the parliament voted on them.

Source: Ellis 1997, 188

"Bulgaria's Constitutional Court has declared unconstitutional the provisions of the Diplomatic Service Act that prevented former collaborators and agents of the communist-era State Security from holding any position in the diplomatic service."


However, minimal lustration did take place (see Bul 11).

"Six months after the law was passed, the Constitutional Court proclaimed the main provisions of the law unconstitutional."

Source: (Barrett 270)

The constitutional court, in its decision “37/2005 (X.5) AB,” partly annulled the law.

Source: (Barrett, 275)

TO WHAT EXTENT was the law annulled?

Parliament had not corrected the law before the end of its mandate in spring 2006.
**Rom 08**

*Date:*

*Notes:*

- 2006 LL produced very few screening, and was struck down by CC in 2008


**Rom 10**

*Date: 7 June 2010*

*Notes:*

- LL passed on May 19, was ruled unconstitutional on 7 June 2010 on the grounds that “the constitution prohibits collective punishment”

*Source:* explains the Bucharest daily *Gândul*

**Rom 12**

*Date:*

*Notes:*

- First declared unconstitutional in 2010, the law was revised in February 2012 at the request of the ruling Democrat-Liberal Party. The proposed bill was then approved by parliament. "Demanded insistantly by civil society, supported by politicians in election campaigns, the law now risks being buried for good,” regrets (newspaper?) *România Liberă*. This is not surprising, because in its new incarnation the law included former prosecutors. With, among them, perhaps some judges on the constitutional court.

**Mac 10,11?**

*Date:*

*Notes:*

- Implementation: from 2009-2010 – when the Constitutional Court issued a temporary order… (on the 2008 law)
- Nov 2011: the diplomatic LL was stroke down by the CC:

**Mac 12**

*Date: 29 Mar 2012*

*Notes:*

- Macedonian constitutional court strikes down 12 articles of the lustration law according to which lustration for high-ranking officials is not necessary. (Author’s translation)

*Sources:*

- Schenker 2012 [cited 2012]

**Cz 00**

*Notes:* The Parliament extended the law to the year 2000, overriding a veto by President Vaclav Havel. (Ellis)

**Alb 96**

*Date: Constitutional Court decision Nr. 1/1996 dated 31 January 1996*

*Notes:*

- The constitutional court modified the 1995(b) law (while approving it in general), for example, by removing journalists from its coverage.
- “The Constitutional Court, under Rustem Gjata, rejected the complaints on 31 January 1996, introducing only some relatively minor amendments to the Verification Law.36”
  *Source:* (Austin & Ellison, ARTICLE, 390)

**Bul 93**

*Date: February 19, 1993*
Notes: the Constitutional Court upheld, in a six-to-five decision, the law’s constitutionality, ruling that the law simply required “additional” qualifications.

Source: Ellis 1997, 188

Cz 01
Date: September 2001
Notes:

- The petitioners believed that a possible return to totalitarianism was no longer a danger, and that the amendments (422/2000 and 424/2000) to the laws, which extended the validity and effectiveness to an indefinite period were in conflict with the Constitution
- The Court rejected the petitioners’ claim.

CZE 92
Date:
Notes:

- Originally, the law also targeted “potential candidates for collaboration,” yet this was so vague that in 1992 the Constitutional Court declared it illegal. The Court upheld all other provisions.

Source: Ellis 1997, 182

Hun 94
Date: the year is not fully clear
Notes:

- The Constitutional Court struck down several provisions of the March 1994 law, finding them vague and arbitrary. To remedy these deficiencies, Parliament enacted a new law on July 3, 1996, which stipulates that all persons born before February 14, 1972 must be screened before taking an oath before Parliament or the President.

Source: Ellis 1997, 184

Ltu 99
Date: March 1999
Notes:
The constitutional court found the 1998 LL constitutional.

Bul 01a
Date: 2001
Notes:

- Only 2001 (law)
- “The commission verified candidates for those positions and the regional election committees released the verification results. The provisions were mere recommendations. Political parties were not obliged to exclude former State Security agents from electoral lists.”
- Applied only to the 2001 general poll & bitter scandals

Source: (Metodiev 166-167)

Bul 01b
Date: 2001
Notes:

- The parliament creates the “Commission Determining Connections to the Former State Security”, chaired by Metody Andreev.
- The commission works from April 2001 to March 2002. It verifies past members and discloses the names of 53 deputies (see the coding section)

Source: (Metodiev 170)
**Bul 06**

*Date of Passage*: 19 Dec 2006 (Promulgated in the State Gazette, No 102); amended (SG No 41 of 2007, SG No 57 of 2007); amended and supplemented (SG No 109 of 20 Dec 2007)

*Effective as of*: 01 Jan 2008

**Lustration Policy**: “Access and Disclosure of Documents and Announcing Affiliation of Bulgarian Citizens to the State Security and the Intelligence Services of the Bulgarian National Armed Services Act

*Notes:*
- After screening, if found tainted, the name is published (art 26/4 (3)); i.e., lustration as screening and publication (similar to Hungary);
- Art. 26. (1) Determination of affiliation to the bodies under art. 1 shall be obligatory for:
  1. Persons registered by electoral committees for taking part in presidential and vice-presidential elections, Members of Parliament at the National Assembly and at the European Parliament, mayors and municipal councilors;
  2. Persons – holders of public positions over the period from 10 November 1989 to the enactment of this Act;
  3. Persons – holders of public positions or performers of public activity as of the day of enactment of this Act;
  4. Persons indicated as debtors or persons - former members of management or supervisory body of an enterprise included in the newsletter under art. 3, para 2 of the Information on Non-Performing Loans Act as debtors.
- Penal provisions (art 33): “(1) Any official who fails to fulfill an obligation originating from this Act shall be punished with a fine from BGN 15,000 to BGN 30,000.”
- According to the “European Network – Reader” (p.6) this is “not a lustration law by nature. Its application has a moral meaning.” However, the Committee is “screening individuals” (“Reader”, p. 10), which can result in sanctions, such as publication or fines, if not fulfilling the legal obligations.

**Hun 94a**

*Policy*: Act XXIII/1994

*Date of Passage*: Passed on March 8, 1994

*In force*: since 1996

*Notes:*
- Personnel falling in certain categories are confronted with evidence against them. They are offered a chance to resign without exposure. If they refuse, their names are published in an official government gazette
- In 1994, the Constitutional Court abrogated some provisions, but did not stop the process. A new version is revised by a parliament dominated by former communists, and adopted in 1996.
- There are important differences between the 1994 and 1996 laws/amendments
  - How to code lustration program?

**Hun 96**

*Policy*: Administrative Procedural Act (Act No. LXVII of 1996)

*In force*: since 1996

*Notes:*
- In 1996, a Historical Archive Office is created. It allows all citizens to access files about themselves. In 2002, files about the past of anyone holding public office can be accessed (David, 80)

**Hun 00/01**


*Date*: 2000; 2001

*Notes:*
- The two acts are amendments to 1994/96
The 2000 act extends “significantly the list of those who should go through lustration, compared to the modification in 1996 and the original law of 1994. The new categories were mainly media representatives, although the problem remained that there was no law from which the concept of direct or indirect influence of public opinion could be derived.” (Barrett 272)

The 2001 act makes essential changes in the legal status of the Historical Office (Barrett 272).

