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The Polish Parliament and Labor Legislation During Solidarity

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and regime support in India: the impact of the crisis", a paper presented at the Duke-UNCG Conference on Parliaments, Policy, and Regime Support, Duke University, December 2-5, 1982.

- 19. A veteran parliamentarian, Madhu Limaye, has charged that the attitude of the then leadership of the ruling party has alternated between two sentiments of the former prime minister's (Mrs. Indira Gandhi) approach to parliament. "When the opposition is strong as in 1967–72, she is haunted and when it is weak, she has total contempt for parliament. While Nehru had greater respect for parliament and for the opposition, Mrs. Gandhi is paranoid." As quoted by P. P. Balachandran, "Indian parliament: the twilight era," in *Probe India*, December 1981, p. 10.
- 20. Ibid., pp. 11-12.

The Polish parliament and labor legislation during Solidarity¹

DAVID S. MASON

Parliaments in communist party states are usually treated in Western literature as "rubber stamp" institutions that simply approve policies made elsewhere. As such, these bodies do not perform functions of interest articulation, representation, or policy-making that are characteristic of many Western legislatures. This assessment, however, oversimplifies the issue and obscures important differences in the legislatures of the various communist states. It also diverts attention from the dynamics of legislative authority in these states, and the extent to which the relationship between legislatures and other political institutions reflects broader aspects of the political system.

Even before 1980, the Polish parliament (Sejm) was, along with that of Yugoslavia, the most active and autonomous of East European legislatures. During the Solidarity era the role of the Sejm was enhanced even further. The period from August 1980 to December 1981 was the most open and fluid era in Poland's postwar history, and, during this time, virtually every political institution was reformed or revitalized. The Sejm was one of the few institutions that did not undergo substantial change in *composition*, since there were no new elections during this period, but it did take on a more active and, at times, obstreperous role.

This chapter examines the evolution of the Sejm from 1980 to 1983, focusing on the role of the Sejm in the critical area of labor legislation. During 1980 and 1981, a new trade union bill and legislation on enterprise self-management were two of the major issues that confronted both the regime and Solidarity. The Sejm came to play an important role in the evolution of these two pieces of legislation. The bill on self-management was enacted during this period, in October 1981, after considerable work

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by the Sejm. The new trade union legislation was not finally enacted until October 1982, almost a year into martial law. This was a very different environment, and the Sejm's role was much reduced over 1981. All of this will lead to a consideration of the role of the Sejm in the Polish political system, and a comparison of this role to those in other countries, East and West.

THE ROLE OF THE SEJM IN POLAND

The Sejm is a unicameral legislative body consisting of 460 deputies elected in direct elections every three to five years. Deputies of the ruling Polish United Workers' Party (the communist party, PUWP) have always constituted a majority of the assembly, typically holding about 55 percent of the seats. The remaining seats are divided among the PUWP's "satellite" parties, the United Peasant Party (113 seats in the 1980 elections) and the Democratic Party (37 seats), and some non-party members (49 in 1980; 74 in the 1985 elections). This last group includes representatives of three Catholic groups, 2 none of which, however, are supported or recognized by the hierarchy of the Catholic Church.

All of the Sejm deputies have permanent jobs elsewhere, and Sejm sessions are one to three-day affairs every month or two. Between parliamentary sessions, legislative authority is exercised by the Council of State, which is elected by the Sejm. Most legislation is introduced by the Council of State or by the Council of Ministers, the executive organ of the government, although since 1971 Sejm committees may also initiate legislation. All legislation passes through at least one of the twenty-five permanent committees, including the important Committee on Legislation (Komisja Prac Ustawodawczych), which reviews the technical and legal aspects of the bills. In recent years especially, two or more of the relevant committees will often constitute joint subcommittees to deliberate on a bill. Committees sometimes substantially revise legislation before it is presented to the plenary session for approval.³

After the introduction of martial law in December 1981, the regime constituted two "advisory" bodies that were attached to the Sejm, presumably in an effort to add legitimacy and credibility to that body. The Socio-Economic Council (Rada Społeczno-Gospodarcza) consists of ninety-five representatives of large enterprises and other official organizations. The Sejm Advisory Council (Zespół Doradców Sejmowych) consists of academic experts and other specialists. Both are empowered to offer advice and formal opinions on legislation and other matters before the Sejm.

Much of the Western literature on communist parliaments has simply dismissed them as "rubber stamps" that have no real legislative or representational functions, but rather serve only ceremonial or propagandistic functions. Only in the last decade have some area specialists gone beyond this formulation, sometimes arguing that legislatures in some communist countries are gaining in importance, and perhaps becoming more functional as articulators of popular interests or demands.4 In the first book-length work on the role of communist legislatures, Dan Nelson (1982:8) suggests that while such legislatures may not provide representation in the Western sense of either "trustee" or "delegate," they may perform "a mediating function, connecting the citizenry to government." In the same volume, Stephen White identifies four main roles of communist legislatures: (1) to help legitimize the government; (2) to provide a means of societal integration and nation-building; (3) to play a "not negligible" role in the policy-making process (through refining and amending legislation); and (4) to monitor and supervise the work of government bodies. The first function is performed by all communist legislatures. The second pertains primarily to multinational states such as Yugoslavia and the Soviet Union. The third and fourth are performed to various degrees depending on the state. The Yugoslav legislature has been the most active in policy-making; the Polish in supervision.

