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Politicians Versus Intellectuals in the Lustration Debates in Transitional Latvia

IEVA ZAKE

The process of transitional justice in Latvia after 1991 and the public debates that surrounded it created a number of controversies. One such notable conflict dealt with lustration, and it involved Latvia's political establishment and intelligentsia. While the politicians supported the public's right to have full access to the secret KGB files, the intellectuals demanded that Latvia's society should be protected from making mistakes in its judgments and therefore the available documentation should be studied first by state-appointed experts. Each position addressed the issue of lustration from a distinctive perspective, and these reflected not merely political disagreements. Instead, they reflected conflicts of vision that had deep historical roots.

The end of communism rule left Eastern and Central European countries with many difficult decisions to make including how to deal with the consequences of totalitarianism and the people who had collaborated with or served the previous regime and how to protect the new political structures from the damaging influences of the past. Lustration (or more broadly, transitional justice) was a legal and political process intended to resolve some of these problems by purifying the post-communist societies of the remnants of the previous regime. It prosecuted individuals involved in atrocities towards the population under communist rule and imposed restrictions on various rights of the former security officers and, occasionally, party *nomenklatura* members. Each post-communist country pursued its own lustration strategy and there have been numerous attempts to understand the reasons for these differences. This study focuses on a somewhat different angle of the lustration process in the post-communist contexts. It explores the internal debates about lustration: specifically, the arguments made by lustration's supporters and opponents in the context of the transition in Latvia.

Lustration in the Baltic States in general is nowhere nearly as well researched as that in the Czech Republic, Germany or Poland. However, the

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Baltic cases offer unique insights about the lustration process in countries that were under the totalitarian rule imposed through occupation and that had no autonomous political and administrative institutions of their own. Because of this, the impact of the totalitarian regime in countries such as Latvia was very complex. After the subjugation ended, people there could define themselves as having been mere victims of the occupying power and deny having any complicity in reproducing the occupier's regime. This allowed Latvian society to talk about totalitarianism and its effect as ultimately external, imposed and therefore alien. Therefore the lustration process there took on a more complicated character than in other post-communist countries, particularly as it touched upon the highly sensitive issues of Latvian collaboration with the Soviet regime, while at the same time Latvian society could also more easily dismiss the legacy of the past, arguing that totalitarianism was the problem of the occupiers, not the occupied.

Unsurprisingly then, as will be shown here, not everyone in Latvia was eager to implement lustration. Moreover, the conflict between the supporters and opponents of the lustration process evolved into an opposition among the politicians and intellectuals.¹ Most politicians in the independence period were persistent supporters of the lustration, while Latvia's intelligentsia, including academics, writers, poets, journalists and other professionals of ideas, resisted it and called for its early ending. This article describes their positions, offers some initial explanations of their disagreements and invites further analyses of the complexities of national remembrance in formerly subjugated societies. It analyses the lustration controversy within its context using a variety of local media sources, secondary sources and interviews. In addition, it makes a contribution to the most recent or the so-called second wave research on transitional justice as described in the following section.

Research on Transitional Justice and Lustration: The Two Waves

There has been a sizeable amount of research done on lustration in Central and Eastern Europe and it has reflected the changes, extensions and revisions in the transitional justice legislation in the post-communist countries. Thanks to this, it is now possible to discern two periods or waves in the study of post-communist lustration and transitional justice. The first covered a period from the 1990s to about 2000, and the second ran from 2000 to the present.

The first wave of research tended to be critical of the lustration laws and transitional justice legislation. In its early stages, research on lustration focused on cataloguing the various legal mechanisms that were implemented in post-communist countries.² In its analysis, it tended to liken transitional justice to the communist show-trials and purges, advocate universal human rights principles such as non-retroactivity and international legal regulations

in order to institute historical justice in post-totalitarian contexts, and occasionally give advice on how to carry out a more civilized lustration.³ It argued that there was a notable difference between the societies that were able to forgive and forget and those that pursued vengeance; and the former were described as superior to the latter.⁴ In addition, the lustration process and discourse were seen as merely a political instrument used by battling political forces.⁵ Transitional justice measures such as lustration were accused of giving unwarranted legal authority and justification to the winners of the political conflict.⁶ In general, researchers, usually in the West, were concerned that post-communist lustration was creating obstacles to everyone's right to participate fully in the democratic process. They were worried that lustration and legislation of transitional justice were replicating totalitarian methods and ultimately aimed at excluding certain groups from equal access to full citizenship.

In addition, in order to disqualify lustration as a valid instrument for dealing with the past, the research of this period pointed to the often selective and politically driven treatment of the secret service files.⁷ The critics argued that the lustration process was greatly distorted by the spread of half-truths and politically manipulated material.⁸ It was often concluded that, as a product of post-totalitarian political chaos, selfishness and unnecessary competition among political actors, lustration had nothing to offer for the purposes of democratization.⁹ Although some voices proposed a more neutral analysis that compared the transitional justice in post-communist countries to how European countries had dealt with their collaborators after the Second World War,¹⁰ the majority of the writing on lustration was ultimately dismissive and critical of it.

The second wave of research on lustration and transitional justice in Central and Eastern Europe began in about 2000 and it suggested a different perspective which argued on behalf of the lustration process. It tended to take an insider's look at the post-communist contexts and tried to understand the meaning that these laws had for their advocates and creators. Research during this period rejected normative approaches to studying lustration in Eastern and Central Europe, and instead took into consideration the local political compromises that had to be made during the transition period. In other words, it reconsidered the lustration process by putting emphasis on the ideas and decisions of the local actors, not international human rights bodies and their absolute standards of human rights.

