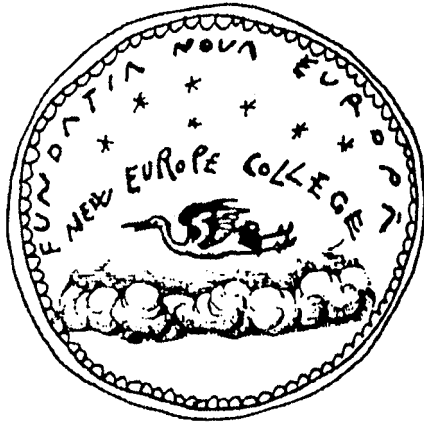


# New Europe College Yearbook 2012-2013



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MIHAIL EVANS  
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MARIA (CIOATĂ) HARALAMBAKIS  
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DÓRA MÉRAI  
JOSEF SCHOVANEC  
DENIS SKOPIN  
BÁLINT VARGA  
WILLIAM DANIEL JÖEL TALLOTTE

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New Europe College  
Str. Plantelor 21  
023971 Bucharest  
Romania  
[www.nec.ro](http://www.nec.ro); e-mail: [nec@nec.ro](mailto:nec@nec.ro)

Tel. (+4) 021.307.99.10, Fax (+4) 021. 327.07.74



## SAYGUN GOKARIKSEL

Born in 1977, in Turkey

Ph.D. Candidate, Department of Anthropology, City University of New York,  
Graduate Center

**Dissertation:** *Truths and Loyalties: Political Belonging and State Building after  
State Socialism*

Doctoral Fellow, Center for Place, Culture, and Politics, City University of New  
York, Graduate Center (2012 – 2013)

U.S. National Science Foundation Dissertation Research Grant (2010-2011)

The Wenner-Gren Foundation Dissertation Research Grant (2009-2010)

Participation to International Conferences in the U.S., Turkey, Poland, Italy  
Several scholarly publications both in Turkey and abroad



# HISTORY AFTER STATE SOCIALISM: POLISH SECRET SERVICE ARCHIVES AND ACCUSATIONS OF BETRAYAL<sup>1</sup>

## Abstract

This paper focuses on the Polish lustration process, which uses the former secret service files to verify the public employees' past links with the former secret service. Since the early 1990s, lustration has been an object of great political struggle between political groups, mainly between the secular liberals and conservative nationalists (including conservative-neoliberals). In this article, I investigate the strategies through which the conservative-nationalists seek to create popular support for lustration. Analyzing the exhumation of a well-known young oppositionist and the public life of a controversial "agent list", I highlight the popularity of the transparency discourse and explore what this reveals about the broader conditions of capitalist transformation and nation-state building after state socialism.

**Keywords:** Secret Service Archives, Lustration, Transparency, Anti-Communism, Eastern Europe.

It was, as though, I was destined to see the Krasieński square in Warsaw during my anthropological field research in Poland (2009-2011). Today the square vividly brings together the extent to which the symbolic landscape of the city has been reconstructed since 1989, the year commonly taken to mark the end of state socialism. It also gestures to and indeed, materializes the "postsocialist" reconfiguration of the relationship between law and history, and memory and nation building. On one side, there is the Field Cathedral of the Polish Army (*Katedra Polowa Wojska Polskiego*), which functions as the central church of the Polish Army since 1989, hosting major religious feasts for the army. The church registers the key moments of the national history: the Katyń massacre (1940) perpetrated by the Soviet

security forces; the tragic presidential plane crash in Smoleńsk (2010), which killed 96 people on board (including the Polish president); and the Polish clergy's various heroic and sacrificial involvement in past and recent military missions, including the "war on terror" led by the U.S. armed forces.

On the opposite side of the church, there is the newly built monument complex dedicated to the Warsaw Uprising against the Nazi occupation. The monument delineates the heroic figures that represent the Polish resistance waged by the Home Army fighters (which were called "bandits" or "criminals" by the communist authorities) in the company of the clergy. Behind this monument stands the new Supreme Court building, a modern L-shaped glass building surrounded by tall columns, on which are inscribed Latin texts on justice. On one end of this transparent building is seated the Lustration Office of the Warsaw branch of the Institute of National Remembrance (IPN), which has the task of checking public employees' past links with the former secret service. Next to the Lustration Office, the national library (the Książki Palace) is located. In front of this eloquent building stand the colorful pegasuses dedicated to the Tiananmen Square Massacre of 1989. With this arrangement of buildings and monuments, the Książki square well testifies to the layers of the imagined national time and space of "postsocialism". It highlights the grand national narrative by weaving together different tragic or catastrophic historical moments (often uprisings and wars) that have articulated the Polish nation to Roman Catholicism. The square also points to the prominence of law and justice, though a new transparent one, in the new architecture of the nation. It calls for the justice that would intricately link the future and the past.

My dissertation examines the "postsocialist" production and adjudication of knowledge and memory of the socialist past. It focuses on lustration (*lustracja*), a "transitional justice" procedure, which bans the "secret collaborators" of former secret services from occupying public office. It claims to facilitate the transition from past authoritarian rule to liberal democracy by coming to terms with the abuses of the former regime. As I will discuss later in this article, lustration has been an object of great political struggle and antagonism between different political groups, mainly between the secular liberals (including former Communist Party members and dissidents) and conservative nationalists (including conservative-neoliberals). As such, Polish lustration has come to be largely advocated by conservative groups that aspired to formulate it in more radical terms (e.g., "de-communization"). In this article, I will investigate

some of the strategies through which these groups in their struggle with the secular liberal elite seek to create popular support for more radical forms of lustration. I will concentrate on two events: the exhumation process of a well-known young oppositionist, who was murdered by the security forces in 1977; and the public life of an “agent list” of two hundred thousands of names “mysteriously” smuggled out of the former secret service archives, the list known as, “the Wildstein List”, named after the popular conservative-neoliberal journalist, Bronisław Wildstein. Through these two events, I will examine how the anti-communist conservative groups today claim to represent the nation and pursue justice in the name of the “victims of communism”. Specifically, I will highlight their employment of the language of transparency and investigate what this tells us about the broader conditions of capitalist transformation and nation-state building after state socialism.