Hun 02 a (but not b)
Policy: T 541 [a] and T 542 [b]
Date: adopted on December 23 2002
Notes:
- The act modifies the method of exposure modified: the truth about all the people is disclosed;
- T/542 was dropped after extensive amendments had been proposed. The T/541 act is accepted. It consists of disclosing information rather than just representing “the avoidable threat of disclosure” (Barrett, 273/74)
- The procedure following the T/541 provision is time consuming and expensive (Barrett 274).

Alb 91a
Date: July 1991
Policy:
Notes:
- This is not a lustration law but a decree enforcing lustration, i.e., producing a lurable effect.
- WHO ISSUED THE ORDER/DECREE?!
- The Sigurimi is abolished and replaced by the National Information Service (SHIK).
- The agency was purged of communist sympathizers and within months “reportedly 70 per cent of the agency’s employees were dismissed. The new agency was prohibited from conducting unauthorized investigations or political activity. As the move was not accompanied by access to files or any substantive house cleaning, most assumed it was just a re-packaged Sigurimi.”

Source: Austin & Ellison 2008, 379

Alb 91b [1991/92]
Policy: “On Labor Relations”, Law 7526
Date of passage: December 3 1991
Notes:
- The law amends the labor code. It allows “the government to dismiss employees of state-owned firms or agencies without explanation or the right to appeal. It contains no determinable criteria for replacement.
- The Socialists suggest that about 250,000 people lost their jobs following the Democratic Party victory in the March 1992 elections
In: Austin & Ellison 2009, 183
  - I treat this number not as the number of “screened” or found “tainted” but only of “disqualified”
  - Currently, I do not consider it as full lustration.
- This (1993?) Act is considered “the first Albanian lustration law and compared to Central and East European legislations as regards its content and purpose” (Balaš 2010, 184).
- At this point I consider it as one and the same law, implemented until 1993 (like the 1993 law)
- Implemented until?

Alb 92
Lustration Policy: Law on Political Parties
Date: July 1992
Notes:
- This is not a lustration law per se but the policy a lustrative effect.
- Some authors consider the lustrative effects resulting from this lustration policy as purges: “There were huge purges of the public administration in the aftermath of the victory of the anti-communist Democratic Party in March 1992 and there were again huge purges of the public sector after the Socialist Party (former 
communists) won elections in 1997. This cannot be considered lustration … the process was heavily influenced by political vengeance”
In: Austin & Ellison 2009, 176

- The law on political parties prohibited the creation of “any party or organization with an antinational, chauvinistic, racist, totalitarian, Fascist, Stalinist, ‘Enverist’ or Communist, or Marxist-Leninist character, or any political party with an ethnic or religious basis.” Members of the Communist Party attempted, but failed, to overturn the law in a series of 1993 court proceedings. Between 1992 and 1994, the government brought charges against more than seventy former Communist officials. In December 1993, ten senior officials were each fined the equivalent of $60,000 and sentenced to prison.
In: Ellis 1997, 185

lvii Alb 93 a, b


Date of passage: 26 January 1993;

Notes:
- The policy targets advocacy professions, including pedagogues of the Faculty of Law
- On 20 April 1993, a meeting of the commission set up by this law issues a summary decision revoking the licenses of 47 lawyers (minimal implementation until the Court decision);
- The Constitutional Court (decision Nr. 8/1993) strikes down Articles 1, 3 and 4 of the law, these being essentially the entirety of the law just a month afterwards. Hatschikjan et al. 2005, 33-34

Lustration Policy: law No. 7666

Date of Passage: 26 January 1993

Notes:
- The policy creates a special state commission involving private lawyers. Albania has not had many laws of the type known as “lustration laws,” but this was its first.
- Like Bulgaria’s “Panev law” of the early 1990’s, which was directed at members of the academic community, this law has a narrow focus.
- The law sets up a “state commission to remove the law licenses of those who had been officers of or collaborators with the Sigurimi (the Communist Secret Police), had served in various party positions and engaged in certain specific actions, such as taking part in border killings. […] Albania’s new Constitutional Court, established only in 1992, overturned the law.

Sources:
- Balaš 2010, 184
- See also: Public Debates on the Past: The Experience in Albania by Kathleen Imholz, For the seminar “Past and Present: Consequences for Democratisation”, Belgrade, 2-4 July 2004
- The law 7666: The People’s Assembly of the Republic of Albania 1993

lvii Alb 95a

Lustration Policy: Law Nr. 8001, “On Genocide and Crimes Against Humanity Committed in Albania During the Communist Regime for Political, Ideological and Religious Reasons”

Date of passage: 22 September 1995
Source: Horne 2011, 8

Notes:
- “The Genocide Law did not therefore really serve a legal purpose; it did not effectively lustrate and was superfluous to genocide prosecutions. Rather, the law was intended to make the public believe that the DP was now taking lustration seriously, and associated the most well-known former communists with the DP’s de-communization campaign. A second law introduced only two months later, the Verification Law, would build on this campaign and further the DP’s political interests even more.” Austin & Ellison 2008, 386
Most analysts conclude that the hasty introduction of the 1995 bills is directly linked to the impending elections of 1996 as the Democratic Party had just lost a referendum on the Constitution, initiated in 1994.

Alb 95b

Lustration Policy:: Law Nr. 8043, “On the Control of the Moral Figure of Officials and Other Persons Connected with the Protection of the Democratic State”

Date of passage: 30 November 1995.

Notes:

- Amendments: Constitutional Court decision Nr. 1/1996 dated 31 January 1996 modified the law (while approving it in general). For example, it removed journalists from its coverage. The law was amended legislatively four times before it went out of effect by its terms: Law Nr. 8151 dated 12 September 1996; Law Nr. 8220 dated 13 May 1997; Law Nr. 8232 dated 19 August 1997; and Law Nr. 8280 dated 15 January 1998.
- Expired on 31 December 2001 (except art 16); Implemented 1996-1998

Bul 90

Date:

Notes:

- In 1990, the State Security’s Sixth directorate closed its doors, at the end of the year
- “Some 6,000 to 7,000 secret officers were laid off” Metodiev 2009, 167
- This action is of lustrable nature, while representing an example of de-communization.

