2 *Incomplete Democratization, System Transformation, and the Civil Service: A Case Study on the Weimar Republic and the Nazi Regime in Germany*

BASTIAN STROBEL AND SYLVIA VEIT

Introduction

A professional bureaucracy is considered a cornerstone of liberal democracy. There is, however, not *one* single model on how to organize political-administrative relations in liberal democracies. In Westminster systems, for instance, political-administrative relations are characterized by a rather strict formal division of both spheres (Hustedt and Salomonsen 2014), whereas many continental European states tolerate a much higher degree of formal politicization (Meyer-Sahling and Veen 2012; Veit, Fromm, and Ebinger 2018). Regardless of this variation, in all liberal democracies a "blurred area [exists], in which there is a degree of indeterminacy about the roles and relationship between the two domains [i.e., the political and the administrative sphere]" (Alford et al. 2017, p. 752). This intermingling of politics and bureaucracy occurs in particular in central government departments, where civil servants are deeply involved in policymaking by providing policy advice and assisting their political superiors in coordinating and negotiating policies. In this context, bureaucrats are expected to show responsiveness (to the minister) and, at the same time, to be critical of the minister when necessary (e.g. when constitutional or core democratic values are at stake) to safeguard the public interest and public integrity (Ebinger, Veit, and Fromm 2019).

Processes of liberal-democratic backsliding threaten the established delicate balance between, on the one hand, political responsiveness of the bureaucracy and, on the other hand, the adherence to professional standards and liberal-democratic values. Liberal-democratic backsliding processes are often accompanied by administrative reforms that attempt to enforce profound changes in political-administrative

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

relations and lead to an increasing politicization (and restructuring) of the bureaucracy. As all governments and political leaders depend on the bureaucracy to enforce public policies as well as to exercise power, the civil service plays a key role in processes of liberal-democratic backsliding: it can support these processes by working loyally for illiberal politicians or oppose them with shirking or even sabotage (Bauer et al., Introduction, this volume; Guedes-Neto and Peters, Chapter 10, this volume). Under which conditions and for what reasons civil servants choose to work loyally for illiberal politicians or to oppose their attempts to hollow out liberal-democratic institutions is an important and only poorly investigated research question, and will be addressed in this case study on the transition process from the Weimar Republic to the Nazi regime in Germany in the 1930s as a historical example of liberal-democratic backsliding.

We first describe the material and data we used for the case study. We then outline the history of political-administrative relations in Germany from Prussia to the Weimar Republic and the political developments in the Weimar Republic as important framework conditions. Subsequently, we present our case study. Following the analytical framework described in the introduction to this book, we distinguish three analytical dimensions: governance concept, strategies for illiberal administrative reform and bureaucratic reactions. The chapter concludes with a reflection on the learnings from this historical case for contemporary incidents of liberal-democratic backsliding in different countries.

Data and Methods

We apply a mixed-methods approach relying on a review of findings from historical scholarship and an analysis of documents, as well as on prosopographical analysis of top civil servants. Historical scholarship has conducted several case studies on single ministries over time. More general historical publications covered public administration specifically in the Weimar Republic and the Nazi regime. Both forms of publication were included in the analysis. Furthermore, a document analysis of civil service regulations and other important regulations and legislative documents (e.g. the federal budget) was used to trace the formal patterns of political-administrative relations and the distribution of resources in the Weimar Republic and under the Nazi regime. Additionally,

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

organizational charts of all Reich-ministries were drawn from the "Handbooks of the German Reich" and supplemented by information found in files from the Federal Archive. Together with findings from the literature, this data was used for the analysis of changes in the administrative structure.

The prosopographical method aims at investigating common characteristics of a distinct (often historical) group through the collective study of their biographies. We applied this method for the study of top civil servants. Top civil servants are not only in central positions of the politico-administrative system, but also make relevant decisions which are important for the strategic orientation of the ministry. They are influential actors in the policy process and with regard to internal management decisions, for instance concerning recruitment and promotion decisions at lower hierarchical levels. Due to their prominent position, they act as culture carriers (Schröter 1993) who represent and influence a ministry's organizational climate and culture. Characteristics of top civil servants reveal much insight on political-administrative relations: for instance, if many top civil servants have a background in party politics, this indicates a high degree of party politicization.

The prosopographical analysis presented here is based on an original dataset compiled by the authors.[1] Our research population is defined by the positional approach of elite identification (Hoffmann-Lange 2018). The dataset we used for this case study includes all officeholders in the two highest administrative ranks – that is, administrative state secretaries (level 1) and directors general (level 2) – in German central state ministries (*Reichsministerien*) at five different points of time during the Weimar Republic (1920, 1927) and the Nazi regime (1934, 1939, 1944) (see Table 2.1). In total, the analysis includes 376 individuals.

Table 2.1 ***Number of cases for the five points of observation***

	1920	1927	1934	1939	1944
State Secretaries	19	16	21	35	38
Directors General	44	52	78	105	112
Total	63	68	99	140	150

Source: own data.

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

Data collection was based on personnel files from the German Federal Archive and other archives, official biographies, press releases/articles and preexisting own research. It included information on the top civil servants' time in office, party affiliation(s), political mandates, and memberships in different organizations and associations supporting or opposing the political system. Information was only added to the dataset when it was doubtlessly confirmed by the sources.

To measure the reactions of the civil service to political change (see section "Reactions of the Civil Service"), we apply two standardized additive indices: the formal systems reference index and the material systems reference index. Formal affinity or distance is measured by gathering data on formal memberships in important organizations of each political system – such as, for example, the paramilitary organizations SA (*Sturmabteilung*) and SS (*Schutzstaffel*) during the Nazi regime. For the formal systems reference index, we add up all organizational memberships in the three systems. Organizations supporting the system are assigned positive values; opposing organizations are assigned negative values. Material affinity to or distance from a political system are measured by analyzing statements and actions for or against each system. For the material systems reference index, we summarized all statements and actions for and against each system. Affine statements or actions are assigned positive values; negative statements or actions are assigned negative values (for an overview of all variables used for the index, see Appendix). For both indices, the sum of all values is divided by the number of used variables. Thus, the values of both the formal systems reference index and the material systems reference index range from –1 to 1.

