

3 Reinterpreting History to Recreate the State The Transformation of the Polish, Russian and Ukrainian State Bureaucracies in the 1990s and Today

In comparison with Russia and Ukraine, Poland's moderately successful tax bureaucracies are due in great part to a partial level of bureaucratic rationalism, in the Weberian sense, that existed within its bureaucratic administration structures. This chapter will show the impact of the historical development of the bureaucracy in the three states and delineate the recent history of their administrative reforms. The use of Poland's, Russia's and Ukraine's historical legacies will be analysed, emphasizing in particular that the inter-war period served as a pre-existing historical template for Poland's later public institutions, whereas the historical template for Russia's current leadership appears to be the tight hierarchy of the Soviet Union's military and law enforcement organizations. Meanwhile, Ukraine's lack of vision at the top with respect to the nature and mission of the transition, economic reform model, constitutional structure and state–society relationship led to a choice by default of a continued large and directionless bureaucratic welfare state held over, with little reform, from the Soviet era. Hence, deciding which historical reference points to employ for the new post-communist regimes matters greatly for their bureaucracies today, of which, of course, the countries' tax administrations compose a large part.

The main focus of this chapter, therefore, is not simply on analyzing history, *per se*, but on introducing the notion of 'model transference', that is, how post-communist states choose which state capacity legacies from the past to apply in the present to demonstrate to contemporary citizens that their state is effective once again. For this reason, I employ a mix of historical sources and post-communist media articles for showing how past administrative legacies are employed by leaders and agencies after 1989/1991. The origins and initial staffing of the post-communist tax administrations are more fully developed and compared with the historical bureaucratic traditions in Chapter 5.

For Poland, since 1989, the choice has been full-fledged democratization and the creation of a true civil society. To bolster that choice, references to the inter-war Polish Second Republic, some of which

actually began to appear in the 1980s, have been utilized in recreating state structures and state–society relations. Undoubtedly, the option of joining Europe has provided some incentive. However, Europe became the choice not primarily due to an intense love of neighbours to the West or fundamentally due to a desire to join an elite economic club; rather, the legacy of foreign domination and an authoritarian government led Poland to want democracy and to seek out support for building democratic structures. The choice of Europe was not a difficult one for Poland to make, of course, but it was still a choice.

Moreover, Poland, the largest post-communist country in Central Europe, has sought a more independent role within the European Union since it joined in May 2004 – a role strengthened by large segments of its society that are more conservative, religious and inward-looking at times, but also more oriented towards including the East and tightening up ties across the EU's eastern borders. While Poland today enjoys close economic and political ties with Germany and is well respected within the European Union, a decade ago, when the Law and Justice party was first at the helm, Poland was a bit more inward-looking. Prior to his election as president in the fall of 2005, Lech Kaczyński, then mayor of Warsaw, for example, referred to the former German leader as 'Chancellor Kohl' and declined nearly all opportunities to visit other European states.¹ He also spoke no foreign languages and was known to be suspicious of Germany, Russia and the European Union.² In addition, public opinion polls in late 2005 conducted by the CBOS Public Opinion Centre saw 40 per cent of respondents agree with the statement 'a strong man in power can be better than democratic governments'.³ Hence, with such currents within Polish society, a choice for democratization and Europe was not a given. (And, of course, the return of the Law and Justice party to power in late 2015 has led many in Poland to question the depth of their country's commitment to democracy going forward.) In any case, as we shall see, after 1989, Polish society's and leaders' choice for democracy was aided by the use of historical references that positively impacted the bureaucracy and civil society's oversight of the state, even when more comprehensive civil service reform became lost amidst intense political party competition and debate. Nevertheless, by 2004, nearly half of the civil service corps in Poland was composed of fiscal administration personnel.⁴

For Russia as well, the choice of how to view the past and what aspects of the past to utilize in re-building the post-Soviet state lay in the hands of both the political leadership and society, even while political

¹ *Economist*, 1 October 2005. ² Ash, p. 24.

³ *Ibid.* ⁴ Ministry of Finance, 2004, p. 48.

parties failed to develop successfully, as both Presidents Boris Yeltsin and Vladimir Putin have failed to advance the cause of comprehensive civil service reform, which would cover the tax administration as well. Yeltsin, of course, had a choice in the early 1990s. And he made some radical, unpopular choices, especially with respect to economic reform and shock therapy – decisions made after he and his top advisors took the advice of leading Western and, particularly, American economists. Whether or not to reform the structure of the state and create a civil service was another choice Yeltsin made, de facto, if not outright.

Ukraine and its leaders in the 1990s and early 2000s, in contrast, did not make a specific, concrete choice with respect to which historical legacy to use, especially as, in many respects, given the varied nature of the state's formation, it did not really have a historical reference point on which to model its state other than the late Soviet period. By not voicing a choice, Ukraine fostered entrenched political fighting between its *Verkhovna Rada*, president and oligarchs and declared by default a preference for continuing with a Soviet-inspired bureaucratic and patrimonial welfare state with endemic corruption at all levels.

Selected by a society and its leaders, legacies impact how a state is transformed, how it is organized and what types of work philosophy (*esprit de corps*) will exist within its structures. The question is not how long legacies from the past last, per se, but which legacies are chosen and when. Nor do legacies matter exclusively because countries have good or bad ones. Rather, what matters most is which legacies leaders and societies choose in constructing the basis of state–society relations.

With respect to Russia, communism is dead, but Soviet-like hierarchical government is on the rise. The popularity of the communists has diminished, but the desire to return to the Soviet era is strong within both society and its leadership. In 1996, within a matter of a couple of months, President Yeltsin saw his popularity go from the single digits to being high enough to carry him into a second term with a landslide defeat of the Communist Party candidate Gennady Zyuganov, largely out of widespread fear of returning to the communist past. On the eve of the vote, Russian state television, the most popular channel, re-broadcast the popular Oscar-award-winning film 'Burnt By the Sun', one of the first films to depict the horrors of the Stalin purges in the 1930s. A few years later, in the early 2000s, with Vladimir Putin in the Kremlin, Moscow's booming and expensive restaurant scene saw an increase in the number of popular Soviet-themed restaurants, which re-kindled warm nostalgia for the country that no longer was. Such imagery was repeated in the propaganda surrounding the 2014 annexation of Crimea.

Memories and legacies do, of course, change, but they do so as a reflection of leaders' and societies' perceptions of the present. For Russia, the Soviet era meant one thing for Yeltsin and Russian society in the early to mid-1990s, but after the turmoil of the Yeltsin era – a decade that saw a great distortion of wealth amidst an impoverishment that greatly dwarfed that of America's Great Depression, a brewing conflict in Chechnya and the loss of empire and geopolitical status, among other things – Putin and the Putin-era society began to view the Soviet era differently.

Poland's Pre-1989 Administrative Legacies

On the eve of the transition in 1989, Poland's administrative institutions carried the dual legacies of a more distant 'Weberian' bureaucratic past from the Second Republic (1918–1939) and a more recent clientelist, strictly hierarchical and patrimonial bureaucratic past from the Polish People's Republic (1946–1989). Some aspects of the Polish inter-war Weberian bureaucracy were preserved throughout the post-World War II era, or at least began to reappear in the last decade of communism, while other aspects of the past were seized upon by Polish society and its leaders at the start of the transition.

The origins of state-building in Poland did not occur under favourable conditions and were accompanied by a society that stood in opposition to the state. Even as the modern state, with a new professional bureaucracy and modern tax organs, began to be built in nineteenth-century Poland – partitioned by Austria, Prussia and Russia throughout the century – a legacy of unhealthy state–society relations, not entirely unlike those in Russia, was formed. In particular, the state bureaucracy in the part of Poland controlled by Russia was the most corrupt.⁵ 'In the period of rising national sentiment during the nineteenth century, the Poles were thus socialized in three different state traditions', writes Jacek Kochanowicz. 'The Polish elite increasingly perceived the state as a foreign and alien power, because both Russia and Prussia engaged, in the second half of the nineteenth century, in intensive policies of Russification and Germanisation of the Polish population . . . [T]he Poles under Russian rule developed anti-state ideologies as anti-state conspiracies.'⁶ While the state, of course, was synonymous with foreign power, the challenge presented by any state following the partition of Poland lay not just in unifying the Polish people, but also in making the right choices

⁵ Kochanowicz, 2004, p. 77. ⁶ Ibid.

regarding which bureaucratic aspects to retain from the nineteenth century so that an unhealthy state–society legacy could be overcome.

After 120 years of partitions by three neighbouring states, the Polish government in 1918 based its state administration on the French model. However, the new administration was constructed by those who lived in the former Austrian partition, because only in Austria were Poles given the opportunity to advance in the state service.⁷ '[T]he Galician and Austro-Hungarian sector of Poland in the South and the Polish interwar government of 1918–1939 featured a highly rationalized public bureaucracy and legal code', Jarosław Piekalkiewicz and Christopher Hamilton have commented on the period. '[T]he interwar years introduced in Poland some earlier and important changes in law, social legislation, education, bureaucracy, and economic development, which survived not only the Second World War but also extended through the period of Communist-party rule up to the present day.'⁸ Moreover, in a prelude to the communist era, the government's organization was characterized by centralization and 'a hierarchical subordination of the lower echelons', with civil servants responsible only to their superiors.⁹

Legislatively, much was done in the interwar period to provide a rational, Weberian bureaucracy. In 1922, Poland adopted one of the first acts in Europe that established a civil service, which was liquidated in 1939.¹⁰ That act codified the rights and obligations of bureaucrats as well as special privileges to attract highly qualified personnel such as holidays and pensions.¹¹ Moreover, a resolution of the Cabinet of Ministers in September 1928 brought the appointment of a Commission for the Improvement of the Public Administration.¹² Such legislation and directives helped establish a rational, Weberian bureaucracy in the interwar period, as was described in 1992 by Zdzisław Chmielewski:

[I]t appears that on the verge of the thirties there came into existence in Poland... the possibility of the processing of programs on the rationalization of administrative work. From a Weberian, theoretical model of the bureaucracy, both the principle of organizational construction, and also the principle of employment and labour of people in the bureaucratic institution gradually found application. A functional continuity provided by the behaviour of impersonal forms of orderliness among other things was successfully guaranteed to the direction of Polish administrative offices. The exact separation of the organizational and authoritative positions of work was pursued. The cooperation between the supervisor and the subordinate took place according to a delineated

⁷ Kamiński, 22 March 1999; and Hamilton and Roszkowski, pp. 136–137.

⁸ Hamilton and Roszkowski, pp. 138 and 139. ⁹ Rudzinski, p. 2.

¹⁰ Office of Civil Service, 2000, p. 4. ¹¹ Chmielewski, p. 128. ¹² *Ibid.*, p. 130.

agreement from above, which specified unambiguous salary caps and the criteria for professional promotion, as well as heralded systematic meritocratic control.