### **Lustration and Secret Service Archives**

The recent opening of the former secret service archives in Eastern Europe has ignited contentious questions concerning the secrets of the Second World War and the Cold War, of resistance and collaboration, as well as a radical interrogation of the loyalties, values, and practices acquired under socialism (Ash 1998; Deák et al. 2000; Gross 2001; Rév 2005; Rosenberg 1995; Verdery 1999). Where the “democratic transition” of Latin American countries from their U.S. backed military dictatorships typically has tackled with the problem of absence of any official documents of “disappearances” and state terror, the “transitioning” Eastern European countries had to confront another type of problem about documentation: what to do with the tens of miles long secret service archives that are inherited from the former regime, which have been remarkably destroyed during the regime change? What to make of the half-truths of these documents, which are notoriously known to be composite or fabricated like other records of the state socialist regime?

Many Eastern European countries in one way or another have ended up employing these documents to redraw and secure the boundaries of the new “democratic” state and political community. Lustration has turned out to be one of the major legal procedures adopted for this purpose (e.g., Czech Republic, Hungary, Poland, and Slovakia). In this paper, I am concerned with the Polish lustration. Lustration (*lustracja*) in Polish means

“self-examination”, from the Latin *lustratio*, “purification by sacrifice”. It involves both an examination of the state personnel by the prosecutor and one’s examination of oneself through a declaration. In Poland, lustration requires hundreds of thousands of state employees – including MPs, high and mid-level administrative, judicial, and public media personnel, and candidates for these positions – to file declarations stating whether or not they cooperated with the former secret service (UB/SB). The person who is subject to lustration is not, as a rule, allowed access to the UB/SB archives; one is supposed to declare the truth without knowing what information may be in the archives. These declarations are then checked against the files for their “truthfulness” by a team of lustration prosecutors employed at the Institute of National Remembrance that manages UB/SB archives. Those whom they determine, via the files, to have “lied” about their past are summoned to court. A lustrated person can be prohibited from practicing his/her profession for ten years. As for those who confess to their collaboration, no formal punishment is prescribed, but their names are publicly disclosed (Czarnota 2007).

A form of “transitional justice”, lustration is commonly described as a legal means employed by post-authoritarian countries to deal with the human rights abuses of the former regime (Elster 2004; Mayer-Rieckh et al. 2007; Minow 1998). Unlike the truth commissions of Latin America and South Africa, or criminal justice procedures, lustration does not involve a public “truth-telling ritual” (Humphrey 2003) or prosecution of past crimes. It prompts, however, an expansive production of rumors and truth claims concerning one’s moral purity. Resting on the principle of administrative justice, lustration aims to purify the new democratic state of the corrupting elements of the past. With compromised public figures deposed, the new state, it is claimed, will establish national security, rejuvenate its moral authority, and legitimate its sovereign power (Voiculescu 2000; Walicki 1997; Welsh 1996; Szczerbiak 2002). Furthermore, lustration is often described as indispensable to meet the popular demands for justice and security (Appel 2005; Borneman 1997; Calhoun 2004; Cepl and Gillis 1996; Meierhenrich 2006). It is presented as a *natural* response to the calls for justice and whatever it does is considered to be “good” for the “victims of communism”, on behalf of whom the legal process exercises power. Yet, that research often assumes an abstract, hypothetical point of view of a presupposed “society” or “people” (e.g., “people want lustration”) and rarely investigates who these “people” are, how they come to desire



or want lustration, and what conflicting expectations of justice and truth are raised by different social groups.

My research critically engages with this research by focusing on how lustration works in practice. In this regard, I argue that lustration refers to a much broader field of accusatory and denunciatory practices of betrayal than its formal (legal) domain. As I will detail later, it is marked by a certain mode of truth and knowledge production of the recent past and reading of the former secret service files. Thus, research activities and media institutions are far from being marginal or auxiliary, and are indeed central to the operation of lustration. Taking this into account, I concentrate on the following questions: what are the political struggles in which lustration operates? By which strategies does lustration (or pro-lustration groups) seek to mobilize popular support? How do the broader political economic and legal conditions shape the field of lustration?

To examine these questions, I now turn to the peculiar afterlife of the dead body of the young oppositionist, Stanisław Pyjas, whose unresolved murder has been a powerful symbol invoked by the nationalist anti-communist advocacy for lustration. As has been widely noted by scholars, state burials, reburials, or other rituals for the dead are fundamental instances for imagining the nation, making a national time and space, and memorializing it (Trouillot 1995). The former East Bloc is no exception, having been a fertile soil for dead body trafficking across national borders and time (Rév 2005; Verdery 1999). Who belongs to whom, whose dead body belongs to the new public, Republic, and whose does not has been of strategic importance. While some people die before they actually die (e.g., those who are abandoned by capitalism to live in the cracks of cities, disposed as an un-exploitable waste), some others are not allowed to die; they can be summoned any time from their grave to testify for the nation. This is because the “secret truth” that is excavated in the dead body is not only of the past political regime, but the present relations of power. It is an effect of the ongoing political struggles.

## **The Fall of the Young Oppositionist**

On 7 May, 1977 the Jagiellonian University student of Polish philology and a core member of the newly formed Workers’ Defense Committee (KOR), Stanisław Pyjas, was found dead by the entrance gate of an old building close to the main square of Krakow. From the very beginning his

dead body started breathing a political life. Over the last decades it has become a precious object of mourning and hope. It has illuminated as much as it has concealed. While the dead body has promised to materialize and expose the dirty secrets of the political regime that killed him, it has failed to provide a satisfactory clue (from the forensic point of view) as to the cause of its own death. This ambiguity has played a central role in the conjunctural politics of anti-communist nationalism. To gather support for their de-communization policies or political programs, the conservatives have often invoked the dead body to materialize the unhealed wounds of the nation.