Even in the policy-making category, the Polish Sejm has played a role. As Simon and Olson (1980: 212) have pointed out, the Sejm has "some standing" in the political system; its activity is particularly evident in the parliamentary committees, which have often revised, delayed, or amended legislation submitted to it by executive offices of the government. The role of the Sejm may change with changing political circumstances and, as such, may act as a kind of "barometer" of political life in Poland. In fact, this aspect of the role of the Sejm is recognized by Polish scholars as well, as indicated in the following passage:

The activity of the Sejm... is a kind of barometer of the general climate and pulse of political life. Just as an intensification of its activity and an expansion of its role in the system is an expression of accelerated social change and democratic development, so too a waning of the Sejm's activity and a diminution of its authority is a symptom of stagnation and setbacks in the development of social and political relations. (Jarosz, 1976: cited in Terry, 1981: 27)

Thus the role and activity of the Sejm has varied over time, and has been particularly synchronous with the cycle of political unrest in Poland. After the political upheavals (and leadership changes) of both 1956 and 1970, the role of the Sejm increased briefly, only to fall back to relative inactivity in subsequent years (Terry, 1981).

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The potential for Sejm autonomy has always been circumscribed, however, by the lack of competitive elections, the limited number of plenary sessions (generally once a month for one day) and "the leading role of the Party." The Polish United Workers' Party (the communist party of Poland) holds about 55 percent of the seats of the Sejm and over 66 percent of the committee chairmanships, and its leading role insures that it exercises substantial control over the other seats as well. Almost all legislation is initiated either in government ministries and the Council of Ministers, both party controlled, or in the party itself. During the 1970s, the regime allowed "informal consultations" between the initiating ministries and the corresponding Sejm committees, indicating the limited consultative role that the legislature played in those years (Terry, 1981).

On the other hand, the Sejm had some characteristics that often allowed it at least a limited role. The existence of the two satellite parties (the Democratic Party and the United Peasant Party) and three Catholic political associations in the Sejm "creates an arena in which there is considerable potential for interest articulation and aggregation, as well as political communication" (Simon and Olson, 1980: 213). Furthermore, while the plenary sessions themselves are mostly devoid of debate and policy-making, there is some such activity in the Sejm committees. Depending on the political character of a bill, party discipline (and therefore PUWP control) is not always exerted within Sejm committees; it is sometimes withheld until bills are ready for the plenary sessions. Thus, committee debates often cut across party lines (Olson and Simon, 1982). The number of committees has grown over the years, and the expertise of Sejm committee members had increased, adding to the potential role of the committees. Thus, even before 1980, Sejm committees occasionally made substantive changes to bills presented by the government.

In the most intensive recent study (in English) of the Sejm, Olson and Simon (1982) identify three factors indicating a growing capacity for action and independence by the Sejm: a qualitative improvement, in terms of training and education, of the membership of the Sejm; increased activity by the committees; and increased supervision and control over governmental administration. The result, according to the authors, is that the Sejm was moving from what Michael Mezey (1979) calls a "minimal parliament," which accepts government proposals quickly and without reservations, to a "marginal" one, which can delay and modify such proposals. Indeed, as we have seen, the Sejm did take on such characteristics even before 1980.

The Sejm during Solidarity

From the very beginning of the Solidarity period, the Seim experienced a renaissance, as did virtually every other institution in Poland. Even in the first plenary session of the Seim after the Gdańsk Agreements, on September 5, deputies engaged in a lively and open debate on the problems facing the country. At first, criticism was focused largely on the past (Gierek) leadership, but during 1981 deputies often voiced open criticism of the current government as well. Such speeches were most often delivered by the non-PUWP deputies. At an October 1981 Sejm plenary session, for example, the non-party deputy Romuald Bukowski criticized the authorities for "exercising power neither by the will of the people nor on its behalf but rather through the implementation of various principles that were created in the past" (Radio Free Europe Research [hereafter RFER], November 11, 1981). This was surprisingly strong language, but was not unique for Seim speeches during 1981. In its role as critic and sounding board for governmental policies, the Sejm came to resemble some Western parliaments. The party leadership apparently encouraged this autonomy, within limits. In 1981, for example, the PUWP relaxed party discipline in the Seim on votes for personnel appointments (e.g., to ministries). This contributed to the appearance, at least, of autonomy and independence of the legislature.⁷