The public administration, having strong support from the side of central political factors, became all the more an efficient and active executor of the will of the state. The instructional role with respect to the citizen, however, in a way fell to the bureaucratic organization. [The bureaucracy] was convinced that only by the adaptation to the institutionalized and normalized forms of behaviour would it be possible to bring mutual advantages: to make it easier for the citizen to have contact with the bureaucratic office as well as [to make it easier] for the office to carry out adroitly their tasks. The bureaucracy tried to remain a positive, constructive instrument of informing public affairs in Poland.¹³

Undoubtedly, such efforts at rationalizing the bureaucracy in the inter-war period provided post-communist Poland with a pre-existing template, a historical foundation for re-creating state structures in the 1990s. For example, the establishment of a Supreme Administrative Tribunal (*Najwyższy Trybunał Administracyjny*) in 1932 is mirrored by the 1990s' Chief Administrative Court (*Naczelny Sąd Administracyjny*, or NSA.) The Supreme Administrative Tribunal, following the Austrian example, was an independent court, to which citizen appeals regarding the infringement of legal rights by an administrative decision could be made.¹⁴

After the war, however, the communist era broke with these traditions to some extent, beginning with the dissolution of the civil service in 1946. While not ineffective or unprofessional, the bureaucracy under communism in Poland was politicized, with the state largely subordinate to the party. This politicized structure incapacitated bureaucrats from making decisions independently. 'The Communist Party-state was bureaucratic in nature, but this kind of bureaucracy was very remote from the Weberian model', states Kochanowicz. 'Its apparatus was not the subject of clear rules, but rather the rules were constantly redefined according to political expediency. In recruiting its staff, the party-state paid more attention to political loyalty than to professional abilities.'¹⁵

Despite this, the situation in Poland was not as bad as elsewhere in Eastern Europe, allowing greater autonomy of the state administration from the party and the promotion of a number of non-party specialists to posts of responsibility.¹⁶ The formation of a Weberian-style bureaucracy prior to World War II had to have an impact to some extent on the mentality and organizational culture within the post-war administration.

¹³ Ibid., p. 131. Translation from the Polish by the author.

¹⁴ Rudzinski, p. 22.

¹⁵ Kochanowicz, 2004, p. 78. ¹⁶ Wiatr, pp. 154–155.

Indeed, as Claudia Torres-Bartyzel and Grazyna Kacprowicz remark, 'Until 1989 the dominating perception of the public service in general was based on classical Weberian principles.'¹⁷

Within the communist system, the functional equivalent of civil servants was developed. '[Bureaucrats] were specialists with higher education and years of professional experience, often very well prepared for their jobs and motivated in a way not very different from that of their colleagues in Western democracies', writes Jerzy Wiatr. 'Within the constraints of the system, they tried their best to make the machinery of the government work.'¹⁸ Studies on the prestige of different professions in Poland undertaken since the 1970s also confirm the high status given to mid-level bureaucrats.¹⁹

Moreover, Poland differs from the other post-communist countries in that it was the only state with a defined civil service system under the previous regime.²⁰ The State Officials Act of 16 September 1982, provided some stabilization regarding the status of bureaucrats by defining the basic regulations for bureaucrats' work and responsibilities and granting tenure to some.²¹ While not allowing the development of a fully neutral civil service, the 1982 legislation, designed for a centrally planned socio-economic system, was an antecedent of the attempts at creating a true civil service in the post-communist period and is still in force in the 1990s, coexisting with more recent civil service legislation.²² Further, many bureaucrats who were hired and trained under the State Officials Act remained in the same jobs at the start of the democratic transition. Hence, in the communist period, a certain level of bureaucratic development was achieved that was sustainable in the post-communist era.

In addition to the civil service reforms, other important administrative changes were made in the communist era that were beneficial to the start of the post-communist transition. 'Although the constitutional bases for reforms were firmly established in the early phases of the transition', Barbara Nunberg has observed with respect to Poland, 'reforms in the machinery of government were modest and, for the most part, built on institutional changes already introduced before the fall of the communist regime.'²³ Within the last decade of the socialist regime, a number of institutional structures were either amended or introduced in order 'to increase government accountability without dismantling the one-party state'.²⁴ Given that the 1980s began in Poland with the arrival

¹⁷ Torres-Bartyzel and Kacprowicz, p. 168. ¹⁸ Wiatr, p. 154.

¹⁹ Torres-Bartyzel and Kacprowicz, p. 172. ²⁰ *Ibid.*, p. 159.

²¹ Office of Civil Service, 2000, p. 5. ²² Torres-Bartyzel and Kacprowicz, p. 176.

²³ Nunberg, p. 47. ²⁴ Rose-Ackerman, 2004b, p. 13.

of the Solidarity movement and the establishment of martial law, as society stood ready to oppose the state, no doubt the efforts to amend or re-introduce new governing institutions were undertaken as a reaction to the public.

In 1987, for example, the office of ombudsman was established. At the same time, while audits of public finances in Poland date back to the Constitution of 1791, the Supreme Audit Chamber (*Najwyższa Izba Kontroli*, or NIK) had been established first in 1918 as a separate institution charged with the task of auditing implementation of the budget and the finances of the government and its administration. Re-established in 1949, it was dissolved in 1952 and brought back to be accountable directly to the government in 1957. Then, in 1980, NIK, which monitors the government's activity, was subordinated instead to the parliament, the Sejm, for greater independence. In 1994, a new statute strengthened and revived NIK's organization and tasks.²⁵

Further, whereas interwar Poland had in force the Decree on Administrative Procedure of the President of the Republic, introduced in 1928, the communist regime only adopted an administrative code in 1960, which did not provide for separate administrative courts. In 1980, however, that code was amended to introduce Poland's first administrative court since World War II, the previously mentioned NSA.²⁶ It provided an avenue for citizens to have their conflicts with the public administration resolved. In 1995, a new act further codified the organization's structure, scope of jurisdiction and procedures.²⁷ In addition, a Constitutional Tribunal was created in 1989.²⁸ In pursuit of legitimacy before their society, the Polish communists in the last decade tapped into the legacies of Poland's previous experiences with democracy.

Thus, as in Mikhail Gorbachev's Russia, the leadership in 1980s Poland actually made several decisions that impacted how the state would relate to the society in their current decade and in the one following. Much more was happening in the 1980s in both countries than just a prelude to a revolution and the demise of communism. As we shall see next, despite all of the changes in the government coalitions and the lack of constructive administrative reform in the first half of the 1990s, a capable bureaucracy existed in Poland in part due to structures created and amended in the 1980s, with the aid of the inter-war legacy, and in part to the decisions after 1989 to retain those structures and build upon them, also with the aid of the same legacy.

²⁵ Galligan and Smilov, pp. 221–222. ²⁶ *Ibid.*, p. 212.

²⁷ *Ibid.*, pp. 214–215. ²⁸ Rose-Ackerman, 2004b, p. 13.

Poland's Post-communist Administrative History

Polish communist-era dissident Adam Michnik, who founded the immensely successful *Gazeta Wyborcza* daily newspaper in the early 1990s and remains its editor-in-chief, argues that there were two processes of state-building after 1989. First, Poland sought to figure out how to adjust the state institutions that existed to democracy, to a state of law. And, second, Poland looked out to the legal institutions in Europe because what was practiced in Europe mattered. Once the change came – a big surprise to all Poles – the desire to get out of the Warsaw Pact and into the EU and NATO was very clear. Joining the European Union was ‘not a love marriage, but a marriage of convenience’.²⁹

The long legacy of foreign domination obviously impacted the choice for Polish society. In addition, the legacies from the more distant past, already utilized to some extent in the last decade of the Polish People's Republic, were called upon to help build these new democratic institutions. Yet the process of creating a civil service in the post-communist period was not as swift as that at the beginning of the Second Republic, when the need for a new public administration was broadly recognized. The highly fragmented and ideologically fluid party system of the early 1990s did not allow consensus on administrative reforms.³⁰

Immediately after 1989, the transformation of the Polish economy and the Balcerowicz plan began without any changes in the Polish public sector, which was based on a uniform, centralized budget system.³¹ At the beginning of the transition, if there was a recognized choice between hiring new bureaucrats and keeping the old laws, on one hand, and passing new laws to be implemented by old bureaucrats, on the other, Polish politicians chose the latter.

Despite Poland's advances in significant economic policy areas in the early 1990s, initial reforms such as public administration training and local government administration changes in 1989 and 1990 were not followed up with comprehensive reforms of the bureaucracies. State administrations, the Ministry of Finance and its tax organs included, were held over from the communist era and were required to implement the extensive economic programs that were part of the transition to the new economy. The whole process of ‘[d]eparting from the principle of centralized administration, complemented with the adoption of a multi-party system and the development of the local and professional

²⁹ Conversation with Adam Michnik during Professor Jan Gross' graduate seminar, ‘History 563 – 20th Century European History: Totalitarian Regimes’, Princeton University, Princeton, NJ, 15 March 2006.

³⁰ Nunberg and Barbone, p. 8. ³¹ Malinowska et al., p. 34.

self-governmental structures', states the Office of the Civil Service, 'put employees of the Polish public administration in a new situation, marked by contradictions and conflicts, which in most cases they were unprepared to handle'.³² In other words, with the exception of the entry of a number of young professionals into the system,³³ changes occurred all around the main administrative bureaucrats, who themselves saw few fundamental changes within their own structures.

Poland was slower than other post-communist states, such as Hungary and the Baltic states, in the adoption of civil service reforms.³⁴ In spite of this fact, successive Polish governments from the first cabinet in August 1989 onwards did demonstrate some concern and a will to reform the state administration, even if there was, as Ezra Suleiman describes, 'a lack of political consensus on the shape of the reform'. In his first speech to the Sejm as prime minister, Jan Olszewski – Poland's third post-1989 prime minister in as many years – said in 1991, 'Our state is threatened by paralysis caused by disorder in public administration and its inability to carry out its basic tasks'.³⁵

From the beginning of the transition, there was a dialogue on making the administration free from political influence, evening out the political factor and making it a merit-based system in terms of function.³⁶ In order to meet the goals of a merit-based system, the State School of Public Administration (*Krajowa Szkoła Administracji Publicznej*) was established in the early 1990s to train highly academically qualified students in a complete civil service program. Additional goals were the improvement of the efficiency of the state administration, the decentralization of the public administration, modernization of the administration through tools such as computers and a new system of allocating public funds.³⁷

In October 1992, after three years of preparation, the position of the Government Plenipotentiary in Charge of Public Administration Reform finally was created in order to help lay the groundwork for a Law on Civil Service.³⁸ A first draft of the Civil Service Act was presented by the first government in 1991, followed by the presentation of a second draft accompanied by other administrative reform bills in 1993 by the centre-right coalition government of Hanna Suchocka with encouragement from the European Union.³⁹ (The EU Poland and Hungary Assistance for the Restructuring of the Economy (PHARE) program, the joint PHARE/Organisation for Economic Co-operation and Development (OECD) Support for Improvement in Governance and

³² Office of Civil Service, 2000, p. 5. ³³ Torres-Bartyzel and Kacprowicz, p. 168.

³⁴ Goetz, p. 1035. ³⁵ Suleiman, p. 298. ³⁶ Kamiński, 22 March 1999.

³⁷ Wiatr, p. 156. ³⁸ Suleiman, p. 298. ³⁹ Mularczyk.

Management (SIGMA) program and the British Know How Fund provided financial assistance and advice on civil service reform.⁴⁰ However, that cabinet did not last long enough to push the bills through parliament, and there was never even a vote. By September 1994, the new team that emerged after parliamentary elections had developed yet another draft, which was in the parliament's hands for an additional two years before being passed as part of a package of administrative and constitutional reforms in 1996. In addition to a flexible Civil Service Law, 'the adopted package consisted of a reform of the central administration designed to shift governmental structures and relationships to reinforce the changes in the role of ministries and central decision-making organs that had taken place in the transition'.⁴¹ Under the new law, the prime minister appointed 24 politicians, civil servants, and academics to a new Civil Service Council, which came into being in 1997.