Since the fall of communism, different scenarios have been constructed to shed light on the circumstances of Pyjas's death. The investigation conducted in 1977 by the socialist Poland's prosecutor concluded that it was an "unfortunate accident" that killed him that night. It was mainly his fault. Drunk, he fell from the stairs. This did not convince many of Pyjas's friends, who knew (at least, now they say they knew) that the secret service had been observing and intimidating him. It must be the UB/SB that murdered him. The investigation was politically important for the academic community and students' perception of the current Edward Gierek government. By opening the way for a truthful investigation, the Communist Party would have demonstrated its capacity to govern and rule over the security apparatuses. Instead, the results of the investigation paved the way for the founding of the "Student Committee of Solidarity" (SKS) and contributed to the erosion of the Party's authority in Krakow's higher education institutions.

In 1991, as one of the first constitutive acts of the new Republic, a new prosecutorial investigation was conducted. The investigation did not require the reexamination of Pyjas's dead body by the medical court experts. It relied on the material already gathered during the 1977 investigation. At the outset the prosecutor, Krzysztof Urbaniak, ruled out the possibility of a straight fall from the stairs or a hit on the staircase's barrier as the cause of Pyjas's death. The injuries on the dead body did not suggest any of the versions, Urbaniak explained in an interview in 2011. There was no spine or skull fracture that would suggest a fatal fall. Moreover, the photographs, taken right after the incident, highlighted that he had suspicious injuries on his face, which could not have been caused solely by the fall. Urbaniak asserted that Pyjas' dead body must have been brought from somewhere else to the location to give the guise of a fall as the cause of his death.<sup>2</sup> He must have been beaten to death, the court

established. However, the legal proceedings did not last long due to the lack of material evidence. It was not possible to identify any individual perpetrator responsible for the murder. Speculations and suspicions have abounded. Many suspected a certain (now dead) alcoholic ex-boxer, who was hired by the UB/SB to beat the student oppositionist.

In 2001, Bronisław Wildstein with other former SKS members denounced Lesław Maleszka as a secret informer in a letter published in the popular center-right daily, *Rzeczpospolita*. After an initial period of denial, Maleszka, who was close to Pyjas and Wildstein in the 1970s and was active in the opposition throughout the 1980s, admitted to having been an informer. In spite of the campaigns against him, Maleszka kept his job at *Gazeta Wyborcza* the popular liberal daily. For the anti-communist rightwing media, Maleszka has come to embody betrayal and moral perversion while Pyjas has become the ultimate figure of the innocent victim. Wildstein's public self-representation and conservative political views deeply reliant on the heroic fight between the good and the evil, have contributed to this depiction. He has fashioned himself as a witness, who cannot and will not let anyone forget the "communist crimes". On the one hand, there is the beautiful, youthful Pyjas with unfulfilled promises for the future, a saintly figure and on the other, Maleszka of absolute perversion and decadence: his cranky look in thick glasses, protruding teeth, and dirty mouth, recorded as stuttering and swearing in front of the hidden cameras. This is how Maleszka was contrasted with Pyjas and Wildstein in the award-winning documentary-fiction film *Three Buddies* (*Trzech Kumplici*). Besides interviews with Maleszka, Wildstein, former UB/SB officers, and many other related people, the film employed an extensive use of fiction to visualize and reenact the relationship of the three buddies in the 1970s. At the heart of the film was the quasi-biblical scene involving the secret betrayal of Maleszka and Pyjas's death, followed by the revelation of Pyjas's facial injuries as the clue to the mysterious circumstances of his death. In the triangular relationship of the old buddies, it is Wildstein who appeared to bear the moral burden of witnessing the lost glory of anti-communist opposition and the deceit of the shameless, faceless enemies within, who had cooperated secretly with the security.

The production of *Three Buddies* corresponded to the IPN officials' growing interest in the circumstances of Pyjas's death. It was 2008, right after the end of the populist rightwing coalition government term, which tried to implement the firmest anti-communist policy since the foundation of the Third Republic and showed unwavering support for the

IPN and radical lustration policies. The film ventured the thesis that the cause of death may have been a gunshot or a beating, the trace of which may be found on the corpse. Maleszka was implicated in the murder by cooperating with the UB/SB. A few years later, in spring 2010, the IPN announced publicly that it was planning to exhume Pyjas's dead body. Information about the methods and aims of the exhumation were carefully kept in secret. The general public was not supposed to know anything more than the existence of an ongoing secret operation.

Pyjas's family was not provided with any more information, either. They actually heard about the exhumation from the media.<sup>3</sup> The news quickly gained a high profile in the media, which followed closely the controversial decision. The public memory was already fresh with the recent "failed" exhumation of General Sikorski by the IPN.<sup>4</sup> Besides, the new liberal government was at the time reviewing IPN's budget and its activities, which made the institution concerned about its status and expenditures. Under financial pressure, the IPN seemed to need publicity more than ever to prove that it was worth the money. In any case, a number of Pyjas's family members, including his mother, sister, and cousin of Pyjas objected to the exhumation, unconvinced by the scientific breakthrough the exhumation claimed to achieve three decades after his death. The mother consistently pointed out that she did not approve the operation, which meant uprooting their family graves, where Stanisław Pyjas had been lying with other family members. Pyjas's brother-in-law spoke skeptically:

Five years ago we buried the grandmother of Stasiek [the diminutive of Stanisław] in the same graveyard where he and others lie. We saw then that even the coffin of Stasiek was not totally there because of the terrible moisture in the grave.<sup>5</sup>

Stasiek's body was not only a political body, but one that followed the line of kinship, having a certain place in the family history. It belonged to the earth that devoured it slowly over the years. It was more than an anti-communist symbol of hidden communist crimes.

