

Commemorating Martial Law as Treason

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How and why have Polish state institutions constructed an official public memory of martial law (1981–1983) despite plural interpretations and growing apathy and amnesia in the broader society? Between 1992 and 2018, parliament passed eight commemorative resolutions endorsing a single interpretation of martial law as treason. This political consensus is surprising given not only the lack of social consensus but also the political polarization that existed between and among post-communist and post-Solidarity parties. Drawing on LaClau and Mouffe’s discourse theory as well as Brian Grodsky’s theory of transitional justice measures as political goods, this article analyzes the official discourse of martial law as articulated in commemorative resolutions, transcripts of parliamentary deliberations, parliamentary journals, court rulings, and reports of committees, subcommittees, special commissions, and governmental offices. It considers how this discourse has been deployed to legitimate the ruling elite, attack political rivals, and justify controversial initiatives, policies, and reforms. It contributes to the literature on the politics of memory during times of political transformation by examining a case of surprising stability despite factors that would seem to favor change over time.

Keywords: *post-communism; politics of memory; Poland; martial law*

Introduction

In 2005, on the twenty-fourth anniversary of the imposition of martial law in Poland (1981–1983), the Law and Justice Party (Prawo i Sprawiedliwość, abbreviated as PiS) organized a massive demonstration and commemorative ceremony in the capitol city, Warsaw. Yet, when asked how he would spend the day, oppositionist and former first President of the democratic Republic of Poland Lech Wałęsa said, “I don’t celebrate catastrophes, and it was a catastrophe.”¹ These two approaches represent two different views on historical politics: some commemorate historical events to build a shared sense of national sacrifice, suffering, and heroism, while others prefer to forget—and, according to critics, fail to honor national heroes.²

These statements reflect a lack of consensus. In the broader society, the memory field has always been plural and polarized. A review of public opinion surveys from 1982 to 2016 reveals three dominant explanations for martial law: to prevent a Soviet occupation, to end anarchy and prevent state collapse and a civil war, and to

strengthen the communist regime while crushing the Solidarity labor union movement. Each interpretation has had relatively stable support from about one-quarter to one-third of the population with little variation over time.³ Until 2016, the most widely accepted explanation was the need to avert a Soviet occupation. Beginning in 2016, slightly more respondents thought it was an attempt to shore up the communist regime.⁴ Moreover, polarized views of martial law reflected deep social and political cleavages. In 2001, the majority of survey respondents on the left thought martial law was justified while the majority on the right thought it was unjustified. By 2016, even those on the right were divided almost evenly in their assessment.⁵

Yet, these views on how to interpret martial law and whether to commemorate it stand in contrast to the actions of the parliament which passed eight commemorative resolutions on martial law between 1992 and 2018.⁶ Almost all condemn martial law as a crime and call for restitution for the victims and accountability for the perpetrators. Only the 2002 resolution admitted the possibility of interpreting martial law as “a lesser evil” that averted a Soviet occupation, but this interpretation was snuffed out in the 2005 resolution. All resolutions were passed by a wide majority representing parties from across the political spectrum, including communist-successor parties. Minority viewpoints came from across the political spectrum, including post-Solidarity parties. Deliberations were brief, suggesting a lack of controversy. In short, the political establishment of the democratic Republic of Poland has generally agreed on a single interpretation of martial law for almost three decades.

Given mixed and complicated views on martial law, what explains the surprising hegemony of the political memory of martial law as a crime? What is the underlying rationale, and what purposes does this interpretation serve? The scholarly literature tends to focus on explaining how political memories change over time due to shifting power dynamics among competing groups (e.g., political parties, members of the old guard vs. the new regime, communities of memory, victim groups).⁷ In contrast, this article examines a case of stability over time despite differences in political party affiliation and polarized views on the communist past, the Round Table Talks, and the Third Republic. It puts the “politics” back in “the politics of memory” by exploring an “official memory regime” defined by Michael Bernhard and Jan Kubik as one “whose formulation and propagation involve the intensive participation of state institutions and/or political society (the authorities and major political actors such as parties, who are organized to hold and contest state power).”⁸ Simply put, I argue that politicians used commemorative resolutions to endorse a single interpretation of martial law as treason because it serves political purposes.

Analytical Framework

Martial law has multiple and contested meanings that are hammered out in public statements, debates, and discursive moves, and then “canonized” by state

institutions. Thus, discourse analysis is an appropriate method for unpacking political memories. My analysis draws upon Laclau and Mouffe's discourse theory, especially their concepts of political logics and subject-positions. A "logic" is a truth-claim embedded in a discourse. Logics can link and uncouple issues and agenda items as well as construct subject-positions in ways that legitimate or delegitimize political actors. A "logic of equivalence" links subject-positions in ways that emphasize commonalities, mask differences, and allow substitutions.⁹ For example, political dissidents-turned-politicians can adopt subject-positions to appeal to—and speak for—ever-wider circles: all political dissidents, all Solidarity trade unionists, all workers, and, ultimately, all Poles. With respect to the political memory of martial law, this logic of equivalence buttresses the truth-claim that martial law was an attack on the entire nation and, therefore, unjustified. More broadly, this logic of equivalence can suggest that dissidents-turned-politicians are uniquely qualified to speak for the nation; whoever opposes parties originating from dissident circles opposes the nation.

In addition, I draw on Brian Grodsky's theoretical model of transitional justice and political goods. He argues that "political elites pursue transitional justice strategically."¹⁰ In short, "transitional justice policies are a function of both the constraints and opportunities of empowered actors."¹¹ Those who want to pursue transitional justice programs are ultimately accountable to constituents who demand a range of public goods and services. Politicians' political survival depends on constituents' perception that transitional justice policies advance—or at least do not hinder—the provision of other valued political goods.¹²

This explanation extends relative power arguments premised on competition between the old guard and the new guard—a particular type of competition with an expiration date—and covers all types of political party competition, including competition occurring after the old guard has ceased to be politically viable. For example, it can be applied to cases of competition among post-Solidarity parties and new parties not implicated in the politics of the past.

I extend Grodsky's model by applying it to commemorative resolutions where pressure from constituents is unlikely to play a role because constituents rarely read such resolutions. Unlike trials, truth commissions, and other transitional justice programs, commemorative resolutions get little to no media attention. This gives politicians free range to pursue their objectives unconstrained by constituent perceptions. This is especially true because commemorative resolutions are cheap, costing no more than the paper and ink used to print them. As I will show, these factors merely alter the cost-benefit analysis without eliminating it. Commemorative resolutions are quite beneficial because they establish a discursive framework for the pursuit of other objectives. The political memory of martial law has enjoyed a particularly long career because it can be adapted to the political needs of the time.

The political utility of the discourse of martial law as treason may explain its popularity in parliament despite its marginal position in the wider society. It may also

explain its longevity despite the vicissitudes of a chaotic and polarized political field. Its rich repertoire of discursive resources can be selectively utilized to fit the needs of the day regardless of the party in power.

The article is based on a close reading of the textual evidence: commemorative resolutions; transcripts of parliamentary deliberations; reports of committees, sub-committees, special commissions, and governmental offices; parliamentary journals; court rulings; and the secondary literature. It proceeds in three parts. First, I contextualize the discourse by describing the contentious politics of the late communist period and post-communist period. Next, I analyze the parliamentary discourse of martial law. Finally, I explain the surprisingly long career of this political memory by analyzing specific examples of its use.

Martial Law, Polarization, and Party Politics

On 13 December 1981, General Jaruzelski announced the imposition of martial law as a response to national strikes organized by the independent trade union, Solidarity. Peaking at 10 million members, or roughly a quarter of the population, Solidarity took on the character of a social movement who articulated national aspirations for freedom, dignity, and human rights in addition to more conventional labor demands for better pay and working conditions. Through national strikes, peaceful protest, and skillful negotiation, Solidarity successfully won concessions articulated in the August Accords of 1980.¹³ However, General Jaruzelski reneged and retaliated with martial law. Citing the need to save Poland from political revolution, economic collapse, and social upheaval, he justified martial law as a means to end national strikes, demonstrations, protests, and other actions that he blamed for the country's catastrophic living conditions.¹⁴

Martial law was the fifth and final major repressive episode in a cycle of popular uprisings and government crackdowns in 1956, 1968, 1970, and 1976 that occurred under communist rule. It deepened preexisting divisions between communists and oppositionists and displayed these divisions on a national scale because it was imposed on the entire country rather than specific cities or regions. It involved the mobilization of the armed forces, police interrogations and brutality, political trials and imprisonment without trial, forced labor, forced emigration, forced conscription into the military, curfews and other restrictions, surveillance and censorship, food rationing, property seizures, workplace demotions, dismissals, and blacklisting, and school expulsions. All told, there were approximately 100 deaths, 30,000 internments, 4,500 forced emigrations, and 8,000 forced military conscriptions. Countless lives were disrupted and even harmed in ways that cannot be captured by statistics.¹⁵

Although martial law was officially lifted on 22 July 1983, many of its repressive laws and practices remained in place. However, the election of Mikhail Gorbachev

as General Secretary of the Communist Party of the Soviet Union on 11 March 1985 ushered in reforms that had ripple effects throughout the Eastern Bloc and encouraged greater political liberalization in Poland.¹⁶ Solidarity had managed to survive underground and re-emerged victorious. It compelled the communist authorities to negotiate deep reforms, leading to the Round Table Talks of 1989. On 4 June 1989, Poland held semi-free elections for the first time since 1947, and Solidarity-backed politicians won all contested seats but one. A Solidarity-led coalition formed, and Lech Wałęsa—labor organizer, political prisoner, and Nobel Peace Prize winner—was elected as the first President of the Democratic Republic of Poland.