While the 1996 law had established some foundations for the civil service, further issues and amendments were raised. In December 1998, a new Law of the Civil Service was voted in by the Sejm, which came into force in January 1999 and which was superseded by an even newer law in August 1999. In January 2000, the Civil Service Council began to develop a true civil service corps with a new competitive recruitment system, unified training procedures, a modified salary and promotion framework, greater transparency and constructive performance incentives.⁴² 'The public employment system', Suleiman comments with respect to Poland and to the Czech Republic and Hungary, 'is considered a career system, and officials are rated on the basis of their professional performance'.⁴³ In particular, vacancy positions must be advertised and new recruits are given a contract for no more than three years as part of an evaluation phase.⁴⁴ More senior positions are filled through a competition and specially appointed competition teams are managed by the Head of the Civil Service.⁴⁵ Hence, the establishment of a new civil service took nearly a decade in Poland, but it was created.

The implementation of the Civil Service Act, however, has been an example of how competition within a new democracy's developing political party system can become extended to the bureaucracies. There has been a gap between legislative intent and personnel policy practice. In the late 1990s, upon assuming power, each governing coalition re-drafted the Civil Service Act to ensure that bureaucrats loyal to it were appointed, subjecting the civil service to a sort of 'spoils' system. Thus,

⁴⁰ Torres-Bartyzel and Kacprowicz, p. 175. ⁴¹ Nunberg and Barbone, p. 15.

⁴² Suleiman, pp. 298–299; and Manning and Parison, p. 147. ⁴³ Suleiman, p. 302.

⁴⁴ Manning and Parison, p. 148. ⁴⁵ *Ibid.*, p. 148.

the goal of allowing the new civil service to be truly independent has never been completely reached. In 1997, for example, the implementation of the Civil Service Act soon was stopped, as the outgoing left-wing Democratic Left Alliance (SLD)–Polish Peasant Party (PSL) government of the 1993–1997 period tried to fill civil service posts with many of its own supporters, terminating the implementation of the 1996 reforms.

Hence, while the public has shown little interest and has not been well informed about administrative reforms,⁴⁶ the civil service has been held captive by a spoils mentality that pervaded parties on both sides of the political spectrum. The goal has been to build up a loyal corps of civil servants, judged more on their ideological loyalty than on their professional qualifications. ‘Although the Civil Service is in principle neutral, merit-based and permanent, significant hiring and firing happens at the beginning of the political term’, Helen Sutch, Michał Dybala, Ryszard Jerzy Petru, Jacek Wojciechowicz and Marcin Przybyła have concluded. ‘Politically motivated appointments for crucial posts usually follow the nomination of a minister. At the end of the ministerial term, political figures and senior public servants, whose nominations were mainly political, can be seen trying to find soft landings in the management of the state-controlled enterprises or in the private sector.’⁴⁷

The ruling coalitions have not cooperated with parliamentary minorities to ensure that the system is not politicized. Upon assuming power in 1997, the right-wing Electoral Action Solidarity (AWS)–Freedom Union (UW) coalition, for example, criticized its SLD–PSL predecessors for counting work in the communist party apparatus as valuable experience for prospective civil servants.⁴⁸ The 1996 Civil Service Act had required that top officials have seven years’ experience, including four years in managerial posts, which led critics to accuse the former communist SLD of preventing those who were not part of the pre-1989 communist system from matriculating to the civil service.⁴⁹ In 1998, the new government amended the civil service law to include stronger requirements and enabled more graduates from the National School of Public Administration) to get jobs, rather than public servants from the pre-1989 era.⁵⁰ At the end of the AWS–UW government in 2001, the civil service was said to have been dominated by those appointed on the basis of their political contacts rather than their qualifications.⁵¹

⁴⁶ Wiatr, p. 160. ⁴⁷ Manning and Parison, p. 146.

⁴⁸ Polish News Bulletin, 11 December 1997. ⁴⁹ Reuters, 17 July 1996.

⁵⁰ Mularczyk. ⁵¹ Polish News Bulletin, 24 October 2002.

However, in December 2001, with the SLD and PSL parties back in power, the Sejm passed an amendment enabling state institution heads to staff top administration posts with people from outside the civil service, in effect suspending the Civil Service Act.⁵² Because open competitions for positions take too long, some governments also switched to directly appointing people.⁵³ Civic Platform (PO) deputy Jan Rokita stated at the time that the change would enable the prime minister to fill some 40,000 positions as he preferred.⁵⁴ Meanwhile, at the end of 2001, under the new SLD–PSL government, 500 of the 1,400 government administrative positions were new political appointees, while 660 of the 1,400 in the highest posts had been changed – a process, noted *Polityka* newsmagazine’s Janina Paradowska, that was much faster and more radical than under the previous government.⁵⁵ Moreover, graduates of the National School of Public Administration in recent years have been unable to find jobs for which they are trained, and the school itself has become the target of political attacks.⁵⁶

Hence, progress along the path towards an independent, professional civil service in Poland has yet to catch up to the initial legislative goals. And these setbacks have brought the displeasure of the European Commission, which in 2002 regarded the civil service as one of the weakest aspects of the new Poland.⁵⁷ While the European Union may provide some incentives, aid and advice (on a greater scale than elsewhere), how Poland orients its civil service and which direction it decides to take appear to be more directly internal matters.

Reaction to these central public administration laws within Poland has been mixed, as local academics and the public at large have commented that, while the laws were intended to reduce the number of ministries, in fact the bureaucracies have pretty much grown everywhere, that employment has not been reduced and that operations have not changed. A basic reason for the problems of the bureaucracy is, according to Antoni Kamiński, precisely the ‘weakness of the political leadership, which manifests itself in the lack of clearly defined priorities and decisive will for solving key problems of the state’.⁵⁸

A report released by the state’s separate auditing body NIK in 2005 provided an especially scathing analysis of how government ministers and provincial (*voivod*) governors recruited public servants to compose

⁵² *Polish News Bulletin*, 19 December 2001. ⁵³ *Polish News Bulletin*, 24 October 2002.

⁵⁴ *Polish News Bulletin*, 19 December 2001. ⁵⁵ *Polish News Bulletin*, 24 October 2002.

⁵⁶ Mularczyk; and *Polish News Bulletin*, 24 October 2002.

⁵⁷ *Polish News Bulletin*, 24 October 2002.

⁵⁸ Kamiński, 22 March 1999. Translation from the Polish by the author.

the civil service corps from 2000 to 2004. The report found that more than 65 per cent of high-ranking public officials were appointed to their posts without having gone through any competitive procedures and, as a result, earned even more than ministers as government office heads froze vacancies in place in order to fund pay raises or bonuses for existing staff.⁵⁹ NIK also observed that Civil Service Chief Jan Pastwa was unable to influence governing politicians to change the situation – a point on which Pastwa concurred regrettably:

Being myself responsible for the Polish Civil Service, I would prefer it if I could disagree with the NIK report. Unfortunately, its very first sentence is painfully true. NIK, basing on data gathered during an extensive audit, states conclusions that for obvious reasons the chief of the Civil Service cannot have stated . . . I am particularly regretful about the efforts that have not yielded results as a result of the inertia, and sometimes blockading, that is purposefully caused within the administration and the lack of political will and responsibility. Short-sightedness and particularism in seeking short-term benefits have most frequently gained the upper hand. For many politicians and the public officials who are subservient to them, personnel manipulations still represent the simplest instrument for ‘doing’ politics. The NIK report shows, for the first time so well, another shortcoming of the Polish governmental administration – a system of financing salaries and training that teeters on the edge of common sense, or indeed the lack of any system.⁶⁰

Hence, despite the relatively successful institutionalization of the political party structure within Poland, the lack of leadership on the issue of state administration appears to have been a hindrance, suggesting that what bureaucratic successes the Polish civil service has achieved may not be attributable to the top of the governmental structure. And the respect for NIK is clearly shown in the statement of the civil service head.

Into the 2000s, there still has been a lack of consensus politically on the civil service. Jolanta Itrich-Drabarek has summarized quite well how and why Polish politicians have exerted strong influence over the civil service system since 1989:

[T]he issue of civil service has always remained the subject of political bargaining. Solutions designed for the benefit of specific governments would often last no more than the government that spawned them. Even when the given piece of legislation still formally remained in force, it would be modified by way of frequent amendments by subsequent governments, losing its original shape and meaning . . . [R]egardless of the particular organizational solutions, statements advocating the abolishment of the tradition of the system of spoils as well as the practices resulting with public administration becoming increasingly

⁵⁹ BBC Monitoring International Reports, 15 April 2005. ⁶⁰ Ibid.

politicized have always continued to appear in the course of the debate concerning the future of the Polish civil service.⁶¹

Indeed, as a fourth new Civil Service Act was adopted in November 2008 following the 2007 election win of Civic Platform over the ruling Law and Justice party, political party competition was rife. ‘Polish civil service laws appear to have a proprietary nature’, Angelica Ghindar has written, ‘a particular civil service law is “our” civil service law, or “their” civil service law, depending on whether one takes the perspective of the current government or its political opposition.’⁶² And, as Polish political parties have had differing views on whether ‘open competitions’ should be held for high-level positions, the 2008 Civil Service Act reinstated senior positions in the civil service and weakened the position of a reinstated Head of the Civil Service and of an already less than transparent recruitment system.⁶³

More recently, in its first few days in office following its October 2015 parliamentary electoral win, the Law and Justice government threw out civil service regulations, such as those that required competitions for senior jobs and required appointees not to have belonged to a political party in the previous five years, in order to hire party members for leadership roles, including heads of state companies, which has led, along with the government’s politicization of public media, to mass demonstrations across the country.⁶⁴ The latest wave of replacement and demotion of professional officials within Warsaw’s ministries has contributed to the lack of an independent civil service culture and promoted the view that bureaucracies are to succumb to a system of spoils for election winners, or even to a sort of ‘politics of revenge’.⁶⁵

Moreover, since the beginning of the transition, society has viewed corruption as a greater problem. In 1991, 33 per cent labelled corruption as a ‘very large’ problem, with 38 per cent calling it a ‘rather large’ problem; ten years later, in 2001, the corresponding figures were 68 and 25 per cent, respectively.⁶⁶ Similarly, in 1995, 42 per cent surveyed believed that many high state bureaucrats derived unjustified benefits from their public functions, and 43 per cent stated that they believed there are some, but not many such bureaucrats, whereas in 2001, the corresponding figures were 70 and 22 per cent, indicating a sizeable shift.⁶⁷

With respect to corruption within the post-communist Polish state, Timothy Garton Ash has remarked that Prime Minister Kazimierz Marcinkiewicz ‘has talked darkly of a “Bermuda quadrangle” of corrupt

⁶¹ Itrich-Drabarek, pp. 36–37. ⁶² Ghindar, p. 13.

⁶³ Itrich-Drabarek, pp. 36–37. ⁶⁴ Shekhovtsov, p. 23; and Economist, 30 April 2016.

⁶⁵ Dempsey. ⁶⁶ CBOS, August 2001. ⁶⁷ Ibid.

politicians, secret police operators, businesspeople, and criminals.⁶⁸ In the early 2000s, there were several ‘money-for-influence’ scandals, of which the most famous, perhaps, was ‘Rywingate’, in which a film producer sought a U.S.\$17.5 million bribe from a business group in exchange for promising changes to be made to a mass media law.

In presenting a progress report on anti-corruption measures to the Sejm in 2003, Interior Minister Krzysztof Janik said that corruption in Poland is more the rule than an exception.⁶⁹ Indeed, in the 2010 Poland Taxpayer Compliance Attitudinal Survey (see Question #59 in Appendix I), only 27 per cent of Poles stated that their government does a good job in fighting corruption, while 46 per cent stated that the government does a poor job and 15 per cent stated that the government does not fight corruption at all.