Statistical data also demonstrate the increased activity of the Sejm during this period. Several new committees were created in 1981 (continuing a longer-term trend), including permanent committees on Complaints and Suggestions and on Workers' Self-Management, and an extraordinary committee established to monitor fulfillment of the 1980 Agreements signed between the workers and the government. The frequency of committee meetings increased from about ten per committee per year before 1980 to eighteen per committee per year in 1980–82 (a trend which continued after 1982). Sejm deputies became more active on the floor of the legislature as well, as interpellations of government officials by deputies jumped from 26 in 1980 to 223 in 1981. This activity frequently took up the bulk of the time of the Sejm's sessions. Popular expectations of the Sejm were shown in the number of letters and complaints sent to the Sejm, which increased from 7,786 in the last ten months of 1980 to 19,827 in 1981 (Niektóre Dane Statystyczne, 1985).

By the end of 1981, the Sejm was even able to resist pressure by the regime to pass an Extraordinary Powers Bill which, in restrospect, was an attempt to provide legal sanction for the eventual declaration of martial law. When the PUWP Central Committee ordered its Sejm deputies to

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push for such a bill, the non-PUWP deputies balked. They received encouragement from both the Church, when Primate Glemp urged deputies not to vote for the bill, and from Solidarity, when its Presidium threatened a general strike if the bill were passed. All of this was an extraordinary display of independence by the Sejm and, as T. G. Ash (1983: 242) observes, "another, important facet of the 'collapse of the system." The Jaruzelski regime was compelled to declare martial law without the bill, and did not achieve legal sanction of the act until after the fact. ¹⁰

More importantly, the Polish parliament involved itself deeply in some of the many and important reform bills of the Solidarity era. The Seim did not ever *initiate* these bills, but Seim committees often played a major role in mediating between different groups with contending versions of reform legislation. The Seim played a crucial role, for example, in bringing to fruition a revision of the Teachers' Charter, which addressed such issues as teachers' salaries and workloads, pedagogical techniques, and, probably most importantly, curricular content. A draft charter was initially put together by the Polish Teachers' Association (ZNP), but two more versions emerged from the government's Council of Ministers and then from the Teachers' Solidarity. By May 1981, "an acute impasse had appeared" (Trybuna Ludu, October 26, 1981) and the Sejm Committee on Education and Upbringing was brought in to mediate. All during the summer and fall, the committee arranged conferences with experts, teachers, representatives of the two unions and the Council of Ministers, and even sent deputies to the provinces for "fact-finding." As the chairman of the Seim Committee wrote in October, "it is one of the committee's roles to reconcile positions, to try for a common consensus in proposing solutions, and in particularly difficult cases, to propose compromise solutions" (Glos Nauczycielski, October 25, 1981). A compromise version was finally achieved in early December and approved. with only minor revisions, by the full Sejm in early 1982 (after the declaration of martial law). The Sejm, and particularly Sejm committees, played a similar role in numerous other sensitive and difficult legislative issues.

Public opinion and the Sejm

During 1981, the Sejm was the most popular official political institution in Poland, perhaps because of the kind of open debate and autonomous activity described above. In polls on confidence in fourteen institutions, conducted in May by the government and in September by Solidarity, the Sejm ranked fourth, behind Solidarity, the Catholic Church, and the

Army. In the official poll, some 82 percent expressed trust in the Sejm; in the Solidarity poll, 50 percent.¹¹ These figures were much higher than for any other political institution, even for "the government" broadly considered. In another poll in the summer of 1981 on how well various institutions had done in helping alleviate the crisis, the Sejm ranked behind only the Church and Solidarity, receiving a positive assessment from half the sample (Spoleczeństwo polskie).

The relative popularity and apparent viability of the Sejm led many Poles to focus on that institution as an object for political reform. In the summer of 1981, there was some discussion of a possible second chamber of the Sejm, to consist of deputies more genuinely representative of society. In Solidarity's Program, adopted at the union's October Congress, part of the program for establishing a "self-governing republic" consisted of the restoration of the authority of the Sejm and the amending of election rules to allow all political parties and organizations to nominate candidates. After free elections, the Sejm should then be "the supreme power in the state." By the end of 1981, over 70 percent of the population favored calling new elections to the Sejm and peoples' councils as one means of coping with the crisis (*Polacy* '81; cited in Mason, 1985: 174).

THE SEJM AND LABOR ISSUES IN 1980-81

A major issue that the Sejm, and indeed the country, had to face in 1981 was the new legislation on trade unions and on self-management. A new trade union bill became imperative from the very beginning, with the formation of the Independent Self-Government Trade Union, Solidarity. Legislation confirming the legality of the new situation was high on the agenda of Solidarity during the first half of 1981. Such legislation acquired urgency, from the regime's point of view as well, after some twenty of the old "branch" unions had withdrawn from the umbrella organization, the Central Council of Trade Unions, forcing the dissolution of the CCTU at the end of 1980. During the second half of the year, the major demand of Solidarity, and the most divisive issue between the union and the government, concerned the new legislation governing enterprise self-management.