Among the first publications of this type was Ruti Teitel's book *Transitional Justice*, in which she suggested that evaluations of transitional justice could not be based on universal norms because it had to play a constructive role in conditions of social and political change. Therefore we should take into consideration the specific features of the transition period itself rather

than using normative standards from other, more stable contexts. Also, transitional justice had to be seen in the light of the injustices of previous regimes. Her argument culminated in a suggestion to create a new understanding of transitional justice that would account for its partiality, contextuality and multiplicity.¹¹

The research of the second wave reconsidered the local debates about lustration and interpreted them as a valuable resource for understanding how and why particular norms had been instituted. It was suggested that there was no single correct response to the question of how to deal with the crimes of the previous regime, thus the legacy of injustice, traditions of legal culture, nature of the transitional period and contemporary political circumstances were all important factors to consider when analysing the lustration legislation.¹² With this in mind, the research on lustration became more finely attuned to the internal dynamic of particular contexts of transition societies. Moreover, the second-wave research on lustration was aware that post-communist societies were continuously changing their laws and instruments of transitional justice and that this process required explanations that could account for, for example, recent influences of the liberal democratic ideology¹³ and contemporary parliamentary politics.¹⁴

The researchers of the second wave acknowledged that the new democracies faced tremendous challenges and that their lustration measures were an attempt to respond to them.¹⁵ Therefore this perspective did not see the supporters of lustration in Central and Eastern Europe as driven only by their vengeance or political vanity; instead, these agents were understood as acting in response to relevant historical and political conditions. It was argued that the choice to create lustration laws was a reasonable solution and an attempt to reveal historical truth. Although some of the provisions of the lustration laws had admittedly been excessive, the second-wave research argued that lustration as a whole had been a valuable contribution to 'the consolidation of emerging democracy'.¹⁶ Lustration had made bureaucratic institutions that were useful to the new democracies and helped them dismantle the communist domination. It had helped to create better conditions for free and fair political competition as well as the rule of law and spirit of constitutionalism. Lustration also had helped to 'refresh' the legal profession and stabilize democratic constitutional and legal culture. Lustration had brought transparency to the elites of the financial, banking and key industrial spheres and removed the former corrupted nomenklatura from its positions. In the end, the second-wave writing argued, lustration had made the return of communism impossible.¹⁷

At the same time, the critics of lustration continued to voice their disapproval. They remained convinced that lustration was undermining due process and other elements of trustworthy government because whoever had

gained political power was able to use lustration to retaliate against their competitors.¹⁸ Some of the post-modernist researchers believed that lustration had made memory and confession into an instrument of political therapy. This situation had led to the crisis of memory in Eastern and Central Europe because memory as such was incapable of healing and protecting any society. Consequently, the critics argued, lustration had become a symbolic act of condemnation and sacrifice of a 'scapegoat' for the society's sins in order to allow 'the majority of citizens to put the past behind them'.¹⁹ Others dismissed the transitional justice measures as a threat to democracy.²⁰ Still, most researchers of the second wave put trust in the instruments of transitional justice. They emphasized that a different set of criteria had to be developed in order to fully evaluate legal procedures that dealt with authoritarian and totalitarian crimes.²¹ As noted above, this article contributes to the second wave of research on transitional justice as it analyses the debates about lustration from the point of view of their participants, not against an absolute set of standards of justice, and its takes a sociological rather than a legalistic look at the lustration debates.

Lustration with a Latvian 'Flavour'

Usually, research on lustration in post-communist countries compares the Latvian case with those of other Baltic countries. Estonia carried out a de facto lustration soon after the restoration of independence and its lustration law was adopted in 1995. This legislation required registration of those who had co-operated with or worked as informants for the special intelligence or counterintelligence services of either Nazi Germany or the Soviet Union. In addition, the Estonian legislature adopted the so-called 'loyalty law' requiring anyone who sought office in certain governmental bodies to take a written oath declaring that they had not been involved in the special services of either Nazi Germany or the USSR and that they had not participated in the persecution of Estonian citizens.²² In Lithuania matters were more complicated. There was no legislation restricting those who had connections with the KGB from holding state office, which resulted in a chaotic search for the KGB informants among the political leaders of the new country, incriminating even such well-known independence fighters as Prime Minister Kazimiera Prunskiene.²³ In 1999, a law that banned the former KGB employees from holding government offices and certain private sector jobs was adopted. In 2000, Lithuanian parliament passed the Law of Lustration which stipulated that the state would guarantee the secrecy of information regarding those former KGB employees who would voluntarily turn themselves in. If they failed to confess and if a special lustration committee was able to find evidence of their collaboration, their names would be publicized. In 2006, the supporters of lustration demanded

the extension of the deadline for voluntary confessions, while its opponents suggested closing the issue once and for all. During late 2007 President Valdas Adamkus vetoed the law adopted by the Lithuanian parliament and thus put the whole issue on hold.²⁴ As a result it has been argued that 'the lack of concerted lustration process, and a politicized witch hunt in the wake of the Soviet collapse, has yet to allow the Lithuanian nation to come to terms with itself'.²⁵

Meanwhile in Latvia, the former head of the KGB offices in the Latvian Soviet Socialist Republic (SSR), Edmunds Johansons, wrote with notable satisfaction in his memoirs (published in 2006) that his former employees had been effectively protected and felt safe. The sanctions against them had been very mild, allowing these individuals to adapt to the new conditions successfully and either find work in private security organizations or businesses or join the post-independence security police forces.²⁶ Unsurprisingly, then, according to some estimates the KGB infiltration of the new structures has been pervasive in Latvia. For example, a well-known populist politician Leopolds Ozoliņš believed that at least 30 per cent of parliamentarians in Latvia in the 1990s had ties to the KGB.²⁷

Latvia experienced what Indulis Zālīte, the former director of the Centre for the Documentation of the Consequences of Totalitarianism (TSDC – a state institution charged with guarding and studying the remaining KGB documents), called 'lustration with a Latvian flavour'.²⁸ Latvia never adopted a centralized lustration law, yet it included norms and procedures of transitional justice within at least 14 different kinds of legal acts, which taken together have been somewhat toothless, since there was no clear definition of crimes of totalitarianism worked out, the communist nomenklatura has remained basically untouched, the KGB files have not been made available to the public, and no incentive-based lustration legislation has been adopted. Of course, one of the largest obstacles to making lustration permanent and successful has been the lack of the full secret documentation necessary for determining a person's collaboration with the communist regime and its security organizations. The available materials have proved to be extremely limited and, as many argue, unreliable. Consequently, only a few individuals have undergone criminal prosecution for their involvement in the destruction of Latvia's population or for inducing the state's overthrow in 1991. Some, especially scientists and intellectuals, have come forward and voluntarily admitted that they served as informants to the KGB, but these have been rare and isolated cases.