Bul 91

Policy: government issued

Date:

- In 1991, the government banned secret officers from joining political parties.
- The step limited the Communist Party’s influence on intelligence agencies but its long-term significance was limited. Metodiev 2009, 168
- It is unclear to what extent the government policy is implemented.
- Also, on 8 October 1991, ninety-three members of Bulgaria’s National Assembly — virtually all of them affiliated with the former Communist Party — asked the constitutional court to declare the MRF (a centrist party representing ethnic-Turks) unconstitutional citing article 11.4 of the constitution which explicitly bans political parties “formed on ethnic, racial, and religious basis”. On 21 April 1992, the court rejected the petition and affirmed the constitutionality of the MRF. Ganev 2004, 66-89

Bul 92e

Lustration Policy: Additional Requirements Toward Scientific Organizations and the Higher Certifying Commission," known as the "Panev law"

Date of Passage:

Notes:

- Abolished in 1995: The abrogation of the Panev law entered into force on April 3, 1995
- A harsh lustration program (see the AI report bellow)
- Ellis 1997, 188-189:
  - “The Constitutional Court did, however, uphold another lustration law -- the Law on the Temporary Introduction of Additional Requirements for Members of the Executive Bodies of the Scientific Organizations and the Higher Certifying Commission ("the Panev Law"). The law required screening of all persons aspiring to positions in the executive bodies of scientific organizations; On February 19, 1993
  - A number of former Communist leaders have been charged with alleged abuses during the Communist regime. The existing twenty-year statute of limitations for certain categories of crimes was revised retroactively to thirty-five years. In April 1996, the Prosecutor General's Office
suspended the investigation of forty-three cases involving Communist Party leaders who were indicted in 1994. The cases were suspended because many of the accused held immunity as deputies of the BSP. (Ellis)

- **Bronkhorst 2006 [cited 2012]:**
  - Since 1992, every citizen has the right to ask for, and if the conditions are given, to obtain a ‘clean past certificate’ from the Ministry of Interior. The Panev law, adopted in December 1992, requires individuals holding leading positions in academic institutions to provide a written statement about their past employment and communist party activities.

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**Bul 92 l**

**Date:**

**Notes:**

- In 1992, lustration was legislated as changes to the Law on Banks and Credit Activity
- The provision banned Communist Party leaders at all levels and State Security agents and collaborators from management positions in the banking system. Metodiev 2009, 152-75, P. 166
- Abolished in 1997

**Other sources:** (French):


**Bul 97:**

**Lustration Policy:** “The Law on Disclosure of Secret Police Files

**Date of Passage:** July 30, 1997

**Notes:**

- This is a declassification law that is also a lustration law
- It has been considered as a lenient measure. Sadurski 2005, 249
- Ellis 1997, 189
  - “The lustration law of 1997, the Law on Access to the Documents of the Former State Security, was designed to guarantee that no one involved in activities of the former state security would be allowed to hold a public office.”
- Schiller-Dickhut & Rosenthal 2009, 7:
  - “The 38th National Assembly adopted the first Access to the Former State Security and the General Staff Intelligence Directorate (GSID). The committee, established on the basis of this law and presided over by the then Minister of Interior, Bogomil Bonev, publicized in the National Assembly the names of the 23 politicians and civil servants who used to work for the former State Security. At that time, 14 of them were members of parliament.”
  - While according to this Reader publication, this law “was not a lustration law”, it produced a lustrable effect.
  - “Decree No. 10 of the Constitutional Court prevents the announcement of the names of the people who were affiliated to the SS, of whom only registration documents have been preserved, i.e. the category of the so-called “indexed” ones.”

**Bul 98**

**Lustration Policy:** Art. 26 of the Law on Public Radio and Television of 1998

**Date of Passage:** 1998

**Notes:**
“Former secret agents and collaborators could not sit on the newly created Media Regulatory Council. Candidates for those positions had to give signed declarations stating that they had never worked for the State Security.”

Implementation: “In 2002, the council removed one of its members when the commission identified him as a former spy.” Metodiev 2009, 166

**Bul 02**


Notes:
- Is this the “Classified Information Protection Act” or is it something else?
- Lustration or not?
- It has not been revoked: supplemented, SG No. 52/18.06.2004, No. 55/25.06.2004, SG No. 89/12.10.2004

Source: ?

**Bul 11**

*Policy*: Diplomatic Service Act, also called “Diplomatic lustration law”

*Date of Passage*: July 2011?

Notes:
  - At the beginning of May 2011, 13 out of the 35 ambassadors with communist secret service records were returned to Bulgaria for an indefinite consultation period, with the remaining ones to be recalled in June ([http://www.novinite.com/view_news.php?id=129556](http://www.novinite.com/view_news.php?id=129556))
- Minimal lustration effect

**CZE 91**

*Lustration Policy*: Act No. 451/1991 on conditions for holding certain positions in state bodies and organizations; also called the “big lustration law”

*Date of Passage*: Oct 4, 1991; a Federal Law, passed by the Federal Assembly

Notes:
- “This and later acts (nos. 279/1992, 422/2000, 424/2000) establish the criteria for filling certain top state posts and excluding members and collaborators of the StB, People’s Militia, military counter-intelligence and pre-November 1989 members of the Communist Party from occupying these positions.” (“Reader”, p. 17)
- In 2007, the Assembly expands the scope of the law to the police Tóth Manó 2010, 18
- Kaminski & Nalepa (2006):
  - Targets: all nonelected politicians and civil servants;
  - Targeted activity: secret police officer or informer, Communist Party official, member of the People Militia, or member of 1968 verification committees;
  - Targeted period: 1945-1990;
  - Date initiated: October 1991;
  - Source of evidence: register of collaborators.
  - Comment: More than 420,000 persons have been subjected to LL. Source: Interviews (2004, SI).

Sources:
- Read Kosar (2008) on CZE 1991 and CZ 92! [Notes I have].
Cz 92

Policy: Act No. 279/1992 or “Act of the Czech National Council of 28 April 1992 on some further prerequisites for certain positions filled by appointment or designation of officers of the Police of the Czech Republic and officers of the Penitentiary Service of the Czech Republic”

Date of Passage: April 1992

Notes:
- This Act comes becomes effective on 1 June 1992.
- The Act concerns the Czech part of Czechoslovakia only
- Žaček (told the author of this dissertation)
  - This law was adopted because of the fear that the 1991 law would destroy the Police;
  - After the Velvet “divorce” a perennial question: how to use these two laws? Finally, in 2007, the discussion was re-opened;
  - Previously, there was no or only old implementation methodology at the MIA.
  - Previously, there has been in the department (USTR, MIA) a former StB member;
  - There were different lustration waves in the Czech Republic: the last checking was done in 2007 under Langer
  - The question of definition: publishing the files before election is not lustration. Use the StB terminology: Communist lustration was a top secret inside political police; it referred to working with the archives; Political post-communist lustration refers to public lustration;
  - Comparisons between countries is difficult even for USTR as some institutions targeted by the lustration law do not exist anymore after privatization. A lot depends on the MIA on how to decide.

Est 95 a, b


Date of Adoption: 19 January 1995 by the Riigikogu; Proclaimed as Law by the President of Estonia 31 January 1995

Notes:
- Protected: all citizens
- Suspects: officer or informer of the KGB + acted against the state of Estonia
- Ban upheld in 2004 (Stan 2009, 251)
- MARK ELLIS (REF, page)
  - By May 9, 1997, the government had published, in the official journal, Riigi Teataja, two lists of former KGB informers who had failed to report their role by April 1, 1996.
  - As of June 18, 1996, forty-one persons had been refused residence and work permits because they have a criminal record, were employees of the former KGB, or gave false information about themselves.

Policy: Lustration Law

Date of Passage: 1995

Notes:
- Targeted activity: Nazi or Soviet or Communist Party security service collaboration; Persons need to register with the Estonian Security Service; registration statements are kept secret, except in cases of crimes against humanity;
- Those not complying are banned from holding high public office until 2002.