As with the legislation on the Teachers' Charter, the Sejm was not involved in the early stages of either of these labor issues, but entered only later in a mediating role. In this case, as in others, the Sejm was ignored in the early stages. The legislature seemed to be caught in the middle; it was apparently viewed as potentially too independent by the authorities, and as potentially too compliant by the workers. The pattern with the new

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trade union legislation was typical: it began with the regime's appointment of a commission to revise the labor union laws.

In the Gdańsk Agreements, in the first point allowing the creation of independent trade unions, the government agreed to pursue a new trade unions' bill. The same day as the Agreements, Party leader Edward Gierek appointed a commission to develop such a bill, attached to the Central Council of Trade Unions. The composition of this commission was widely criticized, leading Gierek's successor, Stanisław Kania, to replace it in late September with a more representative group. This one consisted of seventeen lawyers and legal experts, twelve Solidarity representatives (including Lech Wałésa), and five from the official unions. It was presided over by Sylwester Zawadzki, Chairman of the Sejm Legislative Committee (Sabat, 1981).

After seven months of work, the commission submitted a draft text of the law to the Council of State. Reflecting most of the demands of the workers, the document recognized both the right to strike and the principle of organizational pluralism. The Council of State, "taking note of the position of the Government Presidium" (which had reservations), forwarded it on to the Sejm at the end of May. There the two relevant committees (on Labor and Social Affairs and on Legislation) established a subcommittee to continue work on the legislation. As with the similar subcommittee formed to work on the Teachers' Charter, representatives of labor unions (including Wałesa) frequently participated in the subcommittee's deliberations. There were continued disagreements between the government and Solidarity on some key issues, and even though the government had promised to have the bill by the end of the year, the debates continued right up until December 13. At the fateful and final meeting of Solidarity's national leadership in Radom on December 3, Solidarity demanded that the Sejm be presented with the Trade Union bill "in the version agreed to with representatives of Solidarity" (Tygodnik Solidarność, December 11, 1981). However, progress on this bill was interrupted with martial law, and was not resumed until February of 1982 (see below).

Self-management

The role of the Sejm was somewhat more evident and much more decisive on the self-management bill though, as with other cases, the Sejm was involved only quite late in the process. Self-management was not one of the issues raised during the dockyard strikes in the summer of 1980 and did not become an element in Solidarity's program until the summer of 1981. The initiatives for enterprise self-management came not from the

Solidarity leadership, but from an unofficial "Network" of self-management initiatives among Solidarity activists, and from the government, whose January 1981 economic reform guidelines suggested broadening the role of workers' self-management.

By the summer of 1981, Solidarity had officially adopted the demand for self-management, based largely on the "Network" proposals. By then, the government had also introduced its draft Bill on Workers' Self-Management. There were numerous differences in the two versions, but the most important centered on the hiring and firing of factory directors. Solidarity wanted the workers to hire and fire the director, and the director simply to carry out decisions of the self-management council. The government bill provided only that the workers would be consulted on management appointments, and that the ultimate power to hire or fire would remain with the party (Ash 1983).

The conflict over this issue reached a high pitch during Solidarity's national congress in September. Numerous delegates spoke out against the government bill. In the two-week interim between the first and second sessions of the Congress, Solidarity representatives met with the Sejm committees working on the bill and reached a compromise (*Tygodnik Solidarność*, October 2, 1981). Wałésa managed to persuade Solidarity's Presidium to accept the compromise bill, but the next day Party First Secretary Kania informed the PUWP deputies to the Sejm that the compromise was not acceptable. That evening, representatives of the non-PUWP Sejm deputies told Prime Minister Jaruzelski that they would not yote for the Party version of the bill.

Paradoxically, the regime's customary desire to achieve unanimity in the Sejm plenary sessions gives the small non-PUWP factions a disproportionate voice. The government in this case could easily have won victory without their votes. But in an effort to avoid a split vote, the government allowed further modifications of the bill. The Sejm committees thus returned to the bill, worked intensively on it for two more days, and finally achieved a bill close to the one the Solidarity Presidium had approved. It was passed in the Sejm on September 25, the day before the opening of the second session of Solidarity's Congress.

This was not the end of the matter, since deputies at the reconvened Solidarity Congress were incensed at Wałesa's perceived authoritarian behavior in reaching the compromise, and at the nature of the compromise itself. They passed one resolution censoring Solidarity's Presidium for its methods, and another calling on individual enterprises to hold referenda on whether they would abide by the compromise formula. The issue of self-management remained a divisive one through the end of the year.

This issue, like others, showed the difficult position the Sejm was in. In this case, the Sejm was too independent from the regime's point of view, and too compliant for many Solidarity activists. Nevertheless, the ability of the Sejm to challenge the regime, and to pressure both Solidarity and the government to compromise, was unprecedented. As the British journalist T. G. Ash (1983: 214) later wrote:

the behavior of the Sejm was without precedent in the history of Poland since 1947. For the first time, infected with democracy after a year of revolution, the deputies had directly and publicly rejected the communist Party whip.

