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The editorial policy is to provide a very clear emphasis on the specific subject along with the focusing on the interconnection of the properly public administration problems with the relative economic, legal, political science and managerial problems, including interaction of the state and civil society.

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GUEST EDITOR'S INTRODUCTION: SPECIAL ENGLISH-LANGUAGE ISSUE OF *PUBLIC ADMINISTRATION ISSUES*

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This special English-language issue of *Public Administration Issues* brings together Russian and Western experts to discuss highly salient issues of public policy and administration. Authors grapple with the challenges of public administration in areas of finance and banking regulation, legal reform, housing and social policy, and formation of open government. Four of the articles focus on contemporary Russia and one on Poland, while two compare experiences of public administration in Russia and the West. The articles are intended to engage an international audience of public policy practitioners and experts. Their authors speak to issues and dilemmas that are common across country cases, such as the complexities of communicating between government and citizens, the tensions between societal and expert opinion on key policy issues, and the difficulties of designing social policy to balance equity and efficiency.

One theme of the issue concerns the role of expertise and rationality in public policy and administration. Ideally public policy should come from a rational, evidence-based process that is informed by experts' research findings. Public policy is a means to an end and experts' studies link cause and effect to identify the most effective means. However, real-world policy often departs from this ideal. The influence of experts in shaping public policy varies greatly across countries and policy areas, producing variation in approaches to similar problems. In some cases even strong expert consensus may be altered or rejected because it does not resonate with the attitudes of political leaders or publics. Relatively ineffective policies and methods of administration may result, and eventually lead to a new cycle of reforms. In this issue, the eminent scholar Peter Solomon shows the varying influence of criminal law experts in Europe, Russia, and the United States, and explains the limits of their influence. Experts may also fail to realize all the consequences of the policies they promote, because they cannot perfectly model complex realities. Real-world implementation often produces unintended or perverse consequences. Wathen and Allard's study finds both positive and negative effects of non-state administration of welfare provision in the United States. Public policies may also

be designed so that they are very difficult to administer, as Afanasiev and Shash show in their article on program-goal budgeting in Russia.

A second theme of this issue is the importance of e-technologies, both for administrative efficiency and for communication between public administrators, citizens, and the business community. Complex electronic databases play an essential role in the administration of public benefits such as pensions and, as Easter's article shows for Poland, the tax system. Databases can make information about policy changes and benefit eligibility available to users, facilitate applications, and bring access to remote locations. They can make regulatory systems and criteria for administrative application of regulations more transparent, and so improve predictability and trust in business and commercial sectors, as Kupryashin and Bodrov suggest for the regulation of commercial banks in Russia. E-technologies are also key to a new model of public administration that promises to improve openness and communication between government and citizens. E-government has the potential to engage civic organizations with government agencies and to provide channels for citizens' initiatives and debate. However, e-technologies are "tools" that may be used more or less effectively; as Dmitrieva and Styrin show in their article, it is relatively easy to provide information databases for citizens, more difficult to use e-technologies to mediate exchanges between administrators and societal actors. Khmel'nitskaya's case study of the housing sector suggests that the traditional methods of professional forums and consultations between government, business, and other interested parties remain effective methods in public administration.

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LOCAL NONPROFIT WELFARE PROVISION: THE UNITED STATES AND RUSSIA

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ABSTRACT

Provision of antipoverty and other social services by nonstate organizations is growing in importance in both the United States and the Russian Federation. The history of such provision in the United States may offer insights for the emerging system of nonstate provision in Russia. To illuminate these points, we provide historical overviews of both contexts and then we examine data from two surveys of social service organizations in the United States: the Multi-City Survey of Social Service Providers and the Rural Survey of Social Service Providers.

We find that nonstate actors strengthen social capital in poor neighborhoods and often link poor persons to public agencies. Nonstate actors strengthen other local institutions through programmatic partnerships and collaboration. However, financing arrangements of nonstate welfare provision may favor efficiency over concerns about equity, sustainability, and predictability. In addition, the primacy of nonstate provision leads to a welfare state that is more varied geographically than might be anticipated otherwise. Such variability appears to disadvantage high-poverty and predominately minority communities the most. Finally, politically, nonstate welfare provision may occur with little public discussion, debate, or reflection as it evolves over time. These findings invoke important questions for Russian policy-makers as they seek to develop an equitable and efficient means of providing assistance to their population.

Keywords: welfare policy U.S.–Russia; nonstate organization; nonprofit; NGO; noncommercial organization; government funding.

The provision of antipoverty assistance by nonstate organizations is growing in importance in both the United States and the Russian Federation. In the United States, nonstate organizations – typically charitable nonprofits – have come to play a prominent role in the delivery of governmental antipoverty programs since the mid-1960s. Today, nonstate organizations in the United States deliver roughly \$100 billion dollars in social service programs – the vast majority funded by government sources – to support work activity, address barriers to self-sufficiency, and provide for basic material needs. Indeed, nonstate provi-

sion of publicly funded safety net assistance has become a routinized part of the American welfare state (Allard, 2009; Smith, 2012).

In the Russian context, nonstate social service provision is slowly emerging. The number of nonstate organizations involved in the delivery of social services has increased in the years since the breakup of the Soviet Union in 1991. Russian national, regional, and local governments have increasingly provided grants and in-kind assistance (e.g., subsidized office space) to nonstate social service organizations. Despite these trends, nonstate welfare provision is still nascent and composes only a small share of services available (Benevolenski, 2014; Cook, 2007b).

In light of these developments in both nations, we argue that those concerned with nonstate delivery of safety-net assistance in Russia (or other highly centralized welfare states) may find insight from several features of more mature nonstate social service provision in the U.S. case. Below, we provide a brief historical overview of nonstate provision in each system. To cast insight into the institutional outcomes more likely to occur when nonstate actors play a primary role in welfare provision, we examine data from two surveys of social service organizations: the Multi-City Survey of Social Service Providers (MSSSP) in metropolitan Chicago, Los Angeles, and Washington, DC; and the Rural Survey of Social Service Providers (RSSSP) data from four rural regions (southeastern Kentucky, south-central Georgia, southeastern New Mexico, and the border counties of Oregon–California). Telephone interviews were completed with executives from 1,287 nonstate organizations that primarily provide employment-related services (e.g., job search, adult education), temporary emergency food or cash assistance, and out-patient substance abuse and/or mental health treatment. Each telephone survey gathered detailed information on location, services provided, clients served, funding, and organizational characteristics.¹ With response rates that exceed 60 percent, these surveys are the most comprehensive and geographically sensitive data about nonstate welfare provision currently available and provide an accurate snapshot of the nonstate sector within each site (Allard 2009).²

The insights emerging from the data and U.S. history reveal some benefits and drawbacks that the Russian state may consider as it creates a stronger system. First, the capacity of the nonstate sector to deliver antipoverty programs has not emerged overnight in the United States; instead, it has been cultivated over several decades by persistent increases in government funding and expansion of local nonprofit organizational networks. Second, state–nonstate relationships surrounding social service provision have become more co-dependent in the United States over time. Direct public provision of social services is more costly than contracting with nonstate actors; thus, efficiency concerns have led government agencies to increasingly rely on the nonstate sector for service capacity. At the same time, many nonstate providers have become highly dependent on public funding to maintain operations. Finally, nonstate service provision in the United States reflects local preferences about how to provide assistance and whom to serve. Rather than channeling program resources to the neighborhoods and communities where they are most needed, therefore, the Ameri-

can case strongly suggests that nonstate welfare provision can result in unequal provision of services that systematically disadvantages society's most vulnerable communities.

Contemporary Nonstate Welfare Provision in Russia

To understand how findings regarding nonstate social service provision in the United States can apply to Russia, it is important to first understand the context surrounding nonstate welfare provision in Russia. Historically, the Soviet welfare system, from which the Russian welfare system descended, was centrally planned, but implemented primarily through places of employment (Zimakova, 1993; Manning & Shaw, 1998). The Soviet welfare state funded state-owned enterprises to provide childcare or early childhood education, healthcare, housing, nursing homes, and after-school activities. Many government cash benefits were delivered through employers, including retirement pensions, stipends for post-secondary students, and cash payments to new mothers (Balachova, Bonner & Levy, 2008; Zimakova, 1993). At times, inefficiencies emerged due to duplication between state services provided through firms and those delivered by local government (Manning & Shaw, 1998). For example, a family might have been eligible for housing from both their workplace and the local administration. Central planning created additional inefficiencies and hindered the quality of services provided (Ellman, 1979). In reality, the social services and welfare benefits available varied both by region or republic and by employer (Iarskaia-Smirnova & Romanov, 2009). Despite these limitations, many argue that Soviet social policy was successful in providing a basic standard of living to almost every citizen (Cook, 2007b).

Prior to the collapse of the Soviet Union in the early 1990s, nonstate organizations played a negligible role in social service provision. Yet, nonstate organizations have been present throughout Russian history. In the late nineteenth and early twentieth centuries, Russians began forming charitable associations and promoting volunteer service as a means of addressing social problems (Lindenmeyr, 1990; Raeff, 1984). After 1917, however, this type of free association among citizens was curtailed by the Soviet regime and replaced by alternative associations managed by the party apparatus (Evans, 2006). These organizations included veterans groups, youth and hobby clubs, and associations for people with disabilities. Such organizations were active in providing some services at the local level, although they did not play an active role in policymaking and for the most part were social organizations.

The breakup of the Soviet Union in 1991 and transition to a territorially smaller Russian Federation was economically and socially tumultuous. Provision of social services became highly unpredictable, as the state could not afford to maintain program expenditures and newly independent enterprises cut benefits to reduce operating costs (Field & Twigg, 2000). During the turbulent decade that followed the collapse of the Soviet Union, international actors influenced the provision of social welfare. International economic development organizations such as the World Bank and the International Monetary Fund (IMF) ad-

vocated for neoliberal policies in Russia's transition to a market economy. These policies view social welfare provision, and the state or nonstate actors involved in such provision, as less central to goals of maximizing economic productivity. Structural adjustment programs linked to loan agreements imposed policies that affected the financing and operation of social welfare states in countries such as Russia (Baker & Hinds, 2012; Deacon, Hulse & Stubbs, 1997). Russia pursued a neoliberal path under President Boris Yeltsin in the 1990s, but bureaucratic stakeholders in the health, education, and pension systems blocked extreme cost-cutting measures and managed to preserve some state capacity for welfare provision (Cook, 2007a).

Recent years have brought some experiments with decentralization. For example, in 2005 the Russian government transferred responsibility for provision of child welfare and family support to regional and municipal levels of government, although federal grants help cover program costs (Ferge, 2001; Trygged, 2009). Regional and local governments have worked hard to address the needs of their constituents, with varying levels of resources and success. On the one hand, some layers of bureaucracy have been removed. On the other, the transition has varied across regions. Municipalities with larger budgets and stronger economies are better able to provide funding for such programs than smaller regions. At the same time, national commitments to other types of assistance were maintained, including healthcare, pensions, and payments to invalids. However, even these national systems reflect resource or wealth disparities between regions of the country, and the quality and accessibility of assistance varies (Titterton, 2006). For example, pensioners in Moscow receive substantial pension subsidies from the city government in addition to national pension amounts. Experiments with decentralization have thus resulted in varying levels of efficiency and provision of services across regions.

