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Mark Brzezinski



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To my parents, Dr Zbigniew and Muska
Brzezinski, and to Carolyn, with love

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Preface to the 2000 Reprint

A decade ago, in the summer of 1990, when I began my research in Poland for this book, my first stop in Warsaw was the *Trybunał Konstytucyjny*, Poland's first constitutional court. The Tribunal had been set up in 1986 as a concession to the democratic movement, which after martial law had demanded institutions to ensure that the regime followed the letter of the law. And while during the communist era the Tribunal never challenged the regime, I expected at least the structure of the Tribunal to reflect its stature – after all, like the Supreme Court in Washington, DC, this would be the most important judicial body of the land.

But when I finally found the Tribunal, it was housed in a couple of dingy rooms in an unused corridor of Parliament, a sign hanging from the front door with two letters: 'TK'. The Tribunal's judges had no clerks, no staff other than two secretaries, no real library and no chambers. The Tribunal met only periodically, and had to borrow rooms from Parliament, the institution it was supposed to check, in order to have a chamber to try cases. The twelve judges of the Tribunal traveled from around the country to hear the occasional case, but there was no formal docket to inform the public of forthcoming cases.

In short, in the summer of 1990 it was clear that little of importance had been expected from this institution. And its modest circumstances were a perfect metaphor of the subordination of law to power which characterized the communist regime.

So much has happened in Poland since those early days of the post-communist era. Economic reform, which at first caused so much pain, has made Poland one of the economic success stories of Europe. Poland has 'returned to Europe' through NATO enlargement, which finally eliminates the immoral and destabilizing lines in Europe, a division established by Stalin and perpetuated by the cold war.

A constitutional revolution also has occurred in Poland. In May 1997, after eight years of debate and *ad hoc* constitutional change, Poles voted in a nation-wide referendum to promulgate a new constitution. The document provides a modern constitutional definition of state system and a workable balance between president and parliament. It provides political stability through a no-confidence vote. Most important, the communist constitution imposed on Poland in

1952 has now been replaced by an entirely new document that the Poles truly can call their own.

In addition, over the last several years Poles have come to realize that while a free press, free elections and freedom of speech are essential components of constitutional democracy, none is secure without a truly independent and respected judicial mechanism that can protect human rights and interpret and judge the conformity of government behavior with the nation's fundamental constitutional norms. The Constitutional Tribunal's practice of judicial review gained legitimacy only over time, as the whole notion of constitutionalism became accepted and as the stature of the Tribunal grew.

Since 1990, first from those small rooms in Parliament and now from its own much grander building, the Tribunal has played a central role in the struggle for constitutionalism in Poland. Its new activist judges have defended the national constitution during an era of extraordinary politics.

This book is the first comprehensive examination of the development of constitutionalism in Poland. It was written at a time when constitutionalism was taking root in Poland, with the practice of limited government being a central test of the effective operation and growth of liberal democracy. Today democracy is not just an operational reality in Poland, but a genuinely pervasive institution, and the Polish experience is being closely considered by the fledgling democracies of the former Soviet bloc.

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MARK BRZEZINSKI

List of Acronyms and Abbreviations

BBWR	Non-Party Bloc for Cooperation with the Government
CBOS	Center for the Study of Public Opinion
KCN	National Central Committee
KLD	Liberal Democratic Congress
KOR	Workers' Defense Committee
KPN	Confederation for an Independent Poland
KRS	National Judicial Council
ND	National Democratic Party
NIK	Supreme Chamber of Control
NSA	High Administrative Court
OTK	Decisions of the Constitutional Tribunal
PC	Center Alliance
PKWN	Polish Committee of National Liberation
PL	Peasant Accord
PPP	Friends of Beer Party
PPR	Polish Workers' Party
PRL	Polish People's Republic
PSL	Polish Peasants' Alliance
PWN-PSN	Polish National Community-Polish National Party
PZPR	Polish United Workers' Party
RdR	Movement for the Republic
ROAD	Movement for Citizens' Democratic Action
RPO	Ombudsman for Citizens' Rights
SB	Security Service
SChL	Christian Peasant Party
SD	Democratic Alliance
SdRP	Social Democracy for the Republic of Poland
SLD	Democratic Left Alliance
SN	National Party
UD	Democratic Union
UOP	State Protection Office
UP	Union of Labor
UW	Freedom Union
WAK	Catholic Election Action
WRON	Military Council of National Salvation
ZChN	Christian National Union

ZL-N	People's National Union
ZSL	United Peasants' Party