Source: (Stan 2009, 251):

GDR 90

Lustration Policies: Several provisions of the Unification Treaty

Notes:
- The StUUG law of 1991 (see below) replaced a number of temporary provisions of the Unification Treaty, which had themselves replaced a similar GDR law of August 1990 (Miller 2007, 305-30)
Sources: See (a) Gesetz über die Sicherung und Nutzung der personenbezogenen Daten des ehemaligen Ministeriums für Staatssicherheit, 24 August 1990, reprinted in Geiger (ed.), pp. 203-210; (b) Einigungsvertrag, Annexe I, Ch. II, section II (ibid., pp. 13-15); Vereinbarung zwischen der BRD und der DDR zur Durchführung und Auslegung des ... Vertrages ..., 18 September 1990, Art. 1 (pp. 20-21); and (d) Vorläufige Ordnung für die Nutzung personenbezogener Unterlagen des ehemaligen MfS, 12 December 1990, (pp. 191-202). For the relationship among the first three see Schäuble, pp. 275-279, and Stoltenberg, pp. 48-61.

GDR 91
Lustration Policy: The Stasi Records Act (Stasi-Unterlagengesetz, StUG)
Date of Passage: 20 December 1991; in effect since December 29, 1991
Sources:
- On the history of the Act and the Institution see Schiller-Dickhut & Rosenthal 2009, 26-37
Notes:
- Semler 2009:
  - Although it has been amended several times, its nucleus has not changed in 20 years. The government agency established by the act, the Office of the Federal Commissioner for the Records of the State Security Service of the former German Democratic Republic (BStU), has proven its value many times over.
  - To act, the agency needs a request from individual citizens, other governmental departments (checking the record of someone entering state employment), academic researchers or journalists.
  - The archive provides information on whether a specific individual has a Stasi record. In most cases, the issue is whether or not the person worked as an informer, or IM.
- Targets in the GDR’s lustration program of 1991:
  - members of federal and state governments and parliaments, employees of public service (including the municipal level), international organization of which West Germany was a member, or churches, public notaries, attorneys, and all managerial positions.
  - An employer, whether state, private organisation or business, may ask for checks on specified senior employees (or applicants for such posts) to enable it to decide whether they were Stasi workers or collaborators. If they were, if this makes them unsuitable for the job in question, and if they were aged over 18 at the time, that is a legitimate ground for dismissal, as laid down in the Unification Treaty. Also derived from the Treaty is the criterion used at this point: it is activity (Tatigkeit) for the Stasi, rather than preparedness to supply information. The list of posts whose incumbents may be checked includes ministers, parliamentarians, public servants, local councillors, judges and solicitors, directors and managers, office bearers of political parties and churches, and jobs requiring security clearance. Miller 2007, 315
  - The inclusion of business personnel in the list helps combat the widespread perception that the Stasi 'laundered' resources and personnel into the privatised economy; see Geiger & Klinghardt, p. 100. The amendments of 1996 add the staff of parliaments, parliamentarians and political parties to the list.
  - Überprüfung (literally: ‘check, review’, but used here more specifically in the meaning of investigation followed by vetting) will end at 29 December 2006 for most categories, such as members of government and parliament, lawyers, judges and public functionaries. (http://www.amnesty.nl/bibliotheek_vervolg/thema_berechting_case_1)

Geo 10/11
Dates:
- Aug 17, 2009: Initiative by Gia Tortladze: http://www.civil.ge/rus/article.php?id=19743&search=%EB%FE%F1%F2%F0%E0%F6%E8;
- October 28, 2010 – 1st Hearing
  - The Georgian Parliament (75 votes to one) passes in the first hearing of the legislative initiative of deputies from minority Gia Tortladze, a Freedom Charter (enhanced security measures, contains
provisions for the lustration, Combat and Eradicate the Soviet and Nazi symbols) (In Russian: http://www.civil.ge/rus/article.php?id=21310&search=%EB%FE%F1%F2%F0%E0%F6%E8)

- May 20 2011: 3rd Hearing, but postponed
- May 31 2011: law adopted
- First screenings (by the Central Election Commission) in September of 2012.

lxxiv Lat 94 ab

Policy: Election law
Notes:

- Election Law on city and town councils of 1994 (Stan, 2009, 251)
- Former KGB agents must report to the National Office of Historical Memory. The law requests investigation into candidates for elected office and certain administrative posts (Rumin 436, in DeGreiff 2007)
- The law concerns legislature only.

Policy: Citizenship Law
Source: (Stan, 2009, 251, etc)
Notes:

- Stan notes that lustration has remained limited because of the lack of sufficient evidence to unmask former secret agents Stan 2009, 234

lxxiv Lat 95

Policy: Parliamentary Elections Act,
Date: May 25 1995
Notes:

- The act excludes from election candidature for activities in the Communist Party in 1991 after an unsuccessful coup d’état orchestrated by the CPL
- The act targets legislature only
- The ban is upheld in 1998, 2002, 03 and 06 (Stan, 2007, 252)

lxsv Lat 96

Policy:
Date: November 1996
Notes:

- The parliament adopts “a new law restricting anyone associated with the communist regime from running in the March 1997 local elections” but the law remained limited Stan 2009, 234

lxsv Ltu 91 ab

Policies:

- Policy: Decree Banning KGB Employees and Informers from Government Positions, Decree No. 418
  Date: October 12, 1991
- Policy: Law on the Verification of Mandates of Those Deputies Accused of Consciously Collaborating With Special Services of Other States, Law No. I-2115,
  Date: December 17, 1991 (Kritz, 1993e, 1993f)

Source: Horne 2011
Notes:

- Targets: deputies to parliament, members of ministerial departments, employees of State Service, and administrators and deputies of cities and districts. [VERIFY]
- Suspects: KGB officer or informer [VERIFY]
- Stan (2009, 231): “Lustration was blocked” because in October 1992, the successors of communists won
  o No implementation from 1992-99; Definitely implemented in 1991-92, and from 1999 onwards (Stan, 232)
Policy: Law on the Evaluation of the USSR State Security Committee … and the Present Activities of …
Date: July 16 1998 (Kosar 2008: 471); or November 1998 and in effect in 1999 (Stan, 2009, 232)
Notes:

Policy: Date: November 1999:
“That month, dissatisfaction with the lustration legislation prompted parliament to adopt a new law providing for the registration of persons who confessed to their ties to Soviet secret services…” Stan 2009, 233
Notes:
- According to the 1999 lustration law, KGB agents must report within six months to the special commission (Rumin)

Policy: Date: November 1999:
“Two years later, parliament accepted a new law allowing former KGB employees, reservists and informers to voluntarily register…” Stan (2009, 233)
Notes:
- 2005… “Two years later, parliament accepted a new law allowing former KGB employees, reservists and informers to voluntarily register…” Stan (2009, 233)
- Implemented in 2007, but “no lustration cases have been examined since then” (Stan, 2009, 234)