As the Russian state struggled to handle its social welfare responsibilities following the breakup of the Soviet Union, nonstate organizations attempted to fill the gaps in services (Petukhov, 2008; Salmenniemi, 2010). The 1990s were characterized by an explosive proliferation of nonstate organizations, with 60,000 nonstate organizations registering with the Russian government from 1993 to 2005 (U.S. Agency for International Development, 2005). Many of these nonstate organizations provided services to disadvantaged populations, including the disabled, street children, orphans, single-parent families, veterans, the elderly, and others. Organizations also focused on preventive services and public awareness. Collaboration between local and regional governments and nonstate actors increased in the 1990s due to limited public funds and the need to find more cost effective ways to provide needed services (Belokurova & Vorob'ev, 2011). An influx of funding and consultants from foreign sources also aided the establishment of social welfare nonstate organizations across Russia. There is debate, however, about the impact of these efforts, whose interests were served by these international efforts to cultivate nonstate capacity, whether foreign influence stifled local initiative and collaboration, and whether contextualization of foreign programs and methods was lacking (Henderson, 2002; Richter, 2009).

The new millennium brought changes to how the Russian state viewed non-state organizations and these changes affected all types of such organizations. From 2003 to 2005, the color revolutions in Georgia, Ukraine, and Kyrgyzstan highlighted the potential for citizen protest organized through nonstate organizations. These organizations, particularly those receiving foreign support, were suddenly on the radar of the Kremlin (Cavanaugh, 2010; Cook & Vinogradova, 2006). In 2005, Vladimir Putin created the Civic Chamber of the Russian Federation (sometimes translated Public Chamber) to act as a channel of communication between citizen organizations and the Duma. In 2006, legislation designed to regulate nonstate organizations was passed. Often called “the NGO law,” the legislation increased government oversight of organizations through stricter registration and reporting requirements (Crotty, Hall & Ljubownikow, 2014; Kamhi, 2006). Although designed to provide the central government with greater oversight and control, the requirements often had negative impacts, particularly on smaller nonstate social service organizations. Cumbersome and frequent reporting requirements on activities, members, and funding created hours of work for organizations with few, if any, paid staff (Ljubownikow & Crotty, 2014). In addition, organizations that received foreign funding were subject to more stringent oversight. The level of foreign funding dramatically declined, leaving fledgling organizations scrambling for survival (Iarskaia-Smirnova, 2011; Johnson & Saarinen, 2011; Sperling, 2006).

To preclude social unrest and cover some of the funding gap, the government began allocating more funds to social welfare initiatives and encouraging regions to channel some of this money to nonstate organizations (Henderson, 2011; Salmenniemi, 2010). Currently, nonstate social service organizations can potentially receive funding from multiple levels of government –local, regional, and national. In 2012, the Civic Chamber administered competitive grants totaling two billion rubles (\$64 million) to nonstate service organizations (Public Chamber, 2012). However, these grants do not reach many nonstate organizations; in 2010 only an estimated 0.2 percent of registered organizations had been awarded Civic Chamber grants (Public Chamber, 2010). The Russian government passed another set of laws in 2012 regulating nonstate organizations, while also pledging greater financial support for nonstate social service organizations. The most publicized aspect of this law is a requirement that nonstate organizations register themselves as a “foreign agent” if they receive any funding from a foreign source (Law number 102766–6 July 2012).

In 2015, the scope of service, financial support, and roles of Russian nonstate social service organizations reflect the political and economic soil from which they grew. There are approximately 115,000 actively working Russian social welfare-oriented nonstate organizations (Benevolenski, 2014). The national, regional, and municipal branches of government are growing in their willingness to supply material support such as grants, office space with subsidized rent, or consultation and training (Alekseeva, 2010; Benevolenski, 2014). Nonstate organizations today provide services in a myriad of areas, from child and family welfare to addiction recovery to elder care to disability services. Although the government often partners with these organizations, the proportion of services

provided by nonstate organizations remains under 10 percent. Relationships between the majority of nonstate social service organizations and the state are moving in the direction of greater collaboration, but also greater dependency on the Russian government. Despite the small number of nonstate social service organizations, government restrictions, and lack of resources to support programming, nonstate organizations participate in policy formation at the local level, where municipal and regional administrations often call for their expertise in policy decisions (Belokurova & Vorobyev, 2011). Recent studies of nonstate social service organizations find that when organizations are dependent on state funding and are focused on noncontroversial social issues, they can have a greater influence on policy decisions in the local context (Beznosova & Sundstrom, 2009; Johnson & Saarinen, 2011; Ljubownikow, Crotty & Rodgers, 2013; Froehlich, 2012).

While inherited patterns of organization–state collaboration are helpful to some degree, certain aspects of the Soviet bureaucratic legacy may continue to hinder nonstate organization development. Scholars cite the continued reliance on personal contacts and patronage (Henderson, 2011; Salmenniemi, 2010), vertical versus horizontal management styles (Johnson & Saarinen, 2011; Ledeneva, 2006), and state restriction of the activity of organizations as key constraints on nonstate welfare provision. Others point specifically to the failure of foreign funders to take into account both local political environments and Russian norms and beliefs (Crotty, 2009; Sundstrom, 2006). In addition, Russian citizens remain uneducated about the role of nonstate organizations in society (Civic Chamber, 2013), wary of nonstate organizations (Evans, 2011; Henderson, 2011; HSE, 2011; Salmenniemi, Borodina, Borodin & Rautio, 2009) and reluctant to join organizations (Petukhov, 2008; Rimskii, 2008). Livshin and Weitz found that though domestic donations are increasing, the majority of funding goes to state-run institutions such as orphanages instead of nonstate organizations (2006). Partly as a result of foreign funding patterns and partly from the mistrust of the public, nonstate organizations also are challenged to build long-term organizational capacity from funding that is limited to short-term projects. This capacity puzzle for nonstate organizations began with ties to international donors, yet it continues with the grant cycles of the government today (Jakobson & Sanovich, 2010; Johnson & Saarinen, 2011).

In summary, while a myriad of challenges continue to arise in nonstate organization provision of social services and in nonstate organization-state collaboration in Russia, there are a number of positive signs indicating the health and growth of the sector. Jakobson and Sanovich (2010) argue that Russian nonstate organizations are diverse, and that they have learned to adapt to the surrounding political and economic environment. For example, many grassroots organizations have used the internet as their main vehicle for recruiting, organizing, and fundraising activities. Russian corporations and foundations are linking with nonpolitical nonstate organizations to address social needs in the immediate community (Alekseeva, 2010). Chebankova (2009) argues that although the public sphere and the ethical functions of civil society are stunted, the associational dimension is “showing some serious signs of successful indepen-

dent functioning.” Benevolenski (2014) reported that the share of Russian NGO funding from national and regional government sources in 2013 was 5 percent, a figure that represents significant growth in Russian state support of nonstate welfare provision.

Examining Nonstate Welfare Provision in the United States

The story of nonstate welfare provision in the United States mirrors many of the same themes as in the Russian context, such as the primacy of work, deeply held societal values, shifts in the relationship between national and subnational government, major economic shocks, and local preferences. Many of the challenges confronting Russian nonstate welfare provision – inefficiency, duplication, and variability in funding or service accessibility – also are challenges present in the American system. For these reasons, lessons from more mature nonstate welfare provision in the United States may translate to insights relevant to scholars of the Russian welfare state.

The emergence of nonstate welfare provision in the United States reflects a distinctly American view about the causes of poverty and proper ways to intervene or deliver assistance to the needy. Emphasis in American society is placed on the individual work ethic and belief that hard work is the key to upward mobility. These values powerfully shape American societal views of the determinants of poverty. Public opinion historically views poverty as a reflection of individual agency and choices to work, rather than structural factors such as access to opportunity, the availability of jobs, or the adequacy of wages. The primacy of work means that many welfare state functions such as health insurance, retirement benefits, or paid leave are often delivered through private employers, similar in some respects to the role of employers in Russia.

Paralleling entrenched attitudes about poverty and work are powerful societal preferences for how and when to deliver assistance to those in need. Distrust of centralized power limited the role that federal government played in the provision of antipoverty assistance well into the twentieth century. Americans are more comfortable with local welfare provision. Local provision permits communities to tailor aid to local preferences. The American welfare state is also powerfully shaped by the unpopularity of cash assistance programs due to societal beliefs that poverty follows from a lack of a work ethic and concerns that direct cash assistance would provide encouragement not to work.

Given this context, it should come as no surprise that the American welfare state has evolved to prioritize nonstate welfare provision that targets social service programs at the individual-level causes of poverty and provides limited material assistance. The capacity of the nonstate sector in the United States, however, has grown and evolved over nearly two hundred years. Prominent nonstate actors operating in the United States during the nineteenth and early twentieth centuries were local charitable aid organizations that provided basic material assistance and work relief. Although organizations may have drawn on a mix of local public and private resources, it was common for these organizations to have close ties with religious congregations. These early charitable organizations

often served those living within the boundaries of a defined community and members of particular racial or ethnic groups (Stern & Axinn, 2012). Assistance also tended to be modest in generosity and limited in duration.

The Great Depression that began in 1929 led to historic increases in unemployment and poverty in the United States. Not only did the Depression hurt many workers and families, but the persistent downturn exhausted nonstate organizations as well as state and local governments' ability to respond to need. Many nonprofit charitable organizations shuttered their doors, unable to generate resources needed to keep up with demand for assistance. In response to the prolonged economic crisis, the federal government became directly involved in widespread provision of antipoverty assistance for the first time. Key hallmarks of federal intervention during this period were a series of programs designed to provide assistance to the poor and to reinforce expectations that able-bodied adults should work. Passage of the Social Security Act of 1935 led to several federal cash assistance programs for the elderly, blind, and mothers with dependent children. Most able-bodied working-age adults, however, remained ineligible for cash assistance, even though unemployment rates remained high and near-historic poverty rates persisted into the early 1940s.

Federal support for antipoverty programs increased dramatically starting in 1965. The "War on Poverty" of the late-1960s created many new public funding streams for social services to provide basic food and material assistance, employment assistance, education and literacy programs, housing assistance, child care, child welfare, care for the disabled or elderly, as well as mental health and substance-abuse services (Allard, 2009; Smith & Lipsky, 1993). Expansion of public funding for nonstate welfare provision has occurred somewhat piecemeal since the early 1970s, with thousands of social service programs accumulating over time. New and expanded federal funding streams have helped launch many new job training, social service, education, and community renewal programs over the past four decades. Complementing these federal efforts, state and local governments also have developed their own programs or contracts to provide social services to low-income populations since the 1970s (Allard, 2009; Smith & Lipsky, 1993).

Catalyzed by greater government financing of social service programs, nonstate actors shifted from playing a marginal role to a central and highly formalized role in welfare provision. Salamon (2002) finds the number of nonprofit human service organizations and their total revenues more than doubled between 1977 and 1997. Looking at more recent years, Allard (2009) estimates that the number of nonprofit human service and job training service providers increased by more than 60 percent between 1990 and 2003 and total revenues for those organizations doubled during that time. In addition to public funding that is estimated to exceed \$150 billion annually (Allard 2009), social service nonprofits also receive about \$42 billion in support from philanthropy, mostly through private donations from individuals, but also from foundations and corporate philanthropy (Giving USA, 2014).