Meanwhile, a 2012 report prepared jointly by the Institute of Public Affairs and Transparency International claimed that corruption ‘is no longer a phenomenon of a systemic nature as it used to be in mid 1990s’, due in some great part to the role of Poland’s NIK.⁷⁰ Poland thus appears to have experienced systemic levels of corruption, like Russia and Ukraine, but has been able to move beyond them towards building a more transparent state. In 2014, the European Commission released a report on corruption in Poland, which highlighted local business concerns over corruption in obtaining access to public services and in the public procurement tender process and citizen concerns over corruption in the civil service (albeit at a lower rate than the EU average).⁷¹ Hence, the perception of corruption is by no means unique to Poland’s east.

Meanwhile, additional resources have been put into public administration, accounting for tremendous growth. The number of those who worked in the public administration grew from 161,579 in 1989 to 290,225 in 1996.⁷² For 2013, the Civil Service Department stated that 636,300 work in the public administration (excluding soldiers and officers), 124,100 of whom were civil service corps members. Approximately 38.8 per cent of the civil service corps members, or about 47,135 employees, are members of the fiscal (tax) administration.⁷³

Thus, Poland’s legacies have interacted in different ways with the post-communist transition. The legacy of Poland’s inter-war period acted as

⁶⁸ Ibid. ⁶⁹ *PAP News Agency* (Warsaw), 28 July 2003.

⁷⁰ Transparency International and Instytut Praw Publicznych, 5 March 2012.

⁷¹ *Rzeczpospolita*, 4 February 2014. ⁷² Office of the Civil Service (Warsaw), 2001.

⁷³ Office of the Civil Service (Warsaw), ‘Civil Service in Numbers’, accessed at <http://dsc.kprm.gov.pl/sites/default/files/pliki/civil_service_in_numbers_draft.pdf> on 30 July 2015.

an ideal reference point for communist leaders in the 1980s as they decided to bring back that era's institutions in order to maintain better governance and better state–society relations. Those decisions made a positive difference in the 1990s. Rather than throwing out everything in the communist governance toolbox, the inter-war legacy was utilized by the post-communist leaders as well in deciding which institutions to retain and modify. The irony is that the institutions from the Second Polish Republic, re-built in part in the 1980s to legitimize the communist state, which was confronting an increasingly contentious society, became accepted and re-energized with new laws by the post-communist society in creating the new state. The year 1989, therefore, provided an opportunity for a fresh look at those existing and recently transformed state institutions such that they could be updated and re-framed to accomplish the post-communist agenda in a manner deemed acceptable by society.

Further, the legacy of foreign domination, most recently under a communist system of governance, led Polish leadership and society to look elsewhere, in particular to Europe, for models in reformatting their existing institutions along alternative underpinnings – based, not on communism, but on democracy and the rule of law. Finally, the competitive party system throughout the post-communist era has been a real hindrance to better bureaucratic governance, even if well-developed and well-intentioned civil service laws have been adopted and gradually implemented.

The Soviet Union's Legacies Bequeathed to Russia

In Russia, different perceptions on what the real legacies of communism actually are have been seized upon by the post-communist leadership and society. As the transition has progressed, Russian consensus on how things 'ought' to be done has been based less on the further pursuit of the path initiated by Gorbachev, the last Soviet leader, towards creating a true civil society that could monitor the government, and more on notions of how the pre-Gorbachev system worked to maintain continuity, stability and order.

The 1980s were used differently in post-communist Russia than in Poland as the legacy of *glasnost* and its underpinning values were re-interpreted by the end of the 1990s, largely because Yeltsin failed to seize upon them to reform the state further. The Putin era then viewed the Gorbachev era as a giant, flawed aberration in Russian history rather than as a basis for creating better governance through greater transparency, a vitalized civil society and a healthier state–society relations.

Hence, when President Putin told Russians in his annual state of the nation address in April 2005 that the collapse of the Soviet Union was ‘a major geopolitical disaster of the century’, the remark revealed how he chooses to utilize the past to shape current views of the present by invoking a belief shared by tens of millions of Russians.⁷⁴

Thus, with such prevailing views today in Russia regarding the benefits of the Soviet model of governance (albeit separate from those of communism), it should not be entirely surprising that, despite some concerted post-1991 reform efforts, including the creation of a ‘State Service’ and technical assistance programs from the World Bank, the OECD and other foreign organizations, Russia still lacks a true civil service by which merit-based employment in the state is protected and by which political neutrality is guaranteed and safeguarded, *de jure* or *de facto*, in government structures.⁷⁵ Despite a new Civil Service Law signed by Putin in 2004, the OECD has remarked that in Russia today, ‘[t]he interface between the political and administrative appointments is blurred, as state civil servants in executive positions are largely appointed by discretionary means (although minimum qualifications for such positions are established by law). The president has influence over the appointment/dismissal of top and middle management, with the minister and others in [the] ministry having influence over that of lower grades. All top management turns over with a change in government, as well as many middle managers.’⁷⁶ The bureaucracy, as in Poland, is treated as a ‘spoils system’ of sorts, but unlike Poland, there has been no change in the direction of government by and large since Putin came to power in 1999.

A poor view of Russian bureaucrats dates back to the Soviet period, when bribes were in widespread use, just as they had been in Tsarist Russia. Corruption – and crackdowns on corruption – do have a long history in Russia. Beginning in the ninth and tenth centuries, Russian princes would send their representatives to the provinces without paying them, so that the local population would provide for them, in a

⁷⁴ This phrase’s exact meaning in English has been discussed greatly in the media. The Kremlin archived translation of the 2005 speech, accessed at <http://archive.kremlin.ru/eng/speeches/2005/04/25/2031_type70029type82912_87086.shtml>, states that Putin called the collapse ‘a major geopolitical disaster of the century’, while the Associated Press and the BBC, among others, translated the phrase as ‘the greatest geopolitical catastrophe of the century’, as found at <www.utsandiego.com/uniontrib/20050426/news_1n26russia.html> and <<http://news.bbc.co.uk/1/hi/4480745.stm>>. All were accessed on 31 July 2015. Meanwhile, Russian speakers recognise, of course, that the Russian language does not distinguish between the indefinite article ‘a’ and the definite article ‘the’.

⁷⁵ Manning and Parison, p. 45. ⁷⁶ OECD, 6 December 2012.

practice known as ‘feeding’. Later, in 1497, Ivan III introduced legislation restricting corruption, while, in 1550, Ivan IV (a.k.a. ‘Ivan the Terrible’) codified a death sentence for bribery. Peter I (a.k.a. ‘Peter the Great’) and, a couple of centuries later, the Romanov dynasty waged unsuccessful battles to curb corruption.⁷⁷ In spite of these attempts to halt corruption in Tsarist Russia, service to the state was viewed as a way to gain material wealth and a position of respect within society. Meanwhile, as Karl Ryavec has observed, ‘Russia lacked both a civil society and an independent legal system to limit bureaucrats, while the bureaucrats lacked a “public service” culture that might have formed a system of self-limitation.’⁷⁸

After 1917, in terms of bureaucratic habits, little changed. Instead of monetary compensation, bribes in the Soviet days were often given in the form of *blat*, an exchange of favours using government resources. Being a bureaucrat meant having power over other citizens. A report prepared by the administrative department of the Communist Party’s Central Committee as part of an effort in clamp down on bribery in the five-year period of 1975 to 1980 found that in one year there were more than 6,000 cases.⁷⁹

In a study of bureaucrats’ biographies just prior to the Soviet collapse, David Lane and Cameron Ross discovered, somewhat surprisingly, that the Communist Party had very little control over the personnel in the government bureaucracy. They found that ‘the recruitment of personnel to many of the key sectors of the government bureaucracy appeared to be determined by the applicants previous experience and tenure in the bureaucracy . . . [and] . . . that the attempts by party leaders to control the bureaucracy failed, and that the relative autonomy of the government apparatus was an important contributing factor in the collapse of the communist state’.⁸⁰ Hence, such research indicates that the 1980s actually yielded some success in de-politicizing the bureaucracy and making it more independent from the party.

In many ways, the *glasnost* and *perestroika* programs were the result of both a personality-based ‘Gorbachev factor’, the view taken by Archie Brown, and a society-based ‘Gorbachev phenomenon’, Moshe Lewin’s perspective.⁸¹ In June 1986, a few months after becoming general secretary, Gorbachev stated in a closed meeting with a group of Soviet writers, ‘The society is ripe for change. If we step away, the society will not agree for a return. The process must be made irreversible. If not us, then who? If not now, then when?’⁸² Hence, the impetus for reform, Gorbachev

⁷⁷ Alyakrinskaya. ⁷⁸ Ryavec, p. 15. ⁷⁹ Alyakrinskaya.

⁸⁰ Lane and Ross, p. 19. ⁸¹ Brown; Lewin. ⁸² Quoted in Tucker, p. 140.

saw at the time, was emerging from society, which in turn required him as its leader to act.

For Lewin, the ‘Gorbachev phenomenon’, was the re-politicizing of the political system as a consequence of the social environment’s effects upon the political arena. In particular, Lewin believed that urbanization, initiated under Stalin but consolidated under Brezhnev, created an ‘emerging civil society’. Yet Lewin did not speak of the same view on civil society that Robert Putnam and Alexis de Tocqueville had, in the sense that citizens form autonomous, non-governmental organizations to resolve problems with the state in an open manner. Rather, he referred to ‘the aggregate of networks and institutions that either exist and act independently of the state or are official organizations capable of developing their own, spontaneous views on national or local issues and then impressing these views on their members, on small groups and, finally, on the authorities.’⁸³ Most significantly, urbanization had created independent and autonomous modes of thought, which the party through some of its leaders and cadres understood. The leadership, thus, took up the challenge and sought to take such an independent, burgeoning ‘civil society’ and place it back in the political arena.

For Archie Brown, however, Gorbachev, the man, was at the centre of the process of change. The reform program was Gorbachev-led, rather than society-led. John Dunlap concurs that Gorbachev mattered, but largely because he ‘unwittingly’ destroyed the Soviet Union. Dunlap sees Gorbachev as embarking on a second *perestroika* period, a campaign of ‘democratization’ in mid-1986 to replace powerful competitors with allies in the Politburo.⁸⁴ The goal was not to destroy or transform the system, but to reject Stalinism and return to the 1920s-era ideals of Marxism-Leninism through a cleansing and strengthening of the party. (This was exemplified, among many works and events, by the 1988 play *Onward... Onward... Onward!* by Mikhail Shatrov, which exposed on the Moscow stage the Stalinist crimes, but called for a return to the Leninist ideals.)

Furthermore, while Brown explains the fact that repression was not used to hold the USSR together as due to a personal choice of Gorbachev,⁸⁵ Gorbachev probably knew that the status quo ante could never be restored. As Dunlap states, ‘Events moved with such blinding speed between 1987 and 1989 that it must soon have become evident to Gorbachev that only a crackdown of Stalinist dimensions could halt the changes that he had unwittingly unleashed.’⁸⁶ (And, in fact, Gorbachev tried unsuccessfully to use what repression he could to hold the Soviet

⁸³ Lewin, p. 80. ⁸⁴ Dunlap, p. 10. ⁸⁵ Brown, p. 309. ⁸⁶ Dunlap, p. 10.

Union together, for example, in Tbilisi in 1989, in Azerbaijan in 1990 and in Vilnius in 1991.) Society by the late 1980s truly had changed; Soviet-style repression would no longer be successful in keeping down the popular movements and was accompanied by backlash.