Even apart from this dramatic episode, the Sejm had defined a new and more expanded role for itself during 1981. With the Teachers' Charter, the Bill on Trade Unions, and the Bill on Self-Management, the Sejm was able to act as mediator in helping to achieve a compromise between different interests and positions. This was accomplished largely through the committees (and unofficial meetings of some of their chairmen), which were able to meet more frequently, and with less publicity, than the plenary sessions of the Sejm. Such meetings allowed a freer exchange of views and, probably because of the lack of publicity, a greater willingness on each side to compromise. The Sejm was in a unique position to carry out this role. In a society that distrusted almost everything official, the Sejm managed to maintain some degree of integrity and popular acceptance, as an institution. On the other hand, the Seim of 1981 had been elected in early 1980, before Solidarity, and therefore consisted largely of people acceptable to the regime. From the regime's point of view, then, the membership of the Sejm, at least, could probably be trusted not to go too far toward accommodating Solidarity.

THE SEJM UNDER MARTIAL LAW

The role of the Sejm after the declaration of martial law was, of course, greatly reduced, but even then did not return entirely to the "rubber stamp" role of earlier years. Partially because of Jaruzelski's inability to win the Sejm's approval for the Extraordinary Powers Bill in late 1981, martial law was invoked without formal legal sanction. Only after the fact was martial law formally established by the State Council. At the first Sejm session under martial law, on January 25–26, the legislature retroactively accepted the martial law decree, with only six abstaining votes and one opposing. All of these were from non-party or Catholic (Polish Catholic Social Association) delegates, some of whom voiced muted criticism of official policies on the floor of the Sejm.

This seemed to be the pattern of Sejm behavior in the first year of

martial law: the legislature was not able to block legislation, or force major changes in it, but some deputies continued to criticize the government and its policies, and to abstain on or oppose unpopular legislation. Indeed, the Sejm passed a record number of bills (57) in 1982, many of them contributing to the enhanced power of the state (Rocznik Polityczny i Gospodarczy 1981–1983). But there were critics, such as Romuald Bukowski, the non-party deputy who had voted against the martial law legislation, who continued to speak out on major issues. In a July 5 (1982) Sejm speech Bukowski called for a general amnesty, lifting of the ban on suspended organizations (of which Solidarity was one), a restoration of civil liberties, and the lifting of martial law (RFER, July 12, 1982). The Sejm's usual practice of unanimous voting was also broken frequently. When the Seim passed an "anti-parasitism" bill requiring most men to work, 22 deputies abstained and 12 opposed the bill. In an even blunter form of protest, 9 members voted no and 55 abstained when Stanisław Ciosek was named Minister of Labor Affairs in March 1984. Ciosek, as Minister without portfolio in charge of trade union affairs, had been the government's main point of contact with Solidarity before and after martial law.

New trade union legislation

After 1981, the most crucial piece of legislation facing the government, the workers, and the Sejm was the trade unions bill. As seen above, work on this legislation had continued through most of 1981, but key issues were still unresolved at the end of the year. Martial law changed the situation dramatically, and the process was practically begun anew when in February 1982 the Council of Ministers' Committee on Trade Unions published its "Proposals on the Trade Union Movement" (Rzeczpospolita, February 22, 1982). This proposal contained mostly general considerations about the nature of the future trade union movement. The trade unions should be self-governing and independent of state and administrative agencies, but they should support socialist democracy, and should have the right to strike only as a last resort, and not for political purposes.

Initially, at least, it appeared that the regime had not ruled out the possible reactivation of Solidarity, although in a more restricted form. Discussions on the government's "Proposals" in the press and in the Party often included this possibility as one alternative (RFER, April 26, 1982). But by the time the Sejm was charged with working out the details of the new legislation in July, the government's parameters for change seemed to exclude any possible role for Solidarity.

This time, unlike 1981, the Sejm had no real mediating role, in that there was no legal alternative to the government proposal. The Sejm was meant to use the "discussions" of the government proposals as a resource for developing its legislation, but its task was largely restricted to working out the details within the parameters set by the authorities. According to the underground leadership of Solidarity, the law that finally emerged had little relationship to the 1981 draft, having been thoroughly revised by the Council of State "without any negotiations or consultations with Polish society." Of the seventy-five articles of the December 1981 draft, fifty-five had been significantly changed (Bujak, 1983). Even the Sejm's Socioeconomic Council, set up by the martial law authorities to discuss pending legislation, was not consulted on the bill.