Political-Administrative Relations from Prussia to the Weimar Republic

The Weberian bureaucracy of today's Germany is coined by its long-standing history and tradition. In Germany – in contrast to, for example, the United States – bureaucracy is much older than democracy, which had strong implications for the administrative culture and civil servants' role perception in the Weimar Republic and the Nazi regime. As early as the eighteenth century, the

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

fundamental characteristics of the German bureaucracy were established in Prussia. This included, in particular, the core role perception of bureaucrats as servants of the *state* who are characterized by "Prussian virtues" such as loyalty, diligence and incorruptibility (Caplan 1988). This system was further institutionalized during the German Empire in the late nineteenth and early twentieth centuries, where bureaucrats considered themselves loyal servants of the reigning Emperor and a *counterpart* to political parties and trade unions (Rebentisch 1989).

After the German Empire was dissolved with the abdication of Wilhelm II on November 9, 1918, the first democracy in Germany, the *Weimar Republic*, evolved. Economic crises, in particular the hyperinflation until 1923 and the Great Depression from 1929 onwards, as well as political crises fostered political instability in the Weimar Republic. Especially in the early years, both right-wing and left-wing paramilitary forces tried to overthrow the government in a coup, the most famous one being the failed Hitler coup of 1923.

The Weimar Republic was governed by its president and coalition governments, which relied on both a majority in parliament (*Reichstag*) and the confidence of the president. Parliamentary stability was low, which caused a correspondingly high instability of governments during the Weimar Republic: from its foundation in 1918 to its end in 1933, there were twenty-one different governments. One important reason for this instability was the polarization and fragmentation of the party system. On the extreme right, the NSDAP (National Socialist German Worker's Party) and the DNVP (German Nationalist People's Party) and, on the extreme left, the Independent Social Democratic Party and the Communist Party polarized the party system and fought the republic from the inside. To form majority governments, multiparty coalitions with up to five political parties had to be established.

In this politically and economically unstable system, the bureaucracy was an anchor of stability and continuity (Middendorf 2015) as the traditional features of the German civil service were upheld: The main legal foundation for civil servants in the Weimar Republic, the *Civil Service Law* (*Reichsbeamtengesetz*), dated back to 1873 and was last amended in 1907. In the *Reichsbeamtengesetz*, life tenure (§ 2), a special loyalty to the state (§ 3), a salary based on position (§ 4),

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

diligence and adherence to rules (§§ 10, 13), and incorruptibility (§ 15) were determined as core professional standards for civil servants. Almost all civil servants of the German Empire continued to work as civil servants in the Weimar Republic (Caplan 1988; Gössel 2002). Also, the newly appointed top civil servants in the Weimar Republic were mainly recruited from the established civil service and, thus, had a long tenure in the German Empire's bureaucracy (Scholz-Paulus et al. 2020). This high level of continuity through the process of a fundamental system transformation is striking, given the traditional role of the monarchistic civil service as antagonist to political parties and the parliament in the Empire.

In awareness of the prevalence of antidemocratic attitudes in the civil service, the constitution of 1919 extended the loyalty obligation of civil servants from the *Reichsbeamtengesetz* to loyalty to the new democratic constitution. In 1922, the parliament passed the *Law on the Duties of Civil Servants to Protect the Republic*. Its main intention was to undermine any attempts from within the civil service to reintroduce a monarchy: civil servants were obliged to support the republican form of government when fulfilling their duties (§ 10a). This included prohibiting them from speaking out against the government or the republican system in public or in front of subordinates. Although there was no formal prohibition of party membership for civil servants, Article 130 of the constitution that underlined civil servants' obligation to serve the public interest and *not* single political parties was interpreted as a de facto prohibition (Gössel 2002, p. 96 *ff.*). Also, it was considered inappropriate for civil servants to run for or hold a seat in parliament (Kordt 1938, p. 176). To sympathize with political parties from the entire democratic political spectrum was, however, explicitly permitted (Mommsen 2010, p. 24).

Despite the fact that the Weberian ideal of an impartial, rule-oriented and professional civil service was deeply anchored not only in the relevant legal provisions in the Weimar Republic but also in practice, the right of ministers to intervene in personnel decisions was not fully constrained: ministers had the right to hire and dismiss so-called "political civil servants" – that is, civil servants in the two highest hierarchical ranks in national ministries that could be sent into "temporary retirement" at any time – at their discretion (§ 25, *Reichsbeamtengesetz*). At lower levels, following the Weberian

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

conception, the merit principle was the main recruitment standard for civil servants (Kordt 1938, p. 178 *f.*). In many respects, the bureaucratic system of the Weimar Republic was very close to the ideal type of a Weberian bureaucracy, which is considered a role model for liberal-democratic systems.

In the sections on "Governance Concepts," "Administrative Reform Strategies," and "Reactions of the Civil Service," we analyze the development and role of the bureaucracy in the process of liberal-democratic backsliding and the system transformation that started in 1930 after another collapse of a government coalition in the Weimar Republic. On March 28, 1930, President Paul von Hindenburg appointed Heinrich Brüning as chancellor of the first so-called presidential cabinet, a minority government composed of the three conservative parties, the Liberal party, the nationalist-right DNVP, and some splinter parties. Diverging from earlier minority governments, the presidential cabinets – the last four cabinets in the Weimar Republic (chancellors Brüning I and II, Franz von Papen, Kurt von Schleicher) – were characterized by a particularly strong position of the president (von Hindenburg), who initiated the use of the so-called emergency legislation following Article 48 of the constitution. The emergency legislation allowed the chancellor and the government to pass and implement laws without consulting parliament. This concentration of power in the hands of the executive is a typical characteristic of liberal-democratic backsliding (Bermeo 2016).