In a few days something seemed to have changed. While Pyjas's mother and some of his friends from the political opposition (Bogusław and Lilliana Sonik) continued to be skeptical, the sisters agreed to the exhumation. Later they said that they were at the time intrigued by the possibility of proving a gunshot as the cause of his death. Both of them were impressed

by the film, *Three Buddies* and the thesis it presented through consulting the newly found witnesses.<sup>6</sup> The sisters proposed certain conditions, however. The exhumation was not going to turn into a media spectacle or be utilized politically. In the meantime, the IPN had become more ready to impart information about the operation. The former head of the IPN, Janusz Kurtyka, who died in 2010 in the Smoleńsk plane crash, told the conservative daily, *Dziennik Polski* that "it was not possible to know without conducting exhumation whether Stanislaw Pyjas was killed as a result of premeditated murder or his death was an unexpected result of a beating by the SB". By using the new technology of electronic topography the exhumation, he hoped, would unearth the hidden truth and ascribe criminal responsibility to everyone, who took part in the intimidation of Pyjas or lied in subsequent investigations until today.<sup>7</sup>

Wildstein had been ardently supporting the exhumation. Though not an "expert", as he often said, he still believed that the operation was necessary. His was more than an abstract conviction. He considered himself the ultimate witness to the truth of Pyjas' death. He saw the body of Pyjas right after his death. He saw the injuries with his own eyes. But there was more. He also touched his body, the touch that today provides him with the certainty he needed to believe in the necessity of the exhumation, the touch that flames his desire to fight a war against (former) communists and their secret agents. As he said in an interview, "he bribed the morgue worker to see the corpse of his friend. There, he conducted his examination with his own hands".<sup>8</sup>

It took more than two years to hear the result of the exhumation which was conducted in full secrecy. It reiterated almost the identical conclusion arrived at by the 1977 investigation: Pyjas died or more precisely, "could have died", as a result of the fall from the stairs. There was no material evidence to suggest that he had been shot or beaten to death. Nevertheless, uncertainty crept back in. Might someone have pushed him down the stairs? Or, could it be that he fell as a result of an unfortunate accident, such as stumbling on an uneven stair? The experts were not able to ascertain any of the versions.<sup>9</sup>

What I want to highlight here is not this unexpected and unsettling "result" of the operation. Nor is it the "failure" of "materially" proving the murder of Pyjas. What I want to highlight is the way the public "event" of the exhumation has been produced and the political forces involved in that production.<sup>10</sup> It is no longer a public secret that Pyjas was murdered by the former secret service. The result of the exhumation, most probably, will not

change many people's view, and certainly, not the view of Pyjas's family. As I noted, the family members never seemed fully convinced by the light this secret police operation was going to throw, upsetting the family grave and awakening all those who have been lying with Pyjas. It was not the drama of Antigone. This time it was Pyjas (and his dead relatives), who had to wake up to testify before the state for the buried secret of the Polish nation represented by the IPN. It was his dead body that was summoned by the state authorities as *the* victim of communism, where the Polish nation was to be imagined, secured, and purified from the secret agents. However genuine the IPN's intentions may be in its "quest for truth" – and there is no reason to doubt this – what the institution has *also* ended up doing, among other things, was no less than producing a remarkable publicity for itself at a critical juncture for its survival, reasserting itself as a crucial public institution by displaying vigor and determination, and generating an atmosphere of fear and suspense by embarking publicly on a secret investigation.

In fact, such use of secrecy, rhetoric of victimhood, transparency, and security cloaked as the pursuit of justice has not been unique to this case. The invocation of the victimized Polish nation and the call for nationalist sacrificial acts for truth and justice has been common. In the following section, I examine this problem by focusing on the scandalous leakage of "agent names" from the IPN archives. This event bears a stamp on any public debate of what to do with the former secret service archives today in Poland and has left many people disarmed or frustrated by the hasty and chaotic revelations from the archives. As in the case of exhumation, it is the same transparency project that is at issue here, and is also about the politics of knowing and not being able to know. When it does expose the secret names of the past, it also claims to do it in the name of the "victims of communism".

## The Wildstein List as a Transparency Project

In the film *Files* (Teczki) I remember vividly a scene about a man who signed a letter of obligation with the UB/SB in a moment of weakness and later, resigned without acting like an agent or injuring anyone. But the IPN still called him a secret collaborator. He was scared of showing his face in front of the cameras, because even though he never had been an “agent”, he feared ostracism.

Adam Leszczyński in conversation with Pawel Machcewicz,  
Antoni Dudek, and Andrzej Friszke, “Transparency must hurt”<sup>11</sup>

“Lines for the file”,<sup>12</sup> “The Institute of National Remembrance under siege”,<sup>13</sup> and “Lustration Tsunami”,<sup>14</sup> were some of the media headlines that referred to the popular uproar that followed the exposition of a list of 240,000 names leaked from the IPN archives in early 2005. Unlike its initial public perception, the list was not simply an “agent list”. It was much more ambiguous and sweeping in how it organized the names. The list lumped together indiscriminately in an alphabetical order (like a telephone book) the names of different categories of person registered by the secret service: the names of former UB/SB employees and officers, secret collaborators, and candidates of secret collaboration (including those who were objects of covert operations, some of whom were victimized by the UB/SB). Most of the names were not verified with the IPN archives before their public exposure. And some turned out to be not even verifiable, because the IPN had no documents concerning them. The hand that examined Pyjas’s dead body was the same hand that smuggled the list from the IPN archives. That notorious list is called “the Wildstein List” (*lista Wildsteina*).