Yet, communists saw no reason to exit the political scene just because communism ended. Instead, they formed leftist parties that competed successfully in elections.¹⁷ To be clear, they disavowed communism and joined other parties in undertaking the work of democratization, economic liberalization, and accession into the European Union and North Atlantic Treaty Organization (NATO). However, personal biographies cast a long shadow on political party competition and policy-making. Political rivals can deploy former communists' personal biographies to question their fitness for office. Moreover, Monika Nalepa convincingly argues that the delayed passage of a lustration law in 1997 can be explained by the desire among former oppositionists to suppress revelations of collaboration.¹⁸

Post-solidarity parties initially gained the upper hand in the 1989 and 1991 elections, but they were plagued by internal divisions, the lack of a unifying vision for the country, scandals, and accusations of corruption and collaboration with communists. Meanwhile, communist-successor parties promised to continue the economic and political reforms necessary to consolidate democracy and transition to a free market, but at a slower pace with more social protections. This program appealed to a population reeling from mass unemployment, skyrocketing food prices, and a drastically reduced social safety net. In addition, communist-successor parties were perceived by some as more professional, competent, pragmatic, effective, moderate, and generally better equipped to carry out the reforms everyone agreed were necessary.¹⁹

Hence, political party competition in the 1990s involved a rivalry between communist-successor parties and post-Solidarity parties shaped by what Mirosława Grabowska (2004) terms the post-communist cleavage.²⁰ This cleavage was rooted in communist-era divisions between those who supported the regime—its supporters, functionaries, clients, activists, and co-opted groups—and those who opposed it, whether motivated by a desire for national independence, a better standard of living, civil and political rights, or religious freedom. These social identities carried over into the new regime and shaped voter behavior. Those who voted for communist-successor parties were more likely to be former communists themselves who thought Poland was better off under communism and who disapproved of the Roman Catholic Church's role in public life.²¹ Those who voted for post-Solidarity parties or anti-communist parties were more likely to be former members of Solidarity, to identify as practicing Catholics, to approve of the Church's role in public life, to think that

Poland was better off after the collapse of communism, and to think that former high-ranking communists should be banned from politics. Mirosława Grabowska's longitudinal research reveals that these divisions were durable over time. Although voters frequently switched parties, they remained within a "camp."²² Moreover, when parties themselves formed coalitions, they never bridged this cleavage even when parties shared programmatic objectives.²³

However, between 2001 and 2005, support for the left plummeted due to corruption scandals, an inability to reduce unemployment, botched health care reforms, and unpopular social policies. The proportion of the electorate identifying with the left peaked at 30 percent in 2001, then plummeted by half in only four years and never since regained even one-fifth of voter share.²⁴ Even those identifying with the left increasingly support parties on the right, especially Civic Platform (Platform Obywatelski, abbreviated as PO).²⁵ The Center for Public Opinion Research Centrum Badania Opinii Społecznej (CBOS) suggests this is because PO represents the interests of constituents who identify with the left better than parties that self-identify with the left.²⁶

The collapse of the left created an opening for new political cleavages to emerge dividing post-solidarity parties, especially the main contenders, PiS and PO. Of these, the cultural cleavage has the most bearing on memory politics. Kate Korycki succinctly summarized the role of anti-communist discourse in the cultural cleavage when she wrote: "The success of communist successor parties has declined in Poland since 2005, but communism as a symbolic trope continues to be productive."²⁷ In her review of party programs, she finds that all parties condemn communism, but for different reasons. PiS condemns communism for being anti-Polish, PO condemns communism for being anti-market and anti-freedom, and the Democratic Left Alliance (Sojusz Lewicy Demokratycznej, abbreviated as SLD) condemns communism but says it also had its achievements.²⁸

Historical policy assumed a much greater role in Polish party politics after twin brothers Lech and Jarosław Kaczyński founded PiS in 2001. PiS promoted the "new historical politics" associated with the think tank *Ośrodek Myśli Politycznej* aimed at preserving or revising collective memory, promoting public discourse on the past, and making historical politics a central part of international diplomacy and domestic politics.²⁹ PiS believes the state should strengthen national identity and political unity by fostering pride in national achievements and acts of heroism, mourning national victimhood, and honoring the military. Such historical politics are accompanied by staunch anti-communist rhetoric as well as strong support for decommunization, lustration, and trials. PiS vigorously pursued this agenda after winning elections in 2005. However, its coalition government was unstable and ultimately ended with early elections in 2007. After sweeping the elections in 2015, PiS began systematically implementing the historical policies laid out in its 2014 party program. For example, in the realm of cultural policy, it prioritized funding Polish cultural centers and sites of memory that commemorate Polish victimhood at the hands of Soviet communists and Ukrainian nationalists such as the Museum of Polish History, the

Museum of Pope John Paul II and Primate Wyszyński, the Museum of the Cursed Soldiers (*Żołnierze Wyklęci*), and the Museum of the Eastern Lands.³⁰ As for social policy, it advocates for more social benefits and services for victims of communist repression.³¹

In recent years, the Polish government has attempted to regulate national history through legal means with the help of the Institute of National Remembrance (Instytut Pamięci Narodowej, abbreviated as IPN). Established in 1998, the IPN is a well-funded, state-sponsored historical research institute and publishing house that oversees the archives of the communist security apparatus, investigates and prosecutes Nazi and Communist crimes, conducts lustrations, and carries out educational activities and commemorations to popularize modern Polish history and honor its heroes.³² As such, the IPN is a powerful player in the Polish memory field. In 2018, the Polish government amended the IPN Law to make provisions for criminal prosecutions against those who interpret history in ways that incorrectly attribute Nazi and Communist crimes to the Polish nation. It later retracted these clauses in response to an international outcry but then passed a law offering financial support to individuals who file such lawsuits. PiS certainly galvanized the memory field in ways that elicit criticism from political rivals. Why, then, the surprising consensus surrounding martial law?

Building a Case for Treason

In this section, I unpack the discursive logics evident in the corpus of commemorative resolutions and associated transcripts of parliamentary deliberations; reports of committees, subcommittees, special commissions, and governmental offices; parliamentary journals; court rulings; and the secondary literature. I do this by tracing their historical development and contextualizing them. The purpose is to bring to the surface what often remains unsaid when these logics are invoked.

Martial Law Was Illegal

The official memory of martial law as an illegal coup d'état was constructed and consolidated gradually over time. The first resolution passed on 5 October 1991 called for an investigation into martial law and accountability for the perpetrators but fell short of calling martial law illegal. However, the second resolution passed on 1 February 1992 asserted it was illegal.³³ This laid the groundwork for future condemnations of martial law on the basis of its illegality and unconstitutionality.

The turning point came after the first fully free and independent elections on 27 October 1991 ushered in more Solidarity politicians. By the time the second resolution was passed on 1 February 1992, at least twenty-two of the sixty-two Members of Parliament (MPs) who spoke on the resolution were former oppositionists.³⁴ With the

balance of power tipped in Solidarity's favor, speaker after speaker hammered hard on martial law's illegality. MP Marek Markiewicz (NSZZ - "Solidarność, or Solidarity) vehemently denounced the mass arrests, especially those without warrants and those occurring even before martial law was declared. He argued that the decrees on martial law were not legally valid because the Council of the State did not have the authority to pass them while the Sejm was in session and retained its authority over such decisions. Moreover, the Council of the State was obviously coerced to sanction a *fait accompli* as evidenced by the fact that its members arrived in black Volga cars.³⁵ Finally, the Council of the State lacked the authority—under any circumstances—to pass laws violating the inviolability of people, homes, and correspondence.³⁶ MP Andrzej Wojtyła (Polish Peasants' Party or Polskie Stronnictwo Ludowe, abbreviated as PSL) decried the imposition of martial law for violating the Constitution of the People's Republic of Poland, unlawfully introducing summary courts, violating the legal principles of individual responsibility (by assuming collective responsibility and instituting collective punishment) and retroactivity (by arresting people for violating laws passed after their arrest), and establishing the Military Council of National Salvation (Wojskowa Rada Ocalenia Narodowego, abbreviated as WRON), a military authority led by General Jaruzelski, to rule during martial law.³⁷ MP Jan Rulewski (Solidarity, later PO) added that WRON was not only *extra*-constitutional but also *un*constitutional because it usurped the leading role of the Communist Party.³⁸ While these speakers emphasized martial law's illegality and unconstitutionality under the constitution of the People's Republic of Poland (the constitution in force at the time martial law was imposed), other speakers such as MP Stanisław Wądołowski (Catholic Electoral Action or Wyborcza Akcja Katolicka, abbreviated as WAK) focused on human rights violations such as police brutality and extrajudicial murders, politically motivated arrests, mass purges, insidious surveillance, and intense pressure to collaborate.³⁹