Date of Passage: Jan 22, 2008; The law was amended in May 2009.
Sources: http://www.sigmaweb.org/dataoecd/20/45/47074588.pdf
Notes:
- Designated period 2008 → 2019 (extended in 2009 by Parliament):
- Implementation takes place from 2009 to January 2010 when the Constitutional Court issues a temporary order SIGMA 2010, 10.
- The Constitutional Court strikes down some of the provisions (regarding clergy and other targets):
  http://www.vmacedonianews.com/2008/02/macedonia-passes-lustration-law.html ;
  http://www.novosti.rs/vesti/planeta.70.html:263540-Makedonija-Ustavni-sud-ogranicio-lustraciju ;

- In November 2011, the diplomatic lustration law was stroke down by the CC:
- What lustration law (or provision) was overturned by the Constitutional Court in 2012? Schenker 2012 [cited 2012]
Sources: Makedonija u sukobu oko Zakona o lustraciji: http://www.balkaninsight.com/mk/article/makedonija-u-sukobu-oko-zakona-o-lustraciji:

Policy:
Date: April 2012:
- A new version introduced into the parliament by the ruling VMRO-DPMNE after the previous one was rejected by the CC. The oppositional Social Democratic Union of Macedonia (SDSM) does not back it:
  http://www.focus-fen.net/index.php?id=n275475
Date of Passage: June 2012; entered into force July 2012

Notes:
- I code it as minimally implemented {5}
- “The VMRO-DPMNE proposed this new, more narrowly focused law, after the Constitutional Court in late March suspended 12 controversial regulations contained in the previous lustration law, adopted in 2008” Pavlevski 2012 [cited 2012]. However, the bill remains comprehensive (i.e., businesses included).
- In addition, the bill was supported by its Albanian partner, the Democratic Union for Integration, as well as two other Albanian parties: the NDP and DPA. The opposition Social Democrats voted against it.
- Method: online publication of “tainted” only Smilevska 2012: I therefore code the “method” as 0.5.
- I code this as lustration since names are published after a procedure.

xciii Pol 90
Lustration Policy:
Date of Passage: April 11 1997 ; Passed in 1996; into effect Aug 3 1997;
Notes:
- A “light” lustration law of 1990 ensures that police officers and prosecutors who had been involved in repressing apposition activity lost their jobs. Calhoun 2002, 499; Killingsworth 2010, 278..
- “Lustration act was introduced in Poland. Implications were minimal and limited prosecution of those that directly acted against the reform” (http://www.scribd.com/doc/54507181/Lustration)
Sources: Calhoun 2002, 499-500; Killingsworth 2010, 278

xciv Pol 97
Date of Passage: April 11 1997 ; Passed in 1996; into effect Aug 3 1997;
Notes:
- Not implemented until 1999 as several difficulties arise in regards to establishing the lustration court. The law is amended in 1999
- Targeted period: 1944 to 1990;
- The law is amended several times in 1998. “Continuing quarrels over it had led to thirteen changes in the system’s scope and institutional framework after the major amendment to the lustration law was passed in 1999” David 2011, 158
- In affidavits persons need to disclose whether they had worked or collaborated with security services; if they are dishonest they lose “moral qualification” for 10 years and their names are published;
- It lost its binding force on March 15 2007, as the 2006 LL came into effect, but the 2006 law is never implemented. Poland then reverses to the previous confessionary method (David, 85);
- Details (by Kamiński & Nalepa)
  - Targets: candidates for parliament and other national-level elected posts, president, justices, and lawyers;
  - Targeted activity: secret agents, secret police, ordinary and military intelligence or counterintelligence; Targeted period: 1946-1989;
  - Dates in force: 1997-present; Source of evidence: secret police files and targets' declarations.
  - Comment: A total of 23,000 persons were subject to LL. Source: Interviews (2004, L).
- More and better details (than Kamiński and Nalepa)
  - “ART 1: Jurisdiction to rule on the veracity of statements concerning the work or service in state security agencies listed in the Act or to cooperate with these authorities in the period from 22 July 1944 until 10 May 1990 the Warsaw Court of Appeal, ‘the court ’” (Google translate)
**Collaboration** is defined as: “a conscious and secret cooperation with operational or investigating units or organs of the state security as a secret informer or as an assistant of operational gathering of information.”

- The Constitutional Tribunal interpreted this definition and declared that there were 5 conditions, which were necessary to be considered a collaborator.
  - First, there had to be contact with the secret police during which a transmission of information took place.
  - Second, that collaboration had to have been conscious and the collaborator must have been aware that they were in contact with the secret police.
  - Third, the collaboration must have been secret.
  - Fourth, there must have been an operational gathering of information by the secret police.
  - Fifth, it was not enough for there to have been a declaration of will, but the collaboration must have materialized in conscious, specific actions. ([http://www.humanityinaction.org/knowledgebase/165-justice-or-revenge-the-human-rights-implications-of-lustration-in-poland](http://www.humanityinaction.org/knowledgebase/165-justice-or-revenge-the-human-rights-implications-of-lustration-in-poland))

- Targets include all elected officials, judges and leading figures in the media and print journalism
  - The law does not apply collective guilt retroactively as it did not automatically impose sanctions for collaboration ([http://www.scribd.com/doc/54507181/Lustration](http://www.scribd.com/doc/54507181/Lustration))

- Sejm: 460 members, 214 voted in its favor, 162 opposed, and 16 members abstained (Misztal, 1999).
  - Senate: on May 1997; out of 100 senators, 47 voted for, and 33 voted against.
  - The party that was the majority in voting against the bill in the senate came from the Democratic Left Alliance, which is led by the ex-communist Social Democratic Party (SDRP). The main support in the senate was from the Solidarity Election Front (AWS), the Polish Peasant Party (PSL), and the Freedom Union (UW) (Constitutional Watch, 1992-2002).

- The bill was signed by then president, Aleksander Kwaśniewski, a member of the ex-communist SLD part.
  - (in Chmielewski, 18)

- Implementation
  - Between 1999 and 2005 there have been 277 published individuals in the Polish Monitor; with the Polish Monitor, serving as the sole published voice of the Public Interest Spokesperson (Publications in the Polish Monitor, 1999-2005).

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**Rom 05, 06**


*Notes:*
- The 2006 lustration law produces only few screenings, and is struck down by the Constitutional Court in 2008 ([http://www.democ.uci.edu/research/conferences/documents/verdery.pdf](http://www.democ.uci.edu/research/conferences/documents/verdery.pdf))
- In 2010, the Chamber adapts the law, but two months later the Constitutional Court rules the lustration law as unconstitutional
  - Is this the same law adopted by the Senate in 2005/06 ?

**Svk 01?**

*Policy:

*Date:*

*Notes:*
- “In 2001 Slovakia carried out limited vetting of selected categories of public officials in view of accession to the European Union” Stan 2009, 248. “Slovakia conducted very limited purges only in 2001 and reluctantly prepared the ground for partial access to the secret archives two years later” Stan 2009, 261.
  - Stan’s claim is not substantiated with data
- I assign level (5) (minimal enforcement) and (0.5) on all dimensions of lustration program.
- NATO and the Slovak concern: In 2001, Czech Interior Minister Gross alleged that the Czech Republic had wrongly vetted nearly 120 StB agents in the early 1990s (in Nedelsky 2009, 50). ... Jeffrey Simon reported that when Defense Minister Stank met Czech Defense Minister Tvrdik in Brussels in early June 2001, he refused to accept the names of fifteen Slovaks alleged to have received faulty screening certificates because the list did not contain all necessary data (Simon 2004, 223). Stank supposedly wanted access to the Czech
documents not to restore a lustration law, but in order to have sufficient information to make credible the Law on State Secrets and to demonstrate to NATO that Slovakia was sufficiently credible.