All the names met each other on the flat screen of a few web-sites, where the list made its public debut before it descended into the blackmarket in dubious CDs for those who did not have internet access at home. There was no information about who was who, if the name Jan Kowalski belonged to *that* Jan Kowalski and not to another, or why one’s name was there. It was left to the concerned person to find out about these. In a few days after the publication of the list, the IPN received more than 1,000 applications, and in the following two weeks, 10,000 from those who wanted the archival institution to determine whether it was their names that were on the list. It was a scandal, or the scandalization of the public by a bombardment of names that demanded identification

and justification. Until proven innocent, anyone who had a name on the list was a suspect. However some of these anyones were dead, who neither had the possibility to speak for themselves nor could have their relatives check their names with the IPN. According to the law on the IPN (1998), the families of the accused of collaboration – just like the accused himself/herself – did not have access to the documents. When accused or suspected of collaboration, the dead, however, breathed a strange afterlife for many close associates, who had to come to terms with the list. Wildstein never bore any legal or moral responsibility for the injuries it caused or for walking out from the IPN archives with the list in his possession. He never expressed publicly any regret. Instead, he often argued that the victim of “communist crimes” has every right to know “who is who” today and democracy requires, first and foremost, “public transparency” and the moral cleansing of the nation from corrupt (ex-)communists and their collaborators.

What is the political-normative framework that justifies the production of the Wildstein List and its articulation into the scandal? What political strategies are involved in the production of uncertainty or ambiguity that marks the list and its afterlife? What do the public contentions around the list illuminate about the broader antagonisms regarding victimhood politics and management of the IPN archives, and the competing notions of the public and personal right to know, transparency, and privacy? To investigate these broad questions, I will first briefly consider Wildstein’s political biography and views on the state and economy in relation to his advocacy for a certain kind of “historical politics” (*polityka historyczna*) that calls for radical lustration or de-communization. This discussion will then prepare the ground for my analysis of the political environment in which the Wildstein List exploded.

Bronisław Wildstein’s political biography follows the line of many other dissidents, who came of age in the mid-1970s, when Poland “opened” its economy to the West by collecting loans from the IMF to build its “market socialism”. After involvement in oppositional student groups in an increasingly volatile and bankrupt Poland, he left the country for Paris in the 1980s during the martial law. In Paris, he strove to maintain contact with the dissidents back home and cooperated with the anti-communist *Radio Free Europe*. Wildstein did not occupy a leading position in the opposition. Nor was he interned, or imprisoned by the security forces like many others oppositionists, who today detest unambiguously the de-communization politics advocated by him and rightwing groups.



Wildstein returned to Poland right after the fall of state socialism. He was not in the position of influencing the course of the transformations. He was not a member of the oppositionists, who sat down to make the “round-table agreements” with the leadership of the Communist Party, the agreement which is accepted today as the “official end” of the former regime. By the late 1990s he was already drawn to the emergent conservative politics, critical of the liberal establishment that led the transformations. He denounced the round-table agreements as the betrayal of the nation and accused many well-known former dissidents of complicity with the ex-communists. In his numerous articles, he advocated for the following political and economic program: deregulation, decentralization and downsizing of the state, public budget cuts, and tax cuts. All of these measures align with a certain understanding of a “strong” and “efficient” state that is also fearsome with its elaborate policing and anti-corruption measures and national security policies. Once the iron fisted “law and justice” mechanisms are installed, once the heavy corrupt socialist state is destroyed and replaced by a *thin* low-cost one, once the civil servants are depoliticized and made subject to screening of their loyalties via lustration, once the degenerated old people are replaced by a new generation of civil servants, who have a “fresh” view on how to run the state and economy, the citizens, then, would be able to realize their *natural* resources and capacities. This was a call, as he wrote, to “walk in the footsteps of Ronald Reagan and Margaret Thatcher”.<sup>15</sup>

The Wildstein List exploded like a dynamite in the midst of calls for radical de-communization and moral condemnation of the (post-89) Third Republic by rightwing conservative nationalists. After the Rywin Affair that shook the liberal government by exposing the government’s illicit ties with private entrepreneurs (something not uncommon in the Eastern Europe of radical privatization led by foreign finance capital), the rightwing seized the opportunity to trumpet their criticism of the new Republic, which they identified with moral decay, postmodern moral relativism, weak state, and corruption. Many rightwing groups called for the historical politics of de-communization to initiate a clean break with the past and expiate the “demoralized public” from the “sins” of the Third Republic.<sup>16</sup> For instance, the Catholic conservative party, “The League of Polish Families”, lobbied for the need to prepare urgently a list, which would expose publicly all the names of the employees, officers, and collaborators of the UB/SB. There were calls for a new clean, strong, Christian Fourth Republic.

The eve of the Wildstein List scandal was marked by this radicalization of the rightwing politics and heated public debates about the IPN's management of the UB/SB files, public accusations of collaboration with the UB/SB, and revelations of (sensational) information from the IPN archives. According to the law on the IPN, only those who were certified as victims by the IPN were allowed to access their personal files and ask for the decipherment of the names of the UB/SB officers and secret collaborators involved in their cases. It was left entirely to the victims to decide what they want to do with that information. However, the person, whom they would accuse of collaboration, did not have the right to access the IPN archives. Nor could the accused initiate a "self-lustration" (autolustracja) court proceeding to clear his/her name unless that he/she occupied a public office. Critiques of the law often pointed to the violation of the constitutional principle of the right to self-defense (of the accused) and to the absence of any public institution, which assumed responsibility for the injuries caused by false, speculative "private denunciations" of the certified victims.

A fervent supporter of conservative anti-communist politics, Bronisław Wildstein supported unwaveringly the existing IPN law to counteract the critics. He argued that knowing the names of those who reported one to the UB/SB and revealing those names publicly satisfied the basic feelings of justice.<sup>17</sup> Moreover, this was a citizenship right: every citizen has the right to know not only one's own past, but also those who represent or govern them. This was necessary, he said, for the public transparency and accountability fundamental to democracy. It was only after the full exposition of "who is who" (kto jest kim) that people could *freely* decide and make their *own* private judgments whether they still wanted to be in touch with or vote for that person. In line with this view, Wildstein also argued for the *professionalization* of verification of archival material, turning the entire issue into one of technical expertise. According to him, the unreliable court system must be removed from the lustration of "who is who" and their public exposition. Unlike the professional archivists and historians of the IPN, the legal personnel (judges, lawyers) did not know how to read the SB documents or what to make of them. The archival institution without any outside interference should be able to compile a catalogue of names and then publish it on its web-site, so that the public could see and make their own judgments. If anyone wanted to object IPN's verification, he or she could then apply to the court.