Restrictions on Employment and Political Participation

As noted above, a characteristic feature of Latvian transitional justice has been its fragmented and disunited nature. It consists of a number of legal

regulations that are imbedded in different legal documents, and the determination of collaboration takes place on a case-by-case basis. Lustration in Latvia rests on the procedures of evidence-based truth revelation where one's collaboration is proved using available information only in those situations when such an issue becomes relevant. These cases arise when an individual applies for a restricted job or decides to run for an elected official position. Latvia's legislation does not permit the former agents and informers of either the Soviet or the Nazi regime to assume public and administrative positions at either the state or the municipal level, to work in governmental jobs that involve carrying weapons, or to work in the state defence and security system, the internal affairs system, customs, the offices of state prosecutors, the court system, the foreign service and the internal audit system. Furthermore, the former security officers, agents and informants are not allowed to work in institutions dealing with the national financial system, strategically important objects (such as the national railway) and communications. Finally, they are not allowed to be lawyers or notaries.²⁹ A person who wants to apply for one of the restricted positions, or be elected to a public office, has to undergo a background check to make sure that they have not been a collaborator. The investigation is carried out by the TSDC that houses the remaining KGB archives.

Naturally, these restrictions have been widely debated and challenged. The controversy surrounding the restrictions became particularly heated in late 2003 when Latvia's parliament, the Saeima, had to decide whether it would allow former KGB officers and members of the communist party in the post-1991 period to run for the position of Latvia's representative in the European Parliament. Although most of the influential political parties were expressly against it, the norms of the EU took precedence over Latvian legislation, thus allowing anyone to become a candidate.³⁰

Similarly, the public's attention has been for decades captured by the case of the former officer of the Soviet border protection forces, Jānis Ādamsons, who was a member of the Saeima during the 1990s. Because the border protection forces were related to the KGB, most of his records of service indicated that he had been an officer of that organization. This led to an investigation and a court case, the outcome of which was so ambiguous that the Saeima itself had to make the decision on whether he could remain in the elected position or his mandate would have to be revoked. In the end, Ādamsons was expelled from the parliament and banned from ever running for an elected position. Recently, he sued the Latvian state in the European Court of Human Rights over this decision and received a ruling in his favour in June 2008, against which the Latvian government is considering an appeal to this Court's Grand Chamber.³¹

In 2001 the controversy was also stirred when a former dissident Gunvaldis Tarvids, who ran for an elected position in his municipality, was

informed that an index card with his name was found in the KGB files. The election law required that this information be publicized during the pre-election campaign. Tarvids was devastated and complained to the president of Latvia about the illegality of using incomplete and potentially falsified KGB materials to punish innocent citizens. This did not help him to attain the position, however.³² In 2006, the Central Election Commission made a statement that five candidates running for the Saeima had possibly been collaborators with the Latvian SSR's KGB. These persons were not banned from participating in the elections, although the information about their ties to the KGB was published in the official newspaper and mentioned in the election campaign materials.

The controversy surrounding specific job restrictions has been quite strong as well. A certain Aivars Zaķis was forced to withdraw his candidacy for a position as the president's chief of staff in 2001 because it turned out that he had held a bureaucratic position in the KGB offices and a number of former victims of the KGB repressions had recognized him. President Vīķe-Freiberga attempted to defend Zaķis; however, the public pressure was too strong and he was not hired.³³ In 2003 a certain Armands Agrums was barred from taking up a leadership position in the office for preventing and fighting corruption (KNAB) because it was found that there was a recruitment file about him in the KGB archives. The subsequent investigation and a court case determined that there was not enough information to assert that Agrums had indeed been an informant or agent; nevertheless, owing to the public scandal surrounding this case and some other compromising information about his previous business practices, he was not appointed to the position.³⁴

The job restrictions were supposed to have ended in 2004. However, since then the term of the restrictions, as well as permission to use the fact of one's past collaboration in legal relations with them, has been reviewed numerous times in the Saeima with the explicit goal of extending them. Although legal experts and political analysts have argued that there was no need to extend the term of these restrictions, politicians continued to debate the issue.³⁵ During late 2003 it was proposed by the Latvian nationalist political force For Fatherland and Freedom/Latvian National Independence Movement to extend the restrictions for another ten years. The largest political parties agreed that this would be the best measure for protecting the new state from negative influences of the former KGB networks and the term was extended. In response, the pro-ethnic Russian political force, the People's Harmony Party, declared that the only reason for this decision has been the desire of the ruling parties to exclude their potential political rivals.³⁶

In terms of the restrictions against those who had been members of now illegal political organizations such as the Communist Party, the most controversial case was that of Tatjana Ždanok. She was proved to have participated

in the putsch of August 1991 and was therefore banned from running in elections. However, she was elected to the European Parliament, which did not have such restrictions. She also sued the Latvian state in the European Court of Human Rights, and after a couple of rounds of court hearings, she ultimately lost her case. These restrictions have affected the most recent elections as well. As late as August 2006, the Central Election Committee refused to include a certain Fridrijs Bokišs on the election list of the political force *Saskaņas Centrs* (Harmony Centre) because it was established that he had been a member of the Latvian SSR communist party after January 1991.