When Adolf Hitler was first appointed chancellor on January 30, 1933, he took over the government with a coalition of the NSDAP, the DNVP, and some nonpartisan politicians mainly connected to the *Stahlhelm*, a right-wing paramilitary organization of former soldiers. Just two days after Hitler came to power, he convinced his coalition partners and the president to dissolve parliament and schedule general elections in March 1933, which resulted in a majority for the NSDAP and the DNVP. In the months to come, Hitler and the NSDAP transformed the democratic Weimar Republic into an authoritarian dictatorship.

Governance Concepts

According to Bauer et al. (Introduction, this volume), illiberal politicians entering government can apply three different general governance

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

concepts to control the civil service and enforce their power: sidelining, using, and ignoring. *Sidelining* occurs when the bureaucracy is reduced to its implementation functions, whereby its role in the policy-formulation process is taken over by other, more politicized actors. *Using* is applied when illiberal politicians use the capacities of the existing bureaucracy for policy formulation and implementation in order to accumulate and keep control over the public. The third governance strategy, *ignoring*, refers to the fact that most illiberal politicians are interested in only a very limited number of topics (e.g. immigration or terrorism), which therefore receive high levels of political attention and are increasingly politically controlled by a small coterie of loyal followers. In less salient policy areas, ignoring might even empower the bureaucracy, as political control of administrative action is widely lacking. These three governance concepts are not mutually exclusive, as different governance strategies can be applied across jurisdictions and agencies. Furthermore, governance concepts can vary over time.

Our analysis reveals that in the process of liberal-democratic backsliding from 1930 to 1933, the governance strategy of *using* the bureaucracy dominated. Especially cabinets of President Brüning (1930–1932) used the capacities of the existing bureaucracy to enforce a concentration of power in the hands of the executive by means of the emergency legislation. This was possible because many civil servants welcomed and supported this shift of power, which was considered appropriate to achieve more political stability and capacity to act for the government (see "Reactions of the Civil Service") (Bracher, Sauer, and Schulz 1962, p. 485; Middendorf 2015, p. 340).

After Hitler came to power, the governance concept of *sidelining* started to play a prominent role. It was applied particularly in the first phase of the Nazi regime in order to implement its totalitarian agenda, which meant first and foremost the "cooptation" (*Gleichschaltung*) of all parts of German society. The strategy of *sidelining* was observable at both the organizational and the individual levels. At the organizational level, it was reflected in the creation of new, highly politicized organizations and units (Gotto 2006). At the individual level, the sidelining strategy was reflected both in the creation of new positions (mainly within the newly created ministries and agencies) and in a large number of politically motivated replacements within the established

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

bureaucracy, especially at the top level. The underlying rationale was mainly to ensure effective governance and to control the bureaucracy through patronage practices.

An opaque system was shaped wherein loyal top civil servants (and politicians) often held several positions at the same time: one example of this common practice is Konstantin Hierl, who was not only head of the fatigue duty (*Reichsarbeitsdienst*) but also director general for labor policy in the Ministry of the Interior and administrative state secretary in the Ministry of Labor. This combination of positions enabled Hierl to transfer key responsibilities, which had originally resided in the Ministry of the Interior and the Ministry of Labor, to the *Reichsarbeitsdienst*. The accumulation of power at the individual level was a strategic choice made to support Hitler. The emerging entanglement of state and party bureaucracy and the coexistence of competing organizations/actors with equal or similar competences (Bracher, Sauer, and Schulz 1962, p. 600) at all levels of society, and particularly within the politico-administrative system, is termed *polycracy* (Hüttenberger 1976, p. 422 *f*.). The polycratic system strengthened the position of Hitler as monocratic leader: his key position was based on the confusing coexistence of and competition between different actors, groups, and institutions and a strong reliance on personal relations and networks. An increasing access to Hitler simultaneously meant a rise in power for single actors in the system. This helped Hitler strengthen his position as an omnipotent leader (Thamer 1992, p. 340).

The polycratic system led to a decreasing influence of civil servants and an increasing influence of NSDAP leaders and SS officers over time (Hüttenberger 1976, p. 428 ff.). Thus, although *sidelining* was presumably the most obvious and prominent governance concept of the National Socialists, especially in the years after they first came to power, over time this concept was increasingly supplemented by the concept of *ignoring*. The most important reason for this was the distrust of the National Socialists toward civil servants of a Weberian type: they feared that the bureaucratic inclination toward legalism and bureaucratic control mechanisms would hinder the effective implementation of their own policy agenda (Hachtmann 2011, p. 36).

All this does, however, not mean that the established bureaucracy did not play any role in the Nazi regime. While the National Socialists came to power with a strongly antibureaucratic attitude – as early as in the 1920s, Hitler proclaimed that the civil service had to be

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

"revaluated," which meant nothing other than a purge of democrats, opponents and non-Aryans from the bureaucracy (Mommsen 1973) – they soon realized that they needed the civil servants' capacities, competences, and experience to implement their political agenda. The extent to which the governance concept of *using* the bureaucracy was applied under Hitler was dependent on the salience of the policy area in question. In ideologically highly salient policy fields such as "Jewish" policy, "racial" policy or education policy, powerful new organizations were built up, sidelining the existing ministries and agencies to a considerable extent, whereas in more technical fields, such as the postal service and transport, the old bureaucracies remained rather influential actors (Hehl 2001, p. 11).

Administrative Reform Strategies

The five dimensions of illiberal administrative reforms described in the introduction to this book (accountability, structure, resources, personnel and norms) serve as a heuristic for the analysis of the administrative reforms that were implemented under Hitler.

Accountability

On the *accountability dimension*, reducing societal participation in policymaking, diminishing parliamentary control of the government and its bureaucracy, cutting back transparency and controlling the media are typical reform measures (Bauer et al., Introduction, this volume). All of these illiberal reforms have been pursued by the National Socialists. Comprehensive measures aiming at breaking veto powers and control mechanisms were implemented immediately after Hitler came to power ("cooptation policy"). All unions, parties and other societal associations were forbidden and replaced by Nazi organizations with obligatory memberships for its target groups, such as the Hitler Youth or the German Labor Front.