## The Aftermath of the Wildstein List and Legal Remedies

This has been the ideal model of historical justice advocated by Wildstein and many other conservative-neoliberals. How much of this model derives from or feeds upon their neoliberal economic and political views? How might we think of the relationship between the *naturalistic* assumptions underpinning his ideas about the right to know, public transparency, and private judgment of citizens (“natural feelings of justice” or “natural capacities for making judgments”) and his justification of neoliberal economy by recourse to *natural* resources and capacities of the private entrepreneurs and the self-regulating free market? I suspect a contingent but definitive relationship, an overlapping rationality between Wildstein’s historical politics and neoliberal ideas. However, the question of at what moment one fertilizes the other is an open one. At any rate, the long-standing consistency between his historical politics and neoliberal ideas seems to explain why he did not quite feel the need to express any regret when the list exploded in public. Quite the contrary, he was able to draw more political support from conservative groups for his alleged heroic, sacrificial act for the nation. Wildstein did not ever refrain from speaking in the name of the nation of victims and democracy: for him, “the nation has the right to know about itself” (naród ma prawo do prawdy o sobie).<sup>18</sup> At another time he argued that “all of the IPN’s property belongs to the nation” (co jest własnością IPN należy do narodu) and thus, he did not commit a crime or violate journalistic ethics by smuggling out the IPN catalogue, which was at any rate not a secret. The list was there in the archive for public users (certified victims, journalists, historians). Later, he said that by giving that list to his colleagues in the media he wanted to help them out and speed up the process of identification of secret communist agents.<sup>19</sup>

Some IPN historians aimed to reassure the public that the list could not cause any harm to innocent people. The well-known historian, Antoni Dudek said in an interview: “if your name appears in the list. Why worry? There may be other people with the same name – so really, what makes you worry? Do you have anything to hide? An honest and sincere person would not be worried”.<sup>20</sup> Even worrying was a sign of guilt, according to the young historian, who was in his early 20s when the socialist regime came down. However, there were others, who appeared quite worried when their listed names drew suspicion. For instance, Jadwiga Staniszkis, a famous sociologist and a well-known supporter of conservative

de-communication politics, appeared notably distressed when her name on the list demanded her to give an account of her life. The IPN authorities familiar with her files, however, clarified rapidly that she was, in fact, a victim, not a secret informer. The signature number of her file, which suggested that she might have been a secret informer, was simply wrong. In a TV program, Staniszkis recounted her experience in the following way:

That was the most difficult time of my life. I am not a depressed person in general, but I really had something tragic in mind [upon learning about my name on the list]. That was shocking to me, but I am relieved now.... If that list was published somewhere and I had to face it, I would have been in a hopeless situation. That would have crossed out my entire life! In that list it is not clear who is who (kto jest kim), that is why what Mr. Kieres [the head of the IPN] said does not calm me: there are also victims of the UB/SB in the list. There is no way to clear oneself... The majority of the people in the list does not have a chance to verify their names (like I had) to see why their names are listed there.<sup>21</sup>

The Wildstein List was widely criticized for its sweeping ordering of names and its uncritical reproduction of the dubious registry catalogues prepared by the UB/SB. The kind of truth supposed to be revealed by the list was subjected to harsh criticisms by lawyers, journalists, and historians from all walks of life, including those affiliated with the IPN. Andrzej Rzepliński, the eminent judge, human rights activist, and one of the authors of the IPN law, considered the Wildstein List as the practical realization of the controversial plan of the conservative party, "League of Polish Families". It was nothing but the publication of the names of those linked with the UB/SB without any verification with the IPN archives. All the names must have been checked with the archives before their public disclosure. Furthermore, another central problem with the list was that it was impossible to distinguish the already recruited collaborators from the candidates of collaboration. To make that distinction, one needed to study carefully the concerned UB/SB files. As Andrzej Friszke, the renowned IPN historian suggested, this was indispensable for an accurate and ethical reconstruction of the particular condition and form of one's relationship with the UB/SB. Friszke studied many cases, where the candidate ended up refusing to cooperate, or was never actually recruited even though his/her file still appeared on the UB/SB's registration records.<sup>22</sup> There also have been vocal cases, where the person (like Jadwiga Staniszkis) was

registered by the UB/SB as a secret collaborator or a candidate without his or her knowledge.

There were other reasons for being drawn into the Wildstein List. Bombarding the public with more than two hundred thousand names, the list produced a huge public interest for the secret service files. It forged a community of files, self-righteous detectives, accusers, and defendants, who invested or had to invest so much into sorting out the dreading ambiguity of who was who in the list. Indeed, it is precisely this ambiguity that was capitalized on by conservative lustration politics to force the named people to search for files in order to prove their innocence. Now the entire society would have to lustrate itself by checking with the files. However, the great snowballing of applications to the IPN branches disrupted greatly the usual course of archival work and verification of documents. Now the archivists had to deal with only the “most relevant” documents to produce results for the applicant inquiries about the status of their names in a short period of time. It was a state of emergency. The government spared an extra-budget for the exceptional work required of the IPN employees. Overall, there were two major steps for the applicants. First, the applicant typically wanted to check with the IPN if his or her personal data matched with the name indicated on the list, in other words, if it was he or she who really was on the list. If the personal data matched with the name on the list, the next step was often to request to access the concerned documents. In practice, this meant an application to obtain “victim status” from the IPN in order to qualify for access their archival documents.

The IPN categorized all applicants into two broad groups, victims and non-victims. Victims were: 1) those who were objects of surveillance or security operation; 2) unrecruited candidates of secret collaboration (who were also objects of surveillance); 3) those who once performed as a secret collaborator but later broke up with the UB/SB and victimized by it because of involvement in subversive activity. The rest of the applicants who did not qualify victimhood were called non-victim: 1) the employees, functionaries, and collaborators of the UB/SB; 2) those who were first in the opposition (and even victimized for that), but later recruited by the UB/SB; 3) those about whom there was simply no information in the archive.<sup>23</sup> The category of non-victim made strange bedfellows out of a great variety of historical experience. In practice, being a “non-victim” drew much suspicion about one’s status. One is then always prone to the accusations of collaboration with the former regime.