According to the new statutes (Bienek, 1983), the new unions were to be "independent of the administrative and economic organs of the state"; on the other hand, they were to be grounded on the principle of the social ownership of the means of production, to recognize the constitutional principle of the leading role of the Party, and to respect the constitutional bases of the foreign policy of Poland (meaning Poland's alliance with the Soviet Union). The new unions were to be organized on the "branch" basis (rather than the regional one of Solidarity) and could be organized only at the factory level until 1984. Until 1985, only one trade union would be allowed in any one enterprise.

The new unions were extremely controversial. The law that created the new structure had also banned Solidarity, so carried negative connotations for that reason. Furthermore, the Solidarity underground called for a boycott of the new unions and demanded "trade union pluralism" at the enterprise level. By the middle of 1983, the official press began to suggest the "pluralism" could be a blind for "counterrevolutionary activity" and by the summer of 1984, government spokesmen were rejecting the notion of pluralism out of hand.

Despite the Solidarity boycott, enough people joined the new unions so that by the end of 1984, there were some 5 million members. This was only half the number that had belonged to Solidarity; but according to several different academic surveys, 12 about a third of the members of the new unions had also been in Solidarity. As one might expect, there was much bitterness and division over the issue of the new unions: between members and non-members and especially between Solidarity members who joined and those who did not. Non-members overwhelmingly thought people joined the unions for the material benefits only. Members, however, gave a variety of reasons, including a belief (by some 21 percent) in the possibility of defending workers' interests through the new unions

("Lublin 83"). Of union members 65 percent strongly support the new unions; among non-unionists, 50 percent are not interested in them, and another 14 percent considered themselves "opponents" of the new structures (Zwiazkowiec, 1985).

Despite the importance and controversy associated with the new unions (or perhaps because of it), Poland's legislature seems to have been only marginally involved in the development of the new legislation after martial law, or in the various modifications and emendations of the legislation that followed in 1983 and afterwards. 13 The important role of mediator that the Seim had played in 1981 was no longer necessary in the absence of opposing groups and opposing policies. In developing the trade union legislation of 1982, the regime did attempt to "consult" with society and with experts, and to elicit public comments. But these efforts were circumscribed both by the authorities and by the tense environment of martial law. Poland was no longer the forum for the kind of open and free-wheeling debate that requires mediation. The general pattern for the new trade union bill was determined by the Council of Ministers, the State Council, and, presumably, the Politburo. The Sejm, and even the advisory Socio-economic Council attached to it and appointed by the martial law authorities, was excluded from the process.

HYPOTHESES: THE SEJM AND POLITICAL PARTICIPATION

The changed nature of the political environment in Poland in the period 1980–82 allows the testing of some of Olson and Mezey's hypotheses (chapter 1) about the nature of parliamentary activity.

Policy attributes

In the Polish case, it seems to be true (Hypothesis 15) that the activity of the parliament is greater on issues which are new and controversial and which involve diverse publics. One might add also that such activity increases in new *situations*, since in this case it was the newness of the situation that generated the controversy, the saliency, and the multiplication of publics. In normal times, the Sejm's role has been much more limited, and is restricted to relatively routine matters. A European commentator only slightly overstates the case in arguing that "the entire activity of the [East European] parliaments consists of either approving acts and decrees of the state council, or routinely adopting the national plan and budget" (Hazan: 38).

During 1981, many more of the issues that came to the Sejm were new and controversial, and therefore attracted the attention and energy of the

parliament. This was especially true of labor issues, which were central elements in the whole process or "renewal." Of course the Sejm did address other more routine matters as well during 1981, such as the reorganization and renaming of a number of government ministries. These matters, however, were more bureaucratic than political, therefore less controversial and involved less input from the Sejm.

By 1982, the trade union and self-management issues were still controversial, but they were no longer new, many people had turned away from political issues, and some of the most important groups in society were not allowed an official role in the debate. The role of the Sejm was correspondingly reduced.

With regard to Hypothesis 16, the role of the Sejm was the greatest during the intermediate stages of legislative development. Neither in 1981 nor earlier did the Sejm play a major role in initiating legislation. Both the trade union legislation and the self-management proposals originated outside of parliament, occasionally with competing versions being developed by the government (in the Council of Ministers) or extragovernmental groups (like Solidarity). On these two issues, as with others, the primary role of the Sejm was a mediating role, attempting to find a middle ground in the legislation that was acceptable to both sides. A possible role for the Sejm in the implementation stage was truncated by martial law, before these two acts could be effectively implemented.

Internal influences

Normally, the role of legislatures in communist countries is weak because of the domination of the communist party (Hypothesis 10), the centralized nature of the party (11), and the control of the parliamentary party by the executive agencies of the party (12). While all of these remained true in Poland, in all three cases the role of the Polish United Workers' Party diminished during 1981, contributing to the enhanced role of the legislature. In Poland, there were other parties and factions in the Sejm, but these typically had not played an independent role. During 1981, the "satellite" parties, the Catholic factions, and the non-party candidates all assumed a stronger role, occasionally even forcing the government to compromise on issues to avoid a split vote in the legislature. Furthermore, the PUWP itself became divided and demoralized during 1981, and this was reflected in its parliamentary faction as well, which did not always blindly follow the party whip.