After dissolving parliament at the beginning of February 1933, Hitler governed for six weeks without an organized opposition, and used this time to initiate preliminary changes toward a totalitarian regime (Thamer 1992). With the *Decree of the Reich President for the Protection of the German People* and the *Reichstag Fire Decree* in February 1933, the government de facto destroyed the Communist

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

Party and abolished fundamental rights. With the *Enabling Act* of March 1993, the separation of power between the legislative and the executive branch was abolished and legislative competence was handed over completely to the government (Article 1). The *Enabling Act* explicitly allowed the government to pass laws that violated main principles of the Constitution of 1919 (Article 2).

The "cooptation" of the federal states – that is, the elimination of major veto players in German politics – started on March 31, 1933, with the *Preliminary Law for the Cooptation of the States with the Reich*. With this law, all *Länder* parliaments were dissolved and recomposed based on the proportional result of the national election of March 5, 1933. Only one week later, on April 7, 1933, the *Second Law for the Cooptation of the States with the Reich* put the state governments under the control and supervision of *Reich* Governors (*Reichsstatthalter*), which reported directly to Hitler. The *Reichsstatthalter* had the competence to nominate and dismiss the *Länder* minister presidents and dissolve state parliaments. In a last step, all rights of the *Länder* were transferred to the central government with the *Law on the Reconstruction of the Reich* on January 30, 1934.

In the same period, all newspapers, journals, and broadcasting services were brought under the control of Joseph Goebbels and his Ministry for Propaganda, which means, in essence, the NSDAP, as most of the positions in this ministry had been filled with loyal party members (Fischer and Wittmann 2015). After the death of President von Hindenburg in August 1934 and the amalgamation of the posts of the president and the chancellor in the person of Hitler, all influential veto players were eliminated, the "cooptation" of all major societal actors (e.g. unions, the media) was completed and democratic mechanisms of accountability abolished.

Structure

On the *structural dimension*, illiberal administrative reforms typically aim at centralizing the bureaucracy and abolishing or weakening regional/state and local administrative structures in order to increase centralized (political) control of the bureaucracy (Drápalová, Chapter 6 this volume). Another typical strategy is to create parallel structures. As was pointed out earlier, both strategies were applied by the National

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

Socialists. In addition to administrative centralization by eliminating federalism, the structure of government bureaucracy was subject to comprehensive changes during the Nazi era.

Especially in politically/ideologically salient policy fields such as race policies, education, and health, new organizations were established and responsibilities were shifted from the established bureaucracy to these new organizations. In total, eleven new ministries and another eleven new state agencies, which were subordinated directly to Hitler, were created at the federal level. The new ministries and agencies were highly politicized and strongly linked with NSDAP organizations, which mirrored important sections of the state bureaucracy. The NSDAP party bureaucracy monitored the state bureaucracy and competed with it over responsibilities and power. While many civil servants in the newly created organizations, which were led by NSDAP leaders, had considerable leeway in decision-making, their counterparts in the inherited state bureaucracy were often strictly politically controlled and far less autonomous in their work (Hachtmann 2011).

The analysis of organizational charts and archive files reveals that the changes at the political level were reflected in a growing total number of directorates in ministerial departments: while there were 89 directorates in 1934, their number grew to 118 in 1939 and 153 in 1944 (own data). The growing number of ministries was, however, not the only reason for the increase in the number of directorates: in addition, new directorates within the inherited ministries were created to fulfil an ideological mission and to exercise political control. For example, in several ministries, directorates for Germanity (*Deutschtum*) with a broad spectrum of competences were established. These directorates were mostly headed by young party loyalists (own data from prosopographical analysis). In total, one third of the newly created directorates was established to sideline the established directorates. Two thirds can be attributed to the newly created ministries (own data from the analysis of organizational charts).

Summing up, the creation of parallel structures (NSDAP-dominated organizations controlling the inherited bureaucracy) – both at the macrolevel of organizations and intra-organizationally (i.e. within the inherited bureaucracy) – was characteristic of the National Socialists' approach to administrative reform.

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

Resources

Data on the redistribution of financial and personnel *resources* during the Nazi regime is widely lacking. There are, however, some indications of an extensive redistribution of resources. The growth of the number of bureaucratic organizations and organizational units under Hitler, as described in the previous section, constitutes the growing demand for financial resources for the politicized bureaucracy and the described redistribution of existing personnel and increased recruiting of new personnel. The increasing demand for financial resources is reflected in the national budget: In 1929, the budget was 20.87 billion Reichsmark and decreased, due to diminishing inland revenue during the Great Depression, to 14.54 billion Reichsmark in 1933 (Statista 2019). From 1934 onward, the budget was not published. However, figures for some single ministries are available. They indicate that the budget must have increased tremendously. In 1934, the Ministry for Aviation and the Ministry for Defence, for example, each had a budget of 1.95 billion Reichsmark and the Ministry for Labor a budget of 2.5 billion Reichsmark (Buchheim 2008, p. 402 *f.*).

Personnel

The fourth dimension comprises administrative reforms focusing on changes in the bureaucratic *personnel*: "purging" the staff and implementing a system of patronage is a typical strategy of illiberal administrative reforms. Patronage policies indeed played an important role under Hitler.

In February and March 1933, the dismissal of civil servants who were followers or sympathizers of democratic parties started (Mommsen 1973, 2010; Thamer 1992, p. 239, 251 ff.). On April 7, 1933, parliament passed the *Law for the Restoration of the Professional Civil Service* and legalized the dismissal of a large group of civil servants, namely members of democratic parties, non-Aryans, women and allegedly "unreliable" civil servants. All civil servants had to fill in forms which were designed to test their loyalty to the new government. Moreover, they needed a certificate of "good character," issued by the NSDAP (Caplan 1988; Gössel 2002; Rebentisch 1989).