Cheka's Bags

The so-called 'Cheka's bags' is one of the single most controversial topics when it comes to the lustration process in Latvia because their contents had been used in suggesting a person's possible collaboration with the KGB. It has to be noted that the so-called Cheka's bags are not the only source used in determining the fact of someone's collaboration; however, they are considered to be a valuable source of information.

The bags themselves came into existence when, in order to take over the files of the KGB in 1991, the new Latvian government created a commission responsible for collecting all secret materials stored in the KGB building in downtown Rīga. During the process of the take-over of the KGB offices, about 5,000 small index cards containing people's names were put into large bags (hence the name 'Cheka's bags', after the original Russian name for the post-revolutionary Soviet security agency) and stored in a closed room at the former KGB building. The key to this room was in the hands of the chair of the appointed commission. To this day, the bags and what subsequently happened to them remain surrounded in mystery. Their contents are disputed and questioned. Some say that certain individuals have been able to gain access to the bags and remove the cards with their names and thus protect themselves from any future incrimination. Others believe that some of the cards from the bags were lost by mistake or were stolen from the bags to be used later for blackmailing purposes. Indulis Zālīte, the head of the TSDC, believes that these cards contained names of the agents who could be useful in building the secret service of independent Latvia,³⁷ while the last head of the KGB of the Latvian SSR, Edmunds Johansons, had written instead that these index cards were left behind by his employees on purpose because these materials were the least significant of all the KGB documents.³⁸

Undoubtedly, the contents of the Cheka's bags pose a serious problem for the lustration process in Latvia. It remains unclear whether the names on the cards indicate real informers or simply the people whom the KGB tried to recruit or would have liked to recruit. The cards do not contain signatures,

therefore it cannot be established that these people in fact knew that such a card had been created for them. Thus, these cards cannot be used to determine whether someone consciously co-operated with the totalitarian regime. The full records of the KGB of the Latvian SSR are in Russia and most likely will never be released. Moreover, those who were required to collaborate with the KGB because of their high-ranking political or administrative positions were never issued such cards and therefore could not be identified. In fact, those who reached the highest levels in the state bureaucracy, as well as those in the security system, had their secret KGB files destroyed completely. However, regardless of these uncertainties, the bags have served as a source of continuous political controversy over the past 16 years.

In 1999, Prime Minister Andris Šķēle of the neo-liberal People's Party demanded immediate revealing of the contents of the Cheka's bags. The People's Party together with the Latvian nationalist For Fatherland and Freedom/Latvian National Independence Movement suggested that it was time to open the bags, publicize their contents and put an end to the endless speculation. Their argument was that guessing about whose name was or was not in the bags was creating social tension, mutual suspicion and paranoia. The leaders of the Social Democratic Workers' Party opposed the opening of the bags as an unnecessary and destructive step.³⁹ At that time, the issue remained unsolved.

In February 2000 the People's Party again proposed publicizing the contents of the Cheka's bags. This time, the proposal received support from both Latvian nationalists of For Fatherland and Freedom/Latvian National Independence Movement and the Social Democratic Workers' Party. The Social Democrats argued that they could support the opening of the KGB bags if the individuals had a right to dispute the accusation of collaboration in court. From their point of view, the information from the Cheka's bags might be important, but it should not be overestimated.⁴⁰ Nevertheless, no conclusive decision about the contents of the bags was made.

In 2003 the issue came up again when the largest political forces of the governmental coalition pushed for the extension of employment restrictions that were about to expire. Their arguments were that it was important to put an end to the speculations about the Cheka's bags and eliminate any possibility of using the contents of the bags for political blackmail. The Latvian nationalist For Freedom and Fatherland/Latvian National Independence Movement proposed its own lustration law, while other political forces were interested in merely publishing the KGB materials.⁴¹ As before, no political decision was reached at this time either, so politicians had to return to it in mid-2004.⁴² This time the sequence of events was unexpected and rapid.

The populist politician Leopolds Ozoliņš, from the coalition of the Agrarian Union and the Green Party, proposed the immediate and full

disclosure of all KGB documents. During early May 2004 the judicial parliamentary committee rejected the proposal, but when it reached the Saeima itself the attitudes suddenly changed. During the plenary session, the Saeima first adopted Ozoliņš's suggestion to eliminate the norm that banned the personnel of the TSDC from disclosing information contained in the KGB documents. Next, the deputies discussed the proposal for full opening of the KGB archives. After heated debates, the deputies voted on immediate opening of the Cheka's bags and the proposal passed. In addition, they extended the term of the job restrictions for a further ten years.⁴³ The decision to publicize the contents of the bags was made in such haste that the actual procedure for doing so remained unarticulated. The general understanding was that all KGB documents from now on would be available to anyone, but they would not actually be published in a newspaper or displayed on the internet. Those who would have liked to dispute the validity of these materials would have the right to pursue their claim through the court system.

