

# Corruption & Democracy

Political Institutions, Processes and Corruption in Transition States in  
East-Central Europe and in the former Soviet Union

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## DEFORMATION OF ORGANIZATIONAL PRINCIPLES: CORRUPTION IN POST-SOCIALIST SOCIETIES

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### 1. *The Syndrome*

“Corruption is the most infallible symptom of constitutional liberty.”<sup>1</sup>

#### 1.1 *False Problem: Betrayed Revolutions*

Revolutions offer a rare opportunity to study the circumstances in which people experience a heightened sense of morality. Euphoria, eruptions of joy and a spirit of freedom are common reactions. Revolutionaries exploit these emotions with promises of a better future, more democracy, personal freedom, economic development, national emancipation or independence, and the fulfillment of collective dreams. Movements are organized based upon widespread identification with such goals. Anarchists dream of permanent revolutions and utopians believe that revolutions are the unavoidable result of good intentions. But both groups desire them because, whether progressive or reactionary, based on religion or ideology, peaceful or violent, all successful revolutions have moments of exaltation and euphoria. During a revolution, morality transcends rational calculation and is often symbolized by the revolution's leaders and expressed in terms of idealistic motives.

Revolutions are often identified with charismatic leaders who are morally above the temptations of the material world. Cromwell, Robespierre, Lenin, Trotsky, Stalin, Mao, and Castro were willing to sacrifice themselves to brutally eliminate competitors and dissidents, and promised to use all—even immoral—means to achieve their ideological goals. They did not appear to care about material benefits; they lived in spartan circumstances and their past did not suggest personal ambition or a threat that they would use their public positions for material benefit.

But when the revolution ended, everything was different. The movement transformed itself and became an institutionalized order. Order requires rules and legitimized power as well as regulated status, income and material situations. Power must be expressed in material forms. Nepotism, “state” villas, western cars, bank

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<sup>1</sup> E. Gibbon.

accounts in Switzerland, benefits for veterans, ceremonies all became part of the newly established order. The following quote illustrates this phenomenon:

He who wants to establish absolute justice on earth by force requires a following, a human "machine." He must hold out the necessary internal and external premiums, heavenly or worldly reward, to this "machine" or else the machine will not function.... This belief, even when subjectively sincere, is in a very great number of cases, really no more than an ethical "legitimization" of cravings for revenge, power, booty, and spoils. Emotional evolutionism is followed by the traditionalist routine of everyday life.... After coming to power, the followers of the crusader usually degenerates very easily into a quite common stratum of spoilsmen.<sup>2</sup>

The revolution becomes *corrupted*;<sup>3</sup> their leaders turn out to be nothing more than common men, with average abilities and often a lack of morality.

We do not emphasize the problem of degeneration<sup>4</sup> following revolutions because revolutions—the Russian, Chinese, anti-colonial, and the anti-socialist, velvet revolutions—are symbols of our time. We emphasize them to point out the contrast between fascinating promises and somber reality. The recent dramatic changes in the now post-socialist countries reveal that, here too, unrealistic revolutionary expectations and promises are contrasted with reality. Those newly-emerging democracies are attempting to function as normal modern societies, but the burden of social inertia is a visible obstacle. Disappointment in betrayed promises, the revelation that the revolutionary ideals were false, and the lack of moral orientation of the leaders shatter the spirits of the populace as the state returns to business as usual in a still corrupt society. Because a certain level of corruption exists in developed societies, the burden and danger of devolution must, therefore, be analyzed not on the superficial level of emotions (false problem: betrayed revolutions) but from a concrete view of reality.

### 1.2 Real Problems: The Burdens of Post-Socialism

Post-socialist countries, in general, are faced with three general social problems: 1) the destruction of the moral basis of society, and simultaneously, the explosion of aspirations; 2) an undeveloped and inefficient system of democratic institutions; and, 3) the lack of political tradition and culture.

<sup>2</sup> H. H. Gerth and C. W. Mills, *MAX WEBER: POLITICS AS A VOCATION*, p. 125 (Oxford University Press 1958).

<sup>3</sup> Not only in speech, but also in reality.

<sup>4</sup> A. Touraine, *LA VOIX AT LE REGARD*, chap. IV (Seuil, Paris 1978).