In fact, there were two intrinsic paradoxes, or fatal flaws, of the *glasnost* and *perestroika* programs, which by their nature could not be implemented successfully and leave the system intact. The first is concerned more with the *glasnost* campaign, the second more with *perestroika*. First, in embarking on the necessary reforms, the government had to maintain its legitimacy throughout the reform process. Yet to embark on a more open path, the lies of the Soviet system had to be exposed. The starting point for *glasnost* proponents was an open rejection of official truth; as a result, the destruction of one-party rule was only a matter of time. If one could question whether the Stalin era, which constructed the Soviet system, was built upon lies, corruption and unjust repression, one could begin to question whether the system itself was the problem – and whether the problems in the system began not with Stalin's rise to power but with Lenin.

Second, the problems that were inherent in the system became more acute when those institutions attempted, through *perestroika*, to start their own reforms from the top down by giving more independence to those at the bottom, as Steven Solnick has shown.⁸⁷ The process of correcting problems complicated and worsened the existing problems, in turn threatening the legitimacy of the regime. Once the system was hyper-institutionalized along vertical links, it could not undergo a complete overhaul and still continue to function throughout the transition.

The existence of these dual Gorbachev-era flaws is known well by post-Soviet society and leadership. However, rather than seeing these flaws as providing lessons to authoritarian states, many Russians have interpreted them as providing the paradigm rationale for curtailing further opening up of a state that actually began the transition in the early 1990s with democracy in greater reach than ever before.

Russia's Post-communist Administrative History

Similarly to the course set in Poland, reforming state structures in Russia took a backseat to economic reforms at the beginning of the transition. Nevertheless, just as in Poland, the early 1990s saw a recognized need for administrative reforms as several proposals began to circulate within the presidential administration. Reform-minded experts and politicians

⁸⁷ Solnick, 1997.

who surrounded Yeltsin pushed for a new body, the Chief Department of Personnel Training (*Roskadry*), which was established in 1992 to oversee civil service reform, the training of government officials and other administrative reforms, but was abolished in early 1994.⁸⁸ Prime Minister Yegor Gaidar's government in 1992 also made public the first draft Law on Civil Service and sought to reorganize administrative structures – the first of such reform attempts.⁸⁹ These efforts suggest that the failure to implement comprehensive civil service reform was not inevitable for Russia.

In stark contrast to Poland, though, there were no regulations for a civil service up until 1995. In 1995, the Law on the State Service appeared. However, that document did little to reform the bureaucracy, but rather laid out the 'privileges, prerequisites and protections afforded [to] civil servants and to an intricate hierarchy of titles and posts that recalled the Table of Ranks of imperial Russia'.⁹⁰ Many of its provisions were said to remain only on paper.⁹¹ Similarly, a Civil Service Code was drafted in 1997, but it was not adopted, let alone published.⁹² Meanwhile, the Bill on Countermeasures against Corruption was passed by the Federation Council twice in the 1990s, but Yeltsin vetoed it, and the Duma failed to pass it in 2001.⁹³

While Soviet era personnel largely remained in place, the Yeltsin decade did see a very diverse group of bureaucrats, including 'people from the 1960s', 'deputy directors of laboratories', politicized intelligentsia, Yeltsin's 'fellow countrymen' and military to whom Yeltsin was catering because of the fear of losing power.⁹⁴ As the transition progressed, with the rise of oligarchs, however, a 'feeding' of bureaucrats ensued by which administrative resources were used for profit.⁹⁵ 'The system worked', write Sergei Viktorov and Vadim Bardin. 'The bureaucrats received a small salary; one and all took bribes (especially from the oligarchs) and looted budgetary finances. The Russian statehood in this very way was strengthened (in the Peter [the Great] meaning of this word. Boris Yeltsin held on to power.'⁹⁶ In the absence of leadership at the top to democratize the bureaucracies further, the old Soviet system gradually was revived with new, post-communist forces, which were not incorporated into formal institutional frameworks, much to the detriment of long-term state goals.⁹⁷

Meanwhile, just as the communist era bequeathed to post-communist Poland several administrative law institutional structures, the Soviet

⁸⁸ Kotchegura, pp. 21, 22. ⁸⁹ Ibid. ⁹⁰ Huskey and Obolonsky, pp. 24–25.

⁹¹ Kotchegura, pp. 21–22. ⁹² Ibid., p. 25. ⁹³ Alyakrinskaya. ⁹⁴ Kostikov.

⁹⁵ Ibid. ⁹⁶ Viktorov and Bardin. ⁹⁷ See, for example, Hellman.

period also laid an administrative legal foundation through a 1968 Supreme Soviet Presidium degree, 'On the Procedures for Consideration of the Proposals, Submissions, and Complaints of the Citizens', which continued after 1991 to regulate internal appeals regarding citizen–state disputes.⁹⁸

As the design of the reform agenda developed gradually over nearly a decade prior to Putin's 2005 address on administrative reform, those within the upper levels of the Russian government were the main actors. From September 1996 to May 1997, 12 versions of a Concept on Administrative Reform were produced within the Presidential Administration. On May 27–30, 1997, a meeting held under the provisional name 'Round Table' resulted in the establishment of five expert working groups tasked with preparing a new Concept note. In May 1998, the text of the Concept was awarded to the new Chairman of the RF Government, Sergey Kiriyenko, with the purpose of publication, but it was not published.

In the fall of 1999, the text of the Concept note was transferred from Putin, then, as prime minister, the Chairman of the RF Government, to an outside, non-governmental think tank that had direct ties to the Government – the Centre for Strategic Research, led by German Gref, which served as the Campaign Headquarters of then-Prime Minister Putin. Gref's think tank introduced the concept of nation-building, absorbed the basic ideas of the concept of administrative reform in the 1998 proposed structures and emphasized the need to revive citizens' trust in the institutions of representative and direct democracy. In the spring of 2000, Gref's project lay dormant with the presidential election, but as T.Ya. Khabrieva, A.F. Nozdrachev and Yu.A. Tikhomirov describe, 'By the autumn of that year, the real reason for inhibition became clearer, as the priorities of government had been shifted to other tasks: strengthening the vertical of power, federal relations, changes in the upper chamber of the Russian Federal Assembly, etc. Administrative reform was once again postponed.'⁹⁹

Under President Putin, a revived attempt at administrative reform was launched in 2001. The outward goal of the reforms was to reduce the number of ministries. However, the entire project appears actually to have been part of Putin's plan for creating a tightly centralized state with the bureaucracies under greater control. Indeed, in March 2003, Putin placed a few government agencies under the Federal Security Service (FSB), the successor organization to the Soviet-era KGB, for

⁹⁸ Galligan and Smilov, p. 277.

⁹⁹ Naryshkin and Khabrievoi, p. 9. Translation from the Russian by the author.

which Putin once worked and which he later headed, and the Defence Ministry, ostensibly to streamline the government, but also to centralize control.¹⁰⁰ Throughout the spring and summer of 2003, additional plans were announced to initiate administrative reform, but little progress was made beyond forming commissions. Despite the fact that Putin declared in 2002 that he wanted the reforms to be completed by the end of 2003,¹⁰¹ the reform plans were declared by *Vedomosti* at the time to be practically broken, as some 231.7 billion rubles allocated by the 2003 budget for the administrative reform projects had not been appropriated.¹⁰²

Administrative reform efforts were re-started the following year with the arrival of Mikhail Fradkov as the new prime minister in March 2004 and Putin's re-election that same month. In a series of decrees, Putin eliminated thirteen ministries (including the Ministry of Taxes and Dues, which was absorbed by the Finance Ministry), two state committees, one federal commission, four federal services and four federal agencies, while he created five new ministries, five new federal services and one new federal agency on the basis of the old entities.¹⁰³ In commenting on the reforms, Olga Khryshtanovskaya, head of the Elite Studies Centre at the Russian Academy of Sciences' Sociology Institute, stated that the total number of government departments actually had increased and that the system had become more complex.¹⁰⁴ Former State Duma Deputy Aleksandr Shokhin also argued that the reforms were flawed, as oversight bodies were subordinated to the very ministries that they had been intended to oversee.¹⁰⁵

Putin also significantly reduced the number of deputy ministers, but Moscow's *Kommersant-Daily* soon reported that many of them continued to oversee the same areas as they previously did, but with new job titles.¹⁰⁶ Meanwhile, a month after his re-election, Putin also decreed a pay raise of up to five times for top-level bureaucrats, ministers as well as himself.¹⁰⁷ Government privileges and in-kind benefits for bureaucrats and their families, however, were not touched at all (even while the government began to monetize non-cash benefits in 2005 – which were widely perceived as welfare benefits cuts and led to the largest and most wide-scale protests yet in the Putin era, forcing the government to do a U-turn on the measure and cementing in the government's thinking regarding the critical need to secure the public's approval with respect

¹⁰⁰ Wines. ¹⁰¹ Saradzhyan. ¹⁰² Bekker.

¹⁰³ RFE/RL Newline, 10 March 2004. ¹⁰⁴ RFE/RL Newline, 2 March 2004.

¹⁰⁵ RFE/RL Newline, 19 March 2004.

¹⁰⁶ McGregor; and RFE/RL Newline, 26 March 2004.

¹⁰⁷ RIA Novosti, 1 April 2004; and McGregor.

to service delivery).¹⁰⁸ In November 2005, Fradkov introduced another administrative reform blueprint, a three-year action plan that sought to update the bureaucracy with standardization and regulation reforms and to abolish or privatize one-third of some 25,000 state enterprises and organizations.¹⁰⁹

The 2003-to-2005 period saw much headway made with regard to the optimization of functions of executive bodies and structures, public service reform and the improvement of management procedures due to leadership from the Presidential Administration and a new Commission for Administrative Reform.¹¹⁰ In 2003, President Putin noted, 'We need to radically reduce the functions of state organs. Of course, it should be calculated very accurately.'¹¹¹ And, in that year, Putin issued several decrees, which became known immediately in the media as the Administrative Reform Decrees, by which he called for a radical reduction in the functions of government agencies.¹¹²

Yet there was an increase in the number of state workers in the middle of the decade. 'The stated goal', according to I.A. Baranov and N.N. Fedoseeva, was 'reducing staff, reducing corruption, improving the efficiency of the device. The result: an increase in the number of federal agencies, more expensive units, and an increase in bribes.'¹¹³ Further, according to the Higher School of Economics, the number of federal civil servants steadily increased from 2001 to 2010, regardless of reform and the number of agencies.¹¹⁴

In 2004, the draft federal target program 'Administrative Reform' was developed, which gave rise to a new Commission for Administrative Reform that was envisioned to have greater authority than it eventually did. RF Presidential Decree 910 'On Measures to Good Governance' of 16 July 2004 created a Commission that comprised three interagency working groups on major issues of administrative reform, one of which focused on providing for openness and accessibility for citizens.¹¹⁵ Those who took part in this Commission worked from the framework of foreign

¹⁰⁸ Paton Walsh; RFE/RL Newline, 28 July 2004; and Nemtsov and Pribylovsky.

¹⁰⁹ Frunkin. ¹¹⁰ Naryshkin and Khabrievoi, p. 9.

¹¹¹ Address of President Putin to the Federal Assembly of Russian Federation, 16 May 2003, Moscow.

¹¹² See, for example, RF Government Resolution 451 of 31 July 2003, 'On the Government Commission for Administrative Reform' and RF Presidential Decree 824 of 23 July 2003, 'On measures for administrative reform in 2003–2004 Government of the Russian Federation.'

¹¹³ Baranov and Fedoseeva, pp. 3–5.

¹¹⁴ The official site of the RF State Statistics Service accessed at <www.gks.ru/free_doc/new_site/gosudar/graf1.htm>.