Resolutions condemning martial law were part of a broader struggle to advance transitional justice measures, that is, legal mechanisms, public policies, and administrative measures adopted by state institutions to deal with the repressive acts of a former regime. Measures such as investigations, truth commissions, compensation for victims, and trials were on the political agenda at the time these resolutions were passed. Hence, commemorative resolutions were not isolated discursive articulations, but part of a broader discursive terrain that included these measures. What began in fits and starts in the Sejm picked up momentum and expanded into other branches of government. While the first resolution only vaguely called for investigations and accountability, the second made four demands: investigate the effects of martial law, hold perpetrators responsible, repair the harm done, and pass laws eliminating its negative effects.⁴⁰ Subsequent resolutions echoed these demands. On 5 December 1991, the Confederation of Independent Poland Party (Konfederacja Polski Niepodległej, abbreviated as KPN) called for an investigation into the constitutionality of martial law as well as the criminal responsibility of its architects, resulting in the creation of the Commission for Constitutional Responsibility (KOK). However, after communist-successor parties swept the elections of 1993, the

composition of the Commission shifted in favor of communist-successor parties.⁴¹ The Commission dropped the case on 28 May 1996, and the Sejm followed suit on 23 October 1996. Meanwhile, on 20 September 1991 and 28 September 2007, the Supreme Court upheld the legality of the retroactive application of the martial law decrees which justified the arrests of thousands of political dissidents for actions that were not crimes at the time they were committed.

In response, Commissioner for Human Rights Janusz Kochanowski filed a series of cases invoking the European Convention on Human Rights and Fundamental Freedoms. He filed cases with the Constitutional Tribunal on 6 May 2008, 12 December 2008, 17 April 2009, and 8 March 2010 challenging the constitutionality of martial law, the use of military courts to try civilians, the specific regulations associated with martial law, the authority of the Council of the State to impose martial law, and the validity of the basis for its imposition (i.e., the threat to national security).⁴² In addition, the IPN filed a case on 16 April 2007 against the authors of martial law for committing communist crimes, imprisoning people for acts which were not crimes at the time they were committed, and for other crimes against civil liberties and labor laws.⁴³

On 12 December 2008 and 16 March 2011, the Constitutional Tribunal declared that martial law violated the constitution as well as the International Covenant on Civil and Political Rights (ICCPR). The reasons were as follows: Martial law violated the right to personal inviolability, the inviolability of the home and the privacy of correspondence, freedom of association, and freedom of speech, publication, and assembly. It criminalized basic freedoms not previously classified as offenses, issued excessively harsh sentences for minor offenses, turned the judiciary into an instrument of repression that subjected civilians to summary procedures and military trials, and violated the principle of non-retroactivity because oppositionists were arrested for actions criminalized only after their arrest. Finally, the Council of the State had no authority to pass decrees on martial law, bypassing the Sejm while it was in session, and which thus had sole authority to pass decrees.⁴⁴ This ruling definitively established martial law's illegality after a battle spanning almost thirty years.

The illegality of martial law was not undisputed. Legal scholar Lech Mażewski argued that the constitution in effect at the time made provisions for martial law to protect national security, and that national security was threatened both externally (by foreign occupation) and internally (by anarchy).⁴⁵ Furthermore, it is hard to say the procedures under which martial law could be declared were violated because they were vague and open to interpretation. After all, the Sejm ultimately legalized martial law, albeit after the fact, and the constitution permitted the retroactive application of the law. Moreover, the suspension of civil rights was necessary and justified to meet the goals of martial law, and condemning it as a "communist crime" inappropriately applies a contemporary legal construct retroactively even though retroactivity was no longer permitted after 1989.⁴⁶ For Lech Mażewski, the real issues are retroactivity; the unauthorized interference of the Church in amending the laws; and, most importantly, the choice to impose martial law (*stan wojenny*) rather than a state of emergency (*stan wyjątkowy*).⁴⁷

Żukowski points out that martial law (*stan wojenny*) is but one of four “extraordinary states” (*stan nadzwyczajny*) permitted by the constitution to defend the nation. The other options are mobilization (*mobilizacja*), state of emergency (*stan wyjątkowy*), and state of war (*stan wojny*, not to be confused with *stan wojenny*). These options are distinguished by the nature of the common good being defended, the causes, the nature and degree of the threat, the territorial scope, the duration, the means of implementation, the method of introduction and cessation, the source of authorization, the implications for human rights, and the changes to the power structure. Of the four, martial law was the most severe. Normally imposed during wartime to deal with a foreign aggressor, martial law transforms the state into a war machine. It allows the military to take over civilian administrative, judicial, and political functions; limits or abolishes certain state functions and institutions altogether; and suspends citizens’ freedoms, rights, and responsibilities. Because it is an extreme measure, it would normally be imposed on specific cities or regions, not the whole country, and it would have a clear expiration date.⁴⁸ So why did General Jaruzelski impose martial law when other, milder alternatives were available? According to Lech Mażewski, General Jaruzelski tried, but the Sejm rejected this due to concerns Solidarity would not accept it.⁴⁹ It is unclear why Solidarity’s reaction would deter General Jaruzelski from imposing a milder option but not deter him from imposing martial law.

Opponents argued that martial law did indeed violate the constitution in force at the time because the Council of the State did not have the authority to enact it while the Sejm was in session, the decrees passed by the Sejm criminalized oppositionist behavior retroactively, and it undermined the primacy of the Communist Party by subordinating it to a military junta. Likewise, it violated the ICCPR which Poland signed in 1967 and ratified in 1977—well before martial law was imposed in 1981.⁵⁰ (Lech Mażewski concedes this point.)

Controversies surrounding these legal battles cluster around several significant issues. First, what is the legal basis for the Constitutional Tribunal’s ruling? Legal scholar Bohdan Zdziennicki argued the martial law decrees can only be assessed by the legal framework in force at the time. The Constitutional Tribunal tried to get around this by referencing the 1952 constitution, but this awkward move compounds the problem because the Constitutional Tribunal is only authorized to assess the constitutionality of current laws according to the current constitution; the legal framework of the former regime is beyond the expertise and purview of the Constitutional Tribunal. Hence, the Constitutional Tribunal’s 2011 ruling violated the principle of non-retroactivity.⁵¹ While the Constitutional Tribunal may draw on the ICCPR, which was signed under the former regime but remains in effect, the ICCPR makes provisions for martial law, as do all legal systems around the world, so it is unclear on what grounds the Constitutional Tribunal would determine which forms of martial law are acceptable and which are not.⁵²

Second, what are the implications for reparations? Depending on whom you ask, the ruling is either too broad or too narrow. For Bohdan Zdziennicki, the ruling

opened the door for revisiting cases that were already addressed by earlier laws, and it is not clear where the Constitutional Tribunal will draw the line with respect to assessing the constitutionality of laws no longer in effect. Why stop with martial law? Are reparations owed to families wronged by First Marshal Piłsudski's May Coup in 1926?⁵³ Ultimately, he supports a conservative approach to reparations for two reasons: first, the state treasury should not have to pay for abuses committed by an earlier regime, and second, there is not enough money for everyone who deserves reparations because the entire country suffered.⁵⁴

In contrast, legal scholar Katarzyna Roszewska views the ruling as a symbolic gesture that did not go far enough to remedy the negative effects of martial law. To explain why, she draws a distinction between criminal law and labor law. Whereas previous attempts at restitution focused on amnesty and rehabilitation for political prisoners and victims of repression, little was done to rectify labor law violations to ensure workers could return to their former jobs and receive credit toward pensions for time lost to unemployment.⁵⁵ Having aged into retirement, these workers struggle to survive on paltry pensions diminished by long-term unemployment due to blacklisting, demotions, and other effects of martial law. Declaring martial law illegal does not undo this damage.