Socialist dogmas were destroyed because they lacked credibility. By aspiring to create a Marxist scientific heaven on earth, these dogmas succeeded in eliminating the traditional moral foundations of society, including religion. Cynicism, "doublethink," and the realization of moral norms were typical of the totalitarian political administrations. Now the "western way of life" has penetrated deeply into the consciousness and values of the people, but in a deformed, perverse manner. A false picture of western society has been presented: pure leisure and entertainment, in which everyone is young and healthy, oriented toward the emotional side of life, and full of action and excitement. The mundane aspects of Western life are not revealed—the years of education and hard work from which technological superiority and the high standard living has resulted. The traditional basis of morality is now lacking. Dogmas were functionally replaced by popular movements, nationalism, "witch hunting," hatred of enemies, and religion. The discrepancy between aspirations and possibilities is glossed over by campaign promises of a better future (through de-nationalization and privatization, and de-bureaucratization).<sup>5</sup>

The lack of democratic institutions is not directly visible. Constitutions and laws are drafted that are comparable or even identical with those found in democratic societies. Elections, parliaments, administration, judiciary, constitutional courts, and civil rights are proclaimed as they are in developed democratic societies. The legal system is impressive in its size, but illegal behavior is rampant. New campaigns and discussions about new legislative acts, reorganizations, and schemes to rid society of these problems often emerge, but usually have a very short life expectancy. The goals of new institutions are not clear, while internal relations and relations with the public are confused. Operating methods and organizational routines are disconnected from the goals. Institutions need time to develop manageable and understandable goals and areas of competence: what is the aim of the organization and who is responsible for what? Inside the state hierarchy, horizontal and vertical coordination and control is insufficient. Only in time will the institutions be able to function normally. It is not always clear what the official rules are; discretion in interpretation of laws is vast and therefore it is difficult to ascertain when interpretation stops and abuse begins.

Critical to all governmental organizations are its employees. The old personnel, being identified with the communist regime, were replaced by people who may have more education but were inexperienced. The new civil servants had the revolutionary spirit, but with no specialization or administrative knowledge. Many positions remained politically important even after the old system of nomenclature was abandoned. Selection of individuals for key positions was based on personal loyalty rather than professional competence. The methods of work and the values of new personnel revealed the hidden inertia of the old system. A precarious balance resulted: inertia was confronted with ideas and inspirations from abroad,

<sup>5</sup> The situation is similar to the anomaly described in works of E. Durkheim.

knowledge was contrasted to politics, and stability was necessary, but change, inevitable.

Post-socialist countries are defined, not only by their political past, but also by their level of social and economic development. Material conditions in these countries do not support individual prosperity. Lower standards of living widen the gap between rich and poor. Successful private entrepreneurs, segments of political bureaucracy, war barons and the other *nouveaux riches*, show off the symbols of wealth that previously were invisible in these societies. Only a small minority are included in the new economic elite and enjoy real improvement in their everyday life. Social stratification in a society with an egalitarian culture and tradition<sup>6</sup> creates heightened social tensions while moral standards become more flexible. The “werewolf hunger for surplus” during war (in the former Yugoslavia) and the accumulation of capital produce individual frustration, suppressed anger, and indefinable feelings of dissatisfaction and alienation. Work ethics are not present. A free press, and motivated and responsible public opinion have yet to be developed. Cynicism and pessimism are more than just a “style” in post-revolutionary countries. Passivity and social depression are common. Often, the political culture is more parochial than participative. In times of insecurity “normal” social problems, such as alcoholism, drug abuse, and family violence increase. Each of these problems are now very evident in all the transition states.

The problems are the result of under-development as well as the result of the transition to a market society. In such a situation, corruption is not an incidental phenomenon but an integral part of the model.

## 2. Corruption: Causes and Remedies

Corruption is not a social phenomenon which can be explained by a simple cause/effect model. Corruption is not the product of a single cause, but rather of sets of causes which complement each other and occur simultaneously. Corruption often is a result of many contingent circumstances which sometimes produce different effects. The levels of causality are numerous, hidden behind manifest acts of corrupt practices in deeper social structures.

Explanations of corruption in the social sciences are problematic, not so much due to the reconstruction of causal chains, but in the very essence of pre-paradigmatic knowledge. Social scientists to a greater extent are able to reconstruct deeper and more indirect influences for a single phenomenon, and then disagree

<sup>6</sup> This is not a result of socialist ideology but of a longer “tribal” and social past. Naturally, after 40 years of proclaimed material equality the inertia in this value orientation is even more pronounced.

about them. Corrupt practices are contingent, complex,<sup>7</sup> and explainable by many different theories.

Social scientists emphasize that corruption in post-socialist countries must be explained by “discovering” the many levels of structural causalities. A distinction is made between the levels of interaction (institutional and social), not to create rigid distinctions, but to demonstrate differences (and similarities) in theoretical approaches. Starting with the most visible, manifest, and elaborated levels and moving to the indirect and latent social causes of corruption, social scientists focus on particular elements of corruption, such as, the international phenomenon, the interconnection between environment (political, economic, and social) and organizational principles and the role of law.