The sudden decision to open the Cheka's bags after such prolonged and fruitless discussions left the public somewhat stunned.⁴⁴ A popular TV show, 'What's going on in Latvia?' (*Kas notiek Latvijā?*), discussed this issue on the evening of 19 May 2004. The invited politicians all argued that they had decided to open the Cheka's bags because society needed closure to this long-standing problem. The journalist leading the programme responded by accusing the politicians of acting in their own self-interest by trying to please the public too much and thus hoping to gain additional support for themselves. The decision was also criticized for not setting any sort of lustration period for voluntary confessions and for being illogical because the new legislation was supposed to end the controversy surrounding the collaboration with the KGB, while at the same time the employment restrictions were extended for ten more years. The politicians retorted that their decision was 'what society had wanted'.⁴⁵

For the next couple of days, Latvia's journalists, political analysts and intellectuals vehemently criticized the Saeima's decision and pleaded with the president not to sign it into a law. They argued that the politicians could not explain why they adopted this law at this precise time. Latvia's intelligentsia talked about the rushed and contradictory nature of this legislation. Critics also pointed out that the contents of the Cheka's bags were not going to tell the whole story of collaboration and that the KGB documents left in Latvia could not be trusted.⁴⁶

The president of Latvia, Vaira Vīķe-Freiberga, agreed with the critics. She scolded the legislators for failing to indicate the reason for and purpose of this new law. She declared that, to her mind, the files inside the Cheka's bags were incomplete and therefore useless for the purposes of determining an individual's collaboration with the totalitarian regime. Vīķe-Freiberga rejected the

need to open the KGB files because such a step could reveal sensitive information about those who had been involved in fighting organized or economic crimes during the Soviet period and had nothing to do with political persecutions. She demanded that the legislators should work out a careful procedure for publicizing the information, and make it clear to the public why the legal restrictions for the former KGB officers had been extended for another ten years.⁴⁷ After a meeting with a number of academics, public figures, legal experts and officials who had dealt with the KGB materials and who all opposed the new legislation,⁴⁸ she returned the law to the Saeima demanding its reconsideration.

The situation remained unresolved. In early 2006 the faction of the Agrarian Union and the Green Party again reminded the parliamentary judicial committee about the problem of the Cheka's bags. The People's Party expressed its readiness to support the Agrarian Union and the Green Party on the plan of immediately opening the files. They all received loud criticism from the media, public intellectuals and political opponents from the New Era party.⁴⁹ In May 2006 the parliamentary judicial committee proposed publicizing the names from the bags in the official newspaper *Latvijas Vēstnesis* beginning on 1 November 2006. The lists would contain individuals' first and last name, their father's name, their date of birth, their cover name, the time of their recruitment, their place of work, and the date when they had been dropped from the KGB lists if such information was available. The People's Party and Latvian nationalist political forces advocated this proposal, arguing again that it would put an end to the continuous debates and speculations regarding the Cheka's bags.

The opponents of this law thought that the only reason the debates about the Cheka's bags were even continuing was so that the ruling coalition could gain political capital for themselves before the parliamentary elections of 2006. Loud criticisms of the proposal to publish the contents of the KGB files came from former KGB officers, well-known writers and activists of the independence period. They doubted the benefit of opening the KGB archives and accused the politicians of failing to consider the misery and fear that this would bring.⁵⁰

Nevertheless, the law was adopted again on 7 June 2006, but it was returned to the Saeima by the president on 16 June. When discussing the law for the third time, the deputies decided to preserve the norms about publicizing the names, but agreed to revise the date of their publication because the director of the TSDC, Indulis Zālīte, had pleaded for an extension from the original date. This request was granted during the plenary session on 26 October 2006. However, in an ironic twist, by changing the date, the parliamentarians awarded the president a formal opportunity to veto the law again, which she readily did on 1 November, thus effectively declaring this

legislative act incapable of adoption.⁵¹ In trying to understand why the deputies had made the changes that essentially sank this law, journalists speculated that the politicians merely used an easy exit strategy from an impossible situation.⁵²

The Lustration Law

In parallel with the adventures of the Cheka's bags, there have also been several attempts to adopt incentive-based lustration legislation. However, the laws that would encourage voluntary testimonies concerning individual collaboration never succeeded. In 2000 the Latvian nationalist party For Fatherland and Freedom/Latvian National Independence Movement proposed a law that stipulated that people who had been informants or agents of the KGB would have an opportunity to confess. Any individuals who would reveal their past to a special governmental committee would be assured that their identity was protected and they would not face any job restrictions in the future. Individuals who refused to turn themselves in, yet could be shown to have been collaborators or informants, would see their name published and they would also be banned from the above-mentioned jobs. This proposal was expected to receive support from the neo-liberal People's Party. At the same time, it was vehemently opposed by the centrist-oriented Latvia's Way and the leftist, ethnic Russian political force For Human Rights in a Unified Latvia, who argued that the proposal was about ten years too late.⁵³

In February 2000 the People's Party changed its view and withdrew its support for the incentive-based lustration law. Its politicians argued that they could not understand the law's purpose and they feared that it could be detrimental to the social stability in the country.⁵⁴ In 2003 For Fatherland and Freedom/Latvian National Independence Movement continued to push for the adoption of its lustration law;⁵⁵ however, it was unable to mobilize the necessary political support. As stated by one of its leaders, Juris Dobelis, the position of the For Fatherland and Freedom/Latvian National Independence Movement consistently was: 'First – do not destroy anything [meaning the KGB archives]. Second – adopt a lustration law. Third – make sure that the communist regime is properly denounced both in Latvia and in the world'.⁵⁶

However, the opponents of the lustration law, mainly from the People's Party and the coalition of the Agrarian Union and the Green Party, argued that little would be achieved by letting people turn themselves in and that the law did not stipulate a strong enough punishment for the collaborators and informants. In its stead, they demanded an immediate opening and publicizing of all names appearing in the KGB materials. These politicians were convinced that the public itself, not some government panel or other

experts, deserved the opportunity to assess the extent of certain individuals' collaboration and decide whether they wanted to trust someone whose name had appeared in the KGB files. This argument was actively promoted by the populist politician Leopolds Ozoliņš,⁵⁷ who demanded the immediate publication of all available lists of KGB agents and informants. In his opinion, such measures would not cause any social upheavals, but they would put an end to the Soviet legacy and continuing conflicts over collaboration.⁵⁸ In the end, the lustration law failed for lack of political support from other parties, owing to the fact that it was proposed by a Latvian nationalist political force and to its quite controversial nature.⁵⁹