The Constitutional Tribunal recognizes the ruling does not restore what was lost or offer damages, but it deemed the ruling necessary to protect freedoms and rights guaranteed by the constitution, to restore the public trust in government, and to establish legal principles upon which future decisions may be made.⁵⁶ Prior to the ruling, victims of political repression had no standing to demand compensation because martial law was deemed legal.⁵⁷ The ruling offers courts involved in labor and social security cases a legal basis for calculating pensions based on years of service that account for the "lost years" of martial law without requiring pensioners to pursue legal action.⁵⁸

Martial Law Was a Political Mistake

Legislators were not merely concerned with martial law's legality but also with its political nature. In fact, the Head of the Commission for Constitutional Responsibility, MP Marian Żenkiewicz (SLD), gave the matter primacy and clarified what was at stake when he asserted:

An assessment of martial law should review, in my profound belief, above all two planes, legal and political. May all the lawyers here forgive me, but I think that the political assessment of martial law is significantly more important, but at the same time more difficult, than an assessment of its legality. [. . .] Much more important is the answer to the question of its political nature, whether in December 1981, the domestic and international situation of the country required using such drastic measures as martial law. [. . .] I believe these answers will determine the assessment of the authors of martial law since they clearly indicate whether these people were defending the nation

from losing its independence and preventing perhaps thousands of casualties, or whether they violated the provisions of the constitution for no reason, causing suffering to many people. For if one considers martial law a necessary and justified defense of our nation's sovereignty, then debates over whether it was imposed legally and formally are, in my view, of secondary importance.⁵⁹

For a few MPs representing SLD, the political justification for martial law was obvious. MP Jerzy Wiatr (SLD) asked,

After the tragedies of Hungary in 1956 and Czechoslovakia in 1968, can anyone seriously claim that Poland was not threatened by foreign intervention at the time? And if such a danger existed, was it not the responsibility of the state authorities to seek some way of saving the nation and the state?⁶⁰

Meanwhile, MP Barbara Blida (SLD) emphasized the need to quell domestic turmoil caused by the Solidarity strikes. While the Solidarity strikes initially proved constructive for raising workers' standard of living, she argued, the strikes ultimately devolved into chaos; ordinary people had a difficult time making ends meet and grew increasingly weary of the constant tension in workplaces and homes. She continues,

I remember how tense we were waiting for the result of Rakowski's talks with the National Commission of NSZZ Solidarity, how much hope was raised by Jaruzelski's request for 90 days of peace. People were really waiting for a moment of peace and were also waiting for some decisive steps to control this chaos.

She conceded martial law had many problems, but it restored peace and order to society.⁶¹

Others were less willing to excuse martial law on these grounds. As MP Leszek Miller (SLD) put it, one may acknowledge an imminent threat to Polish independence and still reject martial law: "Evil can be small or large, but either way, evil is evil, and we must not accept even a lesser evil."⁶² MP Feliks Bronisław Pieczka (WAK) affirmed the real threat of a Soviet occupation—he reported witnessing Soviet fighter jets conducting military exercises in Polish air space in 1981—but he also wondered why, if national defense were the goal, Poland's army and security forces were turned against Poles?⁶³ MP Bogdan Borusewicz (Solidarity) agreed, saying:

I do not see any alibi for the form of dialogue between the authorities and the people as presented to us on 13 December 1981. [. . .] I believe that martial law must be condemned and rejected once and for all as a method of resolving clashes and conflicts.⁶⁴

Other members of the Sejm argued there were alternatives to martial law that had not been explored. Marek Siwiec (Kalisz Constituency) commented,

And history has shown, ladies and gentlemen, that even in extremely difficult geopolitical circumstances, the moral and political unity of the government and the people can often defend the state from foreign invasion. Such unity existed, for example, in 1920, but this unity was lacking in 1981, and I dare say it was not the fault of the nation.⁶⁵

MP Zbigniew Bujak (Labour Union or Unia Pracy, abbreviated as UP) suggested this unity might have been found in a meeting among leaders of the state, Solidarity, and the Church:

It is also necessary to clarify whether, at the time leading up to martial law, there was an opportunity to conduct Polish politics differently to avert this threat, if it were real. I believe this opportunity existed, but it was not taken. Maybe this contributes to a return to the discussion of the purposes and effects of a very important meeting of three great politicians guiding Poland's fate at the time—Polish Primate Józef Glemp, Chairman of Solidarity Lech Wałęsa and General Wojciech Jaruzelski. That was the moment when, I think, the opportunity was lost.⁶⁶

Historian Marek Żukowski agrees alternatives existed. For example, a state of emergency (*stan wyjątkowy*) would have been both milder and more appropriate because it is designed to deal with social unrest.⁶⁷

Finally, some parliamentarians faulted the regime for negotiating with Solidarity in bad faith. MP Krzysztof Kamiński (KPN) voiced his conviction that the decision to impose martial law was made in the spring of 1981.⁶⁸ Most historians agree preparations for martial law were underway in March 1981, only six short months after the August Accords were signed; historian Andrzej Paczkowski believes preparations began even earlier.⁶⁹ According to MP Jarosław Kaczyński (then Center Agreement or Porozumienia Centrum, abbreviated as PC):

At least since December 1980, martial law was simply ordered by the Soviet Union. And there was constant pressure to impose it. The Soviet Union's orders also included putting military personnel into the state administration, the civilian service. All these things that awakened disillusionment at the time, including on our side, Solidarity's side—let's remember—it was all just carrying out orders from Moscow.⁷⁰

In other words, martial law was not an act of national defense, but submission, planned so far in advance as to preclude any real attempt at exploring alternatives with the opposition.

This violent approach to a social and political crisis only deepened divisions and aggravated the situation. According to historian Andrzej Paczkowski, martial law fundamentally and negatively altered Polish political culture. Whereas Solidarity sought to pursue political reforms through dialogue, negotiations, cooperation, and compromise, the state showed that power trumps principle. Membership in Solidarity dropped precipitously under martial law and never fully recovered even after martial law was lifted. He suggests that many who lived through the 1980s never regained

confidence in the political process as a means for resolving conflicts peacefully.⁷¹ Reflecting on the need to repair the rupture to the relationship between citizens and the state, the resolution passed on 13 December 2013 states:

Remembering the victims of martial law, we express the belief, that the experience of those days will be a historical lesson that violence should not be used to limit civil rights and freedoms, nor to solve the fundamental problems of the state.⁷²

Martial Law Ruined the Economy

The economy collapsed during the 1980s, leaving the fledgling democracy of the 1990s with severe financial problems at the very time newly elected politicians were attempting to push through costly reforms. The economic crisis of the 1990s significantly undermined the political legitimacy of the new ruling elite. Politicians sought explanations that would bolster their legitimacy as well as diagnose the origins of the economic crisis. They did this by blaming the former regime, especially its economic policies during martial law.

For starters, martial law was an enormously expensive enterprise. During deliberations preceding the 2007 commemorative resolution, MP Barbara Czyż (KPN) observed:

Martial law wasn't free; it cost money. For example, how much did it cost for the military amount to, how much did it cost to intern and detain thousands of people in [detention] centers and camps, not even to mention other costs?⁷³

Such spending signaled the regime's incompetence and corruption; it mismanaged scarce resources to fund persecution. Furthermore, the economic policies of the 1980s deformed rather than reformed the economy. MP Jerzy Hrybacz (Christian National Union or *Zjednoczenie Chrześcijańsko-Narodowe*, abbreviated as ZChN) framed the economic collapse of the 1980s as an intentional act of sabotage designed to run the economy into the ground to undermine incoming democratic leaders, all the while funding golden parachutes for the departing *nomenklatura*.⁷⁴ In this way, the economic crisis of the 1990s with its attendant hyperinflation, mass unemployment, and volatility was diagnosed as the result of martial law.

Martial Law Had Devastating Social Consequences

Many MPs argued that martial law impacted the broader society, not just oppositionists. For example, MP Jan Kulas (Solidarity) lamented the brain drain of almost a million Poles, many of whom were highly skilled and educated.⁷⁵ Indeed, emigration restrictions were loosened right before martial law. Thousands visited the West during this time but were stranded when their passports were invalidated and the borders were sealed under martial law. Consequently, about 150,000 Poles in the

West did not return, while another 4,500 political activists were forced to leave. This exodus was followed by a second wave of emigration due to family reunification. After martial law, the regime continued to restrict emigration but allowed short-term travel, leading to an increase in irregular immigration by Poles who overstayed their visas abroad. By 1988, more than 600,000 Poles had left on tourist visas. At the end of the 1980s, passports were made available to everyone, and emigration spiked.⁷⁶

Sealed borders and interrupted telecommunications isolated the Polish intelligentsia from the rest of the world. Martial law, claimed MP Władysław Frasyniuk (Freedom Union or Unia Wolności, abbreviated as UW), “led to enormous civilizational backwardness by cutting off scholarly and technical communities’ access to civilization and technology.”⁷⁷

Politicians spoke of wasted human potential, lost opportunities, despair, and psychological trauma. MP Piotr Nowina-Konopka (Solidarity) lamented,

It [martial law] brought sacrifices of life and health, months or years spent in prison or in detention centers, the loss of a sense of security, lost jobs, lost opportunities for a decent life, humiliation, being pushed out of the open space of public life and probably the greatest loss—the loss of hope for many years.⁷⁸

Hundreds of thousands were unemployed, underemployed, or working below their skill level due to politically motivated lay-offs, demotions, blacklisting, and discrimination. Students were blocked from pursuing their education. The social fabric eroded, and families broke up under the strain of separation due to emigration or imprisonment, long-term unemployment and poverty, and the general stress of living in difficult circumstances.