How could one dispute the decisions made by the IPN? What were the legal means available for that purpose? Over the years, the Helsinki Foundation for Human Rights in Warsaw (HFHR) have closely observed the legal problems and complaints that arose out of the Wildstein List and the IPN's dealing with the applications. One thing the human rights lawyers have kept underlining was the loosely constructed but very courteous letters, or more precisely, "certificates" (zaświadczenie) the IPN sent to the applicants about their decisions.<sup>24</sup> These certificates, the lawyers pointed out, did not carry explicit instructions about possible means of appeal. Nor could they be considered unambiguously as official administrative decisions made by a responsible public authority. It is only after the applicant disputed the IPN's decision in writing that the archival institution issued an "order" (postanowienie), which then could be reviewed by the administrative court. However, there was a remarkable limitation to what the administrative court did. The court reviewed only the legality of the IPN's actions. It was not to take active part in the production of "facts". It was not going to verify or evaluate the documents studied by the IPN employees. The administrative proceedings were not of investigative nature as in the case of the criminal law proceedings; it was only a matter of establishing if the IPN authorities had complied with the standards of evidence determined by the concerned legal judgments (including those of the Constitutional Court).

The appeal process to the IPN's decision was long and complex. Even when the Supreme Administrative Court gave a verdict in favor of the compliant (which it did in many cases), it was still hard to grasp the concrete effects it produced. The law on the IPN kept changing and with new amendments in 2007, the category of the victim was annulled. This created further complications for those who contested now the IPN's outmoded categories. Furthermore, the HFHR lawyer, Paweł Osik told me that one of the compliants to whom they offered legal counseling and eventually, carried it to the European Court of Human Rights in Strasbourg (ECHR), passed away while waiting for the proceedings. It was not secret that many of the proceedings required so much waiting. It was very difficult to gain access to the archival documents once the application was rejected. The situation with the deceased people whose names appeared on the list was no less tantalizing. The existing IPN law did not recognize their close kins as an "interested party", who could exercise the right to apply to see the concerned documents. The names of the dead could not

be identified with any certainty in the world of the living. What they left behind was a hollow void carved out by the website that carried the list.

For the living too the legal remedies for the injury inflicted by the Wildstein List were not sufficient or effective. As the HFHR lawyers underlined, neither civil lawsuit nor lustration proceedings could be initiated in practice. While the list was generally perceived by the public as an “agent list” (at least in the beginning), it was not possible for the bearer of the listed name to bring a civil lawsuit for violation of personal rights, such as reputation or “good name” (*dobre imie*), or public slander regarding collaboration with the UB/SB. There were two fundamental legal problems. First, there was nothing to be personally offended for. The list was not considered legally a public slander or a criminal act, because it was not possible to identify any concrete living or dead person solely by looking at the names on the list. Besides, the very lumping together of all categories of people brought the ambiguity that absolved the list from any concrete accusations. There was no identifiable infliction of injury to any particular person on the list. Literally, the list did not imply anything to anyone. It did not judge anyone; it only exposed some 240,000 names and left the burden of proof to others who saw the list. Furthermore, the anonymity of the cyberspace secured impunity for the list. Published on the internet, the Wildstein List posed nobody as its responsible author. What other party could one possibly accuse? Was it the State Treasury represented by the President of the IPN? Was it the President of the IPN? Was it Bronisław Wildstein? Or was it the administrators of the internet servers on which the list was located? All these persons and institutions deny any individual responsibility, as the HFHR observed. The public prosecutor never managed to establish the circumstances in which the list was carried. It has remained unknown to this day. Wildstein never had to disclose how he took out the list from the archive, invoking his right to keep confidential his information sources as a journalist. Nor did the IPN ever have to bear any legal responsibility for reproducing a list of names on the basis of the former secret service registry lists without verifying it with the files and for making that list available for the users of the archive, one of which happened to be the journalist, Bronisław Wildstein.

## Conclusion

Both the process of exhumation of the young oppositionist, Stanisław Pyjas and the scandalous public life of the Wildstein List highlight how the “secrets” of the socialist past are utilized in the political games for power. In this article, I have been mainly concerned with the conservative-neoliberal nationalists’ strategies regarding the IPN archives, but not so much the ones employed by the secular liberal or neoliberal groups. The latter group, mainly the so-called post-communists, typically advocates for drawing a “thick line” between the past and the present in order to salvage the “bright liberal future” from the “dark totalitarian past”, with which everyone in Polish society allegedly had been complicit. These groups either denounce the IPN archives (even their very existence) as dangerous or harmful, or trivialize the files’ content and scholarly value by calling them trash. The rightwing conservative position definitely has developed in reaction to this position. In order to create publicity and mobilize public support for a more thorough lustration or de-communication, the conservatives, as I have showed in this article, have created, deliberately or not, an environment of fear and suspicion. While promoting a clear cut victim-perpetrator framework, they also seek to forge or capitalize on moral and epistemological ambiguity concerning the secrets of the files, in which they intend to draw the general public (e.g., the Wildstein List). Their language has been one of moral decay and national security that is geared toward identifying and punishing the secret agents within the national body in order to ensure the building of a *real* capitalism freed of any corrupting elements of the past. In this respect, lustration or de-communication stands out as a major form of conservative moral and moralizing critique of the social inequalities and dispossession created by the capitalist transformations since the fall of communism.