Most of the activity of the Polish parliament occurred within its committees. While the reasons for this locus of activity are many, as

discussed below, their effectiveness during 1981 was enhanced by the fact that they are permanent and largely parallel the structure of the government's ministries¹⁴ (Hypothesis 13). This enabled members of the committees to work directly with their counterparts in the relevant government ministries, and to bring in their own experts who could, in turn, have influence on the ministerial officials.

Indeed, the gradual development of the committee system in the Sejm was a major factor allowing the Sejm to take advantage of its own opportunities when the external conditions changed with the birth of Solidarity. The gradual growth in the number of parliamentary committees over the years, the increasing sophistication of the structure and functioning of the committee system, and the increasing relevance of committees' jurisdictions all contributed to the Sejm's ability to act with dispatch and efficiency in what was otherwise an unstable, even chaotic, environment. Without the committee system, and the careful procedures developed to coordinate the committees, the Solidarity events could well have produced chaos inside the Sejm and immobilized it.¹⁵

External influences

In the Polish case, the environment, broadly considered, is by far the most important determinant of the role of the Sejm. Both in the past, and in recent years, the Seim's role has increased during periods of popular unrest and leadership instability. To some extent, the political elite allows greater latitude at such times in an effort to restore regime legitimacy and social order. But, to an even greater extent, the more active role of the Seim in 1981 (as after the 1956 and 1970 events) was due to the more open atmosphere that allowed the formation of new interest groups (Hypothesis 9), especially Solidarity. With the emergence of genuine political conflict between Solidarity and the government (Hypothesis 7), a forum for compromise and mediation was required, and the Sejm was one of the organizations that played such a role. In our rather limited case study, the role of the Sejm was greatest on the Teachers' Charter bill, where a functionally specialized interest group (the Polish Teachers' Association) was involved (Hypothesis 6) and where this group disagreed with Teachers' Solidarity (Hypothesis 8). Perhaps the role of the legislature would have been even greater if there had been more such specialized groups. At the time, the broad-based and heterogeneous Solidarity claimed to speak for most groups in society, and was jealous of this role. In many cases, the Solidarity leadership wanted to deal directly with the appropriate government ministers or party officials, leaving the Seim on the sidelines.

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Hypothesis 2 also holds in the Polish case. In general, the role of the Sejm has not been very great precisely because the "executive branch" (including the party) is closed, centralized, and hegemonic. During 1981, however, the governmental ministries became more "open," in their willingness to discuss and negotiate with Solidarity and other groups; and the party became more decentralized, as grass-roots reformism swept through the organization and transformed its leadership. All of this was reversed with a vengeance after December 1981, once again reducing the Sejm's room for maneuver. For the Polish parliament, the environmental factors loom large indeed.

Both before and after the Solidarity experience, with a more monolithic political system, there was no need for a mediator among groups and positions, as had been the function of the Sejm in 1981. As we have seen before, the role of the Sejm in "normal" times is largely a passive one, approving and sometimes revising legislation that is born and developed elsewhere. The Sejm may be "consulted" by the government, but the role of the Sejm is largely defined by the executive authorities of the government and the party. During 1981, however, with the proliferation of independent and autonomous interest groups and their interaction with government agencies (itself a reflection of the increased openness of the government), the Sejm was able somewhat to define its own role, and to leap into this more pluralistic environment.

Conclusion

The pattern of participation and activity by the Sejm in recent years conforms to that described in the Introduction: the Sejm is a kind of barometer that reflects what else is happening in the society and the political system. In times of upheaval, when the regime is forced to allow a somewhat more open political environment, the Sejm can also develop somewhat more autonomy. The Solidarity era was the most open in recent Polish history, and the Sejm played its most active and important role in the postwar period. Even so, its field for maneuver was limited by both "internal" and "external" constraints (Blondel, 1973). Internally, the parliament was constrained by its members, who had all been elected in the pre-Solidarity period. As an institution then, the Sejm was not as much part of the "renewal" that swept Polish society in 1981 as were most other institutions, including the party, which underwent considerable turnover from bottom to top. Party members retained a majority in the Seim, and it was the same Party members who were elected before Gdańsk. Externally, the Sejm was constrained both by the constitutional principle of the leading role of the party, and by the continued (though weakened) dominance of the executive agencies of both the party and the state and, as 1981 progressed, the army.

Despite these constraints, the Sejm was involved in a major way on major pieces of legislation, including the critical bills on self-management and on trade unions. It was able to do this in two ways: through mediation, and through its constitutional prerogatives for approving all legislation. The Sejm, and particularly its committees, was able to mediate between Solidarity and the government (and sometimes with third parties) by virtue of its relatively autonomous and neutral position in the political system. The committees were particularly appropriate for this mediating role because of the informality and relative secrecy of their sessions and their ability to meet more frequently than the plenum. The Sejm committees were never entirely trusted by either the government or by Solidarity, but neither were they entirely distrusted. They were able, therefore, to play this limited mediating role.