Svn 94

*Lustration Policy:* The Judicial Service Act, article 8.

*Date of Passage:* Published in Official Gazette of Slovenia on April 13 1994, Law Nr. 19/94

*Sources:* [http://www.uradni-list.si/1/content?id=82665](http://www.uradni-list.si/1/content?id=82665)

*Notes:*

- Article 8: Judges that had been involved in investigations trials and trials, by which verdict basic human rights and liberties were violated, do not meet the criteria for being elected into a function of a judge.
- The article practically has not been used. The justices from before the independence had an 8-year mandate. These justices did not opt for the new, permanent mandate, if they foreseen any coming to terms with the past. Except for the case of the candidacy of dr. Ivan Bele, who's candidacy was rejected – as the Court avoided taking a decision before Bele was 70 years old and thus ineligible because of age.

*Source:* Petrovčič 2011
Notes for Table C.2

**ALB 91**
The 1991 lustration was not based on a lustration law but it had a lustrable effect:
- In 1991, the Sigurimi, replaced by the National Information Service, was purged of communist sympathizers and within months ‘reportedly 70 per cent of the agency’s employees were dismissed.’
  In: Austin & Ellison 2008, 379
- “Party membership reached a peak of 122,000, or roughly between 3 percent and 4 percent of the population. Of that membership, only 1,200 people really mattered. [...] The political police employed some 10,000 full-time agents with military rank, 2,500 of whom were assigned to the People’s Army, and reportedly a quarter of the adult population as part time informers.”
  In Austin & Ellison 2008, 377

**NUMBERS:**
- Total Screened (period) = Total Disqualified (period) = 0.70*10,000 = 7,000

**ALB 92-93**
Initiated in 1992 and taking place in 1992 and 1993:
- Rests on the Labor Relations Law 7526 (of Dec 3 1991);
- Is probably not implemented in 1991 and most probably starts in 1992;
- Screening takes place most probably from 1992 to 1993 only
- Based on this law, 250,000 are disqualified between 1992 and 1993: “The Socialists suggested that about 250,000 people lost their jobs following the landslide DP victory in the March 1992 elections”
- If the Law on Political Parties is considered a lustration law (or a law with lustration effect): up to 250,000 removed; This represents extremely harsh lustration, resembling a purge.
  In: Austin & Ellison 2008, 382
  - I treat this number not as the number of “screened” or found “tainted” but only of “disqualified”
  - Is this still a case of lustration? See also Bul 1990;
  - Currently, I don’t treat is as lustration (as of Sept 30, 2012)
- In 1993, there is a new law that adds additional numbers to those from the 1991/92 law (see below).

**NUMBERS:**
- Total Screened (1992) = Total Disqualified (1992) = 250,000 (for two years)
- Average Disqualified (per year) = 125,000 (without 1993 lustration law)

**ALB 93**
This lustration:
- Produces very limited implementation;
- Is based on the law Nr. 7666.
- Allows the commission, set up by this law, to issue a summary decision revoking the licenses of 47 lawyers
- Was later struck down by constitutional court.

**NUMBERS:**

**ALB 96-98**
This 1996 lustration is based on the 1995 law:
- Part of the implementation took place in 1996, during the year of parliamentary elections;
- 1996: The Verification Committee declared that 139 people should be barred from participating in the elections. Of these, forty-five were members of the SP, twenty-three were Social Democrats, eleven were from the Democratic Alliance, thirteen from the Republican Party, three from the DP, and the rest from minor parties. This represented just over 10 percent of the 1,180 candidates, who eventually did participate in the May 1996 election in competition for 140 seats in Parliament.
  In: Austin & Ellison 2008, 388
NUMBERS:
- Total Screened (1996) = 1180
- Total Disqualified/Tainted (1996) = 139

More implementation takes place up until 1998 (i.e., 1997-1998):
- Most probably based on the 1995 laws
- “By May 1998, Bezhani announced that the committee had reviewed 3,000 members of civil service and had submitted the names of eighty-one for lustration, including only four members of Parliament (two Socialists and two Democrats). As the Verification Law did not provide for members of Parliament to be removed from office once elected, the latter retained their positions.
- … There is no record of any further Verification Committee activity until 31 December 2001, when Parliament quietly let the Verification Law expire.
- From early 1996 until the law expired by its terms at the end of 2001, the law was implemented for the positions covered by it at any given time.
- Implemented from 1996-1998

NUMBERS:
- Total Screened (1997-98): 3,000
- Total Tainted (1997-98): 81
- Total Disqualified (1997-98): 0

xcix BUL 90
The lustration policy of 1990:
- In 1990, the State Security’s Sixth directorate closed its doors, at the end of the year, “some 6,000 to 7,000 secret officers were laid off”
- In: Metodiev 2009, 167

NUMBERS:
- Total Screened (1990) = Total Disqualified/Tainted (1990) = 6,500 dismissed

BUL 91
The lustration policy of 1991
- “In 1991, the government banned secret officers from joining political parties. The step limited the Communist Party’s influence on intelligence agencies but its long-term significance was limited.
- In: Metodiev 2009, 168
- It is unclear to what extent the banning of secret officers from joining parties was implemented.
- It is also unclear whether this banning went on into 1992 and subsequent years.

NUMBERS:
- Total Screened (1991) = 50 (author’s estimate)
- Total Tainted/Disqualified (1991) = 10 (author’s estimate)

BUL 93-96
The implementation of two 1992 laws began in 1993:
- These screenings are a result of two laws: Panev law, abolished in 1995, and the Law on Banks, abolished in 1997
- “In 1994, it was estimated that some 9,000 top managers of enterprises, 14,000 officers in the state security agency, 90 percent of government administrators and one-third of all diplomats had already been removed under the Panev law.
- In: Bronkhorst 2006 [cited 2012]:
- The implementation of the Panev Law, which began in early 1993, created severe tensions among colleagues within the university faculties in Bulgaria.
- In: HR Watch 1994
- No implementation of these laws in 1997 (Author’s estimate); However, see the Bul 1997 implementation
NUMBERS:
- Total Screened (1993-96) = 100,000 (Author’s maximum estimate based on the 1993 (94) number)
- Total Disqualified (1993-96) = 50,000 (Author’s maximum estimate)

**BUL 97**
This July 1997 declassification law, being also a lustration law, is
- Implemented most probably only in 1997
- “In 1997, the Minister of Interior … told parliament the names of 14 former legislators… procedure slow and inefficient.”
  In: Metodiev 2009, 169
- Bonev publicized the names of the 23 politicians and civil servants who used to work for the former State Security. At that time, 14 of them were members of parliament.
  In: Schiller-Dickhut & Rosenthal 2009, 7
- There was revelation (albeit minimal) after screening. See Schiller-Dickhut & Rosenthal 2009, 7