### 2.1 Corruption as Market Interaction

Corruption in its manifest form is visible through individual interactions. It is relatively easy to see an act of corruption as a market transaction—a result of offers and demands. The price<sup>8</sup> of the transaction is a function of the relationship between the potential gains and the risk of punishment. The greater the supervision and control, security of social position, consistency of salary, and the certainty of severe punishment, the lower the risk of corruption. The higher the bribe and the better excuse for corruption (“everybody else is corrupt”), the higher probability for corruption. In mathematical formulation these principles are expressed as a simple formula:<sup>9</sup> Particular benefit (PB) > Universal benefit (UB) where:

$$PB = (\text{Expected benefit/EB}) + (\text{Guaranteed benefit/GB})$$

In this view, corrupt acts are perceived as acts of *Homo Corrupticus*—an ideal type of human personality—who rationally chooses acts in situations of potential corruption. The predictability of this rule, however, is limited; the rule implicitly

<sup>7</sup> “Komplexität in dem angegebenen Sinne heißt Selektionzwang, Selektionzwang heißt Kontingenz, und Kontingenz heißt Risiko. Jeder komplexe Sachverhalt beruht auf einer Selektion der Relationen zwischen seinen Elementen, die er benutzt, um sich zu konstituieren und zu erhalten. Die Selektion placiert und qualifiziert die Elemente, obwohl für diese andere Relationierungen möglich wären. Dieses ‘auch anderes möglich sein’ bezeichnen wir mit traditionsreiche terminus Kontingenz. Er gibt zugleich den Hinweis aus die Möglichkeit des verfehlens der guenstigsten Formung.” N. Luhmann, *SOZIALE SYSTEME*, SUHRKAMP, p. 47 (Frankfurt 1991).

<sup>8</sup> The price is not expressed exclusively in money; social status, influence, and indirect benefits are even more important.

<sup>9</sup> Compare with formulations in H. Ludtke, H. Schweitzer, *KORRUPTIONSNEIGUNG BEI UNTERSCHIEDLICHEN ERWARTUNGSKONSTELLATIONEN IN DER HANDLUNGSSITUATION*, *KÖLNER ZEITSCHRIFT FÜR SOZIOLOGIE UND SOZIALPSYCHOLOGIE*, p. 470, Vol. 45, No. 3 (1993).

presupposes axioms of human nature and ignores the fact that situations are fluid and determined by higher sets of social and organizational factors. This results in the formulation of a sophisticated “sociological proverb” that occurs in mutually contradictory pairs. “It is not that the propositions expressed by proverbs are insufficient; it is rather that they prove too much.”<sup>10</sup> We can add to the formulation almost all of what we see as more or less important determinants of price (PB).

From this point of view, the remedy for corruption is to simply increase its price by introducing more rigid sanctions and more supervision. Moreover, to ward off the susceptibility to corruption the government ought to increase wages, job security, and professional ethics.

For science, this is an unacceptable simplification. The rule of common sense based on limited evidence cannot be submitted to proof, and incorporates presumptions which are taken for granted. Perhaps corruption does not occur in most situations because the offered price was simply too low. Furthermore, the formulas do not explain non-monopoly situations where both actors have other possibilities to pursue. The problem is much more complex than it appears for one simple reason: the factors for PB are derivations of other factors which are not determined by individual interactions but by social, political, and economical structures—the particular environment of the actors.

## 2.2 Corruption and the Normative Regulation of Interactions

Interaction between individuals is not random; it is regulated by norms of mutual expectations. A concrete act results from the interpretation of certain rules by the actors. Rules are the crystallization of such norms; corruption results from an interference that blocks this crystallization. From this perspective, corruption can be seen as a phenomenon which reflects cultural and social norms—the environment in which the actions take place.<sup>11</sup>

<sup>10</sup> H. A. Simon, *The Proverbs of Administration*, PUBLIC ADMINISTRATION REVIEW, Vol. 6 (1946).

<sup>11</sup> Legal definitions are not often very precise. According to the principle of legality (*nulla crimen sine lege*), corruption is “a deviation from legal or formal norms of official conduct.” This, in many variations, is defined in different criminal laws as the taking of a private benefit (anything of value) by a *public official* for some *official act*. The defendant must have a *corrupt intent*, and the relationship must involve an *intent to influence* the public official. Experts of comparative law give more definitions. The criteria of legal definitions, or implementation of sanctions against corruption, are changeable in time and space. They are not only different in different countries (in space), but they also are variable in time—sometimes under the same legal regulation.