This policy led to a wave of dismissals. Analyzing time in office shows the extent of replacements at the top level during this period of time:

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

while the top civil servants in 1927 held their position on average for 67.6 months, average time in office was three times shorter (20.3 months) in 1934. As the Nazi regime was stabilized, average time in office rose again (own data). This reflects that the replacement of top civil servants as a means to control the bureaucracy was particularly important in the transition period. For 81 out of 99 top civil servants in 1934, it was their first appointment into an elite position. Only 16 out of 68 top civil servants in 1927 still held a similar position in 1934. Figure 2.1 shows that 81 top civil servants in 1934 were newly appointed. In 1944, 23 of them were still in office.

Replacement of personnel also occurred at lower hierarchical levels. The extent of dismissals beyond the top level varied considerably across departments and jurisdictions. A well-investigated example for

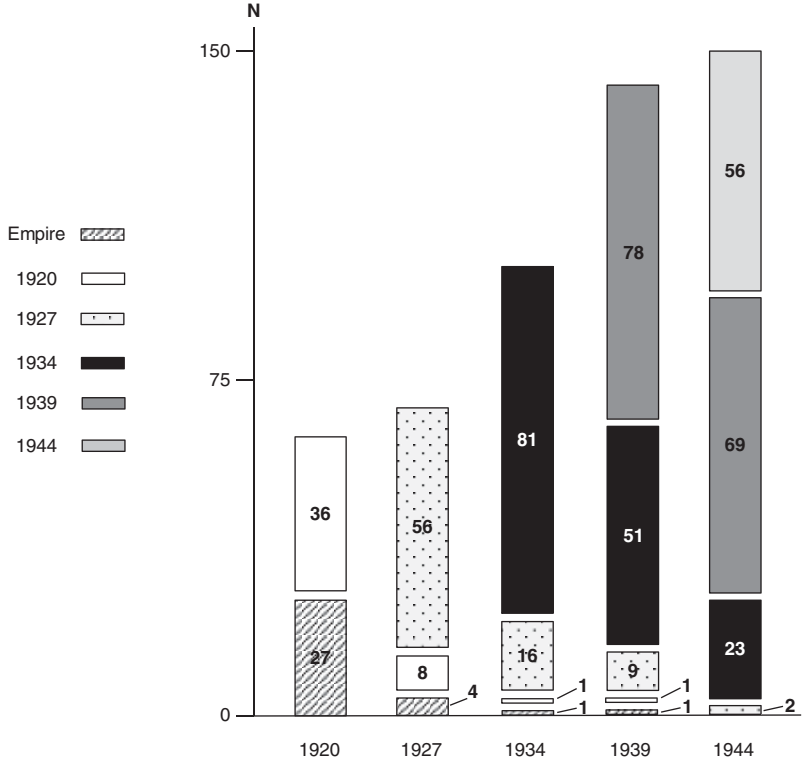

Figure 2.1 Replacements of top civil servants 1920–1944
Source: own data.

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

a jurisdiction with a rather low overall replacement rate is the financial administration of the Reich. Between January 1933 and August 1934, 1,732 out of 73,000 civil servants (2.4 percent) were replaced (Kuller 2013, p. 49 f.). Patronage policies not only referred to the "purge" of staff, but also included a policy of favoring the *old fighters* (i.e. individuals who entered the NSDAP before 1930) over other civil servants in recruitment and promotion: old fighters had easier entry exams and were promoted sooner than others (Mommsen 2010, p. 70).

Two final steps of the civil service reforms were executed in the years 1937 and 1942, starting with the *German Civil Service Law* from January 27, 1937. Originally, this law was meant to be enacted far earlier, but Hitler and the party chancellery had blocked the legislative procedure for more than two years as they interpreted the legal text as a threat to the *Führerprinzip*, which put the Führer's word above the written law. In practice, this principle was meant to protect the autonomy not only of Hitler but of all party leaders at the local, regional, and federal levels of the state, as Hitler instructed these leaders to act on his behalf in certain fields (Gössel 2002; Gotto 2006). The new law facilitated the possibility to dismiss "unreliable" civil servants and exacerbated the definition of unreliability. The smallest hint of a non-Nazi attitude – e.g. the incorrect performance of the Nazi salute – was sufficient for a dismissal (Majer 1987, p. 229). On April 26, 1942, the Reichstag, which had convened since September 1940, decided in its last meeting during the Nazi regime to abolish all remaining civil service rights until the end of the war, which led to the total implementation of the *Führerprinzip* in all parts of the public sector. Framed as an act of budget-saving, this further increased political control of the civil service (Mommsen 2010, p. 106 f.).

Norms

The fifth analytical dimension refers to administrative reforms intending to modify bureaucratic norms and values, i.e. to substitute neutrality, impartiality, and incorruptibility as the main professional standards, with strict loyalty to the new government as the most important norm. The politicization of the civil service during the Nazi regime was not only realized through dismissals, replacements, and patronage policies, as outlined earlier, but also through measures that aimed at the values and norms of civil servants and their families. Civil servants had to join

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

Table 2.2 ***Party memberships for the five points of observation***

	1920		1927		1934		1939		1944	
	N	%	N	%	N	%	N	%	N	%
No Party	57	90.5	65	95.6	37	37.4	17	12.1	9	6.0
NSDAP	0	0.0	0	0.0	48	48.5	111	79.3	135	90.0
Other Party	6	9.5	3	4.4	0	0.0	0	0.0	0	0.0
Unknown	0	0.0	0	0.0	14	14.1	12	8.6	6	4.0

Source: own data.

Nazi organizations, had to send their children to the Hitler Youth and (after the death of President von Hindenburg in August 1934) had to swear their oath of office directly on the person of Adolf Hitler instead of swearing it on the constitution (Bracher 1983). Already in 1934, 48.5 percent of all top civil servants in German ministries were members of the NSDAP. The share of NSDAP members among top civil servants increased to 79.3 per cent in 1939 and 90.0 per cent in 1944 (Table 2.2) (own data). Whereas there were no former or actual politicians in top civil service positions during the Weimar Republic, this changed considerably after Hitler came to power: in 1934, 16.2 percent of the top civil servants held a mandate in a state parliament[2] or the Reichstag parallel to their top civil service position. This share further increased to 17.9 percent in 1939 and 20.7 percent in 1944 (own data).