NUMBERS:
- Total Screened (1997) = 100 (Author’s estimate)
- Total Tainted (1997) = 23
- Total Disqualified (1997) = 0

**BUL 98**
This lustration provision relates to Art. 26 of the Law on Public Radio and Television of 1998:
- While only 1 person is found “tainted” in 2002, this law is enforced since 1998:
- “Former secret agents and collaborators could not sit on the newly created Media Regulatory Council. Candidates for those positions had to give signed declarations stating that they had never worked for the State Security. In 2002, the council removed one of its members when the commission identified him as a former spy.”
  Source: Metodiev 2009, 166
- Since this law yields very few screenings, I code it {5} in terms of screened people, and only for 1998-2000 and the years when no other law is implemented

NUMBERS:
- Average Screened (1998→ongoing) = 5/year (Author’s estimate)

**BUL 01**
The Law on the Election of Members of Parliament, Mayors and Municipal Councilors
- “The commission verified candidates for those positions and the regional election committees released the verification results. The provisions were mere recommendations. Political parties were not obliged to exclude former State Security agents from electoral lists.”
  Source: Metodiev 2009, 166-167
- This was applied only to the 2001 general poll & bitter scandals.
- Source: Metodiev 2009, 166-167

NUMBERS:
- Total Screened (2001) = 1,000 (Author’s estimate); numbers from Bul 2001-02 to be added
- Total Tainted (2001) = 50  (Author’s estimate); numbers from Bul 2001-02 to be added
- Total disqualified (2001) = 5  (Author’s estimate); numbers from Bul 2001-02 to be added

**BUL 01-02**
Commission of 2001-2002:
- The parliament creates the “Commission Determining Connections to the Former State Security”, chaired by Metody Andreev.
- The commission works from April 2001 to March 2002. It verifies past members and discloses the names of 53 deputies
The commission verifies past members, monitors 1,100 people and discloses the names of 53 deputies with undisputed ties to the State Security.

The commission was unable to disclose the names of 76 tainted individuals because of the limitations set down by the constitutional court.

In the view of the 2001 general poll [elections], the commission verified 5,600 candidates, unmasked 155 of them as secret informers, reported that other 217 names could not be disclosed, withheld the identity of 16 active spies; (cf. Polish lustration law)

Verifying a total 7,000 individuals, and naming 208 of the 517 former spies.

Similar findings “After 2001, the lustration laws were supervised by a parliamentary commission, the so-called Andreev (the name of an MP) Commission. Its findings were that out of the overall 1,225 members of the four consecutive parliaments since 1989, 129 had been collaborators of the former secret services, which makes approximately one tenth.”

In: Bronkhorst 2006 [cited 2012]:

NUMBERS (to be added to the Implementation of 2001):

- Total Screened (2001) = 5,600
- Total Tainted (2001) = 53+76 = 129
- Total Disqualified (2001) = 53
- Total Screened (2002) = 7,000 − 5,600 = 1,400
- Total Tainted (2002) = 208- 129= 79
- Total Disqualified (2002) = 79-53 = 26

**BUL 07**

With the 2006 law:

- A commission was created.
- In April 2007, the commission published lists of former secret collaborators [in high positions, parliament, candidates…]
  - In: Metodiev 2009, 171
- This law was implemented probably in 2007 only. I estimate it produced results similar to the 2001 policy.

**NUMBERS:**

- Total Screened (2007) = 1,000 (Author’s estimate)
- Total Tainted (2007) = 50  (Author’s estimate)
- Total disqualified (2007) = 5  (Author’s estimate)

**Č CZE & CZ 1992–ongoing**

The lustration laws of 1991 and 1992:

- Had yielded probably no implementation in 1991; The presence of the 1992 implementation is questionable
- Extended the expiry 1995 (5 yrs), 2000 (indefinitely)
- Available figures show that around 5% of all lustration submissions resulted in “positive certificates” disqualifying applicants from their office in the mid-1990s. The most recent figures indicate a decline in “positive lustration” to approximately 3% of all applications received by the Ministry of Interior since the enactment of the lustration law in 1991. The ministry currently receives between six thousand and eight thousand lustration requests per year and the total number of lustration certificates issued between 1991 and 2001 was 402,270.
  - In: Priban 2007, 215
- “[F]rom 1991 to 1997, if one includes the lustrations also required by the law on police service, a total of 303,504 screenings took place, of which 15,166 (5%) resulted in positive certificates."
  - Figures had been provided by Jan Frolík, then director of the Czech Interior Ministry’s Section for the Protection of Official Secrets, in Prague on February 11, 1998.
  - In: Williams 1999
- In 2001, the Ministry of Interior received 6,770 lustration requests (7,280 requests in 2002), out of which 2.5% did not receive confirmation of a clear record (Priban 2007, 181).
“The leader of the Czech Christian-Democratic Party estimated that a total of 300,000 people had somehow participated in the system of repressions. A somewhat blurred mechanism of selection from the 140,000 names in the secret police files then developed. Between 19991 and 1995, 200,000 requests for certificates have been received by Parliamentary Commission - these were declarations that one had never collaborated with the StB, the State Security Forces. More than 420,000 persons have been subjected to lustration.”
In: Bronkhorst 2006 [cited 2012]

NUMBERS:
- Are provided by the Ministry of Interior Affairs (see http://www.mvcr.cz/clanek/lustrace-29644.aspx)
- As of May 16, 2012 (data available for the years since 2006)
- For the pre-2006 period the estimates above are used.

### EST 95–ongoing
The lustration citizenship laws:
- Lustration law of 2002 and the citizenship law, upheld in 04, are ongoing
- May 97 sees published two lists of former KGB informers who had failed to report their role by April 1, 1996.
- As of June 18, 1996, forty-one persons had been refused residence and work permits because they have a criminal record, were employees of the former KGB, or gave false information about themselves.
  In: Ellis 1997, 181-96
- By 2004, the names of 250 spies were published.
  In: Stan 2009, 235

### GDR 90–ongoing
The 1990 Unification Treaty and the 1991 StUG
- May have ended in 2011; Several provisions lasted only until 2006
- In post-communist Germany about 42,000 citizens have been removed from public office by 1997 only.
  Estimated in McAdams 2001, 73
  - The numbers similarly reflect people removed since the adoption of a lustration provision of the Stasi Record Act until 2004.
    In: Bronkhorst 2006 [cited 2012].
    However, others estimate a number ranging from 60,000 to 100,000 banned: “In a 1999 survey of 16 government departments, the percentage of those examined for Stasi involvement … ranged from 3 percent to 18 percent. In total, the Stasi Archive has received roughly 1.75 million vetting applications.”
    In: Bruce 2009, 29
- “There have been over 5 million applications since 1991. They include inspection of personal records (2 million), investigations (3 million) and research and media (15,000).”
  In: Bronkhorst 2006 [cited 2012]
- “In the wake of the Treaty negotiations it was estimated that roughly 2,125,000 East Germans, or 12% of the former GDR population, would be affected. Of those, it was speculated that one million would have to find new jobs”
  In: Crossley-Frolick 2007, 199.
- After 2006, fewer people were lustrated; I estimate that the numbers equal to only 20 percent of previous years