¹¹⁵ Naryshkin and Khabrievoi, p. 10.

reform models. 'None of the reforms undertaken in Russia in the past fifteen years was so tightly developed within a context of international practice as reform', A.B. Logunov has written. 'Russia has chosen ideology of administrative reform in the countries in which the public administration is being visibly transformed into "New Public Management" and where state institutions are actively being introduced principles and technology of a standard business management.'¹¹⁶ The project proposed to create a special agency to manage the reform – the so-called Directorate – that was to be given wide powers. However, the Ministry of Finance did not approve the additional costs of implementing the program. Instead, the Centre for Strategic Research and the Ministry of Economic Development and Trade, together with technical and financial support of the World Bank and the UK's Department for International Development, developed another Concept of Administrative Reform.¹¹⁷ At the same time, the primary responsibility for implementing the administrative reform still lay with the Government Commission on Administrative Reform.

From 2006 to 2010, the main activities of administrative reform were carried out in five phases:

- Late 2005 – The development and adoption of the framework of administrative reform activities.
- 2006 – The development of a regulatory framework for administrative reform, including public service standards, standards for public services provided by the federal executive bodies and their implementation at the federal and regional levels.
- 2007 – The elimination of redundant government functions, development and implementation of most of the administrative regulations of the federal and regional executive authorities, implementation of management procedures based on priority public service standards and the establishment of pilot multipurpose centres for state and municipal services (MFSCs).
- 2008 – The development and adoption of anti-corruption programs, the development of a regulatory framework of public service delivery in electronic form and the provision of public services via telecommunication technologies.

¹¹⁶ Logunov, p. 5. Translation from the Russian by the author.

¹¹⁷ This concept laid the foundation made in accordance with the Protocol of the RF Government meeting of 21 October 2004, on the Concept of Administrative Reform in the Russian Federation in 2006–2008 and the action plan for conducting administrative reform in the Russian Federation in 2006–2008, formally approved by RF Government Decree № 1789-p of 25 October 2005 (Lazarev).

- 2009–2010 – The creation of MFSCs to provide state and municipal services across Russia and the transition of federal executive bodies to the provision of public services in electronic form through the national state data centre.

Meanwhile, the Concept note did not provide additional funding from the federal budget for the activities of administrative reform, which were to be undertaken by federal authorities with funds provided in the existing federal budget for relevant federal executive authorities.¹¹⁸ Beginning in 2006, while not involved in the distribution of funds between federal agencies and stakeholders, the Ministry of Economic Development began to hold grant competitions in which federal executive and regional bodies competed for funding to implement provisions of the Administrative Reform Concept.¹¹⁹ A similar competition was held again in March 2007.¹²⁰

Administrative reform was the least funded of all the ongoing institutional reforms in public administration. For example, in 2009, M.A. Gintova stated that the average size of the support allocated per region or the federal executive authority was 190 million rubles for a pilot health care reform project; 150 million for an integrated education reform project; 100–120 million for a regional finance reform program; and at least 100 million for an experiment to introduce performance-based budgeting result, but only 25 million rubles for an administrative reform project in a RF subject and 7.8 million rubles for an administrative reform project in a Federal executive body.¹²¹ The differences in the amount of financial support to potential participants indicate a low priority and low political importance of administrative reform in comparison with other institutional reform. Consequently, according to some experts, the theme of improved governance has been divided artificially into several blocks in a piecemeal haphazard manner that is controlled and managed inconsistently by various federal agencies.

Perceptions of how satisfied the Russian public is with state public services as a whole do vary, but, overall, more Russians found government services to be working better over the previous two to three years in 2011 than they did in 2008.¹²²

¹¹⁸ The results and study methodology of federal bodies regarding administrative reform can be found in Zhulin et al.

¹¹⁹ Lazarev. ¹²⁰ Sharov. ¹²¹ Gintova.

¹²² Fond Obshchestvennoe Mnenie, pp. 12, 13, 16–23. This is a report based on a nationwide public opinion survey of 6,032 Russians carried out in 64 RF Subjects in March 2011 for the World Bank/Department for International Development of the UK 'Public Administration Reform in the Russian Federation' project, for which the author was a consultant.

Nevertheless, administrative reform of public service delivery in Russia has been bogged down by the simple fact that it is not an easy task to introduce any reform that affects a wide spectrum of existing government organizations that already have their own laws and regulations governing their activity and to try to do so amid changing reform objectives and without a large-scale investment of large sums of funding at ready disposal. As such, where administrative reform in the area of public service delivery has been slow to progress, it has been due to the difficulty of applying a single methodology, a single template, a single oversight body to the process and a single path towards legislative adoption of new laws while competing with other Kremlin policies and objectives seeking greater control over structures.

The administrative reform plan goes hand-in-hand with Putin's introduction of seven federal districts (*okrugi*) as a layer of government between the regions and the central government. 'Federal reform as it was being implemented was only partially about relations between the centre and the regions', writes Nikolai Petrov. 'It was primarily about power. And more about power at the national level than at the regional level. And it is no coincidence that Putin's presidency began precisely with this. By creating federal districts that he fully controlled, Putin set the stage for taking control over the military, security and law enforcement bodies – first in the regions, then in Moscow.'¹²³ Furthermore, in establishing the seven federal districts, Putin's reforms also brought under presidential control the Monitoring Administration and the Cadres Administration, which were based in the provinces.¹²⁴

Putin sought to create a 'power vertical', a term which, according to Aleksandr Belousov at the Law of the Urals Division of the Russian Academy of Sciences, does not exist in the RF Constitution and cannot be found in Russian laws written before the Putin era. Belousov has argued that 'the term "power vertical" is neither a juridical term nor a scientific concept', but rather is a powerful 'political metaphor' to describe an array of things. Further, while Putin, a lawyer, has been extremely precise when using legal terms, he has been remarkably 'ambiguous' when using the words 'federal' or 'federation'.¹²⁵

In many respects, Putin's efforts to centralize control over Russia's provinces (89 in number at the start of Putin's presidency, but, according to the RF Constitution, 85 provinces now, after some consolidations and after the 18 March 2014 annexation of Crimea) were a process of reversing the efforts of both Yeltsin and Gorbachev to decentralize the state. A personal example illustrates the point: In July 2000, three months after

¹²³ Petrov, 22 May 2003. ¹²⁴ Huskey, pp. 124–125. ¹²⁵ Goble.

Putin was elected president, I travelled to Yakutsk, the capital city of the Sakha-Yakutia province, to interview federal officials based in the region. Coinciding with my visit, a planeload of bureaucrats came from Moscow to review the activities of the federal state in the province. When I met with the assistant director in charge of the RF Employment Fund for the region, he told me that in the six years he had worked there, this was the first time someone from Moscow had come out to check on their work.¹²⁶ Clearly, from the beginning of his term, Putin sought to waste little time in putting a strict hierarchical system of control back in place.

Since the formation of the Soviet Union in 1922, true federalism, in fact, never really existed in either the USSR or the Russian Socialist Federated Soviet Republic (RFSFR.) ‘Quite unlike classical Western notions of federalism, which strike a balance of power and responsibilities between centre and periphery, the Soviet version of federalism denie[d] the Union’s constituent republics the crucial element of sovereignty in handling their own political, social and economic affairs’, Peter Pavilonis has written. ‘The republics’ constitutions [were] carbon copies of the USSR Constitution and there [was] little difference in republican versions of all-Union legislation drafted in Moscow.’¹²⁷

Gorbachev meanwhile allowed republican leaders to adapt the USSR’s legislation to their own republics.¹²⁸ ‘Whereas Gorbachev employed *glasnost* in the mid-1980s as a means of collecting reliable information on political and economic conditions in the country’, Eugene Huskey has written, ‘Putin opted for a new bureaucracy of *kontrol*’ that could at once offer the president a more accurate picture of developments in the periphery and incriminating evidence (*kompromat*) on provincial leaders.’¹²⁹ Hence, Putin did have a choice as to which legacy to follow when interacting with the provinces – either to push forward with Gorbachev–Yeltsin *glasnost*-like federalizing measures or to opt for trend-reversing ‘Back in the RFSFR’ measures.

While Putin has been trying to place the bureaucracies under more direct control, the ranks of the state agencies in the 1990s and 2000s have been filled with older bureaucrats who mostly entered government in the Soviet era and who were replaced by former military and law enforcement personnel rather than by newly trained younger workers. According to Vladimir Gimpelson, every other bureaucrat in the organs at the federal level in the early 2000s worked in the Brezhnev era, and

¹²⁶ Interview with the Assistant Director, RF State Employment Service, The Department of Employment of the Population of the Republic of Sakha-Yakutia, 3 July 2000, in Yakutsk.

¹²⁷ Pavilonis. ¹²⁸ Ibid. ¹²⁹ Huskey, p. 119.

with workers from the Gorbachev period, such bureaucrats compose 60 per cent of the current workforce. Three-quarters of higher-level bureaucrats were hired before 1990. '[D]espite all of the numerous reorganisations of the ministries and institutions', writes Gimpelson, 'the "new" cadre more often is extracted from the same multiply re-shuffled deck of cards.'¹³⁰

Moreover, with a 2002 presidential decree and the 2003 passage of Putin-sponsored legislation, the Kremlin sought to establish a ranking system for state and military employees akin to the 'Table of Ranks' that Peter the Great introduced in 1722, with promotions tied to length of time in service rather than to job performance.¹³¹ The move would make it easier for retired army and police officers to find jobs as bureaucrats (rather than providing for newly trained younger bureaucrats.)

Instead of promoting those with party ties, per se, Putin's regime has brought an influx of people with military, law enforcement or security service backgrounds, commonly referred to as the *siloviki*, especially into the tax administration, as will be shown in Chapter 5. A study by the Institute of Sociology in Moscow found that up to 70 per cent of the presidential envoys' staff in the seven federal *okrugi* are from the military, while the number of people with military or security backgrounds more than doubled from 2000 to 2003.¹³² Khryshstanovskaya has estimated that up to 75 per cent of Putin's top government appointees in his first term also had such backgrounds, while such people composed only five per cent of Gorbachev's Politburo.¹³³ Meanwhile, 35 per cent of the deputy ministers appointed to the economic ministries in the first term have military or security backgrounds, most of whom are still 'active reserve officers' of the FSB, which requires them to report to the FSB as well as to their own ministers.¹³⁴

Khryshstanovskaya and Stephen White explain that Putin's choice of armed forces and state security personnel is based upon the reputation of these organizations as being more honest, apolitical, professional and conscientious in fulfilling their duties than other societal groups. They also state that Putin opted for the *siloviki* because the armed forces and state security agencies retained their vertical organizational structures across the country, penetrating society, even while other institutions collapsed and disappeared when the Soviet Union fell.¹³⁵

¹³⁰ Gimpelson, p. 26. Translation from the Russian by the author.

¹³¹ Yablokova; RFE/RL Russian Political Weekly, 15 July 2004; Prime-TASS News, 21 November 2002; and IPR Strategic Information Database.

¹³² Khryshstanovskaya. ¹³³ Russkii Fokus. ¹³⁴ Khryshstanovskaya.

¹³⁵ Khryshstanovskaya and White, p. 291.

Yevgenia Albats, meanwhile, found in 2004 that over 50 per cent of some 706 federal officials surveyed were opposed to transparency.¹³⁶ In the 2011 survey of Russian tax officials, only four out of five (80 per cent) bureaucrats believe that there are few dishonest tax employees, with 14 per cent stating that there were many and 5 per cent declining to answer (see Question #3 in Appendix I). And that 2011 survey also shows that just less than half of the tax officials believe that the state fights corruption well, with 34 per cent stating that the state does a poor job, 10 per cent stating that the state does no job and 9 per cent refusing to provide an answer (see Question #59, also in Appendix I.) Finally, only 53 per cent of these officials trust other bureaucrats (see Question #51.)