Data from the MSSSP and RSSSP are useful in highlighting key features of contemporary nonstate welfare provision in the United States. As the top panel

of Table 1 shows, nine of ten local nonstate service organizations interviewed in these seven study sites are formal nonprofits. Six in ten are secular nonprofit organizations and about one-third are religious nonprofit service organizations. The remaining 7 percent of all nonstate actors are for-profit firms.³

Table 1

**Characteristics of nonstate service organizations
in seven urban and rural sites in the United States**

Organizational characteristic	Percentage of organizations
Organizational type:	
Secular nonprofit	61.5
Religious nonprofit	32.0
For-profit	6.5
Services offered:	
Emergency food or cash assistance	56.9
Education assistance for adults	29.5
Job training, search, and placement	41.6
Financial planning and savings	33.6
Outpatient substance abuse and/or mental health	45.5
Assistance with housing needs	51.2
Number of clients served in a typical month:	
1-50	29.7
51-200	34.8
201-1000	26.7
1000+	8.8
More than 50 percent of clients:	
Female	62.8
Black	29.2
Hispanic	21.7
Poor	75.8
Single-parent households	46.0
Live within 3 miles of organization	68.9
N	1,287

Note: Reported numbers are column percentages of all nonstate service organizations.

Sources: Multi-City Survey of Social Service Providers (MSSSP) and Rural Survey of Social Service Providers (RSSSP).

Survey data also reflect how nonstate actors operate in a wide array of service areas. In line with the historic focus of the nonstate sector in the United States, more than half of all nonstate organizations interviewed report providing help with basic needs. Nearly six in ten provide material assistance in the form of emergency food or cash assistance. Slightly more than half of nonstate organizations provide assistance to find affordable housing options or providing temporary assistance to pay rent. Consistent with the American welfare state's emphasis on economic self-sufficiency, 29.5 percent of nonstate actors offer adult education services. About four in ten nonstate organizations offer assistance with job training, search, or placement. Many nonstate actors, however, provide highly professionalized services such as outpatient substance- abuse and mental health care (45.5 percent).

These survey data also provide a sense of the capacity and client-focus of nonstate service organizations. In the middle panels of Table 1, we present monthly caseload size across these urban and rural social service organizations. While about one-third are small in size and serve 50 persons or less per month, more than one-third of nonstate organizations serve at least 200 persons per month and almost ten percent maintain caseloads of over 1,000 individuals monthly. All total, these 1,287 nonstate organizations of various sizes and missions reach more than 500,000 individuals in a given month (not shown in Table 1). Even a rough extrapolation of these figures to the tens of thousands of municipalities and rural communities in the United States demonstrates the degree in which nonstate actors engage low-income and vulnerable populations.

What do we know about the millions of clients served by nonstate organizations? The bottom panel of Table 1 reports basic demographic characteristics of client caseloads. Social service programs often focus on delivering help to women, often with dependent children. The vast majority of nonstate efforts also appear to be targeted at households with income below the federal poverty line. Reflecting the disproportionately high poverty rates among race and ethnic minorities in the US, we see that sizeable percentages of nonstate organizations serve caseloads that are majority black or Hispanic. Finally, we get a feel for the localness of social service provision by considering that seven in ten nonstate service actors reach populations that live within three miles of their physical office location.

The capacity to serve millions of needy Americans did not emerge overnight. Much of the capacity we take for granted today in the United States evolved slowly in response to different policies. Table 2 examines the founding year of nonstate organizations and underscores the steady emergence of the sector over the last fifty years. One-third of nonstate organizations in operation at the time of the surveys were established between 1965 and 1980, a fifteen-year period following declaration of the War on Poverty. Nevertheless, more than four in ten organizations (42.8 percent) were founded since 1980. While War on Poverty-era federal funding to a variety of antipoverty social service programs kick-started growth of nonstate activity in the United States, several decades of increased program funding and increasingly reliable funding were needed before the nonstate sector matured and developed current capacity.

Table 2

Establishment of nonstate social service organizations in the seven study sites

Organizational characteristic	Year nonstate organization founded					Mean (standard deviation) founding year
	Before 1900	1900–29	1930–64	1965–79	1980 or after	
All nonstate organizations	8.5	7.2	11.0	30.5	42.8	1964 (37.3)
Organizational type:						
Secular nonprofit	3.3	6.4	11.4	39.4	39.5	1970 ^{ab} (26.8)
Religious nonprofit	20.5	10.0	11.4	17.0	41.1	1949 ^{bc} (50.3)
For-profit	0.0	1.4	2.9	8.6	87.1	1987 ^{ac} (13.4)
Services offered:						
Emergency food or cash assistance	12.6	8.8	12.3	27.4	39.0	1958 (42.2)
Education assistance for adults	8.7	8.4	9.8	32.0	41.2	1964 (36.6)
Job training, search, and placement	6.0	8.7	10.5	35.0	39.8	1965 (33.5)
Financial planning and savings	9.4	7.0	11.4	34.0	38.2	1963 (36.6)
Outpatient substance abuse and/or mental health	6.4	6.7	12.9	34.2	39.8	1967 (32.8)
Assistance with housing needs	11.9	9.4	11.2	33.5	34.0	1958 (41.6)
Annual budget:						
More than \$1 million	8.6	9.9	14.4	41.8	25.3	1959 ^{ab} (35.1)
\$1 million–\$200,000	8.3	6.8	8.0	28.6	48.4	1967 ^{ac} (34.9)
\$200,000–\$50,000	5.3	4.2	5.8	19.6	65.1	1975 ^{bc} (33.3)
Less than \$50,000	9.9	3.8	11.5	16.8	58.0	1967 (45.2)

Note: Reported numbers are row percentages.

Sources: MSSSP and RSSSP.

Other important points about the capacity of the nonstate sector emerge in Table 2. First, the historic role of religious nonprofit organizations is clear. The average founding date for religious nonprofits in these seven communities was more than 20 years earlier than secular nonprofits (1949 versus 1970, respectively). Indicative of the trend toward market-based privatization of social service provision in the past three decades (see Smith, 2012), 87 percent of for-profit providers interviewed in these seven sites were established after 1980, with an average founding date of 1987. Finally, we see the relationship between founding date and size. Nonstate organizations with operating budgets over \$1 million annually

were founded much earlier on average than organizations with smaller budgets (1959 versus 1975). Again, capacity in the nonstate sector does not emerge overnight, but evolves and emerges as organizations grow, struggle, and change.

Even though nonstate organizations in the United States have formal independence and autonomy from public agencies, the mutually beneficial and collaborative nature of state–nonstate relationships in social services remains one of its most important features. The private nonprofit sector, in effect, strengthens the public safety net without creating large government bureaucracies to deliver services at the street level.

To highlight the many interdependencies that exist, Table 3 considers the frequency with which nonstate actors receive public funds, develop program-related partnerships with public agencies, and communicate with representatives of government. We find evidence of the government networks in which nonstate actors are embedded. For example, nearly all secular nonprofits, 83.7 percent, receive some public support for their programming. Most nonstate organizations receive public funds from multiple government agencies at the federal, state, and local level – often not just one single source. As a result, public support of nonstate social service provision is a highly fragmented endeavor, which forces organizations to navigate the complexities of multiple applications, reporting systems, and evaluation requirements (Allard, 2009; Allard & Smith, 2014).

It is also important to assess the degree to which government funds support the work of nonstate actors. Thus, respondents estimated the share of their total budget composed by all public sources. Of secular nonstate organizations receiving public funds, more than half (58.7 percent) are dependent on government funds for at least 50 percent of their operating budget. In fact, 36.5 percent of secular nonprofits receiving government funds are dependent on public funds for more than three-quarters of their total annual budget (not shown in Table 3). A much smaller percentage of religious nonprofit and for-profit organizations are reliant on these public funds, when compared to secular organizations.

Table 3

Government funding and engagement with public actors

Organizational characteristic	Percentage of organizations		
	Secular nonprofit	Religious nonprofit	For-profit
Received government grants or contracts	83.7 ^{ab}	46.7 ^a	35.8 ^b
More than 50 percent of revenues from government grants or contracts	58.7 ^a	26.9 ^a	46.4
Serve residents of public housing developments or programs	87.6	82.4	77.8
Serve welfare program participants	87.1 ^{ab}	78.9 ^a	72.8 ^b
Establish contracts or arrangements to deliver services in partnership with . . .			
public housing authority	40.7 ^{ab}	26.3 ^a	23.6 ^b
welfare-to-work office	36.9 ^{ab}	16.8 ^a	14.5 ^b

Receive referrals from . . .			
public housing authority	27.3 ^{ab}	15.9 ^a	9.1 ^b
welfare-to-work office	31.2 ^{ab}	24.1 ^c	12.0 ^{bc}
Frequent communication with . . .			
elected representatives to local government	43.0 ^{ab}	26.6 ^a	21.0 ^b
administrators from local or state agencies	49.0 ^{ab}	23.2 ^a	21.0 ^b

Notes: Public housing questions only asked in MSSSP. Reported numbers are column percentages. a,b,c – Each letter represents percent differences within a row that are statistically distinct from zero at the .10 level or below.

Sources: MSSSP and RSSSP.

The middle panels of Table 3 examine the frequency with which nonstate actors might engage with clients of public programs or with the agencies that administer those public programs. In particular, we examine connections to two of the most prominent public assistance programs in the United States: subsidized or public housing assistance and welfare cash assistance to single-parent households through the TANF (Temporary Assistance for Needy Families) program. Each of these programs provides assistance to millions of Americans each year and administration of these programs takes on a highly localized contour, with local offices being responsible for the administration of benefits or assistance (McConnell, Burwick, Perez-Johnson, & Winston, 2003; *Welfare Reform*, June 2002). We see that the vast majority of nonstate actors – secular, religious, or for-profit – engage clients that also are receiving assistance from public programs. For example, 87.1 percent of secular nonprofits report serving TANF clients, as do 78.9 percent and 72.8 percent of religious nonprofits and for-profits, respectively.

The assistance provided by nonstate actors may fill in gaps not covered by these programs in an informal manner. Or, there may be more formal relationships in place between public and nonstate organizations, where clients are referred to nonstate actors for specific contracted or reimbursed services. The third panel in Table 3 demonstrates the frequency of more formal relationships. Roughly forty percent of secular nonprofits have formal contracting relationships with public housing or welfare offices to deliver services. Smaller, but nontrivial, percentages of religious and for-profit organizations have similar arrangements. Similarly, we see about one-quarter to one-third of secular nonprofits receiving referrals formally from public housing and welfare agencies, compared to approximately less than one in six religious or for-profit organizations. Such patterns of formal engagement logically follow from the closer financial relationships that secular nonprofits maintain with government agencies.

We also see that nonstate actors engage public actors in a number of other ways. The bottom panel of Table 3, for instance, shows that almost one-half of secular nonprofits report frequent communications with local elected officials, or administrative agency staff. Although less common among religious and for-profit service organizations, we see that many report frequent interaction with local elected officials and administrative offices.