MP Barbara Czyż (KPN) emphasized the impact on families. During a particularly tense moment preceding the 1992 resolution, she spoke directly to former communists in the chamber:

I ask the [female] Members of Parliament on the left side of the room, if they, as women, ever grasp the enormity of the pain and tragedy of Polish families during martial law. Do they realize, will they ever realize, what a little child could feel being a witness to brutal searches of the apartment, their father being mistreated before their eyes, and their mother being mistreated in the presence of the father, a mother even dragged from her home to be thrown into prison. Since many women, mothers with small children, even single mothers, were held for long months in prison [. . .] How might the widows and orphans of martial law feel after losing loved ones during the pacification of the Wujek Mines?⁷⁹

The rhetoric of the 1990s intensified after 2005 when PiS entered the stage. Campaigning on a platform of historical justice, decommunization, lustration, and anti-corruption, PiS emphasized national victimhood at the hands of communists, actively encouraging the collective remembrance of martial law’s victims through annual vigils and public commemorations organized by the party and attended by

thousands. Party officials not only decried the devastating impact on society but also expanded the death toll beyond political murders by counting any death that could be traced to martial law. For example, MP Wiesław Dobkowski's (PiS) speech in support of the 2011 resolution evoked the countless forgotten victims of martial law: those who were injured during pacifications and died later, grief-stricken family members who eventually took their own lives, and witnesses to political murders whose own deaths were never investigated. In the same session, Senator Kazimierz Wiatr (PiS) recalled people who were murdered at the university where he taught but who were never included in the Rokita Commission's registry of political murders, as well as deaths resulting from cut phone lines and blocked transportation networks that prevented the sick, aged, and vulnerable from receiving emergency care.

These testimonies cast suspicion on official statistics and justified further investigations into the true number of victims, now estimated to be in the thousands. By magnifying the death toll, they magnified martial law's gravity, chipping away at the narrative that martial law was a "peace action" or a "lesser evil," opening the door for expanded, and possibly new, transitional justice measures, and moving toward a claim that martial law was an attack on the entire nation.

Martial Law Was a Crime Against the Polish Nation

Here, the claim is twofold. First, martial law was an attack on the nation because it was imposed on the whole society. Second, Solidarity represented the will of the people, so an attack on Solidarity was an attack on the people. This second claim both links Solidarity to the nation and substitutes Solidarity for the nation.

Like many of the claims culminating in accusations of treason, this claim originated in the dissident circles of the 1980s, entered parliament with the electoral success of former Solidarity members, and remains present in political discourse today. One example of this fusion of ideas and biographies is MP Bogdan Borusewicz, whose career spans almost half a century of oppositional activism followed by decades of public service. In 1968, he was arrested for printing oppositional materials. Later, he joined the Workers' Defense Committee (KOR), a legal aid clinic for oppositionists, and participated in organizing the August 1980 Gdańsk Shipyard strikes that triggered the national strikes preceding martial law. During martial law, he was active in the underground resistance movement and served time as a political prisoner. After Poland's democratization, he served as a member of the Sejm from 1991 to 2001, chaired the committee investigating the effects of martial law, and served as the Deputy Minister of Internal Affairs and Administration. He also served in the Senat from 2005 to the present, where he was Marshal until 2015 and then Deputy Marshal. Significantly, he ran as an independent with support from two rival parties, PO and PiS. He was the first to stand and speak in favor of the 1995 commemorative resolution. He set the tone by framing martial law as an attack on the Polish nation, the ultimate face-off between "We the People" and "They, the Authorities":

Fourteen years ago, the news of martial law awoke many of us. Some asked who this war beginning on 12-13 December 1981 was with, who was it waged against. Well, the war was against the entire Polish society, not only and not above all against Solidarity and Solidarity of Individual Farmers, not against a concrete organization, but against the entire society, since the majority of society belonged to these organizations, formed these organizations, and since martial law, its restrictions, at this time and later, were directed against the entire society and [society] carried [the burden of] the consequences of its imposition.⁸⁰

But while the First Solidarity did enjoy broad support, its popularity was not universal. Drawing on survey data from 1981 to 1985, David Mason and Daniel Nelson write,

According to *Polacy '84*, fewer and fewer people identified themselves as having belonged to Solidarity in 1981, from thirty-seven percent in 1981 to twenty-two percent in the fall of 1985. Since Solidarity was declared illegal, some of the decline may be fear of being linked to such a non-sanctioned organization. Yet, both official and unofficial polls show declining support for, and confidence in the opposition.⁸¹

In 2010, 38 percent of survey respondents reported having belonged to Solidarity or an affiliate.⁸² A public opinion poll conducted in 2012 among Poles who were adults during the 1980s revealed that although a majority (63%) supported the First Solidarity, a sizable minority (29%) did not, and 8 percent were unsure.⁸³ These figures are approximations, however, because they do not include the views of Poles who emigrated. Even so, they show a range of viewpoints.

Thus, the logic of equivalence substituting Solidarity for the nation attempts to discursively equate the national interest with the interests of Solidarity's leadership. Such a substitution is politically useful because it affirms former oppositionists-turned-politicians' right to speak for the nation. Yet much like Laclau and Mouffe's "logic of hegemony," this discursive construction is inherently self-contradictory.⁸⁴ It assumes a pre-constituted nation united in interests and goals when no such unanimity existed. Commemorative resolutions paper over this disunity by evoking a nation represented by a once-powerful trade union whose members now happen to hold political office. In doing so, post-solidarity politicians present themselves as the true representatives of the nation in a political field rife with conflict and division. This enables them to marginalize opponents not as mere "contenders" but as "traitors."

This logic also legitimates transitional justice measures. As MP Stanisław Wądołowski put it, "Martial law was a crime against the Polish nation, and its criminals must be judged."⁸⁵ "Crimes against the Polish nation" constitute a distinct legal category subject to special investigations by the IPN. On 31 May 1996, the Sejm passed a law abolishing any amnesties granted to state authorities before 7 December

1989, thus permitting the investigation of crimes committed during the Communist period that were previously not investigated for political reasons.⁸⁶ On 16 April 2007, the Chief Prosecutor for the IPN filed a case against the authors of martial law. On 3 June 2014, most were convicted, but their sentences were commuted due to poor health.

Commemorative resolutions legitimated such actions. Resolutions repeated the call for justice up to and including the 2011 resolution, but by that time public support dropped to 19 percent.⁸⁷ Low public support combined with commuted convictions and the eventual deaths of Generals Jaruzelski and Kiszczak may explain the absence of calls for justice in the 2016 resolution, but they reappeared in the 2018 resolution. As time progressed, “justice” could be re-interpreted to include expanded social benefits for victims of martial law and other measures.

Martial Law Was Treason

The charge of treason rests on the claim that martial law was imposed to serve the interests of the Soviet Union. An MP in 1992 for the Center Agreement Party and current chairman of PiS Jarosław Kaczyński claimed, “The Soviet Union ordered martial law as early as December 1980. And there was constant pressure to impose it.”⁸⁸ MP Stanisław Wądołowski (WAK) began his speech by calling martial law a coup d’état and an attack on the nation led by “Moscow’s vassals” against the “collective opposition.” MP Ireneusz Niewiarowski (then SLD, later PO) claimed martial law was imposed “under the slogan: “We will defend socialism as though we were defending independence,” thereby prioritizing the preservation of the communist regime over the preservation of national sovereignty.⁸⁹

In the context of the other logics, the charge of treason makes perfect sense. After all, martial law was bad for Poland. Why was it imposed if not to serve Soviet interests? Still, an additional argument was needed to show that martial law was not a necessary “lesser evil” to avert a Soviet occupation—a Soviet occupation was not inevitable. This argument was first promoted by Ryszard Reiff, the only member of the State Council to vote against martial law. He believed General Jaruzelski should have partnered with Solidarity to head off both a civil war and a foreign occupation. Ryszard Reiff’s historical point of reference was Poland’s successful reforms of 1956 following the end of Stalinism. At that time, First Secretary Gomułka stood up to the Soviets on behalf of the Polish nation to push through reforms, showing that nationalism could triumph over international socialism.⁹⁰

Historians critical of martial law present it as a power-grab, a coup d’état, an attack on the nation, and a “self-occupation.”⁹¹ Solidarity may have been a bit naïve and idealistic, but it expressed the will of the people and a sincere desire to improve the country. The August Accords represented a peaceful solution achieved through dialogue, negotiation, and compromise, but General Jaruzelski reneged and

retaliated with martial law. Adding insult to injury, he had begun planning for martial law before signing the August Accords, proving he had signed in bad faith. Martial law revealed the true face of communism—brutal, violent, and lawless—that was established during Stalinism, softened during periods of reform, but always lurking in the background ready to spring forward again. Martial law was communism’s natural conclusion.⁹²

Explaining the Enduring Political Consensus on Martial Law’s Political Memory

In the 1990s, condemnations of martial law included calls for investigations, truth commissions, trials, and compensation for victims. By linking condemnation to transitional justice, these resolutions set the agenda and put the old guard on notice. This was an important move during the early years when the post-communist cleavage structured political party competition. Although early resolutions fell short of categorically condemning communism and communists, they signaled a willingness to take an aggressive approach to transitional justice that could have negative consequences for post-communists enjoying a measure of success at the polls. In 2006, condemnation was linked to compensation for victims—a political good benefiting constituents. After PiS entered the scene, resolutions became imbued with themes of patriotism, anti-communism, national victimhood, and Catholicism.