In 1990, there were 663,000 Russian bureaucrats.¹³⁷ Statistics vary somewhat with respect to the size of the Russian bureaucracy today. According to the presidential office's figures in 2002, the number of state officials was 1.53 million, not including army, law enforcement or emergency services personnel.¹³⁸ In 2004, the RF State Statistics Service stated that the number was 1,300,500.¹³⁹ In 2005, Khrystanovskaya estimated in 2005 that the figure was two million.¹⁴⁰ Meanwhile, in 2013, the number of officials was deemed to be 1.45 million.¹⁴¹

Since 1991, corruption has escalated dramatically in Russia. Elena Panfilova, director of Transparency International's office in Russia, has argued that the corruption of government officials further enhances greater control within the system as bureaucrats are promoted, because the presence of corruption means greater pliability. 'A corrupt official is a more loyal official', she states, adding that punishment occurs only when spoils aren't shared or when an official steps on somebody else's turf.¹⁴²

Meanwhile, Georgy Satarov, head of the InDem Foundation, adds that the State Duma often grants general amnesties that include those convicted on charges of corruption. 'In other words', he states, 'if you have taken a bribe, there is an extremely small chance that you will be caught red-handed. The chance that you will be convicted is even less. And even if you happen to be found guilty, it is highly probable that you will get a suspended sentence or an amnesty.'¹⁴³

As mentioned in Chapter 2, corruption has grown significantly under Putin, and unsurprisingly, Russians share similar views on corruption

¹³⁶ Albats. ¹³⁷ Paton Walsh; and Simankin and Blinova.

¹³⁸ Prime-TASS News, 21 November 2002. ¹³⁹ RFE/RL Newline, 14 May 2004.

¹⁴⁰ Abdullaev. ¹⁴¹ *Moscow Times*, 15 October 2014.

¹⁴² *Economist*, 20 October 2005. ¹⁴³ Alyakrinskaya.

and on bureaucrats. Of Russians polled in 1999, 61 per cent believed that it is impossible to eradicate corruption in Russia.¹⁴⁴ In the same poll, 70 per cent of Russians surveyed said that corruption on the part of government servants had increased within the last year or two.¹⁴⁵ In addition, 81 per cent the same year also considered local bureaucrats to be corrupt and to be abusing their positions for private goals.¹⁴⁶ Further, in the 2010 Russia Taxpayer Compliance Attitudinal Survey (see Question #59 in Appendix I), only 17 per cent of Russians stated that their government does a good job in fighting corruption, while 51 per cent stated that the government does a poor job and 23 per cent stated that the government does not fight corruption at all.

In spite of widespread distrust for the state, a turnaround has been made with regards to Russians' trust of institutions held over from the past and the new post-Soviet institutions. 'It is a reversal of the situation in the early 1990s when Russians tended to be warmer toward the new institutions than the old ones', Vladimir Shlapentokh has written. 'Russians have more confidence in the old institutions than the new ones. An important point should be made about the country's historical processes: the new institutions, with their low status in the Russian mind, could not compensate for the decline of the old institutions, including the government, security forces and the police.'¹⁴⁷ In this respect, Putin's focus on revitalizing institutions through the military and law enforcement are a reflection of how both he and his society view the more recent past, especially as confusion exists with respect to what benefits there actually are in opening up the state's structures to society.

Ukraine's Default Choice to Maintain a Large, Bureaucratic Soviet-Like State

On 24 August 1991, two days after the putsch had ended in Moscow and roughly four months before the end of the USSR, Ukraine's parliament began procedures to vote for independence, during which one speaker got up and expressed a great fear shared by many in the room as to what life outside the Soviet Union would be by declaring, 'I don't see why we should be independent. We've done nothing wrong.'¹⁴⁸

While failing to stave off independence, those remarks may as well have summed up the political leadership's approach in the 1990s and early 2000s to the Ukrainian state and governance – namely, that there is

¹⁴⁴ Fond Obshchestvennoe Mnenie, Moscow, 13–14 March 1999. ¹⁴⁵ Ibid.

¹⁴⁶ Fond Obshchestvennoe Mnenie, Moscow, 12–13 June 1999.

¹⁴⁷ Shlapentokh. ¹⁴⁸ Cowley, p. 3.

nothing wrong with continuing forward with a large, Soviet-style bureaucratic social welfare state. And, indeed, throughout Ukraine's twenty-five years as an independent state – amidst struggles between presidents and parliaments, oligarchs and outsiders – the country never truly has reformed its bureaucracies. '[E]ven today, the methods of governing have been left almost unchanged since the Soviet era', Ihor Koliushko and Viktor Tymoshchuk observed in 2000. 'No one carries real responsibility for the state of affairs in the country, while the non-transparency of the state structure for the public and its totally corrupt nature have ultimately undermined the trust of the citizens in their Government and the state as a whole.'¹⁴⁹ Similarly, as Anders Åslund wrote in 2015, 'While it has depoliticized state administration, Ukraine has yet to rejuvenate and professionalize it. The main problem is corruption, which is linked with the continuity of the Soviet state administration. The Ukrainian state administration has changed less than in any other post-Soviet country.'¹⁵⁰

Under President Leonid Kuchma (1994–2005), the executive branch was characterized as having 'poor co-ordination of actions on the part of different executive structures, inconsistency and the contradictory nature of decisions; low executive discipline; duplication of similar functions performed by different bodies; excessive concentration of administrative functions at the highest levels of the executive branch; unbalanced regional policy; inaccessibility of the executive power bodies to public control; corruption and economic crime within the state structures, and the low prestige of public service in Ukraine'.¹⁵¹ The situation was little better during President Viktor Yushchenko's term in office (2005–2010), which was characterized by a lack of coordination, inefficiencies, shortage of personnel resources and a lack of highly professional civil servants.¹⁵²

The process of administrative reform, which began with a state commission drafting the Concept in 1997, was supposed to ameliorate these issues with the bureaucracy, but was prolonged, drawn out and criticized for reorganizing and liquidating ministries prior to an evaluation of their functions in a process that was not always transparent to the general public.¹⁵³ Meanwhile, throughout the 1990s, the World Bank appeared to be the only client for administrative reforms. In other words, no one really wanted administrative reform to take place in Ukraine except for

¹⁴⁹ Koliushko and Tymoshchuk, p. 59. ¹⁵⁰ Åslund, 2015, pp. 146–147.

¹⁵¹ Razumkov Ukrainian Centre for Economic and Political Studies (UCEPS), 2000, p. 10.

¹⁵² Razumkov UCEPS, 2007, p. 66. ¹⁵³ Razumkov UCEPS, 2000, pp. 19, 25 and 30.

the Bank, which, Koliushko and Tymoshchuk remarked, ‘shared the main ideas behind the Concept of Administrative Reform in Ukraine, and stepped forward as virtually the only client “placing orders” for changes in the system of state administration in our country (as unpleasant as this is to admit). It was under their pressure (and as a rule, prior to a scheduled visit for loans), at least cosmetic attempts were made to take some steps towards administrative reform.’¹⁵⁴

The process of administrative reform continued initially with renewed intensity after the 2004 Orange Revolution, but it also lacked any coordinator or official in charge, a situation aggravated by the fact that the task was a secondary duty for those in the Government charged to work on such reforms while other critical policy tasks associated with running the government took precedent.¹⁵⁵ Administrative reform during Yushchenko’s term brought surprisingly little reform and more floundering. ‘There was no qualitative breakthrough’, the Kyiv-based Razumkov Centre’s journal *National Security & Defence* concluded. ‘The key laws necessary for administrative reform in the institutional, procedural, human, and territorial domains were not passed. The lack of a strategic vision of the process of reform and realization of individual steps is striking. Due to the lack of a clear idea of changes in the new authorities, a lot of time was wasted.’¹⁵⁶

Under Yushchenko, little success was attained as well in adopting a civil service bill in 2005 as upon its ‘finalization, involving representatives of many state bodies, educational establishments, and trade unions showed that the personal interests of civil servants prevail over the interests of the people’, according to the *National Security & Defence*. ‘The reformist potential of the bill [was] impaired, while the social aspect [was] boosted. The attention to the draft “Code of Ethics” weakened after the Minister of Justice was replaced.’¹⁵⁷

Meanwhile, the post-Orange parliament also exhibited a complete lack of understanding regarding what the civil service was all about by amending regulations for a civil service personnel reserve to extend benefits to former MPs and for replacing nearly a hundred civil servants who left supposedly ‘on their own will’ with newly hired personnel from a single region. Such a ‘decision illustrates misunderstanding of the elementary principles of good governance by the authorities’, commented the journal in 2007. ‘Widespread resignations of civil servants of the highest level “at their own discretion” and dominance from one region taking

¹⁵⁴ Koliushko and Tymoshchuk, p. 60.

¹⁵⁵ Razumkov UCEPS, 2006, pp. 19–20; and Razumkov UCEPS, 2007, p. 23.

¹⁵⁶ Razumkov UCEPS, 2005, p. 35. ¹⁵⁷ Ibid.

executive positions is testimony to systemic problems of the institution of the civil service, as well as a compromise of citizens' rights to equal access to the civil service, its stability and political neutrality.¹⁵⁸ Hence, outside experts in Ukraine clearly saw expectations raised several times, but little reform of the bureaucracy in the end.

More recently, the *Verkhovna Rada's* 10 December 2015 passage of a civil service reform law showed promise. The law calls for all civil service appointments to be made through open and competitive appointments; the creation of a special selection committee that will independently decide all top appointees across all of Ukraine's government bodies, half of whose members will come from civil society; a ban on senior bureaucrats' holding membership in any political party; the creation of a new position of state secretary in all of Ukraine's ministries – chosen through a new competitive process – that will manage the ministry in alignment with the European Union, where administrative and political functions are separated; limiting senior bureaucrats' tenures to a maximum of two five-year terms; and a change in the salary structure for personnel. If implemented properly – and a summer 2016 attempt to pass a new bill threatened to eliminate the special selection committee's ability to choose the heads of local administrations and pass that responsibility back to the president – the law truly would bring a sea-change in corruption within Ukraine's administrative structures.¹⁵⁹

The reasons for the decades-long inertia in re-creating the post-communist Ukrainian state are multifold and, perhaps, over-determined. First, as Taras Kuzio has remarked, Ukraine had a limited pre-Soviet legacy upon which to draw.¹⁶⁰ The piecemeal nature of the process by which the Ukrainian Soviet Socialist Republic was constructed, with parts composed of lands ruled by the Russian Empire for centuries and other parts never having experienced Russian rule until after World War II, meant that there was no clearly identifiable governance model for the bureaucracy, as there was for Poland or Russia.

Second, as Åslund reminds us, Ukraine's independence was achieved by a compromise between the nationalists and the older communist elites, who viewed a large state apparatus for them to rule as indicative of a strong state. 'They favoured a big state apparatus', he wrote, 'ignoring its quality.'¹⁶¹ Indeed, as the number of social welfare benefits, pensions and subsidies shows, the basic policy goal was a large state role. And maintaining such a large state led to an unorganized monolith

¹⁵⁸ Razumkov UCEPS, 2006, pp. 18–19.

¹⁵⁹ Cohen, 22 December 2015; Cohen, 5 July 2016; and Herbst.