Even though the emergence of the nonstate service sector in the United States was highly dependent upon expansion of federal and state safety net expenditures in the last fifty years, nonstate organizations today maintain complex revenue portfolios that draw upon many sources of support. Table 4 reflects the share of organizations receiving one or more of the following sources of revenue: grants from nonprofit organizations or foundations; private giving from individuals; earned commercial revenue from nongovernmental sources. As is the case with government funding, responses here combine multiple sources of support from a given type. For example, an organization may receive several nonprofit or foundation grants, but responses reflect all nonprofit and foundation funding in the aggregate. Several important findings emerge. First, most organizations draw upon several nongovernmental sources of funding. Roughly two-thirds of secular and religious nonprofits report receiving nonprofit and foundation support. Similarly, most secular and religious nonprofits receive at least some funding through private individual gifts. Earned revenue, most commonly from fees for services or insurance reimbursements, also are common sources of nongovernmental revenue.

Table 4

Nongovernmental funding

Organizational characteristic	Percentage of organizations		
	Secular nonprofit	Religious nonprofit	For-profit
Received grants from nonprofits or foundations	68.0 ^a	62.2 ^b	12.3 ^{ab}
More than 50 percent of revenues from nonprofits or foundations	12.1 ^a	19.6 ^a	0.0
Received grants from private giving	67.5 ^{ab}	91.4 ^{ac}	8.6 ^{bc}
More than 50 percent of revenues from private giving	5.9 ^a	37.0 ^{ab}	0.0 ^b
Received earned revenue	34.3 ^{ab}	27.9 ^{ac}	64.2 ^{bc}
More than 50 percent of revenues from earned revenue	15.7 ^a	22.1 ^b	60.4 ^{ab}

Notes: Reported numbers are column percentages. a,b,c – Each letter represents percent differences within a row that are statistically distinct from zero at the .10 level or below.

Sources: MSSSP and RSSSP.

Organizations that draw on multiple sources of support will be better able to weather tough economic times; dependency on any one source of support may create vulnerabilities. To this point, Table 4 examines the extent to which nonstate organizations in these seven study sites are reliant on a given nongovernmental revenue source for more than 50 percent of their operating budget. Even though most nonprofit organizations actors draw on funding from foundations and individual private giving, only a small fraction of those nonprofit organizations are dependent on those funds. Few for-profit organizations receive charitable gifts or grants, instead relying more heavily upon

earned revenue for services to complement whatever public revenue streams they can access

While the interdependence of nonstate social service providers and various levels of government funding facilitates efficiency and flexibility in service provision, it also leaves nonstate organizations and their clients vulnerable. When government policy and funding priorities shift, organizations may lose significant proportions of their revenue. In addition, government policy may not always align with nonstate organizations' mission statements, forcing the organization to choose between funding and changing their mission. During economic downturns, nonstate providers face an increase in demand for services while the government may freeze or decrease funding. Nongovernmental donations often decline as well, leaving organizations with impaired service capacity. Finally, nonstate organizations face uncertain revenue streams due to the nature of both government and foundation grant cycles, requiring grant applications or renewals every one to three years, making long-term planning difficult.

Similar to the revenue sources of nonstate organizations, the geography of nonstate welfare provision in the United States is highly diverse. Social service programs, particularly those delivered through nonstate actors, reflect local needs, public resources, private philanthropy, politics, and entrepreneurs (Allard, 2009). As noted, nonstate actors have great discretion over which programs to deliver and which populations to serve. Provision of assistance also reflects local patterns of inequality and opportunity. Ironically, because local tax revenues and philanthropy are directly related to local wealth and economic growth, the resources available to social service programs for low-income populations may more closely reflect a community's affluence than a community's level of need (Allard & Roth, 2010). Social service provision, therefore, reflects a variety of local and non-local conditions that translate into wide local variation in the availability and characteristics of services for low-income populations.

Place-based variation in the provision of social services also is a function of factors that shape location decisions of nonstate service organizations. Many nonstate providers locate in areas where government grants and contracts are available. Some agencies choose to be closer to concentrations of low-income individuals in order to achieve economies of scale for service delivery. Others may locate to be proximate to potential private donors, clients who generate fee revenue, or partnering service organizations. Religious nonprofit service providers are thought to be more likely to operate in high-poverty neighborhoods than other types of nonstate actors, making them more responsive to the needs of the most disadvantaged communities. Programs that address sensitive needs may choose locations that prioritize protecting anonymity and confidentiality over shorter commutes. Moreover, service providers may be bound to particular neighborhoods due to a lack of adequate facilities in more preferred areas, insufficient funds to relocate, or ownership of property and facilities that limits mobility.

Geographic variation in nonstate provision of social services, while understandable in historical and political context, results in uneven provision of

services to disadvantaged communities. Other analyses of MSSSP and RSSSP survey data show that high-poverty neighborhoods have lower levels of service accessibility than neighborhoods with lower poverty rates. Controlling for supply of services and potential demand across a variety of social service programs, Allard (2009) finds that high-poverty neighborhoods in Chicago, Los Angeles, and Washington, DC (poverty rate over 20 percent) have about one-third as much access to a variety of social services as low-poverty neighborhoods (poverty rate less than 10 percent). Similarly, examining access in the four rural sites covered by the RSSSP, Allard and Cigna (2008) conclude that rural communities often have several sparsely populated high-poverty areas that are distant from any safety net providers. Neighborhoods with higher poverty rates, however, appear to have greater access to religious nonprofits that integrate faith and religious elements into program administration than the typical neighborhood (Allard, 2009). It is clear that not all neighborhoods have equal or adequate access to services.

Conclusion

It is important to be cautious in drawing analogies between the American welfare state and Russia or other countries with highly centralized welfare states, but nonstate welfare provision in the United States creates incentives for and constraints upon behavior that are endemic to the enterprise. Consequences of nonstate welfare provision may be particularly salient or pronounced in the American context, but its lessons are relevant to the study of nonstate actors in a wide range of settings.

The benefits of nonstate provision of services are many. Often, nonstate agencies fill gaps in services for underserved populations. Nonstate actors play a critical role in building civic community and strengthening social capital in poor neighborhoods and they often link poor persons to community institutions and public agencies. Nonstate actors strengthen other local institutions and community-based agencies through programmatic partnerships and collaboration. In addition, they promote civic participation in the promotion of philanthropy and volunteerism. Importantly, nonstate organizations often raise public awareness of emerging problems and can respond more quickly and flexibly to local issues than can cumbersome state bureaucracies. Combined, these efforts improve the capacity of communities to care for those in need and promote greater well-being among residents.

Other lessons can inform the Russian context as well. First, financing arrangements of nonstate welfare provision may favor efficiency over concerns about equity, sustainability, and predictability. Short-term grant cycles make long-term planning difficult and may restrict the development of more effective programs. Additionally, the proliferation of government-funded programs has provided incentives for the creation of new organizations. Over time this has translated into more intense competition for increasingly finite public program resources, which has reduced the predictability and reliability of those public program resources. Positively, state-funded programs can limit the dis-

cretion that nonstate actors have over program eligibility. Generally it is believed that state funding forces nonstate actors to treat clients more equitably and with less flexibility than would be the case for programs that are not reliant on state funding (Smith & Lipsky, 1993). On the other hand, government funding can entice nonstate actors into service delivery areas that may not fit an organization's original mission, pulling nonstate actors away from their core values and competencies.

Second, the primacy of nonstate provision leads to a welfare state that is more varied geographically than might be anticipated otherwise. Local discretion over nonstate service provision means the welfare state only reaches communities in which nonstate organizations are actively engaged. Such variability appears to disadvantage high-poverty and predominately minority communities the most, exacerbating historic patterns of economic, political, and social inequality.

Third, politically, nonstate welfare provision may occur with little public discussion, debate, or reflection. In the U.S. case, poverty and need are often addressed at the individual rather than the structural level. Is this the level at which Russia wants to address need? As relationships between public funding and private provision develop, most community residents and many program clients may not realize they are being served by a nonstate organization. Moreover, the fragmented institutional structures that emerge from nonstate welfare provision make it difficult to plan for the future or assess impact of current investments. How will local, regional, and national governments collaborate to address these challenges?

Insights from the development and current situation of nonstate social service provision in the United States provoke interesting questions for the Russian context. How can the government encourage nonstate organizations in identifying local needs and meeting them without stifling their innovation with restrictive policy? How can funding be provided in a way that is equitable across geographic locations and across vulnerable populations? Can grant funding mechanisms be designed to ensure long-term sustainability of services while also allowing for flexibility to meet changing needs? In what ways can the expertise of nonstate organizations be harnessed in creating policy? In short, how can the Russian government and nonstate organizations collaborate to create a system of social service provision that avoids the pitfalls and maximizes the benefits described here? Russia faces a unique opportunity to forge its own path of state and nonstate social service provision, taking into account lessons learned in other parts of the world.

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NOTES

- ¹ Data were collected between November 2004 and June 2006. There were 296 non-state organizations interviewed from the four rural sites and 991 interviewed in the three urban sites. The sampling frame for each survey was generated from lists of formally registered nonprofits, service referral guides, and web searches. Thus, these data do not capture many of the informal nonstate providers that operate in low-income communities.
- ² For more information about the Multi-City Survey of Social Service Providers (MSSSP) and the Rural Survey of Social Service Providers (RSSSP), visit <http://scottwallard.com>.
- ³ Smith (2012) finds that for-profit service organizations in the United States commonly work with youth, elderly, and disabled adult populations, client populations that were not the focus of the organizations included in the MSSSP and RSSSP.

THE MAKING OF CRIMINAL LAW IN RUSSIA AND THE WEST: THE POLICY PROCESS, ADMINISTRATION, AND THE ROLE OF EXPERTS*

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ABSTRACT

In the new millennium, in Russia and the West alike, criminologists regularly complain about a diminishing role for experts in the making and administration of criminal policy – in the West, because of pandering to the public (penal populism), and in Russia, a failure to take a systematic approach to crime control. In both places, this paper argues, these appraisals are based on idealized and unrealistic images of the way criminal law developed in the past. In North America, criminal policy-making has never conformed to a rational model as favored by some specialists in public administration. In Russia, the European ideal of a major role for criminal law scholars has been confined to periods of codification and has not served as the norm most of the time. In both parts of the world, it is essential that scholars study how criminal policy develops, in order to understand the current situation and find ways to contribute to its making.

Keywords: policy-making in criminal justice; criminal policy; criminal law scholars; normative standard for the reform of criminal law.

In a powerful essay published in 2004, the senior criminal law professor Ninel Fedorovna Kuznetsova leveled sharp criticism at the process of adopting the 2003 reforms of the Criminal Code of the Russian Federation, many of which she saw as mistaken. The changes became law in part, she claimed, because of the failure of law-makers to consult or listen to experts in criminal law, especially the senior ones who shared her views (Kuznetsova, 2004). The adoption of changes

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in crime and punishment without the blessing of law scholars or criminologists would happen repeatedly in Russia during the new millennium and led a number of Kuznetsova's colleagues to express similar frustration (Boiko, Golik, Eliseev, Inogamova-Khegi, Komissarov, Koniakhin, Korobeev, Lopashenko & Ikushin, 2010; Kashenov, 2010; Luneev, 2011; Klepitsky, 2012).¹ Ironically, some of their counterparts in Western countries were also concerned that criminal policy in their countries had moved away from what they and their research supported (Loader, 2006; Loader & Sparks, 2011). However, the dynamics of these stories differed in important ways.