### NUMBERS:
- Total Screened (up to 2006): 2,000,000; That is about 120,000 / year;
  - After 2007, author’s estimates
- Total Tainted (up to 1996): 60-100,000 → about 12,000 year (1990 included);
After 1996 and 2006, author’s estimates
- Total Disqualified = as Tainted

**GEO 12**
The law adopted in 2011:
- Is implemented since 2011, but as of August 2012, no reports of tainted personnel yet.
- In August 2012, before the elections, the lists of all parties are submitted to CIK (Central Election Commission) for verification (See Vzglyad 2012 [cited 2012] ; Vartanyan 2012 [cited 2012]);
- As of August 2012, nobody has been found “tainted” (Vartanyan 2012 [cited 2012])

**NUMBERS:**
- Total Screened (2012) = 1,000 (Author’s estimate)
- Total Tainted (2012) = 0 (Author’s estimate)
- Total disqualified (2012) = 0 (Author’s estimate)

**HUN 96-ongoing**
The Hungarian 1994 and 1996 lustration laws:
- Were first implemented in 1996;
- “According to the intention of the legislature, the law [of 1996] would have expired on June 30, 2000. However, the law has since been extended and the vetting process continues at the time of writing, in spring 2006” (Barrett et al. 2007, 271).
- As of December 2003, the summary outcomes were: 7,872 Total number of persons vetted; 126 Incriminating data found; 24 Individual resigned from office during investigation; 14 Investigation terminated (individual’s term in relevant office ended); 42 Dispensation issued; 15 Decisions published (Barrett et al. 2007, 277).
- “Comparing this to the data provided by the commission, we conclude that after examining almost 8,000 of the 27,133 individuals, the commission has been able to prove activity related to the III/III in only 29 cases” (Barrett et al. 2007, 283).
- “During 2004, the commission requested information from the HO relating to a further 1,676 persons, bringing the total number of persons about whom information has been sought to 5,910. The reason for the high number of investigations in 2001 is that Act XCIII of 2000 extended the positions to be investigated. The report cannot reveal in how many cases incriminating data was found.”

**NUMBERS:**
- Total Screened (as of 2003): 8,000, i.e., about 1,000 / year (1996-2003); the rest extrapolated by author
- Total Tainted (as of 2003): 29, i.e., about 4 / year (1996-2003); the rest extrapolated by author
- Total Disqualified (“Resigned”): 24, i.e., 3 / year (1996-2003); the rest extrapolated by author

**LAT 94-ongoing**
On the 1994 initiated lustration’s implementation processes very limited data exist:
- The two 1994 laws are lenient, as well as the subsequent ones (see the “Timing” appendix section)

**NUMBERS:**
- Average Screened = 800 (Author’s estimate)
- Average Tainted = 15 (Author’s estimate)
- Total disqualified = 15 (Author’s estimate)

**LTU 91-92**
There exists extremely limited data on the 1991-92 lustration from the two 1991 lustration policies

**NUMBERS:**
- Average Screened = 900 (Author’s estimate)
- Average Tainted = 20 (Author’s estimate)
- Total disqualified = 20 (Author’s estimate)
The policies of 1998 and 1999 yielded:
- 1500 confessions since 1999.
- Details:
  - The commission investigated 303 cases and ordered 87 people to resign. … Within the first 18 months of activity, the commission was approached by 1,500 former secret agents (Stan 2009, 233);
  - No lustration cases have been examined since 2007 (Stan 2009, 234);
  - However, the following was claimed in 2012: “In the past 12 years since first lustration, about 1500 former KGB collaborators admitted their collaboration” (Gavrilyuk 2012 [cited 2012]).
  - 2001-2004: “No lustration; only two cases were considered” Gavrilyuk 2012 [cited 2012]
  - 2005-2011 “Lustration Commission examined 462 cases of unrecognized KGB agents, but there were only enough data to recognize the cooperation 68 people, ”- said Lithuanian deputy (Gavrilyuk 2012 [cited 2012]).
  - In 2012 only, 238 names of agents were published; however, this is not lustration (Gavrilyuk 2012 [cited 2012]).

NUMBERS:
- Average Screened (1999-2000) = 900 (Author’s estimate)
- Average Screened (2001-04) = 5 (Author’s estimate)
- Average Screened (2005-07) = 900 (Author’s estimate)
- Average Screened (2008-ongoing) = 80 (Author’s estimate)
- Average Tainted (respective periods) = 50, 0, 50, 5 (Author’s estimate)

The 2008 lustration policy
- Is implemented first in 2009
- As of Jan 2010: 61 vetted (in VN 2012 [cited 2012]);
- At least 1: constitutional court’s President (in Taleski 2010 [cited 2012]);
- “The Commission started to implement the law in September 2009 by requesting the submission of statements by the President of the Republic, MPs, government members and mayors of municipalities (243 officials in total). By the end of 2009, it had verified 61 of these statements, i.e. it confirmed that the office-holders had fulfilled the additional criteria to the effect that they had not been informants or collaborators of the secret services during the period specified in the law” (SIGMA 2010, 10)

NUMBERS:
- Average Screened = 900 (Author’s estimate)
- Average Tainted = 30 (Author’s estimate)

The 2012 lustration policy:
- Enters into force in July 2012 (MINA 2012 [cited 2012]).
- The law was soon implemented: releasing a name of one person
- Source: FOCUS 2012 [cited 2012].

NUMBERS:
- Average Screened = 100 (Author’s estimate)
- Average Tainted = 1 (Author’s estimate)

A “light” lustration law yielded minimal and limited results.
- Data are scarce.

NUMBERS:
- Average Screened = 80 (Author’s estimate)
- Average Tainted = 20  (Author’s estimate)

**POL 99-ongoing**
The 1997 lustration policy:
- Was first implemented in 1999
- Details (as of 2007): 23,598 Total lustration declarations (1999–present); 6,689 Individuals completed lustration procedure (1999–2001); 278 Positive lustration declarations (1999–2004); 103 Lustration Court verdicts (April 30, 2004); 25 Verdicts subject to cassation before Supreme Court upheld (April 2004), etc.
- In: Czarnota 2007, 241; See also Maciej Chmielewski, 201019 for a year to year analysis

**NUMBERS:**
- Total Screened (1999-2006): 23,600
  - Average Screened = 3,000
- Total Tainted = (1999-2004) 278
  - Average Tainted = 46  (Author’s estimate)

**cix**  **ROM 06-08**
The 2005/06 lustration law:
- Produced very few screenings

**NUMBERS:**
- Average Screened = 80 (Author’s estimate)
- Average Tainted = 5  (Author’s estimate)

**cx**  **SVK 01**
The vetting procedure of 2001, carried out by the government, resulted in very limited purges

**NUMBERS:**
- Average Screened = 50 (Author’s estimate)
- Average Tainted = 50  (Author’s estimate)

**cxi**  **SVN 01**
The 1994 law resulted in 1 person found “tainted”. Otherwise, the Art. 8 of the Judicial Service Act has not used, or at least there is no evidence.

**NUMBERS:**
- Average Screened = 0 (Author’s estimate)
- Average Tainted = 0 (Author’s estimate), except 1 person in 2001
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