The Main Opponents

When analysing these controversies surrounding transitional justice, it is notable that most of the public debates have dealt with the Cheka's bags. There have been political disagreements between the neo-liberal People's Party and Latvian nationalist For Fatherland and Freedom/Latvian National Independence Movement as supporters of opening the bags and the New Era party and the ethnic Russian political parties, the Harmony Centre and For Human Rights in a Unified Latvia as the opponents of this idea. The supporters insisted that Latvia's society wanted and deserved to have all KGB secrets revealed and materials publicized,⁶⁰ while the opponents retorted that the desire to publish Cheka files was a mere attempt by certain politicians to divert the public's attention from more important social problems such as unemployment, inflation, and decreasing pensions and salaries. Those who opposed the opening of the KGB files called this idea a witch-hunt and a violation of individuals' rights that would lead to further fragmentation of the society. The opponents also stressed that the released KGB materials would not tell anything substantive about motivations, degrees and circumstances surrounding a person's collaboration with the KGB, and therefore these documents should be left alone.⁶¹ The debates between the two political positions have been loud and enthusiastic and they raised a variety of arguments regarding how to deal with the past.

Political debates regarding the lustration process are understandable in the context of transitional societies. However, the more interesting question is which side of the argument was supported by the most influential social and cultural group, the intelligentsia. As it turns out, it has been one of the most vociferous opponents of opening the KGB files and discussing openly the nature of collaboration. Their opposition has been so formidable that some politicians even suggested that Latvia's intelligentsia was afraid that the KGB files might reveal that they had collaborated with the KGB as late as the 1980s and early 1990s.⁶²

Some of the most articulate opponents of lustration among the intellectuals have been journalists. For example, the journalists of the biggest daily newspaper *Diena* were the loudest critics of the proposal to open the Cheka's bags. They argued that this strategy would not resolve any of the issues related to the political heritage of the occupation, but instead it would be detrimental to democracy and freedom in independent Latvia. According to *Diena*, politicians were over-naïve in their hopes that it was possible to 'put an end' to the suspicions and accusations of collaboration. It was also possible that there were more archival materials hidden somewhere else and relying on the currently available documents would prevent a search for additional materials. This would mean punishing one group of possible collaborators, while letting the rest off the hook. *Diena* argued that, since no perfect lustration could be achieved, there was no point in trying any of it.⁶³

Similarly, the journalists of the second biggest Latvian daily newspaper, *Neatkarīgā Rīta Avīze*, were critical of the idea of opening the Cheka's bags. Its criticism was particularly focused on the selective and inconsistent nature of the possible lustration in Latvia. The newspaper pointed out that the threats to reveal information about past collaboration were mainly used to scare political opponents, which made this lustration equal to political blackmail. The newspaper also emphasized that the proposed lustration would be inconsistent because it would not prosecute the former high-ranking communists. Moreover, the newspaper charged, the Latvian political leadership has demonstrated complete inability to articulate a clear definition of collaboration. As a result, argued the newspaper, lustration in Latvia has been and will be in the future merely a political process of disposing of uncongenial political figures.⁶⁴

Intellectually oriented clergy also argued against the publicizing of the contents of the Cheka's bags or any other sort of public ousting of former collaborators. In 2000 a well-respected Lutheran priest and theologian, Juris Rubenis, wrote that what Latvia needed was a symbolic lustration of the whole society where people would not only admit, but also regret, their collaboration with totalitarianism. According to Rubenis, publishing a list of agents would not accomplish this goal. Instead, he proposed something similar to an incentive-based lustration where those who felt guilty would confess to a government-sponsored lustration commission. But this, of course, was not likely to be adopted.⁶⁵

A very outspoken opponent to the ideas of publicizing the KGB lists of agents and informants was the head of the TSDC and former academic, Indulis Zālīte. He consistently discouraged any attempts to publish the Cheka's bags, identifying these materials as a source of potential social chaos. He argued that a bigger priority must be researching communist rule in Latvia, particularly its most murderous periods. He also continually

pointed out that no one could be sure of the authenticity and trustworthiness of the contents of the Cheka's bags. Moreover, according to Zālīte, only a tiny portion of the KGB archives remained in Latvia, while the most important compromising information was in Moscow. Consequently, publishing the names would merely underscore how little the Latvian public and government really knew about the networks of the Soviet security system. Zālīte also argued that collaboration with the Soviet authorities had many different forms, and by publishing the contents of the Cheka's bags important distinctions between different kinds of agents would be blurred. Zālīte did not support adopting a lustration law, either. In 2003, he stated that it was too late for such a law and that the whole procedure would be too expensive and time-consuming, and would yield little valuable information about the workings of the KGB or give a sense of closure to Latvian society.⁶⁶ It is also worth noting that largely thanks to his requests the legislation concerning publicizing the contents of the Cheka's bags was rendered unadoptable. In other words, in many ways he has been actively involved in blocking the release of all information in the possession of his TSDC to the public.

However, arguably the most formidable opponent of a full opening of the secret materials to the public has been the president of Latvia, at the time Vaira Vīķe-Freiberga. Her opposition to the publicizing the KGB files was so strong that some politicians even suggested that the parliament might need to wait until a new president was elected in order to adopt this legislation,⁶⁷ and they may have been right about this. Vīķe-Freiberga was a former Latvian émigré in Canada and a professor of psychology at the University of Montreal before becoming the president of Latvia in 1999. She had not only legal but also moral objections to the publishing of the Cheka's bags. In her letter sent to the Saeima regarding the law on publishing the KGB files, she stated that this legislation was unable to ensure a just determination of each particular person's degree of collaboration and therefore it could lead to grave human rights violations. She demanded that the law stipulate a differentiated and nuanced approach to publicizing the KGB materials, so as to make sure that the damage done to the chided individuals was commensurable with the benefit to society as a whole. In general, according to Vīķe-Freiberga, the hope of establishing historic justice by publishing the KGB files was an illusion since these materials were incomplete and could offer little help in establishing someone's collaboration with the previous regime. She accused the legislature for not making the advantages of this law clear to the public and pointed out that none of the other post-communist countries had taken this kind of approach to lustration.