PiS politicians were among the most ardent propagators of the myth of martial law as treason. For many years, PiS organized massive public demonstrations where PiS supporters denounced rival parties as “traitors”—not only SLD but also PO and Modern. PiS also deployed this discourse to undermine the political institutions of the Third Republic, such as the Constitutional Court, the prosecution service, the common courts, and the Supreme Court. Although widespread dissatisfaction with the judiciary had been mounting for years, PiS’ reforms had the effect of undermining judicial independence, triggering massive protests within Poland and strong rebukes from the international community. The European Commission launched four infringement procedures over the violation of the rule of law encoded in Article 2 of the Treaty of the European Union, and the European Court of Justice ruled against Poland in two separate cases.⁹³ In its defense, the Chancellery of the Prime Minister of Poland rationalized its reforms by repeating a well-worn trope: contemporary political institutions are corrupt because “collaborationist” politicians of the Third Republic never swept the courts clean of communists. Despite the fact that many of the affected judges were too young to have been implicated in communist-era political trials, this claim resonated because it fit within an accepted discourse. In this way, the discourse of martial law as treason was deployed to undermine the contemporary political order (see Figure 1).⁹⁴

Figure 1



Note: This photo was taken at a demonstration in 2015. It depicts a banner saying, “Purge Poland of TRAITORS!” followed by the acronyms of PiS’ rivals.

Indeed, PiS has deployed the political memory of martial law to advance its vision for Poland. In 2005, it produced its inaugural party program calling for a so-called Fourth Republic—a new social contract to be articulated in a new constitution that would ground the polity in Polish–Catholic values and traditions. In it, PiS asserted that a shared national identity is essential for effective governance because it reduces conflicts and creates a sense of responsibility to the nation and dedication to the common good. Drawing on the memory of the First Solidarity, PiS promised to address rising social inequality and close the gap between the “winners” and “losers” of the transition, reform health care and education, promote pro-family policies, and reduce poverty.⁹⁵ PiS views itself as the true spiritual descendant of the First Solidarity who would recapture a hijacked transition from post-solidarity “sell-outs” who had “betrayed” the cause.⁹⁶

One aspect of the discourse that explains its longevity, adaptability, and political utility is its invocation of “The Nation.” It constructs “The Nation” in opposition to “traitors,” simultaneously claiming internal unity—however eclectic its members

may be—and internal disunity because “The Nation” is ever threatened by “enemies within” and must police its own. It legitimates politicians’ claims to speak for “The Nation” while denouncing their rivals as “traitors.”

But what of communist-successor parties? Why were commemorative resolutions passed when communist-successor parties held power? Shouldn’t they have felt threatened by this discourse? First, post-communists may have accepted resolutions that fell short of expressing the full condemnation post-oppositionists were seeking. The first resolution was only five sentences long. It condemned martial law, called for investigations and criminal accountability, and paid homage to the victims, but it fell short of condemning the communist regime. In other words, it condemned martial law but not communism. Beginning in 2005—when communist-successor parties ceased to be major players in electoral politics—resolutions grew lengthier. Condemnations now described brutal repression, invoked the inspirational role of Pope John Paul II and the organizational support of the Roman Catholic Church, condemned the communist dictatorship, and hailed the democratic opposition. In fact, the only resolution expressing plural interpretations of martial law, including the thesis of the lesser evil, was passed in 2002 when SLD was in power.

Conclusion

The parliamentary discourse surrounding martial law combines many logics which cluster together and mutually reinforce each other to create a web of meaning in which it makes sense to think about martial law as a crime against the nation and even, for some, treason. The logics are that martial law was illegal, it was a political mistake, it ruined the economy, it had devastating social consequences, it was a crime against the Polish nation, and hence, for all these reasons, it was treason. However, the thesis of martial law as treason has always had limited popular support, and political party competition played a role but does not fully explain the puzzle. The vast majority of politicians across the political spectrum supported this thesis, and the few who voiced alternative viewpoints also spanned the political spectrum. While this discourse is most commonly associated with PiS because the party has done so much to amplify and propagate it, the political memory of martial law as treason pre-dates the “new historical politics” of PiS. Commemorative resolutions are significant even when they do not reflect public opinion because they become part of the historical politics of the state. As such, they are part of a larger symbolic world that communicates a specific interpretation of national history. Since its inception, the democratic Republic of Poland’s political establishment condemned martial law as an illegal attack on the Polish nation.

This interpretation of martial law was embraced by the political establishment because it offered politicians a rich discursive repertoire setting the agenda, legitimating their right to govern, delegitimizing their opponents, and sanctioning their preferred political order while condemning their predecessors. It has been invoked to articulate norms concerning human rights, democracy, and the rule of law as well as to honor national heroes while demonizing national “traitors.” With a bit of inventiveness, it can be re-tooled to accommodate new circumstances and to condemn both communists and democratically elected politicians of the Third Republic. For these reasons, it has become a powerful myth.

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Notes

1. “Ja nie obchodzę klęsk, a to klęska była.” L. Wałęsa, “Lech Wałęsa: Ja nie obchodzę klęsk,” interview by Jarosław Kurski, *Gazeta Wyborcza*, 13 December 2011, http://wyborcza.pl/1,75398,10807068,Lech_Walesa__Ja_nie_obchodze_klesk.html (accessed 19 March 2019).

2. Historical politics refers to a range of actions by state officials and politicians to transmit historical narratives. The most common examples include promoting historical events and history education; offering awards, honors, titles, and recognition; commemorating anniversaries; condemning shameful events, periods, or actors of the past; enacting lustration and decommunization; and promoting collective memory through symbols, traditions, memorials, museums, and street signs. J. Kalicka and P. Witek, “Polityka Historyczna,” in *Modi Memorandi*, ed. M. Saryusz-Wolska and R. Traba (Warsaw: Wydawnictwo Naukowe Scholar, 2014), 382.

3. Piotr Tadeusz Kwiatkowski and Jonathan Weber, “Martial Law in the Collective Polish Memory following the Collapse of Communism,” *International Journal of Sociology* 36, no. 4 (2006): 54–57; Centrum Badań Opinii Społecznej, “Trzydziesta rocznica wprowadzenia stanu wojennego,” *Komunikat z Badań* no. BS/154/2011, 13.

4. Centrum Badań Opinii Społecznej, “Trzydziesta piąta rocznica wprowadzenia stanu wojennego,” *Komunikat z Badań* no. NR/168/2016, 9.

5. Centrum Badania Opinii Społecznej, “Dwadzieścia lat po wprowadzeniu stanu wojennego,” *Komunikat z Badań* no. BS/171/2001, 5; Centrum Badania Opinii Społecznej, “Trzydziesta piąta rocznica wprowadzenia stanu wojennego,” *Komunikat z Badań* no. NR/168/2016, 8.

6. These were passed near the anniversary of martial law in 1992, 1995, 2002, 2005, 2011, 2013, 2016, and 2018.

7. For example, see M. Bernhard and J. Kubik, eds., *Twenty Years after Communism: The Politics of Memory and Commemoration* (New York: Oxford University Press, 2014).

8. *Ibid.*, 16.

9. E. Laclau and C. Mouffe, *Hegemony and Socialist Strategy: Toward a Radical Democratic Politics*, 2nd ed. (New York: Verso, 2001), 127.

10. B. Grodsky, “Transitional Justice and Political Goods,” in *Post-Communist Transitional Justice: Lessons from Twenty-Five Years of Experience*, ed. Lavinia Stan and Nadya Nedelsky (Cambridge University Press, 2015), 7.

11. *Ibid.*, 10.

12. *Ibid.*, 10–11.

13. Andrzej Paczkowski, *Revolution and Counterrevolution in Poland 1980 – 1989: Solidarity, Martial Law, and the End of Communism in Europe*, trans. Christina Manetti (Rochester, NY: University of Rochester Press, 2015), 12–14.

14. Polskie Radio: Stan Wojenny, “Jaruzelski: Ojczyzna nasza znalazła się nad przepaścią,” <http://www.polskieradio.pl/101> (accessed 7 July 2014).

15. For more information, see Paczkowski, *Revolution and Counterrevolution in Poland 1980 – 1989* and Andrzej Friszke, *Polska: Losy Państwa i Narodu 1939 – 1989* (Warszawa: Wydawnictwo Iskry, 2003), 438–45.

16. For more information, see Friszke, *Polska: Losy Państwa i Narodu 1939 – 1989*.

17. For more information, see A. M. Grzymała-Busse, *Redeeming the Communist Past: The Regeneration of Communist Parties in East Central Europe* (Cambridge: Cambridge University Press, 2002).