For the Russian scholars in particular, the normative standard for the reform of criminal law did not correspond to the realities of political life, either in post-Soviet Russia or in the USSR of Soviet times. In the view of the scholars, properly made criminal policy reflected a rational process, where logic and legal principles loomed large and experts ensured the consistency of legal changes with both. This image was close to the optimal model found in public policy textbooks in North America, with the European twist of an explicit role for legal scholars, whose contributions were treated in the civil law tradition as a source of law. For many Western scholars as well, the preferred approach to criminal policy-making included a rational process, whereby the costs and benefits of alternative approaches were assessed and criminologists (or criminology) supplied relevant empirical evidence.² In neither place, however, did the realities of policy-making and development usually correspond to the normative ideals.

More than thirty years ago I argued that to understand, appreciate, and facilitate the role of experts in criminal policy-making in Western countries required a dose of realism about how decisions were made and what factors mattered (Solomon, Jr., 1981). A full and nuanced understanding of the policy-making process – its phases, actors, degrees of publicity – and of the actual contributions of experts over the years could provide a context for examining and assessing the contribution of criminologists. Now I suggest that the same argument applies to criminal policy in Russia.

Over the years other scholars helped enrich the portrait of policy-making in criminal justice in North America and Europe, but it was the shift of criminal and penal policy in some countries in a repressive direction not favored by criminologists that gave criminal policy-making new cachet (Miller, 1973; Stolz, 1985; Rock, 1995; Stolz, 2002; Ismaili, 2006; Marion & Oliver, 2012, especially parts one and four). Above all, the emergence of crime as an electoral issue and the resulting politics of “law and order,” even “penal populism,” came to shoulder blame for the substance and direction of policy. Moreover, observers struggled to explain why penal populism itself emerged, attributing it to cultural, structural, and political factors. In the process, some of them expressed nostalgia for a different, better time in the past, when criminologists seemed to have a greater voice (Roberts, et al., 2003; Pratt, 2007; Beckett, 1997; Lord Windlesham, 1998. For a thoughtful and critical review of the literature see: Tonry, 2007; Lacey, 2012).

These sentiments echoed those of Kuznetsova and her Russian colleagues who were also disillusioned with the direction and making of criminal policy in Russia (in this case its haphazard and liberal tendencies). Whereas in the United Kingdom (UK) and the United States of America (USA), such critical sentiments led to increased attention to the policy process, this did not happen in the Russian

Federation (RF).³ To be sure, fine scholars continued the tradition of analyzing the content of policy with the help of statistical data, but they did not study the policy process in a systematic way (See for example: Gavrilov, 2008; Lopashenko, 2009. For insightful accounts of the development of criminal policy in post-Soviet Russia see Kashepov, 2004). However, there was one criminal law scholar in Russia who started to promote such study.

In 2010 the late Alfred Zhalinsky called for the pursuit of what he called *ugolovnaia politologiia*, or the political science of crime. In his view this new field should be a broad undertaking that included non-governmental activities as part of criminal policy and that drew on insights from political science and economics. Researchers would address such questions as by whom and under whose influence are criminal prohibitions (*zaprety*) determined? On what basis are political decisions taken? What political processes and competition for influence are involved? Why in Russia do convictions for criminal offenses lead to more severe consequences than in other countries without gains in effectiveness? (Zhalinsky, 2010; Zhalinsky, 2010 a). Sadly, this innovative elder statesman of criminal law scholarship died before pursuing this kind of research and thus far no one has taken up his challenge. Hopefully, this essay will reinforce Professor Zhalinsky's message.

My purpose here is to describe Western approaches to criminal policy-making, including the role played by experts (criminologists and criminal law scholars), and to suggest how research and analysis could shed light on the situation in post-Soviet Russia. It begins with examination of key components of the policy process (phases, actors); distinctions among types of politics and political issues (low key versus public; symbolic versus instrumental); and refinements in the analysis of process (policy windows, issue attention cycles). It then turns to the traditional role of experts in Common Law countries and then in the age of penal populism, asking to what extent the underlying problems have changed. The discussion then turns to the patterns of policy-making found on the continent of Europe in recent decades. Finally, the paper provides an overview of the way that criminal policy has been made in the USSR and in post-Soviet Russia and thoughts about how deeper study of the process might enhance understanding the role of criminal law scholars in Russia today.

The policy process in criminal justice and its study

In Russia, scholars often treat changes in the criminal law (Criminal Code) as a technical legal matter, downplaying their political dimension. But the criminal law is also one of the central components of criminal policy, the government's approach to the definition and management of crime. In modern states, choices relating to criminal policy and law often involve considerations other than legal concerns. Moreover, a range of actors may participate directly or indirectly in the promotion of ideas and making of decisions – about the content of the law, the procedures and institutions used to enforce it, and choices their leaders make about implementation.

The study of criminal policy-making in the West has used concepts and approaches developed for the study of the development of policy in any realm. More

than thirty years ago the author of this essay showed how the division of policy-making into three or four stages could provide a good starting point for further analysis (Solomon, Jr., 1981). The stages he identified were: agenda-setting, decision-making, implementation, and evaluation. Let us discuss these stages in reverse order. The evaluation of policies after their adoption and supposed implementation did not always happen, but it still represented a possible and desirable end point, and worth examining when it did occur. The implementation of policy choices including those expressed in legislation represented a crucial part of the study of policy-making, because implementation of many laws was in practice far from automatic and could have unanticipated consequences, including distortions of the policies themselves.

The decision-making phase referred to activities starting from the moment that a proposal was taken seriously by an executive agency or parliamentary committee (that is, placed on the political agenda) to the ultimate decision by those empowered to pass laws. This might feature discussion of alternative approaches in public at committees or in private in the exchange of memoranda by bureaucratic agencies and interest groups. And such interplay of political forces might prove decisive in the determination of the outcome, as anticipated in the classical pluralist model of politics. However, to many analysts the politics surrounding particular decisions did not capture the whole story, especially of the exercise of power, for the decision-making process revolved around only those issues and alternatives that had reached the political agenda. There might be other issues or more radical approaches that were not being considered.

This concern led to the identification and broad acceptance of the idea of another phase of the policy process prior to decision-making, what analysts call "agenda-setting." This abstract term refers not to the formation of the agenda of a particular institution like a parliament, but to the pool of ideas and approaches that relevant actors treat as potentially acceptable and worthy of consideration. Agenda-setting itself is a diffuse process characterized by social learning (by policy professionals, elites, the public), as problems become sufficiently acute as to demand new solutions. While the screening out of unacceptable ideas is an ongoing repetitive process that applies to any potential policy choice, the embracing of new approaches matters especially for innovations, whose acceptance onto the political agenda often follows a crisis (On agenda-setting, see: Kingdom, 1995; Jones & Baumgartner, 2005; Baumgartner, et al., 2006). Examples of innovations in criminal policy might include the adoption of imprisonment as the modal form of punishment (early nineteenth century); the invention of parole, probation, and juvenile justice (late nineteenth century); prohibition of production and sale of alcoholic beverages (United States and Russia, early twentieth century); the criminalization of narcotics trade and use (early twentieth century); the decriminalization of homosexual relations and of adultery (late twentieth century); and the criminalization of the investment of illegally obtained funds (money laundering) as an approach to transnational and organized crime (late twentieth century) (Studies of these developments include the following: Rothman, 1971; Rothman, 1980; Gusfield, 1963; Schrad, 2010).

The actors involved in criminal policy-making fall into three groups: *politicians* (in the executive and legislative branches); *professionals* (officials in minis-

tries; line authorities like police chiefs, chairs of courts, heads of prisons; ordinary practitioners such as police, judges, prosecutors, defense counsel, social workers, and probation officers; and officials involved in planning and research, especially within ministries and commissions, as well as external experts); and *the public* (interest groups, public opinion and the media that shape it).

In most Western countries the involvement of politicians was traditionally episodic and involved taking advice from officials and experts regarding new legislation to address urgent matters. To be sure, issues that attracted public interest, like capital punishment, gun control, or parole, commanded the attention of political leaders, who were concerned about public mood and its potential impact on elections. But only in recent decades, and especially in Anglo-American democracies, have rival political parties vied for public approval in the protection of law and order, a syndrome that has resulted in more severe punishments and frequent changes in the criminal law. We will examine such “penal populism” later on.

Professionals in criminal justice, as we have seen, comprise different kinds of officials, whose views on issues probably diverge more often than they agree. Operational officials determine to a large extent how legislation gets realized, through both directives and patterns of action. In addition, their views, along with those of policy and research staff of the agencies, often shape legislative initiatives, especially when they are not politically visible or controversial. At times, such constituencies may exercise a veto power. Further, many of the same officials (judges, police chiefs) may be represented by professional organizations that act as interest groups.

Finally, the public itself may exert influence on criminal legislation and other policy choices. Democracies often feature interest groups designed to promote particular ideas (abolition of the death penalty, legalization of abortion, restrictions on ownership of hand guns, penal reform) or to represent particular groups (the victims of crime). Further, readings of public opinion or mood by pollsters, itself shaped by media accounts of particular incidents, are used by politicians to support initiatives. Too often the resulting “public opinion” represents emotional reactions to questions by uninformed respondents rather than judgements of persons informed about the issues.

One of the key factors in the policy process that shapes outcomes in criminal policy is the degree of public attention an issue arouses. In the abstract one can imagine a spectrum of possibilities ranging from decisions taken wholly outside the glare of the media, to issues that have a public dimension, to matters that actually become subjects of partisan politics. Once there is any public dimension connected to a potential change in the criminal law or justice, another factor may enter the equation, namely its symbolic meaning. Adding an offense to the criminal law may satisfy the demands from part of the public or interest groups by supporting its values – apart from any potential enforcement.

The symbolic dimension also looms large in the politics of punishment, especially the matter of abolishing capital punishment. In no country where this step has been taken did public opinion approve it in advance, and in countries (and states within the USA) that retain the ultimate sanction its actual use is subject to fluctuations that may include long periods of inactivity. In these situations

the symbolic value of keeping the penalty in reserve has outweighed the outright rejection of retribution and the value placed on human life (Zimring & Haskins, 1986; Hood & Hoyle, 2009).

Studies of public policy in the West also suggest patterns of policy development that reoccur. One pattern revolves around cycles of attention, positing that politicians do not usually focus on the same policy areas or issues for long, dealing with them only for short periods of time and then ignoring them until a problem arises. Another related idea is that of policy windows, that is, opportunities for the pursuit of particular approaches to a problem (Marion & Oliver, 2012. Ch. 4). The decriminalization of marijuana possession in eleven states of the USA in the 1970s (and the consideration of this possibility in other states) became possible because of a unique confluence of circumstances. This option got onto the agenda of policy-making when it became clear that prosecutions were often directed against middle-class youth for whose future careers the stigma of a criminal conviction could cause problems. At the same time, law-enforcement officials (police and prosecutors) often supported decriminalization as a way to reduce caseload. However, the policy window produced by this confluence of circumstances lasted only a few years and then closed. By 1980 a conservative mood had emerged in the USA, and the symbolic value of keeping marijuana use a crime became the dominant view. No further states chose to decriminalize, and one state decided by popular referendum to recriminalize (Alaska in 1990) (DiChiara and Galliher, 1994). In fall 2012 the states of Colorado and Washington decriminalized marijuana use by popular referendum, suggesting that a new window of opportunity had opened.