When she returned the law on the opening of the Cheka's bags to parliament the second time, she repeated her arguments and insisted that, until serious research had been done on the KGB materials, they could not be

released to the public. She believed that the truth about a person's collaboration had to be established first and only then could their name be revealed.⁶⁸ In opposing the opening of the bags, the president on numerous occasions emphasized that 'as a scientist' she believed that the Cheka's bags first required careful research and objective evaluation by historians and social scientists. According to the president, the 'non-professional citizens' were unprepared to understand and evaluate the KGB materials correctly, therefore open public access had to be denied until full scientific analysis of the documents as well as the whole period of the Soviet regime had been carried out by certified professionals.⁶⁹ Her strict opposition to the opening of the KGB files generated all kinds of speculation. Interestingly, when an émigré Latvian intellectual, Raimonds Staprāns, made relatively innocent statements that Viķe-Freiberga's name could possibly be in the KGB files,⁷⁰ the president's office issued a harshly stated rebuttal explaining that there was no documented proof of her alleged collaboration, and that she had checked and her name was not in KGB files.⁷¹

In general, the intellectual opponents of publishing the Cheka's bags brought up two major arguments. They insisted, first, that the past cannot be resolved through a process designed by politicians; and, second, that the past needed to be dealt with in some ideal manner that would truly cleanse the society and its consciousness without offending or hurting anyone who did not deserve it. However, according to Latvia's intelligentsia, the available and proposed lustration instruments were inadequate for accomplishing this perfect purification, and therefore all attempts at trying to uncover the truth about collaboration had to be abandoned. The bottom line of their argument was that the general public should not be granted unmediated access to the secrets of the previous regime, and only specially appointed government clerks and scientific experts would be able to create enough distance from the past and bureaucraticize the lustration process and thus ensure a smooth and painless transition to a new society.

Discussion

The picture that emerges from this case is somewhat unexpected. Usually, in the literature about transitional justice the local politicians have been accused of merely exploiting the lustration issue to amass political capital for themselves. The Latvian case reveals a different side of this process. The politicians, with their continued interest in the lustration issues and their decision to open up the KGB files, have actually served as advocates of full public access and a democratic discussion. They made sure that the debates about collaboration and responsibility remained in the public domain, and they displayed a notable trust in the ability of the post-totalitarian society to

understand and deal with its past on its own. The politicians argued that the public needed and wanted to know the truth and it was immoral and unjustifiable to keep the society hostage to the past and allow only partial knowledge. Therefore some of the politicians demanded that the state grant full access to the secret documentation and reveal the contents of the Cheka's bags. Importantly, even those politicians who opposed the immediate opening of the KGB materials still acknowledged and participated in a public and open discussion about the issues of collaboration and complicity.

Meanwhile, the opponents of the lustration legislation, or those who suggested bureaucratization of the lustration process, essentially argued that Latvia's society had to be guarded from uninterpreted knowledge about the past because individuals by themselves were not qualified to draw appropriate conclusions about collaboration, totalitarianism and the effects of the communist regime. Most importantly, these arguments were made by the intellectual elite, which was particularly actively involved in the public debate about the opening of the KGB files and presented itself as the voice of national consciousness, justice and consolidation, fashioning themselves after such prominent post-communist intellectual heroes as Václav Havel. In this process, they essentially pursued a strategy of national amnesia and institutionalization of most, if not all, discussions about the totalitarian past. They advocated increasing the role of the state in matters of national memory, having the government institutions protect the secrecy of the KGB files and having state-hired researchers studying the materials before they were released to the public. This suggestion, as put forward by some analysts of the processes of national memory in Eastern and Central Europe, was a step towards the establishment of a 'state-run cultural policy' that could undermine the position of those groups that did not have direct influence on the government. Also, while the intellectuals asserted that state control over the secret materials would ensure objective and unbiased historical analysis, one should not forget the potential danger that the interests of the state could quickly come to permeate this research and disturb attempts to reveal the truth.⁷²

Moreover, in the case of Latvia the politicians operated under an assumption that the totalitarian past was still relevant in the everyday functioning of the new state, while the intellectuals tended to argue that the past had to be seen as a mere source of scientific evidence to be collected, categorized and studied. By taking on these positions, the politicians revealed a faith that democratic access to knowledge could bring benefits, while the intellectuals were essentially trying to prevent the public from engaging in an open discussion about what could or could not be pardonable and how Latvian society in general had performed under communist rule.

How could these differences be explained? One of the simpler answers may be that the politicians felt personally confident as most of them had already

undergone the background check and they were not afraid that their names would be found in the KGB files. The intellectuals, on the other hand, appeared to be hiding something and afraid of the contents of the Cheka's bags, therefore they had high interests in drawing a thick line under the past and moving on. There are deeper roots to these fears. It is well known that the intellectual class was an instrument of political propaganda and manipulation of people's minds and therefore it was quite deeply involved in the workings of the communist system. They played an important and valuable role in the maintenance of the previous regime, while the new political elites mainly represented the recently formed middle class that had limited ties to totalitarianism. Thus, while the intellectuals appeared to be supporting human rights and helping to prevent uncontrolled lynching, they were also pursuing selfish interests in avoiding revelations about their own responsibility.