18. As an entry point into the rich literature on this topic, readers may wish to consult Andrzej S. Walicki, “Transitional Justice and the Political Struggles of Post-Communist Poland,” in *Transitional Justice and the Rule of Law in New Democracies*, ed. A. James McAdams (Notre Dame, IN: University of Notre Dame Press, 1997), 185–237; and Monika Nalepa, *Skeletons in the Closet: Transitional Justice in Post-Communist Europe* (New York: Cambridge University Press, 2010).

19. V. Zubek, “The Phoenix Out of the Ashes: The Rise to Power of Poland’s Post-Communist SdRP,” *Communist and Post-Communist Studies* 28, no. 3 (1995), 290–96.

20. Mirosława Grabowska, *Podział Postkomunistyczny: Społeczne podstawy polityki w Polsce po 1989 roku*. (Warszawa: Wydawnictwo Naukowe Scholar, 2004).

21. *Ibid.*, 140, 318, 320.

22. *Ibid.*, 166–82.

23. *Ibid.*, 258, 274–78.

24. Centrum Badania Opinii Społecznej, “Elektorat lewicy od roku 2005,” *Komunikat Badań* no. BS/105/2017, 2.

25. *Ibid.*, 9.

26. *Ibid.*, 10.

27. K. Korycki, “Memory, Party Politics, and Post-Transition Space: The Case of Poland,” *East European Politics, Societies, and Cultures* 31, no. 3 (August 2017), 520.

28. *Ibid.*, 524–26.

29. For a more comprehensive discussion of PiS’ conceptualization of historical politics, see Lech M. Nijakowski, *Polska Polityka Pamięci: Esej Socjologiczny* (Warsaw: Wydawnictwa Akademickie i Profesjonalne, 2008).

30. Prawo i Sprawiedliwość, “Zdrowie. Rodzina. Praca. Program Prawa i Sprawiedliwość,” 2014, <http://pis.org.pl/dokumenty> (accessed 20 March 2018), 140.

31. *Ibid.*, 122.

32. Institute of National Remembrance, “About the Institute,” <https://ipn.gov.pl/en/about-the-institute> (accessed 18 June 2021).

33. “Sejm Rzeczpospolita Polska stwierdza, że decyzja o wprowadzeniu stanu wojennego w dniu 13 grudnia 1981 r. była nielegalna.”

34. Encyklopedia Solidarności, Institute of National Remembrance, http://www.encysol.pl/wiki/Strona_g%C5%82%C3%B3wna (accessed 27 November 2016).

35. Black Volga cars are associated with the secret police, though it is unclear whether this is a fact or urban legend.

36. MP Markiewicz, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne* pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

37. MP Wojtyła, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne* pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

38. MP Rulewski, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne* pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

39. MP Wądołowski, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne* pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

40. Resolution of the Sejm on 1 February 1992 on the matter of recognizing the decision to impose martial law as illegal and appointing a Special Commission. M.P. No. 5, Items 23–26. /168/2016

41. Sejm RP, “Komisja Odpowiedzialności Konstytucyjnej,” https://www.sejm.gov.pl/archiwum/komisje/kadencja2/kom_ok.htm (accessed 18 September 2021).

42. L. Mażewski, *Problem Legalności Stanu Wojennego z 12-13 Grudnia 1981 r.* (Warsaw: L. Mażewski, 2012), 90.

43. Indictment against Wojciech J., Tadeusz T., Stanisław K., Florian S., Czesław K., Emil K., Krystyna M., Eugenia K., and Tadeusz S. by the Commission for the Investigation of Crimes against the Polish Nation in Katowice filed on 16 April 2007 with the Regional Court of Warsaw – Śródmieście.

44. Judgment of the Constitutional Tribunal on 16 March 2011 (Ref. No. K 35/08), 10–11, 16.

45. Mażewski, *Problem Legalności Stanu Wojennego*, 13–17.

46. *Ibid.*, 40–44, 52–55, 59–63, 73–88, 107–55, 117–30.

47. *Ibid.*, 69.

48. M. Żukowski, “Regulacje Dotyczące Stanu Wojennego w Prawie Krajowym i Międzynarodowym,” in *Stan Wojenny: Analizy, Hipotezy, Komentarze*, ed. M. Żukowski (Koszalińska Wyższa Szkoła Nauk Humanistycznych, 2012), 9–14.

49. Mażewski, *Problem Legalności Stanu Wojennego*, 131–32.

50. *Ibid.*, 135.

51. B. Zdziennicki, “Banie konstytucyjności stanu wojennego. Uwagi na tle wyroku Trybunału Konstytucyjnego z dnia 16 marca 2011 r.,” *Przegląd Prawa Konstytucyjnego* 3 (2012), 173.

52. Zdziennicki, “Banie konstytucyjności stanu wojennego,” 178.

53. *Ibid.*, 171.

54. *Ibid.*, 179.

55. K. Roszewska, “Wyrok Trybunału Konstytucyjnego w sprawie stanu wojennego w 30-lecie jego wprowadzenia,” in *Wartości i Interesy a Prawo Pracy: Wokół encykliki Laborem exercens Jana Pawła II*, ed. Anna Reda-Ciszewska and Mirosław Włodarczyk (Łódź: University of Łódź Press, 2014), 210–13.

56. *Ibid.*, 214.

57. Mażewski, *Problem Legalności Stanu Wojennego*, 61.

58. Roszewska, “Wyrok Trybunału Konstytucyjnego w sprawie stanu wojennego,” 214.

59. “Niech mi wybaczą wszyscy zebrani tutaj prawnicy, ale uważam, że ocena polityczna wprowadzenia stanu wojennego jest znacznie ważniejsza, ale jednocześnie i trudniejsza, niż ocena jego legalności prawnej.” MP Żenkiewicz, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne* pt. 14, <http://www.sejm.gov.pl/Sejm7.nsf/page/archiwum>.

60. "Czyż zresztą po tragedii Węgier w 1956 r. i Czechosłowacji w 1968 r. można na serio twierdzić, że Polsce nie zagrażała wówczas zewnętrzna interwencja? A jeśli niebezpieczeństwo takie istniało, to czy nie było obowiązkiem władz państwowych szukać dla narodu i państwa jakiejś drogi ratunku?" MP Wiatr, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

61. "Pamiętam, z jakim napięciem czekaliśmy na finał rozmów Rakowskiego z Krajową Komisją NSZZ 'Solidarność,' ile nadziei wywołała prośba Jaruzelskiego o 90 spokojnych dni. Ludzie naprawdę czekali na moment spokoju i czekali też na jakieś zdecydowane kroki w opanowaniu tego chaosu." MP Blida, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

62. "Jest zło małe czy duże, ale za każdym razem to zło jest złem, mniejszego zła też nie można zaakceptować." MP Miller, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

63. "Dlaczego wyprowadzone na ulice miast czołgi i wozy bojowe nie miały luf skierowanych w stronę potencjalnych agresorów, lecz miały lufy armat i karabiny maszynowe skierowane w nasze okna, w nasze domy, w nas? Dlaczego z taką nienawiścią i zawziętością metodycznie terroryzowano naród polski, terroryzowano fizycznie i psychicznie? Kto policzył rzeczywistą liczbę ofiar stanu wojennego, obejmującą również tych, którzy zmarli, nie mogąc uzyskać pomocy lekarskiej w wyniku wyłączenia telefonów oraz zakazu poruszania się w czasie obowiązywania godziny policyjnej? Kto im przywróci zdrowie czy życie? Jak ocenić szkody w psychice małych wówczas dzieci, ale nie tylko małych dzieci, które - żyjąc wtedy w ciągłym stresie - nabawiły się m.in. nieodwracalnych nerwic czy też psychoz? Dlaczego nakazy internowania - z wypisanymi nazwiskami - były gotowe już w marcu 1981 r.? Dlaczego bojówki, zwane oficjalnie ZOMO, ROMO lub inaczej, swoją brutalnością dorównywały żandarmom okresu okupacji niemieckiej lub sowieckiej? Dlaczego bito nasze bezbronne dzieci i siostry, naszych braci, matki, ojców, niekiedy jakby 'przy okazji' beczeszcząc nasze kościoły? Dlaczego wprowadzono do akcji naszych polskich żołnierzy, zmuszając do stawania po obu stronach barykady - twarzą w twarz - brata przeciwko bratu, ojcu, przyjacielowi, rodakowi? Dlaczego usiłowano zhańbić mundur żołnierza polskiego, ten mundur, który dla większości Polaków stanowi jedną z największych świętości? Dlaczego . . . Mógłbym pytać tak dalej." MP Bronisław Pieczka, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

64. "nie widzę bowiem żadnego alibi dla takiej formy dialogu władzy z narodem, jaką zaprezentowano nam 13 grudnia 1981 r. [. . .] Uważam, że stan wojenny musi zostać raz na zawsze potępiony i odrzucony jako metoda rozwiązywania sprzeczności i konfliktów." MP Borusewicz, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

65. "I historia dowiodła, proszę państwa, że nawet w skrajnie trudnych warunkach geopolitycznych jedność moralna i polityczna rządu i narodu potrafi często uchronić państwo przed obcą inwazją. Taka jedność była np. w roku 1920, takiej jedności zabrakło w roku 1981 i śmiem twierdzić, że nie z winy narodu." MP Siwiec, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

66. "Również trzeba wyjaśnić, czy w momencie poprzedzającym stan wojenny były możliwości i szansa poprowadzenia inaczej polskiej polityki, aby tego zagrożenia, jeśli ono było istotne, uniknąć. Uważam, że taka możliwość i szansa istniały, nie zostały one wykorzystane. Będzie to może przyczynę do dyskusji nad celowością i skutkami bardzo w owym czasie ważnego spotkania trzech wielkich polityków wpływających w ówczesnym czasie na losy Polski - prymasa Józefa Glempa, przewodniczącego "Solidarności" Lecha Wałęsy i generała Wojciecha Jaruzelskiego. To był moment, w którym, jak sądzę, ta szansa została utracona." MP Bujak, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

67. Żukowski, "Regulacje Dotyczące Stanu Wojennego w Prawie Krajowym i Międzynarodowym."