The role of experts: before the era of penal populism

By the 1960s, in both the USA and the UK, criminology was a fast-growing field of scholarship and recognized by government officials as a source of expert knowledge. In both countries criminologists were drawn into the worlds of policy-making, in the USA to help react to outbreaks of violent protest and in the UK to contribute to routine improvements in the administration of criminal justice. On both sides of the ocean, however, the experience left a bitter taste in the mouths of scholars, who felt betrayed when their voices did not hold sway or, worse, their findings were used to support choices with which they disagreed (Komarovsky, 1975; Hood, 1974). To this writer the laments of the experts reflected confusion about the nature of the political process and ways that ideas of any kind leave their mark.

It is helpful to picture social scientists as performing two main functions in policy-making: solving policy problems and providing new perspectives on policy for all concerned. The problem-solving function would bring social scientists into decision-making; the “enlightenment function” would bring them into the agenda-setting phase. Moreover, the political process was not a rational process of weighing of substantive alternatives, but involved other mechanisms of choice, such as voting, bargaining, and compromise. In this context, all knowledge, including that coming from research, served as an instrument for the players rather than a source of direction

The normal and most typical pattern of criminologists' contributions to policy that obtained in Anglo American democracies from the 1960s to the mid-1980s consisted of a long-term process that is not easily traceable, which involved a number of studies and writings whose cumulative effect might lead to new visions and approaches.

Penal populism and its impact on the role of experts

In the Anglo-American world, especially the USA and the UK, the late 1980s, 1990s, and beyond observed a shift in penal policy in the direction of severity. To many observers, the new severity was correlated if not intimately connected with the politicization of crime and punishment, as competing political parties and candidates sought to demonstrate their toughness in confronting criminals. As policies on crime and punishment reflected appeals to the public more than efforts to achieve results, observers identified a new syndrome that they called "penal populism" or "populist punitiveness" (Bottoms, 1995; Pratt, 2007).

To be sure, the dramatic rise in rates of imprisonment in the UK and extraordinary expansion of prison populations in the USA had other root causes, including the decline of the rehabilitative ideal even among liberals and a concern for equity (a factor in producing determinate sentencing and increased prosecutorial powers). There was a tendency for scholars of a liberal persuasion to blame the new severity on what they saw as a distorted policy-making process. The increased concern of politicians with appealing to public opinion (assumed to be harsh) implied less attention to evidence and expertise, so that the role of public servants (bureaucrats) and experts (criminologists) declined. In the new millennium some of the latter voiced their dissatisfaction and debated ways that criminology could regain its former public role (Loader, 2001; Lacey, 2008).

The simplified portrait of a shift from policy-making that took some account of evidence and expertise to one driven mainly by ideology and political competition works best for England, where the law on crime and punishment is made in one place (not 51, as in the USA) and criminologists were in physical proximity to the centers of power. Ian Loader constructed a portrait of England in the 1960s and 1970s as a world of criminal policy dominated by a network of officials and experts, something close to a "policy community." These "Platonic guardians" assured that radical breaks with the past were discouraged and that evidence was at least considered, though not always determinative (consider the Criminal Justice Act of 1972). While the Conservative party won the parliamentary elections of 1979 with a law-and-order platform, for more than a decade its leaders pursued moderate penal policies, even discouraging imprisonment, in large part due to the actions of key civil servants (Rutherford, 1996, pp. 85–117; Downes & Morgan, 2007). This romantic portrait of a golden age of criminal policy-making gains credibility mainly in comparison with what followed after 1993, a period when a series of Home Office secretaries of different political persuasions aggressively moved penal policy in the direction of severity. This happened when crime rates had begun to fall and well after the decade of conservative domination in politics, a period when the temptations toward severity had been checked. After that,

it appears that the close ties between officials of the Home Office and criminologists disintegrated and the latter were rarely consulted (Newburn, 2007; Lord Windlesham, 1996; Loader, 2006).

The reality of penal policy-making in the United States was more complicated and fits the caricatured portrait only in part. Overall, punishments did become more severe during the 1980s and 1990s, but often not because of politicians' appeals to the public. On the federal level, the introduction of determinate sentencing at the end of the 1970s, with bipartisan support and expert involvement, was the most important factor, while at the state level there were multiple scenarios (See, for example, Sith & Cabranes, 1998). To be sure, in some states politicians and elected district attorneys did engage in penal-populist appeals, but in others they did not even respond to public pressures, and there were some states where punishments did not become more severe (e.g., Washington state, where cooperation of government officials with societal actors produced a European-like restraint) (Barker, 2009).

On the federal level, the politics of law and order played a big role in the victory of William Jefferson Clinton in the 1992 presidential elections, but it did not lead to repressive policies or measures that did not meet the expectations of criminologists. The centerpiece of the eventual omnibus legislation of 1994 related not to increases in punishment but to the supply of police officers; the federal government decided to provide financial support for 100,000 new police at the local level. In so doing, it required recipient local governments to develop community policing programs, a step generally regarded as progressive.

Most European countries have so far been insulated against the effects of penal populism, real or potential, though the politics of law and order did emerge as factors in most Anglo-American countries (even in Canada later on, under the Harper Conservatives). Moreover, many criminologists in those countries believed that this development cut them off from the policy process and produced a politicized result.⁴ Although misguided to a degree, this alienation of criminologists represented a reality in some Western countries that could be compared with developments in the Russian Federation. It is appropriate first, however, to examine in more detail recent experience in criminal policy-making in Europe, to have another baseline for consideration of Russia.

Experts, public opinion, and the criminal policy in Europe

The European approach to criminal law and policy has been marked by two mutually reinforcing traditions – the tradition of elite domination with low levels of politicization; and the tradition of a prominent role for legal scholars. Moreover, consistent with the civil law tradition, legal scholars typically played a major role in discussions of changes in the law, especially when codes were involved, and the scholars themselves valued consistency within the law and treated its inner logic as a guiding principle (Tonry, 2004; Merryman, 2007). In the civil law tradition, codes were meant to have an organic quality and display a systematic approach to their subjects, qualities often absent in codes within the Anglo-American countries.⁵ In the latter, legal codes usually represented

attempts to collect in one place prohibitions, sanctions, and principles with multiple origins, including case law.

A key question is the extent to which these traditions have been maintained in recent decades, as mass media changed and instantaneous communication became the norm. For the most part, continuity rather than change has characterized the development of criminal law and policy in most countries of Western Europe. Over all, there was neither a significant growth in penal populism or law-and-order politics nor a decline in the role of legal scholars. Nor have the practitioners of social science research on crime and justice, criminologists, joined, much less supplanted, the legal scholars, in part because criminology is typically not an autonomous enterprise but subordinate to the study and teaching of law.

In Germany the traditional pattern of criminal law reform was replicated in 1959, when after a few years of studies, the Federal Minister of Justice established a Grand Criminal Law Commission composed of politicians, legal practitioners, and legal scholars, which produced the draft criminal code of 1962. According to critics, the draft Code failed to move beyond a traditional retributive approach and pay heed to rehabilitation, so that even members of the Commission acknowledged that their product did not reflect a “modern criminal policy.” The reform effort seemed doomed to fail when a private group of 14 German (and Swiss) criminal law scholars and criminologists moved into the void and produced an Alternative Draft Criminal Code (whose general part published in 1966). This “professorial initiative” then gained support from the main political parties in the legislature and shaped the actual reform of the criminal law in Germany. However, this did not involve actual adoption of the Alternative Code, but rather its actualization in a series of separate criminal law acts over the next eight years. In effect, Germany adopted what Continental jurists saw as an English model of step-by-step change or “reform by installments.” By 1975 five criminal law reform bills had introduced more than seventy-five important changes in the German Criminal Code, many of which had their origins in the proposals of the “professors.”

The development of the criminal law through evolutionary change (rather than grand design) has lasted in Germany as particular acts have introduced specific changes. These have included the Crime Victims Protection Act of 1986, the Fight Against Organized Crime Acts of 1992 and 1996 (introducing money-laundering provisions), the Fight Against Crime Act of 1994 (dealing with hate crimes), the Sixth Criminal Law Reform Act of 1998, and the 1998 Law on Sexual Offenses. Although the early liberalization trends ended, there does not seem to have been a punitive turn in Germany (non-custodial sentences and short terms of imprisonment are still the norm), where criminal policy was marked above all by stability and inertia. Even in the wake of unification, there was no increase in public fear of crime, and the political parties (as of the turn of the millennium) still refrained from making crime an electoral issue (Eser, 1996; Krehl, 2003; Oberwittler & Hofer, 2005; Tonry, 2004).

In other European countries with stable patterns of punishment, one does not find much (or any) penal populism, and the policy-making process continues to feature professionals, both officials and experts. The literature demonstrates this for France and Belgium, and it was likely also the case in most Scandinavian

countries (Tonry, 2004). In contrast, in the Netherlands – the European country with the most dramatic expansion of imprisonment (especially of offenders from minority ethnic groups such as Moroccans and Antilleans) – both public opinion and the leaders of political parties began to see crime as a sign of social disintegration within their multi-ethnic society that called for reaction. High-profile murders aggravated the problem, and new measures of social control like identity cards were introduced. Crime talk became alarmist and emotional and the attention given to experts declined sharply (Pakes, 2006; Downes & van Swaaningen, 2007).

In Europe as in North America, punishment represented only one dimension of criminal policy, and in other areas there was a greater likelihood of avoiding the impact of public opinion and the politics of law and order. A case in point is policy toward criminal control of drugs. The most dramatic change in this realm came in Portugal, which in 2002 decriminalized the possession of up to a ten days' supply of not only cannabis but also hard drugs, and the movement of such possession to the realm of administrative offense. This dramatic step was based on consensus about the ineffectiveness of prosecution and convictions in reducing drug use in this country of drug trafficking and embarrassment about the resulting public health crisis. This consensus included officials in both health and criminal justice, many of whom saw drug convictions as a source of prison overcrowding. De facto decriminalization, or restrained enforcement, preceded legal decriminalization in the 1990s, and new research soon followed that highlighted the connection between the HIV virus and drug users in Portugal. The actual reform was elaborated by a government-appointed expert commission. In short, the policy-making process was inclusive and evidence-based and it led to a new paradigm. The effects of the change were dramatic. As a result, the number of persons convicted of drug charges dropped within a few years by more than 60 percent, and the share of drug convicts in prisons dropped from 44 percent in 1999 to 21 percent in 2008. Prison density fell from 120 to 101.5 per 100,000 of population (Hughes & Stevens, 2010; Hughes, 2006, especially Ch. 4: "Drug Policy Reform in Portugal"). This snapshot of criminal policy-making in countries of Western Europe in recent decades (based on material in English) shows that the pressures of law-and-order electoral politics did not change the policy-making process in most countries or for most issues. More often than not, the traditional model, where officials and legal experts joined politicians in shaping policy, remained in place. This contrasted with the changes that took place in England and at least some of the states of the USA, and suggests multiple baselines against which to assess Russian developments. At the same time, one should not exaggerate the role of criminal law scholars (not to speak of criminologists). While they were often participants in discussions of possible change, helping to form the agenda of reform as well as contributing to choices, their voices were rarely dominant and innovations in criminal policy required the support of other professional constituencies with different values (as shown in the Portuguese case of decriminalization of personal drug use). But criminal policy did not stray to extremes – of severity or of instability – and the experts did not experience intensified alienation.