The perception of reality is a construction of human conscience, and this perception is a result of values and attitudes inherited and internalized by socialization. People imitate each other, they internalize family, group, and cultural values, they learn what to expect from others and how to behave, and they rationalize situations and direct their personal behavior accordingly. In this respect, corruption is, more or less, a predictable form of behavior. The exchange of verbal and nonverbal signals is so subtle, the “language of corruption” so multi-interpretative and variable due to the fluidity of the circumstances that a very delicate situation is created. Internalized values and attitudes of individuals and groups, and societal norms, reflect in the minds of the actors. At the same time desires for wealth, status, and power also motivate the actor.

The point here is that the main determinant of the corrupt act is not objective circumstances, but rather the subjective perception of the circumstances as determined by the socialization of actors—i.e., the social, cultural, legal, and ethical norms (the “core personality”). Corruption is then understood as a pathological distortion of normative imperatives and thus a phenomenon which can be cured by general education, campaigns, organized professional education, and the development of sensitivity to societal interests by appealing to “ideological” and even “eschatological” values. There is also then a limitation: the social norms reflected in the actor’s mind define the perception of what is corrupt, and ultimately, the success of imposing more rigid sanctions, supervision, organizational and legal measures.

## 3. Corruption as a Cultural, Legal, and Organizational Phenomenon in Premodern Societies

All levels of analysis are interconnected, so only in rare cases are definitions or explanations focused on any particular subject—e.g., corruption as a specific human interaction. The different levels—interactional, institutional, and social—are as overlapped as they are interdependent. We find it is natural for researchers to integrate many levels and the influences of indirect structural causes for corruption in their explanations. Here we shall focus our attention on other aspects: the social, political and economical factors.

Corruption is probably universal as a set of isolated incidents (to wit: *everybody* has a price) and treated as a dangerous by-product of systemic rules.<sup>12</sup> In some cul-

Many forms of corruption and bribery are not covered by legal definitions, and the etiology of corruption must take into account social causes and functions of corruption, just as jurists searching for the deeper structural determinants of criminal behavior must do.

<sup>12</sup> “Is democracy necessarily corrupt and inefficient? It must be said at once that the democracies have gone through a phase in which bribery and corruption were ram-

tures and political systems, corruption is not an isolated phenomenon but an effective operating practice (according to rumors, impressions, and estimations).<sup>13</sup> In these societies, corruption is a system which pervades the entire structure of the state and society.<sup>14</sup> In some societies, corruption is condemned as a morally unacceptable act; in others, the moral obligation to help relatives, peers, or friends supersedes the prescribed rule that duty must be exercised impartially. In these societies, the acceptance of gifts for an official act is not only perceived as normal, but to refuse a gift is viewed as an act of temporary insanity.<sup>15</sup>

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pant—perhaps more particularly in the United States than in Europe. But it must be added that corruption and inefficiency seem to be declining in the United States. In countries like Britain it seldom appears in any substantial form.... Corruption is universal and the democracies have had their share, but it is hardly a quality found in democracies alone." E. J. Meehan, J. P. Roche, M. S. Stedman, *THE DYNAMICS OF MODERN GOVERNMENT*, p. 23 (McGraw Hill 1966).

<sup>13</sup> Statistics of "white collar" crimes and "crimes without victims" are unreliable. Corruption is a crime which is surrounded by secrecy and therefore never, or only rarely, detected and reported to the authorities, or otherwise officially recorded. Research in England shows that such crimes are a normal practice of top management in industry. Research by E. H. Sutherland, and more recently by V. LeVine, or A. Pizzorno and D. della Porta, emphasize that corruption is not recorded in official statistics, actors are not prosecuted, and effects are not clearly visible. This is not true for the United States, Germany, Italy, and Japan, and for developing, communist, and post-socialist countries. See, for example, E. H. Sutherland, *WHITE COLLAR CRIME* (New York 1949); V. T. LeVine, *Transnational Aspects of Political Corruption*, in Heidenheimer, *CORRUPTION*, pp. 685 - 701; A. Pizzorno and D. della Porta, *GESCHÄFTSPOLITIKER IN ITALIEN: ÜBERLEGUNGEN IM ANSCHLUSS AN EINE STUDIE ÜBER POLITISCHE KORRUPTION*, *KÖLNER ZEITSCHRIFT FÜR SOZIOLOGIE UND SOZIALPSYCHOLOGIE*, pp. 439-465, Vol. 45, no. 3 (1993); E. Blankenburg, R. Stadhammer, H. Steinert, *POLITICAL SCANDALS AND CORRUPTION IN AMERICAN HISTORY*; J. von Klaveren, *CORRUPTION: A SPECIAL CASE OF UNITED STATES*; R. Roth, *EINE KORRUPTRE REPUBLIK? KONTUREN POLITISCHER KORRUPTION IN DER BUNDESREPUBLIK*, *SUHRKAMP*, pp. 201-234 (1989); R. Ebbinghausen and S. Neckel, *ANATOMIE DES POLITISCHEN SKANDALS* (Suhrkamp, Frankfurt 1989).