¹⁶⁰ Kuzio, p. 1017. ¹⁶¹ Åslund, 2015, p. 147.

of bureaucracy. '[W]hile maintaining its claim to a wide scope, the state had become porous', commented Verena Fritz. 'Financially, a considerable share of programs formulated by decision-makers went unfunded. Moreover, the horizontal and hierarchical integration of the state was frayed. Thus, several sources of rulemaking competed with each other, both in the issuing of legal rules and in bringing crucial institutions (such as the [State Property Fund], [National Bank of Ukraine]) under their control. Faced with contradictory rules, lower levels of the administration failed to implement orders from above.'¹⁶²

Third, there was a lack of vision on almost everything economic at the top of the political system, muddling the imperative for administrative reform and not allowing a larger debate in society as to what the role of the state should be. 'The Ukrainian leadership lacked a clear vision of what socio-economic model to strive for', wrote Fritz. 'On the one hand, leading politicians sought reforms, on the other hand, they rejected "shock therapy" initiated by the liberal elite in Russia.'¹⁶³ By seeking out, but not yet coalescing around, an economic reform program in the 1990s, the need for a reform of the bureaucracy – and how it could assist in economic reform – was put off as well. Externally, the impetus for economic reform was mooted also, since the European Union did not provide as significant support to Ukraine, despite Ukraine's support for greater integration with the West, as it did to other East European states, who were offered the 'carrot' of membership and were separated off from Ukraine by the European Union in their aid programs. (The 1980s' Poland did not become the Poland of today without significant help from the West, foreign aid programs and the cancelling out of all Polish historical debts in the 1990s. Moreover, Europe always divided off the former Soviet Union (FSU) states like Ukraine, keeping the twinned aid programs for Central Europe and the former Soviet Union, PHARE and TACIS, separate from each other so that there was little interaction programmatically across Central and Eastern Europe, including the Baltic states, on the one hand, and the FSU on the other.)

Fourth, while power became concentrated within the presidency from the late 1990s up until the 2004 Orange Revolution, the parliament and the president vied over the constitutional distribution of power throughout this period.¹⁶⁴ Even though Poland's political parties certainly fought over the power to influence the bureaucracies on a 'spoils' basis, the constitutional distribution of powers in Poland was not considered as being up for revision to the extent that it was continually so in Ukraine. The long delay of the Constitution, finally adopted in 1996 – and, to a lesser

¹⁶² Fritz, p. 133. ¹⁶³ *Ibid.*, pp. 113–114. ¹⁶⁴ *Ibid.*, p. 109.

extent, the prolonged absence of a fundamental law ‘On the Cabinet of Ministers’, adopted in 2008 – meant that all branches and powers of government were open to ‘ad hoc tests of strength’ and that even the president and the prime ministers would contest domination over policy making.¹⁶⁵ And, when the Constitution did arrive, it did not resolve who was in control, as it stated that the government was “‘responsible to the President of Ukraine and [. . .] under the control of and accountable to the *Verkhovna Rada*” (Art. 113).¹⁶⁶ The government thus had two masters seeking to control it.

In the late 1990s and early 2000s, administrative bodies were subordinated de facto to the president when they should have been subordinated to the government – which muddled the laws and rules of the state as Kuchma tried to create a presidential state.¹⁶⁷ In many ways, Kuchma’s regime focused on centralizing the government in order to maintain strength, *National Security & Defence*’s editors concluded, ‘rather than to attain democratic standards in the delimitation of powers of the bodies of state governance, lay down a solid legal basis for their activity, and bring the practice of governance into compliance with the Constitution’.¹⁶⁸ Remarking on the conflicts at the top over administrative reform during the period 1997–2000, the Razumkov Centre’s Analytical Report stated, ‘Co-operation among working groups of the *Verkhovna Rada*, the Government, and the President of Ukraine at the stage of draft law (draft presidential decree) preparation was virtually absent. As a result of this, almost every law approved by the *Verkhovna Rada* was vetoed by the President several times; likewise, the *Verkhovna Rada* blocked draft laws introduced at the initiative of either the Government or the President of Ukraine.’¹⁶⁹

After the Orange Revolution, a similar lack of legislative support for Yushchenko’s attempts at administrative reform meant that many promised fundamental laws on the running of the government were not adopted, while efforts to strengthen the executive branch over local self-government bodies led to increased tension between the centre and the regions.¹⁷⁰ A hasty dismissal of nearly 20,000 state employees in the executive branch in 2005 was viewed as ‘political persecution’ of those who worked under the Kuchma regime.¹⁷¹

Fifth, as the economy collapsed in the first half decade after the Soviet Union collapsed (and even today Ukraine remains one of the very, very few countries in the world that have not yet reached their own 1989 levels

¹⁶⁵ Ibid., p. 116.; and Razumkov UCEPS, 2000, p. 13. ¹⁶⁶ Fritz, p. 139.

¹⁶⁷ Koliushko, p. 62. ¹⁶⁸ Razumkov UCEPS, 2005, p. 31.

¹⁶⁹ Razumkov UCEPS, 2000, p. 22.

¹⁷⁰ Razumkov UCEPS, 2005, p. 35. ¹⁷¹ Ibid.

in growth per capita), the structure of the Communist Party of Ukraine was dissolved, and few strong political parties came forth (although a re-emerged Communist Party commanded the largest parliamentary factions from 1994 to 2002), the state was held together by ‘networks’ of former Communists. Hence, absent political structures that were prevalent in other countries, the networks of former communists from the Soviet days ensured the continuity of the Soviet bureaucratic structures.

Sixth, Ukraine retained very little fiscal experience from the Soviet days. Unlike Poland or Russia, Ukraine did not inherit a full set of financial and fiscal institutions or any state organizations involved in planning and budgeting, as those tasks had been carried out in Moscow prior to 1991 – which was not helpful, as the Soviet collapse brought economic breakdown for the newly independent state.

Finally, unlike Poland’s NIK, Ukraine’s Accounting Chamber was very weak. After parliament overturned a May 1996 presidential veto of a parliamentary law giving the Accounting Chamber significant powers, Kuchma submitted the law to the Constitutional Court, which greatly reduced the Accounting Chamber’s role so that it could not monitor budget revenues, only budget expenditures.¹⁷²

After February 2014, the world began to see what many Ukrainians and Ukrainian analysts had known all too well – that the government of President Viktor Yanukovich (2010–2014) brought unheard of levels of corruption to the country. In 2012, Ernst & Young placed the country among the three most corrupt in the world, along with Colombia and Brazil.¹⁷³ Both Yushchenko’s and Yanukovich’s terms in office also saw a slide in Transparency International’s Corruption Perception Index, with Ukraine falling from 107th place in 2005 to 118th place in 2007, to 134th place in 2010 and to 142nd place in 2014.¹⁷⁴

Indeed, the level of corruption has been perceived by Ukrainians as being worse than their Polish and Russian counterparts. In the Ukraine Taxpayer Compliance Attitudinal Surveys (see Question #59 in Appendix I), for example, only 10 per cent of Ukrainians in 2010 and 5 per cent of Ukrainians in 2015 stated that their government does a good job in fighting corruption – figures that are almost half and one-third of those in Russia, respectively, and almost one-third and one-fifth of those in Poland, respectively. Meanwhile, 54 per cent of Ukrainians in 2010 and 51 per cent in 2015 stated that the government does a poor job, and 28 per cent in 2010 and 34 per cent in 2015 stated that the government does not fight corruption at all.

¹⁷² *Ibid.*, p. 166. ¹⁷³ Tkachuk.

¹⁷⁴ See www.transparency.org, accessed on 5 August 2015.

The EuroMaidan revolution, from which Yanukovich fled on 21 February 2014, led to a reform-minded government being installed under the leadership of President Petro Poroshenko and Prime Minister Arseniy Yatsenyuk, who have declared that they will fight corruption head on. Indeed, the task is quite hefty, given the size of the public sector and the lack of an overall plan for reducing it.¹⁷⁵ Ukraine has one of the largest government workforces, with 4.42 million employed by the state in 2012, amounting to 26.7 per cent of the country's workforce. In 2014, that figure included to 433,269 public employees in the state administration, comprising 335,270 state-level civil servants and 97,999 local government officials.¹⁷⁶

After the EuroMaidan revolution, the most prominent debate in Kyiv regarding state employees focused on the issue of lustration of those who served in top government positions during the Yanukovich era. A law passed in September 2014 barred ranks of officials from holding public office, and more than 700 former officials had been lustrated by July 2015. In November 2015, those lustrated were said by Yatsenyuk to include 'first deputy ministers, deputy ministers, 42 per cent of the higher officials of the State Fiscal Service [Ukraine's tax administration] that were closer to the status of millionaires than to the status of real civil servants, and 15 per cent of the leadership of the State Fiscal Service in the regions'.¹⁷⁷ However, the reality of lustration may be quite limited in its success. A top prosecutor in Kyiv, who should have been barred from office, managed, through both connections and knowledge of the legal system, to avoid the ban by obtaining in advance from a court a preventive ban on his dismissal that was kept secret from the public for months.¹⁷⁸

For post-communist Poland, Russia and Ukraine, the use of legacies to build trust and improve state–society connections has mattered greatly. And such use has mattered more than just cultural and historical predispositions. Political leaders, societies and bureaucracies alike all view their relations with one another based on current interactions as well as on how they perceive similar past interactions to impact on the present. The selection, interpretation and application of past legacies by intent or by default are particularly important in times of transition, when choices on which institutions need abolishing, updating or retaining are made.

For Poland, the irony is that bringing back some of the inter-war institutions in the 1980s – a decade that began with the strikes at the Lenin

¹⁷⁵ Lough and Solonenko, p. 9.

¹⁷⁶ Åslund, 2015, p. 134.

¹⁷⁷ Yatsenyuk.

¹⁷⁸ Gorchinskaya, 18 July 2015.

Shipyard in Gdańsk, the formation of Solidarity and the establishment of martial law – was done in order to legitimize the communist state in the eyes of its society, but ended up legitimizing the transitional state in the 1990s. The legacy from the past that was used in the 1980s as part of an effort to re-build communist governance actually benefited the communists' successors, as these institutions were in place when other reform efforts were initiated. (This becomes particularly clear in the discussion of bureaucrats' implementation of the new tax policies in the 1990s, to follow in Chapter 5.) Further, as the Polish case illustrates, political parties need not play a guiding role in using legacies from the past in order to update and re-build the new post-transition states.

In some ways, the leadership in both Poland and the Soviet Union in the 1980s began to tap into solutions to governance dilemmas that could have been beneficial in the long run – if only, of course, their governments had not been toppled first. The regime collapses that did end the 1980s came about because the bold and necessary prescriptions for better governance – greater transparency, better citizen–state interactions and societal oversight of the bureaucracy – were antithetical to the essence of authoritarianism, whether it was practiced benignly or not. How to interpret that decade – and the legacy it left behind, replete with still-standing state institutions and bureaucracies – became the choice of new leaders and new societies. Poland chose which institutions to keep and update, using the more distant inter-war legacy to further legitimize the state as it did so. Russia, on the other hand, saw the *glasnost* efforts to build a civil society founder under Yeltsin and that legacy be reversed in the Putin era. Meanwhile, Ukraine did not engage in much soul-searching regarding its historical legacies bequeathed to the state, but opted by default for a continued Soviet-like monolithic bureaucracy that led to disarray by avoiding serious reform in any direction.

In the chapters ahead, we will explore the different approaches that the Polish, Russian and Ukrainian systems took in the first twenty-five years of the transition in utilizing existing state structures to collect the newly established taxes. We'll start in Chapter 4 with an examination of the tax regime and different economic and tax policy explanations for tax collection, which will be followed, in Chapter 5, with an analytical view of the inner workings of the tax bureaucracy and, in Chapters 6 and 7, with a focused look at how different types of state–society relationships contribute to tax compliance.