Criminal policy-making in the USSR

Over the course of Soviet history, all major efforts to shape and reshape the criminal law (and criminal procedure as well) through revision or rewriting of the Criminal (and Criminal Procedure) Codes followed European practice and involved legal scholars. But there was never a time when the leader(s) did not also use their prerogative to make changes in crimes and punishments on their own, with little if any consultation. The two modes of decision-making coexisted under Iosif Stalin, Nikita Khrushchev, and Leonid Brezhnev, although their balance and meaning changed more than once.

Not long after the promulgation of the Stalin Constitution at the end of 1936 and until the last year of Stalin's life, legal officials and scholars were engaged off and on in the preparation of a USSR Criminal Code, with drafts produced in 1938–39, 1946, and 1949. The drafting process in the late 1930s was the most visible, and one can learn from the journals about the drafting activity of the scholars (multiple commissions), the content of proposed changes, and later discussions among legal experts. The draft Code included a number of reforms, including the abolition of the principle of analogy, a change with large symbolic meaning that was supported by the leading authority in the law, Andrei Vyshinskii. The postwar period witnessed the resumption of work on the Code (required, now that criminal law was in all-Union jurisdiction), with Moscow-based scholars (especially from the All-Union Institute of Juridical Sciences) included in a new Commission and its two subcommissions, one for the criminal and one for the criminal procedure code, which met 92 times in 1946 and 1947. There followed broad behind-the-scenes consultations (including comments from at least three Central Committee secretaries, and in 1949, the Supreme Soviet's Committee on legislative suggestions established a subcommittee for further review. Along with removing analogy, this draft Code was set to revive parole (abolished in 1939), to raise the age of criminal responsibility from 12 to 14, and to narrow the definition of shirking (*progul*). In contrast to the prewar period, this time, work on the draft criminal code stayed entirely behind the scenes and was barely mentioned in public.⁶

These same years witnessed many important changes in the criminal law that came directly from Stalin himself, including the criminalization of labor discipline breaches (1940), the elimination of the death penalty (1947), new penalties for rape (1949), and draconian laws on theft (1947). While in these and other decisions, Stalin sometimes consulted his top officials, such as the Chairman of the Supreme Court or the Minister of Justice, often he did not heed their advice, let alone involve legal scholars (Solomon Jr., 1998 and 2008, Ch. 12).

In the first years after Stalin's death, the same dualistic approach to criminal policy continued unchanged. Between 1953 and 1955, corrections to the severity and scope of the criminal law were made through individual edicts, while at the same time the drafting of a USSR Criminal Code was revived and put in the hands of a commission of officials and scholars from Moscow. Khrushchev opened the way for more active and broader participation of legal scholars in the preparation of All-Union Fundamental Principles of Criminal Legislation and republican criminal codes (now required by Khrushchev's return of jurisdiction for criminal

law to the union republics). The drafting of the Fundamental Principles featured a large commission that included scholars from outside Moscow and a significant degree of specialization, and at least the discussion of its work entered the public sphere, culminating with public discussion of the draft principles in 1958 that was dominated by jurists. Lively discussions included such contentious issues as the design of a revived parole and the provisions for dangerous recidivists. Similar discussions were organized for the draft Fundamental Principles of Criminal Procedure, where divisions within the legal community among liberals and conservative jurists were more pronounced than on matters of criminal law. The ultimate decisions on matters of controversy remained in the hands of political leaders (secretaries of the Central Committee of the Party), although they were sometimes delegated to the top legal officials. But both sets of Fundamental Principles included changes not in dispute that had been on the agenda for years, in part because of the voices of scholars (e.g., the elimination of analogy) (Solomon Jr., 1978, Ch. 3; Gorgone, 1976; McCain, 1982).

By 1961, the period of codification was over, and jurists expected that Khrushchev would observe the promise that law reform remain in the hands of the legal community and its specialists. But Khrushchev was quick to disappoint, and in a few years became notorious for introducing on his own severe punishments for economic crimes (with prosecutions directed especially against Jewish businessmen), even including retroactive use of the death penalty. He also expanded the crime of “parasitism” and entrusted lay bodies (comrades’ courts) with the imposition of real punishments, to the dismay of specialists in criminal procedure (Berman, 1963, Ch. 2; Feofanov, 1989. For more on criminal policy under Khrushchev see: La Pierre, 2012). In sum, his actions reinforced the view among legal scholars that politics was an unwelcome intruder on their terrain.

In contrast, the early years of the Brezhnev–Kosygin partnership produced a new basis for expert involvement in criminal policy-making. The revival of criminology (empirical social research on crime and criminal justice) from the late 1950s gained institutional form with its prominent place in the recast Procuracy Institute (from 1963 known as the All-Union Institute for the Study of the Causes of Crime and Development of Measures for its Prevention). With the Brezhnev leadership’s commitment to scientific management of society, there was ideological support for evidence-based policies. Accordingly, in the second half of the 1960s, criminal law scholars armed with criminological expertise played a prominent part in decisions on such matters as approaches to juvenile offenders, alcohol and crime, parole and recidivism. Scholars provided important material in defense of parole when the institution came under attack, and helped refine the criteria for designation as an especially dangerous recidivist. Perhaps more important, criminologists as a group helped to make crime prevention a priority within Soviet criminal policy for at least a decade (Solomon Jr., 1978, Ch. 4 to 9).

The latter years of Brezhnev’s rule and those of his immediate successors (to 1985) represented a period of relative continuity in criminal policy, as the leaders showed little interest in initiating major changes. They presided over a series of small changes in the law that came in response to the needs of law enforcement and did not usually involve expert input. Whether such changes were exces-

sive in number or justified in practice requires special study. Simple counting of the number of changes in the Code (by article) yields the following. Between the 1964 leadership change and 1980, there were close to six individual changes in the Criminal Code per year; in the 1980s nearly thirty changes per year; and between 1990 and 1995 (before the new Criminal Code of the RF was adopted), over fifty changes per year.⁷

Many of the changes in the Brezhnev era had the effect of enlarging the scope of the criminal law and increasing the severity of punishment. Of course, these changes were accompanied by the usual flow of regulations about law-enforcement practice, including guiding directives of the supreme courts on how the criminal law should be applied and interpreted. These should be taken into account in any serious account of the durability of a Code's meaning and application. Thus, the drop in the share of custodial sentences of 11 percent between 1983 and 1985 and of another third between 1985 and 1987 reflected policy changes manifested in regulations far more than changes in the law (Solomon, Jr., 1992).

For criminal law scholars, the decade and a half before 1985 was to a large extent a time of waiting. It was a time for the accumulation of ideas about change, prompted in part by defects in the administration of justice and in part by increasing awareness of and references to reforms undertaken in socialist countries of Eastern Europe. In the first half of the 1980s, a group of criminal law scholars began working on model legislation, including Model Fundamental Principles of Criminal Legislation that were completed in 1985 and published in 1987, and a Model Criminal Code for the RSFSR completed in 1986 and not published. In the course of this work, many criminal law scholars became prepared for reconsideration of the content of the criminal law and, armed with their own agendas, including the need to reduce both the scope of the law and the severity of punishment (Naumov, 2012; Kudriavtsev & Kelina, 1987).

The new policy of *glasnost* announced by Mikhail S. Gorbachev in 1986 opened the door to serious public discussion of abuses in the administration of criminal justice and the mounting of pressure for reform, especially in criminal procedure, courts, and law enforcement. Legal scholars played major parts in both of these enterprises. At the same time, the political leadership and top legal officials recognized the need for reform of the criminal law as well, and already in January 1987 a Party plenum established drafting commissions for both Fundamental Principles and a new RSFSR criminal code. Heavily influenced by the model principles, the new draft fundamental principles were published in December 1988, received public discussion in 1989, and were submitted to the Supreme Soviet in 1990 and adopted in summer 1991. A number of the authors of the Model principles helped draft the ones that were adopted (Solomon, Jr., 1992).

The Fundamental Principles of Criminal Legislation adopted on the eve of the breakup of the USSR represented a fresh approach to punishment and crime, reflecting the best of scholarly thinking. Highlights included an emphasis on non-custodial sanctions and a series of principles that limited criminal responsibility (actual decriminalization could be effected only in the special parts of criminal codes). Among the principles designed to limit criminal responsibility was the idea that the taking of professional and economic risks that might involve breach-

es of the criminal law by managers or businesspeople could be justified. This step represented the start of a series of concrete measures aimed at legalizing and facilitating private business in Russia. When the USSR disappeared as a state, the Fundamental Principles lost their legal status, but they remained as a source for the persons working on the new criminal code of the Russian Federation, which succeed the RSFSR.

Criminal policy-making in the Russian Federation: the 1996 Criminal Code and the Law of 8 December 2003

The decade spanning the last years of the USSR and the first years of the Russian Federation (1985–1995) – a tumultuous period in Russian history – was a time of major change in the criminal law, effected both through codification with normal expert participation and countless direct changes in the criminal law. As a rule, the latter came as initiatives of officials and politicians, were supervised by the relevant department in the administration of the President, and did not involve expertise. But many of those changes were justified by the demands of the hour, including desire to reduce the severity of Soviet law (e.g., by narrowing use of the death penalty and the opposing need to respond to the crime scare generated by the media from 1989). During these years, scholars expressed little resentment about the way changes were adopted, perhaps because of their involvement in the ongoing preparation of a new criminal code for the Russian Federation that would allow them to reconsider those changes in the old code.

The perspective of criminal law scholars in the RF would change in the fifteen years after adoption of the Criminal Code of 1996, as a constant flow of amendments kept changing the law that had been carefully fixed and criminal law scholars recognized that their influence had waned. Some were aware that, in the past, their participation and direct influence had been limited to periods when new codes were the order of the day, but that concrete changes were often introduced without broad consultation. But there seemed to be two novelties in the post-1996 period: first, the sheer volume and frequency of such changes (despite the fact that a new Code had just been promulgated); and second, the apparently low level of participation and influence of experts in two major initiatives – the large package of amendments to the Criminal Code of December 2003 and the changes introduced in two omnibus laws in 2011 to realize the Medvedev program of humanizing the criminal law.

Were the scholarly critics right? Had they been excluded more than in the past? If this was so, how could one explain this trend? These are questions that deserve attention. Another related one is the extent to which the policy-making process in the criminal realm changed in post-Soviet Russia. In particular, what difference did a more active legislature make? Did Duma deputies play an inappropriate, even harmful role that responsible members of the executive branch (especially in the presidential administration) could or did not combat? To what extent were appeals to the public of a populist variety a relevant factor? On the basis of existing knowledge, which is only fragmentary, we try to develop tentative answers that can stand as hypotheses for future inquiries. We will start with

the making of the 1996 Code, and then turn to its first fifteen tumultuous years, including the packages of changes introduced in 2003 and 2011.