Summing up the administrative reforms, we can state that the National Socialists used all policy options presented earlier, although administrative reform policy under Hitler was pursued with varying intensity over time. In spring 1933, the main focus was on the purge and exchange of civil servants. Later, the National Socialists tried to change the norms and values of the civil service into a value-system characterized by loyalty and obedience, which resulted in the new oath of office on the person of Adolf Hitler in August 1934. Simultaneously, the National Socialists restructured the civil service and redistributed budget, personnel, and competences between state and party organizations. The main reforms came to an end in summer 1934. With the German Civil Service Law of 1937 and the decision of the Reichstag in 1942, the formal conversion of the civil service ended.

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

Reactions of the Civil Service

Civil servants are basically given three different options (Brehm and Gates 2002): the first option is to *work loyally* for the new leaders just as they would after a "regular" change in government. The second option is *shirking*. Civil servants pretend to be to be loyal but try to circumvent direct orders of their superiors. The third option is to *sabotage* the new government by acting deliberately. These three ideal-typical reactions correspond to different degrees of loyalty/opposition to the new government.

The attitudes in the civil service changed during the process of democratic backsliding: while the majority of civil servants were loyal to the democratic governments at first, many of them eventually welcomed Hitler's rise to power in 1933. During the Nazi regime, there was no structural resistance in the civil service – that is, most civil servants worked loyally for the Hitler regime. Resistance from within the civil service – shirking or even sabotage – was constrained to single groups of civil servants, such as a few railway officials who refused to transport people to the concentration camps (Gottwaldt and Bartelsheim 2009). The (non-)reactions of the civil service during the process of democratic backsliding and system transformation can be explained by first, the historical roots of the civil service in the German Empire and its development during the Weimar Republic; second, their antidemocratic attitude; and third, the active monitoring of the civil service through the party bureaucracy.

As described earlier, the transformation from the German Empire to the Weimar Republic left the civil service mostly unchanged. Aversion to democracy was widespread in the civil service (Föllmer 2001; Gössel 2002) and was strengthened by economic crises and political instability. When the phase of liberal-democratic backsliding started in 1930 with the use of the emergency legislation, many civil servants welcomed this step as it promised stability and strengthened their influence on the development of new laws (Middendorf 2015, p. 340; Mommsen 1973, p. 151 *f.*; Rebentisch 1989, p. 128; Sontheimer 1999, p. 70). Between 1930 and 1932, the attitude of civil servants toward the two minority governments of Chancellor Brüning changed. In the 1920s and early 1930s, wage cuts and dismissals in the civil service led to frustration with the government (Föllmer 2001, p. 63; Mommsen 1973, p. 154 ff.). In the early 1930s, many civil servants therefore set their hopes on the

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

National Socialists, because they promised to "recover and revaluate" the civil service. In reality, the National Socialists had the opposite in mind, but the claim of revaluation was essential to convince the civil servants (Föllmer 2001, p. 66–67; Mommsen 1973, p. 165). Many civil servants became politicized in this period and protested openly against Brüning's policies. They started to shirk and even to sabotage the democratic government: despite the nonexistence of a right to strike, many civil servants participated in strikes, and some even refused the implementation of the civil service laws which were designed to enforce further wage cuts in the civil service (Mommsen 1973). In this situation, both politicians and civil servants urged the president to dismiss the chancellor (Föllmer 2001, p. 66 f.). Ultimately, Chancellor Brüning had to resign from office in Mai 1932.

When Hitler came to power in January 1933, many civil servants accepted and even welcomed this development and its consequences (Gössel 2002). Most civil servants were willing to work with the new government. According to the literature, this was due to three main reasons: first, many of the bureaucrats welcomed the new system because it suited their antidemocratic attitude. Second, with the principle of loyalty to the state per se and not to democratic principles or democratic parties, civil servants saw their duty in loyally serving the new leader of the state. Third, many civil servants accepted the policies and civil service reforms of the new government to save their own position in the system and to secure their economic status (Mommsen 2010, p. 67; Rebentisch 1989, p. 143). A distinct example of this "Nazification process" is the case of the Ministry of Economy. In spring 1933, the new minister Alfred Hugenberg assigned the director general of the personnel directorate, Fritz Freiherr von Massenbach, the task of purging the ministry's staff and the staff of the subordinated agencies. Massenbach, who had a background as a career civil servant in the ministry and had no affiliation with the National Socialist movement, not only fulfilled this task willingly but also used his new power to settle old scores with other civil servants of the ministry (Abelshauser, Fisch, and Hoffmann 2016).

Later in 1933, the inherited civil servants showed early signs of disappointment. The expected "revaluation" of the civil service had not happened. Rather, party officials strengthened the claim that the civil service still had to prove its worth (Mommsen 2010, p. 67). To control the state bureaucracy, the party bureaucracy implemented

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

a monitoring system at every level of the state. Civil servants who did not comply with the National Socialist ideology were reported to the party chancellery by colleagues (mostly old fighters) who acted as snitches. Those nonconformists lost their job or even went to prison. Combined with the Weberian tradition of neutrality and submission to the reigning government, this led to a high level of conformity.

However, many civil servants were unsatisfied with the violations of the merit principle in recruitment and promotion as a consequence of patronage policies. With the enactment of the *German Civil Service Law* in 1937, therefore, an increasing amount of shirking became visible. In particular, § 71 of the *German Civil Service Law* was met with strong reservations. It stated that civil servants who acted against the National Socialist ideology were to be removed from the civil service. In many cases, civil servants who were accused by the NSDAP according to § 71 were protected by colleagues who, for instance, delayed the transfer of files and thus prolongated lawsuits (Mommsen 2010, p. 104 *f*., 106). This strategy of shirking was quite successful until the decision of the Reichstag on April 26, 1942, to abolish all remaining civil service rights (see section on "Norms").