What I want to highlight here is the common neoliberal language of transparency that is shared by both conservative advocates of lustration and their critiques, who invoke the “right to privacy”. Perhaps, this is hardly surprising, because the “postsocialist” hegemony mainly speaks the language of neoliberal democracy and capitalism, and any position that runs for political and economic power has to come to terms with this language. This, then, raises important questions about the social consequences of equating transparency with truth and justice. Among other things, the event of the Wildstein List has laid bare the social consequences of such equation. In one memorable interview, the historian



Paweł Machcewicz underlined that it was all a matter of privileging one of the following democratic rights over another: whether one chooses to privilege the right to start a new life (for those used to be affiliated with the UB/SB), or the transparency of the public life, that is, the right to know.<sup>25</sup> What is it exactly that one has the right to know, however? The Ombudsman, Andrzej Zoll, well articulated the fundamental problem with that discourse of transparency: it was not simply the right to know just about anything, but the right to know, first and foremost, “substantial information” (rzetelna informacja). The quality of knowledge produced was no less important than the abstractly conceived right to know. What is then the quality of the knowledge produced by the registry lists? Is that all one wants to know about the “public figure”, whether he/she was or was *not* a secret collaborator according to the documents gathered by the former secret service? Would that ensure the transparency of public life? Antoni Dudek said in an interview that “transparency must hurt”, because the truth is always bitter just as reality always bites. What is the kind of truth, or better, truth procedure needed for a truly democratic politics? This question requires thinking issues of historical justice with the current conditions of reproduction of social inequality and injustice. Without working toward producing the material and social conditions needed for the realization of one’s life potential or labor, there is no possibility of historical justice, either.

## NOTES

- 1 This article is based on my research supported by the Wenner-Gren Foundation and the U.S. National Science Foundation (Award no: 1022656) and the New Europe College Fellowship, 2012-13. All translations from Polish are mine unless otherwise noted.
- 2 See at [http://wyborcza.pl/1,76842,9132947,Jak\\_umarl\\_student\\_Pyjas.html](http://wyborcza.pl/1,76842,9132947,Jak_umarl_student_Pyjas.html) last accessed, 25/09/2012.
- 3 "Rodzina Stanisława Pyjasa jednak zgadza się na ekshumację", *Gazeta Krakowska*, 23 March 2010.
- 4 The exhumation ended up disproving all the guiding (rightwing) hypotheses about a possible Russian assassination of the Polish General during the Second World War. Instead, it confirmed the long held thesis of the historians that the General died in a plane crash. See for a discussion of recent Polish exhumations, Marcin Moskalewicz, "Polityczne Rytuły Ekshumacji" at <http://publica.pl/teksty/polityczne-rytuale-ekshumacji>, last accessed 3/16/2013.
- 5 "Rodzina Stanisława Pyjasa jednak zgadza się na ekshumację", *Gazeta Krakowska*, 23 Marca 2010.
- 6 See at <http://www.rp.pl/artukul/921800-IPN--Pyjas-mogl-umrzec-w-wynik-u-upadku-ze-schodow.html?p=2> last accessed 09/01/2012.
- 7 "Ekshumacja Stanisława Pyjasa postanowiona", *Dziennik Polski*, 23 March 2010.
- 8 "Rodzina Stanisława Pyjasa jednak zgadza się na ekshumację", *Gazeta Krakowska*, 23 Marca 2010.
- 9 See at [http://wyborcza.pl/1,76842,12250823,Pyjas\\_zmarl\\_wskutek\\_upadku.html](http://wyborcza.pl/1,76842,12250823,Pyjas_zmarl_wskutek_upadku.html) last accessed 09/01/2012 and endnote 5.
- 10 See the study of Cohen and Odhiambo (1992) of the burial of the Kenyan Lawyer S. M. Otieno.
- 11 „Jawność musi boleć” (Transparency must hurt), *Gazeta Wyborcza*, 4-5 February 2005. *Jawność* can also be translated as „openness”, but transparency, in my view, better highlights the general emphasis on disclosure of secrets.
- 12 "Kolejka po teczki", *Gazeta Wyborcza*, 4 February 2005.
- 13 "IPN w stanie obleżenia", *Rzeczpospolita*, 4 February 2005.
- 14 "Lustracyjne Tsunami", *Gazeta Wyborcza*, 7 February 2005.
- 15 See Wildstein, "Koniec III Rzeczypospolitej" (The End of the Third Republic), *Rzeczpospolita*, 15 May 2004.
- 16 See Wildstein, *ibid*.
- 17 See Wildstein, "'Ketman', 'Monika' i inni: Pamięć i jej Wrogowie" ("Ketman", "Monika" and others: Memory and its Enemies), *Rzeczpospolita*, 2 October 2004, and his, "Cały ten antylustracyjny zgiełk" (All this anti-lustration noise), *Rzeczpospolita*, 14 January 2005.

- 18 "Barbarzyństwo Wildsteina", (The Barbarity of Wildstein), *Gazeta Wyborcza*,  
31 January 2005.
- 19 "Co wyciekło z IPN?", (What did leak from the IPN?), *Gazeta Wyborcza*,  
31 January 2005.
- 20 "Jawność, czyli sprawiedliwy podział podejrzeń" (Transparency, or a Just  
Distribution of Suspicion), *Rzeczpospolita*, 8 Feb 2005.
- 21 "Co wyciekło z IPN?" (What did leak from the IPN?), *Gazeta Wyborcza*,  
31 January 2005. "In a short time after this TV appearance, however,  
Staniszkiś felt the need to declare publicly her unchanged loyalty to the  
de-communization project and even underscore that the publication of the  
Wildstein List was entirely justified.
- 22 See "Wiele lat lustracji", (Several Years of Lustration), *Gazeta Wyborcza*,  
12 January 2005.
- 23 See "Droga do teczki – krok po kroku" (The Way to the File – Step by Step),  
*Rzeczpospolita*, 21 February 2005.
- 24 This part on the problems concerning the legal remedies is based on the  
information I gathered from my interviews with the Helsinki Foundation for  
Human Rights (Warsaw) lawyers between December 2009 and May 2011.
- 25 "Jawność musi boleć" (Transparency must hurt), *Gazeta Wyborcza*, 4-5  
February 2005.

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