68. "Decyzję o wprowadzeniu stanu wojennego podjęto znacznie wcześniej, np. listy osób przeznaczonych do internowania były gotowe wiosną 1981 r." MP Kamiński, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

69. Paczkowski, *Revolution and Counterrevolution in Poland, 1980 – 1989: Solidarity, Martial Law, and the End of Communism in Europe*, 21–31.

70. “przynajmniej od grudnia 1980 r. stan wojenny to było po prostu żądanie Związku Radzieckiego. I był stały nacisk na jego wprowadzenie. Żądanie Związku Radzieckiego obejmowało także wprowadzenie kadr wojskowych do administracji państwowej, do administracji cywilnej. Te wszystkie rzeczy, które wtedy budziły złudzenia, także po naszej, solidarnościowej stronie - pamiętajmy o tym - to było po prostu wykonywanie poleceń Moskwy.” MP Kaczyński, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

71. Paczkowski, *Revolution and Counterrevolution in Poland, 1980 – 1989: Solidarity, Martial Law, and the End of Communism in Europe*, 318–19.

72. “Pamiętając o ofiarach stanu wojennego, wyrażamy przekonanie, że doświadczenia tamtych dni będą historyczną lekcją, iż przemocą nie da się ograniczyć praw i wolności obywatelskich, ani rozwiązać podstawowych problemów państwa.”

73. “Stan wojenny nie był wprowadzony za darmo, przecież to kosztowało. Ile na przykład mogły wynieść same koszty poniesione tylko na wojsko, ile na ośrodki dla internowanych i przetrzymywanie tysięcy ludzi w tych ośrodkach i więzieniach, że już nie wspomnę o innych kosztach?”

74. MP Hrybacz, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

75. MP Kulas, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

76. D. Stola, *Kraj Bez Wyjścia? Migracje z Polski 1949-1989* (Warsaw: Instytut Pamięci Narodowej i Komisja Ścigania Zbrodni Przeciwko Narodowi Polskiemu i Instytut Studiów Politycznych PAN, 2010), 476–77.

77. “doprowadzono do ogromnych zapóźnień cywilizacyjnych chociażby przez to, że odcięto środowiska naukowe, środowiska techniczne od postępu cywilizacyjnego, od postępu technicznego.” MP Frasyniuk, Sejm, 14 December 1995, 2nd term, 67th session, pt. 13, <http://orka2.sejm.gov.pl/Debata2.nsf> (accessed 19 February 2016).

78. “Przyniósł ofiary życia czy zdrowia, miesięcy czy lat spędzonych w kryminale i w aresztach, utraty poczucia bezpieczeństwa, utraty pracy, szans na godne życie, upokorzenia, wypchnięcia z obszaru jawnego życia publicznego i największą chyba ofiarę - utraty nadziei na wiele lat.” (MP Nowina-Konopka 1992).

79. “Panie posłanki z lewej strony sali pytam, czy do nich, jako do kobiet, dotrze kiedykolwiek ogrom bólu i tragedii polskich rodzin w stanie wojennym. Czy zdają sobie sprawę, czy kiedykolwiek sobie zdadzą sprawę z tego, co mogły czuć małe dzieci będące świadkami brutalnych rewizji w mieszkaniu, na oczach których maltretowano ojca, matkę, w obecności których ojca, nawet matkę wywołano z domu, aby wtrącić do więzienia. Przecież wiele kobiet, matek małych dzieci, nawet matek samotnych, trzymano długie miesiące w więzieniu. [. . .] co mogą czuć wdowy i sieroty stanu wojennego [. . .].” MP Czyż, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

80. “14 lat temu wielu z nas obudziła informacja o stanie wojennym. Część pytała, z kim ta wojna z 12 na 13 grudnia 1981 r. się rozpoczęła, przeciwko komu miała się toczyć. Otóż ta wojna rozpoczęła się przeciwko całemu społeczeństwu, nie tylko i nie przede wszystkim przeciwko NSZZ ‘Solidarność’ i NSZZ Rolników Indywidualnych ‘Solidarność,’ nie przeciwko konkretnym organizacjom, ale przeciwko całemu społeczeństwu, ponieważ większość społeczeństwa należała do tych organizacji, stworzyła te organizacje i ponieważ stan wojenny, jego obostrzenia, w tym czasie i później, były skierowane przeciwko całemu społeczeństwu i ono ponosiło konsekwencje jego wprowadzenia.” MP Borusewicz, Sejm, 14 December 1995, 2nd term, 67th session, pt. 13, <http://orka2.sejm.gov.pl/Debata2.nsf>. (accessed 19 February 2016).

81. David Mason, “Political Apathy in Poland,” *Scholarship and Professional Work—LAS*, Paper 51, 1988, 1.

82. Centrum Badania Opinii Społecznej, “Doświadczenia z Okresu Pierwszej Solidarności,” *Komunikat z Badań* no. BS/87/2010, 2.

83. Centrum Badania Opinii Społecznej, “Postawy Wobec Pierwszej Solidarności,” *Komunikat z Badań* no. BS/116/2012, 13.

84. Laclau and Mouffe, *Hegemony and Socialist Strategy*.

85. “Stan wojenny był zbrodnią przeciw narodowi polskiemu i zbrodniarzy należy osądzić.” MP Wądołowski, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

86. Sejm RP, Ustawa z dnia 31 maja 1996 r. o wyłączeniu niektórych ustaw o amnestii i abolicji wobec sprawców niektórych przestępstw, nie ściganych z przyczyn politycznych w latach 1944 – 1989, *Dziennik Ustaw* no. 400.

87. Centrum Badania Opinii Społecznej, “Trzydziesta Rocznica Wprowadzenia Stanu Wojennego,” 10.

88. “od grudnia 1980 r. stan wojenny to było po prostu żądanie Związku Radzieckiego. I był stały nacisk na jego wprowadzenie.” MP Kaczyński, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

89. “działając w myśl hasła: ‘socjalizmu będziemy bronić jak niepodległości.’” MP Niewiarowski, Sejm, 1 February 1992, 1st term, 7th session, *Sprawozdanie Stenograficzne*, pt. 14, <https://orka2.sejm.gov.pl/Debata1.nsf>.

90. G. Radomski, “Stan Wojenny Jako Fałszywa Alternatywa Wobec Interwencji Sowieckiej Polska Lat 1980 – 1982 w Ocenie Ryszarda Reiffa,” in *Stan Wojenny. Fakty, Hipotezy, Interpretacje. Zbiór Studiów*, ed. Arkadiusz Czwołek (Toruń: Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika, 2008), 75.

91. For examples, see works by historians Andrzej Friszke and Wojciech Roszkowski.

92. Friszke, *Polska: Losy Państwa i Narodu 1939 – 1989*, 406, 425.

93. Z. Wanat, “Commission Launches 4th Infringement Procedure over Poland’s Rule of Law,” *Politico*, 29 April 2020, <https://www.politico.eu/article/brussels-launches-4th-infringement-procedure-over-polands-rule-of-law/> (accessed 18 September 2021).

94. “White Paper on the Reform of the Polish Judiciary,” The Chancellery of the Prime Minister, Warsaw, Poland, 2018.

95. Prawo i Sprawiedliwość, “Program 2005: IV Rzeczpospolita—Sprawiedliwość Dla Wszystkich,” 2005, 11–13.

96. For a description of discourses surrounding the transition, see Michael Bernhard and Jan Kubik, “Roundtable Discord: The Contested Legacy of 1989 in Poland,” in *Twenty Years After Communism: The Politics of Memory and Commemoration*, ed. Michael Bernhard and Jan Kubik (Oxford: Oxford University Press, 2014), 60–84.

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