Procedual shirking was first and foremost observable when the National Socialists tried to cut the rights and privileges of the civil servants (Mommsen 2010), whereas shirking with regard to policy implementation in other areas was restricted to scattered groups of civil servants and single cases (Guedes-Neto and Peters, Chapter 10 this volume). An example can be found in the Ministry of Foreign Affairs (*Auswärtiges Amt*), where a group of civil servants tried to oppose the policies of the political leadership. The group that formed around Ernst von Weizsäcker, Erich Kordt, and Eduard Brücklmeier attempted to prevent the attack on Poland and the subsequent war. The members of this group contacted foreign diplomats and warned them of the National Socialist intentions. By the end of 1939, the Minister of Foreign Affairs, Joachim von Ribbentropp, shattered this resistance by retiring or transferring the resisters into subordinate agencies (Conze et al. 2010). In other ministries, comparable isolated cases can be found.

Despite this fact, the civil service was far away from being the "rebelling institution" which some civil servants tried to present after 1945 (see, e.g., the testimonies of accused civil servants in the

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

Ministries Trial of 1947). Several independent boards of inquiry installed by federal ministries between 1998 and 2016 conclude that there is no evidence that a large number of civil servants sabotaged the regime or protested openly against the policies of the National Socialists (Abelshauser, Fisch, and Hoffmann 2016; Conze et al. 2010; Görtemaker and Safferling 2014; Nützenadel 2017). Rather, the civil service has been one core element in stabilizing the Nazi regime (Mommsen 2010, p. 121).

The prosopographical analysis of top civil servants supports this. In order to investigate the extent to which the top civil servants supported or refused the two political systems (the Weimar Republic and the Nazi regime), we distinguish formal and material affinity to or distance from each system (see section on "Data and Methods"). The *formal system reference index* (Figure 2.2) reveals that top civil servants in the Weimar Republic had no formal affiliation with organizations that supported or opposed the Weimar Republic, which reflects the Weberian tradition of party-political neutrality. After the transition to the Nazi regime, formal affiliation to Nazi organizations increased and formal affinity to the Weimar Republic decreased (i.e. top civil servants in the Nazi regime had often been members of organizations which opposed the Weimar Republic in the 1920s, such as the SA, the SS, or other right-wing paramilitary organizations).

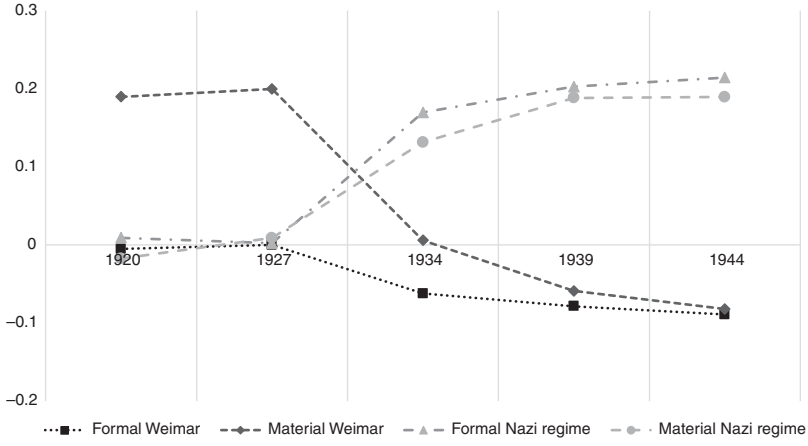

Figure 2.2 Formal and material system reference indices
Source: own data.

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

Analyzing the *material system reference index* (Figure 2.2), it becomes apparent that the top civil servants in the Weimar Republic had a positive attitude toward the Weimar Republic. For the top civil servants of 1934 a different picture emerges, as many of them openly sympathized with the Nazi regime. Between 1934 and 1939, the index for the Weimar Republic veers toward negative values, which reflects the hostile stance toward the democratic system. In 1939, the index for the support of the Nazi regime is at its peak level and remains stable until 1944, whereas the Weimar index slightly decreases.

Summing up this section, three findings should be highlighted. First, the top civil servants in the Weimar Republic did not uphold democratic values in the long term but, rather, identified themselves with the monarchy and, thus, supported tendencies of democratic backsliding. The democratic integration of the monarchic civil servants failed. Second, over time distrust toward democratic values and institutions (in particular, parliamentary decision-making) increased, which led to the welcoming of Chancellor Brüning in 1930, who started the erosion of liberal democracy and thus laid the foundation for the transformation process that followed. Civil servants were eager for a rollback to a system in which an autocratic leader makes decisions without a lengthy parliamentary process, which explains why they worked with the presidential cabinets of the early 1930s and finally with Hitler as autocratic leader. Third, in the Nazi regime, shirking or even sabotage was restricted to single cases.

Discussion and Conclusion

The transition from the Weimar Republic to the Nazi regime was a process of democratic backsliding. The bureaucracy played a significant role in this process by supporting the erosion of liberal-democratic practices and institutions in the early 1930s before the National Socialists came to power. In order to draw lessons for contemporary processes of liberal-democratic backsliding, it is instructive to shed light on the reasons for this development, and in particular on the history of public administration in Germany.

Even though a professional and meritocratic civil service is often associated with good government in liberal democracies (e.g. Boräng et al. 2018; Dahlström, Lapuente, and Teorell 2012; Nistotskaya and Cingolani 2016), our case study underlines that a highly developed

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

Weberian style per se does not determine administrative resilience in processes of liberal-democratic backsliding and in system transformations to authoritarian regimes. The literature on the politicization of bureaucracy shows that in liberal democracies, political responsiveness of the bureaucracy, on the one hand, and the adherence to professional standards and democratic institutions, on the other, have to be balanced (Ebinger, Veit, and Fromm 2019; Shaw and Eichbaum 2018; Veit, Fromm, and Ebinger 2018). In the Weimar Republic, this delicate balance was violated as the institutionalization of democratic values as professional standards of administrative action (next to technical competence and compliance with the law) was not accomplished. The attitudes of civil servants in the late Weimar Republic (see section on "Reactions of the Civil Service") underline this lacking institutionalization of democratic values.