<sup>14</sup> "Corruption at the highest levels attracts the most attention in public forums, and involves the largest amount of money in individual transactions, [but] corruption at the bottom levels is the more apparent and obvious." D. H. Bayley, *The Effects of Corruption in a Developing Nation*, in Heidenheimer, *CORRUPTION*, p. 941.

<sup>15</sup> An "acceptable" gift is very difficult to define: a golden pen or a box of expensive chocolates in France is an "indispensable courtesy"; in the Arabian world a gift represents an introduction to trade or a civilized way of carrying on business; but in Australia, a minister cannot purchase a ticket on an airline that employs a spouse or other close family member; in England high-level officials cannot take advantage of "knowing good opportunities on the market." *Nota bene*, just 100 years ago in France, positions in the administration were the best sources of private enrichment; in United States the mantra of official politics was "to the victors go the spoils," and the spoils was private gain at the tax-payers expense. In England, corruption—in cash money—was normal behavior (see

### 3.1 Differences and Dimensions of Development

Very often, sociologists (e.g., Durkheim, Tönnies, Redfield, Parsons) contrast two types of societies: premodern and modern.<sup>16</sup> Premodern society is characterized by ascription, diffusion, stability, a predominance of community, limited vertical and social mobility, and murky but existent social stratification. As its mirror image, modern society is defined by universal norms, inclusion, social mobility, political equality, functional specialization, individualism, and a value-neutral scientific approach to knowledge. After the anti-colonial revolutionary period, scholars of modernization used such models as the basis for sophisticated theories of prismatic society.<sup>17</sup> We shall compare archaic, *fused societies*, with modern industrial societies or *diffracted societies*.

The economy of a premodern society is autocratic and is characterized by the dominance of agriculture and limited market principles. The state is not interested in supporting or regulating the economy and perceives production as a resource for its own use (plunder!), war, or public works. Control over the land is the dominant interest. In developed forms, the state is also a mechanism for the distribution of production, investments, services, and other benefits. Nepotism and cronyism dominate the organization of the administration: the criteria for office is not ability or knowledge, but connections, appropriate origin, and personal contact with superiors. Civil servants are loyal to the sovereign because their office is the source of their personal wealth. Consequently, the officials are more interested in their positions and less with the policy of the state or its effects.

The social dimensions are different. In premodern societies the primary social groups are important; a person without a family, tribe, or clan, in an emotional sense, is lost, for group identity is the most important orientation in life. Group differences are explicit and lines of division are clear: life takes place in homogeneous residential areas among neighbors with the same language, religion, social status, and political opinions and the same life style. Many symbols demonstrate the similarities within the community, while differences and mobility between groups is very limited. It is in premodern societies that communities serve as an elementary form of a social system. Such societies are also marked by solidarity,

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Samuel Pepy's diary!). W. Brauneder, *Die Korruption als Historisches Phänomen*, in C. Brunner, *KORRUPTION UND KONTROLLE*, pp. 75-104; L. Levy Peck, *Corruption and Political Development in Early Modern Britain*, in Heidenheimer, *CORRUPTION*, pp. 219-232; J. P. King, *Socioeconomic Development and Corrupt Campaign Practices in England*, in Heidenheimer, *CORRUPTION*, pp. 233-251.

<sup>16</sup> Naturally, such a dichotomy is refined by introducing different sub-classifications and more steps in development—archaic and transitional.

<sup>17</sup> F. Riggs, *AGRARIA AND INDUSTRIA* (F. X. Sutton).

close relationships, and by face-to-face communication between people who usually know each other well.

Modern societies are vastly different. Individuality is accentuated, roles are mixed, and individuals are members of many, diverse groups. Tolerance of differences runs parallel with equality and transitional professional ties. Relationships are based on objective, calculated conditions, and the world is seen as rational. "Sometimes he wonders vaguely whether any part of him will live on after death, but basically he has narrowed his view of the world by putting on a secular, materialistic pair of blinders."

In premodern society, social status is more important than power or wealth because he who has high social standing shall achieve both political influence and wealth. Obedience to traditional rituals is more important than the execution of legal rules. Skill and education are significant as status symbols but less important than family background. In modern society the complete opposite is true; the arena for competition is not the "social scene" but the marketplace.