Furthermore, the opposing positions of the politicians and intellectuals also revealed a fundamental disagreement not only about how the past had to be dealt with, but also about who should have the agency in making the decisions on this. The intellectuals represented a view that wanted to grant most, if not all, power on the issues of national remembrance to historians, state bureaucrats and other experts at the expense of the public. The post-independence politicians, even though their policies were clumsy, still appeared driven by a conviction that the matters of national memory can be left to individual citizens themselves. In other words, the politicians appeared much less interested than the intellectuals in maintaining control over the available information about the past regime and collaboration with it. This represented a serious conflict of vision where one side believed in expert-led social programming, while the other endorsed democratically reached compromise.⁷³

Another explanation of these differences could be found in the general distrust of the democratic process that has characterized the Latvian intelligentsia throughout its history. As shown in earlier research,⁷⁴ Latvian intellectuals have long harboured doubts about the benefits of the democratic process and instead preferred political leadership and decision making exercised by the educated elite. In the case of lustration debates, the concerns about the public's ultimate inability to be rational and reasonable emphasized the intellectuals' opposition to the proposals reached by democratically elected politicians. The intellectuals also tended to explain their resistance to lustration by reference to concerns about its long-term benefits to Latvia, while they refused to trust the politicians because they were driven merely by short-term goals such as maintaining their power. In reality, of course, the long-term benefit of having or not having lustration is a debatable issue and it would be mistaken to claim that the position of the intellectuals was to the advantage of the future of Latvia's society and the politicians' approach was not.

In sum, the conflict over the opening of the KGB files and the lustration process pulled together a number of influential factors that have shaped Latvian intelligentsia's perceptions. They included a historically based sense of self-importance, suspicions of democracy and elected politicians, involvement in the communist regime, and a desire to control the process of national consciousness and memory.

Considering all of this, it would be a mistake to continue interpreting conflicts surrounding lustration in countries such as Latvia as mere political games. There appear to be deeper issues at stake such as the nature and extent of complicity by certain groups and society at large in totalitarianism, the desire of an expert class to act as controllers of the national memory, and the beliefs of the intellectual and political elites. In the light of all this, I conclude that the continuing lustration debates themselves have been some form of purification, however limited.

NOTES

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 60. It should be noted that those politicians who favoured the opening of the Cheka's bags turned down more extreme lustration proposals such as making the term for job restrictions indeterminate or restricting all members of the communist party nomenklatura from running for elected positions; see the debates in the plenary session of the Saeima on 26 Oct. 2006, available at <<http://www.saeima.lv>>, accessed 6 Nov. 2007.
 61. See transcript of the Plenary Session of Saeima on 26 Oct. 2006.
 62. See, for example, Aivars Ozoliņš, 'Punkts gaisā' [A dot in the air], *Diena*, 16 Feb. 2000.
 63. Viktors Avotiņš, 'Izgaršosim maisus' [Let's savour the bags], *Neatkarīgā Rīta Avīze*, 27 Jan. 2003; 'Izbērt maisus partiju silēs' [To pour the bags on to the parties' tables], *Neatkarīgā Rīta Avīze*, 6 May 2004.
 64. Juris Rubenis, 'Lustrācija, kas patiešām apgaismo' [Lustration that truly illuminates], *Diena*, 17 Feb. 2000.
 65. "'Čekas maisu" galvenais parraudzītājs neatbalsta VDK sarakstu publicēšanu' [Main supervisors of the Cheka's bags do not support the publicizing of the KGB lists], at <<http://vip.lanet.lv>>, 7 Jan. 2003, accessed 6 Nov. 2007; Ieva Lešinska, 'Neesmu stīvs uz maisiem' [I am not too much into the bags], *Rīgas Laiks*, July 2004, pp.10–15.
 66. 'Prezidente atkal neizsludinās likumu par VDK aģentu publicēšanu' [President again does not announce the law about the publicizing of the KGB agents], at <<http://www.tvnet.lv>>, 1 Nov. 2006, accessed 6 Nov. 2007.
 67. Her statements are available on the president's website, at <<http://www.president.lv>>, accessed 6 Nov. 2007.
 68. 'Prezidentes padomniece: Likums par čekas maisu atvēršanu nav izpildāms' [President's adviser: The law on opening the Cheka's bags cannot be implemented], at <<http://vip.lanet.lv>>, 21 May 2004, accessed 6 Nov. 2007.
 69. Raimonds Staprāns, 'Vēl dzīvā vēsture jeb tas, ko domāja Raimonds Staprāns' [The history that is still alive or what Raimonds Staprāns was thinking], *Diena*, 15 Nov. 2006.
 70. 'Vīķe-Freiberga: čeka mani atzina par vervēšanai nederīgu' [Vīķe-Freiberga: Cheka decided that I was not useful for recruitment], at <<http://www.publika.lv>>, 20 Nov. 2006, accessed 6 Nov. 2007; 'Prezidentes pārstāvji noliedz minējumus par viņas vārda atrašanos čekas maisos' [Representatives of the President deny that her name could be found inside the Cheka's bags], at <<http://www.tvnet.lv>>, 9 Nov. 2006, accessed 6 Nov. 2007.
 71. On these criticisms see Michal Kopeček, 'In Search of "National Memory": The Politics of History, Nostalgia and the Historiography of Communism in the Czech Republic and East

- Central Europe', in Michal Kopeček (ed.), *Past in the Making: Historical Revisionism in Central Europe after 1989* (Budapest: Central European University Press, 2008), pp.75–96.
72. Similar points were made concerning the Hungarian situation in Ferenc Laczó, 'The Many Moralists and the Few Communists Approaching Morality and Politics in Post-Communist Hungary', in Kopeček (ed.), *Past in the Making*, pp.145–68.
 73. Thomas Sowell describes this disagreement as a conflict between the tragic vision and the vision of the anointed: see his *A Conflict of Visions: Ideological Origins of Political Struggles* (New York: William Morrow, 1987).
 74. See, for example, Ieva Zake, *Nineteenth-Century Nationalism and Twentieth-Century Anti-Democratic Ideals: The Case of Latvia, 1840s–1980s* (Lewistown, NY: The Edwin Mellen Press, 2008).