The "incomplete democratization" of bureaucracy in the Weimar Republic can be interpreted as a result of inappropriate governance concepts and strategies of administrative reform in the process of system transformation *toward* democracy (from the German Empire to the Weimar Republic). What was missing in the Weimar Republic was a systematic anchoring of democratic values in the civil service. The attempt to regulate civil servants' values through the law did not lead to substantial changes in the civil servants' political attitudes and value systems, although the civil servants formally complied with the legal regulations. This confirms what we know from new institutionalism theory: in order to institutionalize regulations (i.e. to deeply anchor formal rules in the civil service in order to achieve compliance with the rules without the threat of sanctions), additional efforts and measures are necessary. In the case of the Weimar Republic, it would have been helpful to (1) replace more personnel in the civil service in order to weaken the power and the "esprit de corps" of the group of "monarchist" civil servants, (2) deliberately fill leadership positions in the civil service with competent civil servants with a high ideological affinity to the democratic system and (3) systematically offer political education and training for civil servants in order to "democratize" the civil service.

With regard to the transition process *from* democracy toward the Nazi regime, our case study reveals that the National Socialists applied not one single governance concept and reform strategy, but a mixture

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

of governance concepts and reform strategies with variation over time and across jurisdictions. On the one hand, the bureaucracy under Hitler was highly politicized, fragmented and characterized by unclear hierarchies and overlapping responsibilities of agencies and office-holders (Bracher, Sauer, and Schulz 1962; Gössel 2002); on the other hand, the Weberian tradition was strong, and in many areas the bureaucracy operated smoothly and efficiently (Reichardt and Seibel 2011). These contradictory characteristics reflect the basic features of a *polycracy*. From a Weberian perspective, a polycratic system seems chaotic; from an authoritarian leader's point of view, it is productive and offers manifold opportunities for political control, efficient decision-making and action through personalization, informalization, intransparency and network-building (on the latter see Reichardt and Seibel 2011, p. 12). Such a complex, polycratic system strengthens the position of a monocratic political leader and hampers external control and opposition.

This study reveals that the (by and large) nonresistance of the civil service to the illiberal/authoritarian turn in the German case cannot be fully explained in terms of active administrative reform policies undertaken by the Nazi regime. The "incomplete democratization" within the German bureaucracy during the Weimar Republic which implicated the persistence of antidemocratic attitudes and reactionary convictions in the civil service provided a fertile ground not only for the successful implementation of these reforms but also for the process of liberal-democratic backsliding that culminated in the fascist takeover.

The lesson to be drawn is that preventing liberal-democratic backsliding within the civil service with a regulative design only works if it is combined with a concept of democratic integration. Therefore, democratic values have to be anchored within the professional civil service in order to reinforce its stabilizing function in democratic systems. Democratic politicization of bureaucracy is one approach to strengthen administrative resilience – that is, the democratic quality of bureaucracy. Thus, an important lesson for modern liberal democracies that can be learned from this case study is that the Weberian approach only works in a system where officials are committed to the public interest as well as to liberal-democratic principles and values. Without these standards, liberal-democratic backsliding is hard to prevent.

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

Appendix

Variables used for the formal systems reference index and the material systems reference index. Each variable is marked in bold letters.

Variables	*Description*
Formal Affinity to the Weimar Republic (2 Variables)	*Has the individual been a member of a **democratic paramilitary organization** or the **Jungdeutsche Orden**?*
Material Affinity to the Weimar Republic (4 Variables)	*Did the individual actively support the Weimarian system through **speeches**, **supportive actions**, or **violent acts**?*
	*Did the individual **profit economically** from the Weimarian system?*
Formal Distance to the Weimar Republic (3 Variables)	*Has the individual been a member of **a right-wing** or **left-wing paramilitary organization** or of **organized resistance**?*
Material Distance to the Weimar Republic (8 Variables)	*Did the individual actively oppose the Weimarian system through **speeches**, **opposing actions** or **violent acts**?*
	*How many **months** has the individual been **in prison** in the Weimar Republic?*
	*Did the individual go into **exile**?*
	*Has the individual been a **victim of violence** or **economic sanctions**?*
	*Has the individual been a **victim of systematic prosecution**?*
Formal Affinity to the "Nazi Regime" (46 Variables)	*Which societal **NS organizations**, **NSDAP party organizations**, and **mirror organizations** of the party has the individual been member of?*
	*What was his/her **highest rank in a military** (Wehrmacht) or **paramilitary organization** (e.g. Sturmabteilung SA, Schutzstaffel SS)?*
Material Affinity to the "Nazi Regime" (4 Variables)	*Did the individual actively support the NS system through **speeches**, **supportive actions** or **violent acts**?*
	*Did the individual **profit economically** from the NS system?*

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press

(***cont.***)

Formal Distance to the "Nazi Regime"? (1 Variable)	*Has the individual been a member of* ***organized resistance****?*
Material Distance to the "Nazi Regime"? (8 Variables)	*Did the individual actively oppose the NS system through* ***speeches, opposing actions*** *or* ***violent acts****?* *How many* ***months*** *has the individual been* ***in prison*** *in the NS?* *Did the individual go into* ***exile****?* *Has the individual been a* ***victim of violence*** *or* ***economic sanctions****?* *Has the individual been a* ***victim of systematic prosecution****?*

Notes

1. Data was collected in the research project "New Elites – Established Personnel? (Dis-)Continuities of German Ministries in System Transformations" (2017–2021). We thank the Federal Commissioner for Culture and Media for the generous funding of this research project. In the project, a wide range of data on socio-demographics, education, career paths and political affiliations of both top civil servants and politicians in the twentieth century was collected. For the purpose of this case study, only some selected variables and a selected group of individuals from this larger dataset were analyzed.
2. During the Nazi regime, the state parliaments and state governments still existed but had no legislative powers.

https://doi.org/10.1017/9781009023504.003 Published online by Cambridge University Press