The second factor is the constitutional requirement that the Sejm pass all legislation. In some communist states, the parliament is often bypassed on important policy issues, and this has been true to some extent in Poland. But, in Poland, the Sejm has existed as an institution for over 400 years, and its formal constitutional powers have been respected de jure if not always de facto. Thus, all the major reform bills of 1981 were sent through the Sejm. In practice, of course, the majority position of the Polish United Workers' Party in the parliament would have allowed easy control of the legislative process. Somewhat paradoxically, however, as we saw in the case of the self-management bill, the regime's desire to achieve unanimity in the Seim plenary sessions gave the minority factions a disproportionate voice. When this group threatened not to vote for the government's self-management bill, the government allowed further modifications of the bill. In this sense, this minority group achieved a role similar to that of a small third party holding the swing votes in a parliament closely divided between two larger parties.

During 1981, the Sejm seems to have moved from what Blondel (1973) calls a "truncated" legislature with only limited influence on a limited number of issues, to the next most active type, which he calls "inhibited." As he describes such legislatures (p. 139), they have "fairly considerable influence in immediate matters but very little influence, even in the long run, on general matters. They have some effective power in constraining executive legislation, but even this has its limits; they have very little power to initiate new ideas, and their initiative remains concentrated on intermediate questions." Certainly, though, the 1981 Sejm would be at the

low end of this category, in which Blondel places both the French and the Indian legislatures.

The Sejm, like most other institutions in Poland, became more active and independent during 1981. Unlike Solidarity, other trade unions, and most cultural and academic institutions, however, the growing independence of the Sejm was restrained by the party and state leadership, and may even have been engineered by the authorities to convey the impression of vitality and "renewal" within the government. In the process, the Sejm did become more active, contributing to the very real democratization that was occurring throughout Polish society. From the regime's point of view, this began to undermine the ultimate constitutional (and geopolitical) requirement of the leading role of the Party. With martial law, all independent political activity was banned, most independent institutions were abolished or restructured, and the Sejm returned to its more passive role of a truncated legislature.

Notes

- 1 This chapter was written before the momentous changes in Poland in the summer and fall of 1989, including the establishment of a second parliamentary chamber, the Senate; the holding of parliamentary elections in June, which were fully contested in the Senate and partially contested in the Sejm; Solidarity's capture of virtually every seat available to it in both chambers; the defection of the communist party's "satellite" parties to Solidarity; and the subsequent formation of a Solidarity-led government under Prime Minister Tadeusz Mazowiecki. These changes herald the emergence in Poland of a genuinely democratic and functional legislature, and indeed of parliamentary democracy.
- 2 The three Catholic political associations are Pax, the Christian Social Association and the Polish Catholic Social Union.
- 3 For further treatment of the role and functioning of the Sejm, see Simon and Olson (1980), Terry (1981), and Hazan (1985), pp. 33-56.
- 4 For a review of the literature on communist legislatures, see Nelson (1982).
- 5 Of the 173 bills passed between October 1980 and February 1985, 150 were initiated by the Council of State or the government, and 23 by Sejm deputies, either in groups or through committees (*Niektóre Dane Statystyczne*, 1985).
- 6 For the changes that affected even the Polish United Workers' Party, see Mason (1984).
- 7 This policy on voting for appointments continued even after the imposition of martial law.
- 8 This figure declined steadily after 1981 to 120 in 1982, 70 in 1983, and 59 in 1984.
- 9 This figure declined to about 10,000 per year after 1981.
- 10 This version of events has been challenged by some members of the Sejm (in discussions with the authors), who contend that there was no real conflict in the Sejm on this issue. Some Solidarity supporters, on the other hand, believe the Extraordinary Powers Bill was a smokescreen put up by a government that had planned martial law months before.
- 11 For the full results of these surveys, by the government's OBOP and Solidarity's OBS, see Mason (1985), p. 118. A national representative sample in 1984 showed 60.5 percent still expressing trust in the Seim.
- 12 For example, an unpublished pilot survey conducted in July 1983 by the

- University of Warsaw of 697 employees in the city of Lublin; and a second unpublished national representative sample of adults conducted in the spring of 1984.
- 13 Some members of the Sejm's leadership have strongly disagreed with this point, contending that the role of the Sejm, at least in legislative matters, was more substantial after martial law than before, and pointing to the high number of bills passed in 1982 and 1983 as evidence of such influence and activity.
- 14 As part of Gierek's efforts to strengthen the role of the Sejm in 1971, committee jurisdictions were redrawn to better correspond to ministerial divisions, and the ministries were instructed to consult with the relevant Sejm committees in drafting legislation (Terry: 33-4).
- 15 The author is indebted to David Olson for the ideas in this paragraph.

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PART IV CONCLUSION