The main political tasks in traditional societies are control over territory, mediation between social groups, and mobilization of manpower for war. The interests of powerful families or clans dominate in many informal ways. Power is limited only by rules of tradition, and these rules are the basis of the legitimization of the political order. Modern societies have differentiated political institutions and mechanisms to represent and mediate between competing social interests. There, power is limited by constitutional provisions and legitimized by elections. The main problem is the integration of functionally specialized organizations.

### 3.2 Arbitrary and Creative Implementation of Law (Flexible Laws)

Realistically, a society undergoing rapid social change does not have time to justify and equalize relations between different social sub-systems. This has many visible effects, but we shall emphasize only two: (1) formalism and (2) the distortion of organizational principles in the state apparatus.

In most societies undergoing rapid social change, social behavior does not conform to legal norms. Legal rules are treated as obstructions to be by-passed informally. The standard explanation for this variance is that the enforcers make informal exceptions because they do not have—and do not want—the necessary information to make rational decisions. Problems relating to the ambiguous nature of rules are compounded by the extraordinary mixing of traditional myths with rational standards. Officials borrow rituals from their ancestors while, at the same time, imitate the legal processes set up by their former colonial government depending on what is appropriate to the given circumstances. Since there is little broad-scale agreement on the basic norms of society, and many groups remain unassimilated into the nation, it is extremely difficult to enforce standard legal formu-

las. Control must be grabbed: through coercion, violence, money, or charismatic rule, but rarely through constitutional processes.<sup>18</sup> Governments come and go, constantly trying, through legislation, to improve a desperate situation, but failure results not from "imperfect regulation" or "lack of experience," but from corruption of the entire mechanism which implements the laws. "The people subject to regulation become indifferent to the prevalence of non-conformity with policy. Policy-makers, exasperated with an intractable situation, try to correct it by drafting more rules and passing more laws; this approach remains as formalistic as their predecessors."<sup>19</sup>

The shape of institutions and the formulation of regulations and laws are identical to standard foreign or international examples, but in implementation, the difference is obvious. Precise regulations and consistent interpretation give way, in fluid situations, to exemptions. Eventually, exemptions granted to friends, compatriots, clans, sects, or due to corruption and bribery, swallow the rule. The violent reactions of visionaries and progressives to illegitimate authority result in anti-corruption campaigns. These campaigns are always superficial, short-lived and touch only tangential roots of the problems. The proclaimed goals of modernization, international standards of regulation, and democratic reforms are completely out of sync with the actual circumstances<sup>20</sup> and the campaigns are more a ritual than a serious, and adequately provisioned (in money, time and labor force) undertaking. The results, naturally, are disappointing.

The newly-prescribed rules often are simply decoration too complex to be enforced, and thus "ritualization" and re-interpretation in practice differs from what is written. Rituals and imitations of exemplars from modern countries are highly developed, but cultural patterns are based on friendship and family ties, not on rational choice and legal provisions. Actually, without re-interpretation, the state cannot function; thus, this is the way the society adapts the abstract proclamations to reality.

<sup>18</sup> H. McCurdy, *PUBLIC ADMINISTRATION: A SYNTHESIS*, p. 322 (Cummings 1977).

<sup>19</sup> F. Riggs, *ADMINISTRATION IN DEVELOPING COUNTRIES*, p. 17 (Houghton Mifflin, Boston 1964).

<sup>20</sup> "In societies where formal economic and administrative models provide relatively accurate images of reality, it is practical to study the models—including those on the administrative side—laws, and regulations, since these provide good evidence of practice, and changes are followed by corresponding changes in practice. But where the formal models are removed from reality, the study of legal and administrative models becomes increasingly 'legalistic'; that is, it provides a less accurate picture of reality and an increasingly ineffective technique for changing it." F. Riggs, *supra* note 19.

The important consequence is that the discretion of the officials is greater. Rules are loosely interpreted and subject to "kadi-justice"<sup>21</sup>: the free, arbitrary act of mercy or personal favor.<sup>22</sup> In this situation, the meaning of corruption is completely inadequate; people help each other, often without expecting cash rewards, but because they are bound by kinship. Moreover, gifts or money payments are not excluded, but are part of the ritual of manifesting "friendship." These rituals are imperative for the functioning of the administration; they are perceived as normal and an "unavoidable phase in development," and sometimes are offered as proof of the inferiority of legal systems. However, it is not a case of superiority or inferiority, but rather, of finding the best possible way of adapting a formal legal system to a culture and social environment not ready for it.

### 3.3 Distortion of Organizational Principles

Max Weber and his many followers agree that bureaucratic organization in its pure form resulted from specific cultural and political developments in the West.<sup>23</sup> In other cultures and systems, does a different model exist, or just an undeveloped form of the Western model with distorted principles?

The organizational model in many developing societies is based exclusively on personal ties and paternalistic leadership rather than on a hierarchical structure and a division of labor. Administrative goals are based not on the social and political needs of society, but on the personal whims of its leaders. Power is held by only a few socially acceptable individuals. The leaders, irrespective of their institutional positions, are the real fulcra of the administrative system. No classical imperatives of organization are present: specialization is minimal, the leaders are the experts for all questions. They move easily between the administrative branches, and professional education is non-existent or diplomas are ritualized. Rules are not written to be obeyed, but instructions from the top create administrative policy. Communications are ritualized and personalized, while information is consciously kept within small groups in the organization. There are no guarantees of permanence; fast po-

small groups in the organization. There are no guarantees of permanence; fast political changes, changes of leaders, purge campaigns, and personnel changes at all levels are constant. Selection of personnel is subjective; the main principles are personal loyalty to the leader, common local origin, family ties, party orientation, but rarely expertise or professional efficiency. A successful career is not the result of abilities but nepotism<sup>24</sup> and personal connections with the elite. Wages are absurdly low but this is made up for by bribes, gifts, and privileges.<sup>25</sup>

Despite efforts to mobilize funds, the amounts available proved insufficient to provide adequate salaries for the growing hordes of office-holders. The officials' expectations concerning their real incomes escalated, as did their claims for status and security. Pre-industrial governments, therefore, were quickly confronted by major problems of official corruption, a phenomenon which should be understood not moralistically but structurally. A corrupted bureaucracy, virtually by definition, is one that does not do what it is supposed to do, since illegal payments to officials are presumably not made unless those who receive payments can and do contravene the intent of the laws they are supposed to apply. Although formally salaried, bureaucrats in such quasi-salary systems indulge themselves in self-enrichment on a large scale.<sup>26</sup>

It is difficult to conclude that such a model is inefficient, because there are no policies or organizational goals.<sup>27</sup> The function of such an organization is not to achieve manifest goals, but to maintain social and political order. Corruption is not a by-product or a result of the organization, but a constitutive part of the model.<sup>28</sup>

Both obstacles to organizational efficiency—flexible interpretation of law and *Sala model* of organization—are not exclusively characteristic of pre-industrial societies. In ideal intellectual constructions, those problems occur in early phases of development, but in reality the obstacles are a marginal, but important, aspect of administrative functioning. The nature of the obstacles is visible not only in under-

<sup>21</sup> "Kadi-justice...follows the schema: 'it is written...but I say unto you.'" Gerth, Mills, from M. Weber, *ESSAYS IN SOCIOLOGY*, p. 219 (Galaxy Books, New York 1958). "Nowhere is this more apparent than in the enforcement of rules. In short, there are rules for everything and there are rules for nothing. Formally, Sala officials had at their disposal a confusing battery of rules, which were applied unmercifully to clients that the official did not trust. Because the rules were so contradictory, the only way to make the government work was to suspend the rules, which Sala officials would do for persons of sufficient stature or for personal political advantage. In effect, every official action involved an exception to a rule." H. McCurdy, *PUBLIC ADMINISTRATION: A SYNTHESIS*, p. 323.

<sup>22</sup> Gerth, Mills, from M. Weber, *ESSAYS IN SOCIOLOGY*, *supra* note 21.

<sup>23</sup> "Staat im Sinne des rationalen Staates hat es nur im Okzident gegeben." M. Weber, *WIRTSCHAFT UND GESELLSCHAFT*, KIEPENHEUER & WITSCH, KÖLN, p. 1034 (1956).

<sup>24</sup> "In traditional societies nepotism does not exist. Incompatibility between administrative and family duties made nepotism impossible. F. Riggs, *PRIMITIVE SOCIETY REVISITED*, p. 41 (Morristown, 1973).

<sup>25</sup> Examples include access to low-cost housing, government automobiles, and special canteens. The most sacred of sacred cows in Western personnel administration—equal work—is monstrously difficult to achieve. H. McCurdy, *supra* note 21, at 323.

<sup>26</sup> F. Riggs, *FRONTIERS OF DEVELOPMENT ADMINISTRATION*, p. 85 (Duke Univ. Press, 1971).

<sup>27</sup> "The man of a chamber (in the Sala model) may be humane or inhumane, just or unjust, brave or cowardly, devout or impious, but their acts cannot be judged efficient or inefficient." F. Riggs, *ADMINISTRATION IN DEVELOPING COUNTRIES*, *supra* note 19 at 268.

<sup>28</sup> "Die Problematik liegt auf einer anderen Achse, nämlich darin, daß die zweckrational konzipierte Bürokratie sich aus noch traditionellen orientierten Gesellschaften nur schwer herauslösen kann, so daß sie Gefahr läuft, durch gegenläufige institutionalisierte Erwartungen, z.B. 'des 'Freundesdienstes' innerlich korrumpiert zu werden." N. Luhmann, *ZWECHEBEGRIFF UND SYSTEMRATIONALITÄT*, p. 219 (Suhrkamp, Frankfurt 1977).



developed countries, but also in systems which experienced long ideological repression (communist countries) and systems with fast political, economic, or social devolution. Ideological repression has similar effects on the legal system as traditional rules: instead of neutral, objective, and "faceless" order, rules were interpreted in the name of the revolution. Instead of goal-oriented organization, parallel systems of party and informal bodies existed, "correcting" and controlling administration. Instead of professionalism and achievement, the main criteria for promotion was devolution to the "party-line." Selection of personnel was based on nomenclature and not on knowledge, specialization was minimal because work was not divided according to tasks derived from goals, but according to the logic of ideological aims. "Cadres" were privileged to distribute and create work places. Apparent equality in wages was "adjusted" by privileges for trusted persons: access to low-cost housing, government automobiles and special canteens.

#### 4. Perspectives

Modern administration is like a clock. Whatever its size, it must tell the time of day. Whether digital, mechanic, big or small, with or without chimes, expensive or cheap, the clock has to measure and show the time. We rely on clocks, we adapt our lives to clocks; we sleep, eat, work, and make love according to the clock. We mark our lives by the clock.

It is the same with modern administration. We expect that modern administration will obey, respect and implement the laws, and that all citizens, and indeed the State itself, will submit to the rule of law and to due process of law. Big or small, expensive or rationalized, democratic or totalitarian, the State must achieve politically defined goals, and act according to certain technical principles (such as the Weberian model of organization). Citizens share the belief that the State will act according to such principles, and these beliefs legitimize the regime. Our very lives literally depend upon the State, not only to protect us from our enemies, but to give us medical care, education, provide transportation, protect the environment, and intervene in conflicts. All this is based on the technical superiority of the State apparatus and the principles of work, legality, and democratic legitimization.

But the clock cannot be expected to work properly if one moves the hands in unpredictable ways or if the mechanism randomly changes the speed of the pendulum. Similarly, state administration cannot work properly if the rules are constantly changed and their implementation is conditioned upon personal discretion, gifts, and corruption.

Why compare a state with a clock? In post-socialist countries, it seems, time is expensive. Many citizens are interested in speeding up or delaying time, forgetting that the mechanisms of the state have characteristics similar to a clock. Both are sensitive mechanisms that are easily thrown off balance if they are tinkered with by untrained individuals. Thus, just as I would not entrust an untrained laborer with repairing my clock, the affairs of the state should not be entrusted to untrained, inexperienced members of the nomenclature or elite social class.

## POLITICAL CORRUPTION IN POLAND

*Jerzy Jaskiernia\**

Corruption in Poland is not a new phenomenon. The changes to our economic and political systems have raised new expectations as well as new problems. I would first like to talk about some of the problems associated with the election of the Parliament.

Four years ago, in the first democratic elections, I ran for office and the cost of the election was as much as five times the cost of just two years before. In 1991, with the help of an organization and a political party, one could seek office without a personal fortune. Now, the cost of a campaign is much higher. Television commercials, which are extremely expensive, continue to raise the price of seeking office. It costs thousands of dollars for thirty seconds of either national or local television time. It is now impossible to successfully run for office unless you are independently wealthy. The political parties are very poor and it is impossible for a person without the right connections to raise sufficient funds to compete. Furthermore, there is a growing tendency for the electorate to support the incumbent. The problem in Poland is not yet as big as it is the United States. But our next election campaign will be even more costly and this will raise sensitive ethical questions.

Perhaps an American professor can better describe to the conference "the Keating Five" scandal in the United States. As I understand it, five United States Senators received many thousands of dollars during their campaigns from donor banking institutions run by Charles Keating. After the elections, these Senators approached high-level government agency officials, and asked them to protect those banks after they collapsed. After this became public knowledge, there was a fierce debate about whether the Senators behaved properly or whether they set out to influence the government agency officials because of the huge campaign contributions they had received from the banks.

Developing ethical codes which prescribe what is and what is not illegal, or allow an individual to determine prospectively whether a certain course of action is ethical or corrupt, is a very difficult task. In Poland, during the 1992 session, Parliament enacted a very strict anti-corruption law which includes two requirements for all public officials. First, Members of Parliament, and other high-level government officials, must comply with disclosure rules. These office-holders must disclose financial statements, bank account statements and other assets, including personal property and real estate holdings each year. This procedure allows the

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