The drafting of the 1996 Criminal Code was a complex and extended process. It began with the production in 1991–92 of two competing versions, one produced by the Ministry of Justice, the other by the RSFSR Supreme Soviet, both of which included most of the new Fundamental Principles in its general part. Each also involved scholars in its drafting groups. The Justice draft was further revised at the administration of the President, and later a group of deputies produced a new coordinated draft based on the two latest versions of the competing versions. During 1995 this combined version was circulated for comments according to the usual procedures (that is, to interested governmental agencies and to regional governments), approved by the Duma, rejected by the Federation Council and overridden by the Duma, vetoed by the President (in part because the Federation Council's objections had not been accommodated), revised by the Duma, again rejected by the President because of failure to coordinate with criminal procedure law, revised by the Duma once again, and finally approved by all concerned (Naumov, 1997; Butler & Henderson, 1998; Pomorski, 1998). After the many years of preparation, the last stages of the process moved quickly, resulting in the usual complaints about haste. Much of this activity took place in the public glare, and periodicals like *Iuridicheskii vestnik*, *Chelovek i zakon*, and *Rossiiskaia gazeta* published detailed discussions of the content of the various drafts.

In its final version, the new Code did not break dramatically from the Soviet past (besides enshrining obvious changes, such as the end of speculation as a crime, and tidying up the General Part of the Code). The new Code actually added more crimes than it removed, including a package of new business crimes that would soon become controversial (chapter 22), in part because of the treatment of business leaders as members of organized groups. The levels of punishment, while adjusted to the new classification of crimes, remained harsh by European standards, although provision was made on paper for a number of new non-custodial alternatives. However, these required organization and investment before they could make their mark, so that a conditional sentence became in practice the main alternative to imprisonment (Ibid.; *Ugolovnyi Kodeks Rossiiskoi Federatsii: Ofitsialnyi tekst*, 1996).

Between mid-1998 and 2002, twenty-five separate laws introduced changes into the Criminal Code of the RF, for the most part adding new criminal offenses. Moreover, there were also many legislative proposals sponsored by individual deputies in the Duma, most of which were screened out by a council of experts working with the relevant committee in the Duma that included scholars. The overall situation was sufficiently chaotic that the upper house of the legislature, the Federation Council, decided to take the initiative and organize hearings – “The Criminal Code of the RF after Five Years: Problems and Perspectives on Improvement” – where scholars played an important part. The hearings produced a substantial list of recommendations approved by the parent body on 23 April 2002 (Kuznetsova, 2004).

Less than a year later a draft law was submitted to the Duma by the President in March 2003 under the banner of “humanizing the criminal law,” which led in turn to the omnibus law of 8 December 2003. While the original bill involved fifty

changes, the actual law ended up affecting two-thirds of the articles in the Code, among other things introducing greater possibilities for non-custodial alternatives including fines and a better deal for juveniles. It also removed confiscation of property as a supplementary punishment (replacing it with large fines that seemed easier to collect), made trafficking in persons a crime (fulfilling international obligations), and decriminalized such common offenses as cheating customers, possession of hand weapons, most forms of ordinary hooliganism (now a weapon was required), lesser drug offenses, and accidental imposition of moderate degrees of bodily harm. There were also changes in the general part of the Code (often problematic for scholars), including the elimination of repeat offenses as an aggravating factor and a new approach to punishment for multiple charges, which while practical did not meet standards of logic. The law also included peculiar borrowings from other areas of law, such as the provision that parents could be held responsible for paying fines imposed on juveniles! (Kondrateva, 2003).

From the critical comments of scholars one might assume that the package of measures included in the December law was an arbitrary hodgepodge that had not been thought through, but this was far from the case. The idea for the law came about in spring 2002 (the same time as the Federation Council hearings), when the President concluded that the prison population of the Russian Federation was too high but disliked large-scale amnesties as a means to rectify this. Better, he thought, to make the system of punishment more differentiated, so that lesser offenders and young offenders did not end up in confinement. From August 2002 through February 2003 a high-level working group chaired by Deputy Head of the Presidential Administration Dmitrii Kozak (who had run similar groups dealing with judicial reform and the federal system) met at the Kremlin to study data on the effectiveness of punishments and sentencing and debate exactly which changes should be included in the new law. The group included representatives of all the law-enforcement agencies (MVD, FSB, Miniust), the Supreme and Constitutional Courts, the chambers of parliament (Aleksandr Barannikov), and perhaps rights groups (Lev Levinson). According to a retired procurator general (who had once served as head of the Procuracy Institute), there were no representatives of “scholarship,” in particular from the Institutes of the Procuracy and the MVD. But it is evident from articles presenting the draft law in the press (and the Explanatory Memo that accompanied it in the Duma) that its contents had received careful consideration of evidence and the pros and cons of alternative approaches, including those suggested by the Federation Council on the basis of presentations by scholars. Other items considered may also have reflected scholarly input (Sukhov, 2003; Chernov, 2003; Ozerova & Shipitsyna, 2003; Gromov, 2003; Rubtsova, 2003; Svetova, 2003).⁸

There was no sign of posturing for public consumption, especially along the lines of penal populism. For the most part, criminal law scholars critical of the bill objected to its leniency vis-a-vis repeat offenders, as well as a few concrete measures to which they would have objected earlier had they been members of the working group (See, for example, Boiko, et al., 2010).

Sadly, the law did not produce many of the desired effects. To be sure, the overall prison population of the RF went down temporarily, between 2003 and 2005 from around 788,000 to 630,000, but within a few more years it had returned

to the original level, in part because of changes that reversed measures from 2003 (including reversals in the handling of drug charges and an expansion in the lower level for theft set in 2002). The percentage of convicts sentenced to imprisonment went up slightly in this period, but this may have reflected the substantial decriminalization of offenses like hooliganism.⁹ By the time Dmitrii Medvedev was selected to succeed Vladimir Putin as president, the challenge once again was to reduce the prison population and the method adopted was a new program of “humanizing the criminal law.”

Criminal policy development under President Medvedev

Early in his presidency, Medvedev announced that Russia’s system of crime and punishment had become too severe and too costly, and he called for its humanization. Within a year he also recognized the special problems posed by the overuse of the criminal law in the regulation of business in the RF, by providing patronage to an active and concerned group of jurists and economists who had addressed it, in effect putting this matter as well onto the policy agenda. These steps would lead to three pieces of legislation, one restricting pretrial detention for businessmen (spring 2010) and two (March and December 2011) that again changed the scheme of punishments in the Criminal Code and introduced further decriminalization (for example of slander). For these initiatives, the most important policy-making center was the presidential administration, where Mikhail Paleev from the State Legal Administration directed the key working groups. Despite indirect contributions, many criminal law scholars believed that both they and their science had not been sufficiently involved.¹⁰

An important source of ideas contained in the Medvedev humanization program was a retired deputy chief judge from Supreme Court then working as a scholar at a research institute. During 2007–08 Vladimir Radchenko recognized the counterproductive situation in Russia of an exceptionally large prison population when there was a shortage of young men for the work force. As soon as Medvedev had made his commitment to rectifying the situation, Radchenko was hired by the Ministry of Justice to help produce a draft law – which emphasized the revival of non-custodial alternatives from the past (such as corrective work), raised the minimum values of stolen goods, decriminalized a whole series of offenses, and changed the definition of some business crimes. The latter issue had been explored by a group of jurists and economists organized by Elena Novikova, which the President converted into the Center for Legal and Economic Research connected to the Institute for Social Development (a Kremlin-sponsored think tank). This sponsorship allowed the group to expand its studies, produce a “Conception on the Modernization of Criminal Legislation in the Economic Sphere,” organize hearings, and pursue lobbying activity aimed reducing the use of the criminal law in the regulation of business (Interview with Vladimir Radchenko, 2012; *Kontseptsiia modernizatsii ugolovnogo zakonodatelstva ...*, 2010). The ban on pretrial detention for persons charged with business crimes (April 2010) reflected the goals of this group, as did the publicizing of a case of unjustified detention of a business woman, Yana Yakovleva.

The original draft law produced by the Ministry of Justice was reviewed and debated in summer 2010 by an interagency working group at the presidential administration with representatives of relevant agencies. Opposition to parts of the draft law led to the division of the planned changes into two separate pieces of legislation. The first one (adopted in March 2011) featured the removal of the lower limits of length of imprisonment for many common charges, and the second one (December 2011) enhanced the repertoire of non-custodial sanctions and banned the use of imprisonment for first-time offenders convicted of non-serious crimes, whose definition was also expanded so that light bodily blows (*poboi*), the main replacement for hooliganism, was now included. The second law also decriminalized offenses like slander and eliminated responsibility for importing legal goods into the country without payment of customs duties. But it did not respond to most of the proposals relating to business crimes; it merely provided a mechanism whereby a convicted entrepreneur could pay a large fine (four times the estimated loss) in place of a term in prison.

In short, the Medvedev humanization initiative produced a package of changes that resembled those from 2003 in introducing modest decriminalization and facilitating the avoidance by judges of imprisonment and confinement for long terms whenever the offense was not serious or the offender was nonviolent. An underlying theme was increasing judicial discretion, so that the practical meaning of the changes would depend upon how judges used their new freedom of choice.

Although the committees of the Duma and individual deputies discussed many of the issues addressed in these laws (and others that were sidelined), the main center of decision remained in the presidential administration, where the contents of the 2011 laws were discussed in a working group and further elaborated. I do not know about scholarly involvement in these later stages. It may well be that the involvement of scholars (from Radchenko, the retired judge, to the group of jurists and economists working to reduce prosecutions of businesspeople) was confined to the early stages of the process – that is, in agenda-setting rather than decision-making.

The focus on major packages of changes in the Criminal Code did not stem the flow of individual initiatives, some tending in a different direction. Even while the Medvedev humanization initiative was unfolding, other unrelated amendments to the Criminal Code were added, including one adding harsh punishments for paedophilia, changes to drug provisions, and changes relating to information technology.

Vladimir Putin's return to the presidency has led to a series of initiatives in criminal policy that come directly from the President or his staff and whose processing resembles the old pattern of changes occurring outside of codification. Prominent examples included the sudden revival of the crime of slander (barely a year after its removal from the Criminal Code) and the extension of the meaning of treason (*izmena rodine*) to include ordinary political activities. Probably with official support, the Orthodox church introduced a bill that makes it crime to offend the sensibilities of religious believers (a reaction to the Pussy Riot case). Various other initiatives included revised provisions on fraud (including extra liability for officials), a uniform system of compensating victims of a crime, requiring businessmen to compensate losses of their competitors before becoming

eligible for early release, and a set of proposals for dealing with corporate raiding. So many changes in the criminal code were under discussion that one journalist wrote of the “destruction of the legislative field,” and the editors of another newspaper called for a suspension of changes in the law (Golik, 2012; *Ot Redaktsii: Ugolovnoe Zakonodatelstvo*, 2012).

Studying criminal policy-making in Russia

Our review of criminal policy-making in Russia over seven decades confirmed that the normative ideal, cherished by some legal scholars in Russia, of a legal development shaped by their concerns about the logic and consistency of the law, has never matched the empirical reality. At best, there have been short periods of time, mainly during codification exercises, when reality approached the ideal. Even in those times, however, a broader range of factors shaped choices about the content of the law, including political ones. While from a short-term perspective, the Law of 8 December 2003 so criticized by Professor Kuznetsova may have represented a break from the dominance of legal scholars over criminal policy development of the most recent seven years, the making of that law seems normal from a longer perspective. Scholars may have expected that, after the end of communist rule, they would have a permanent role in keeping criminal law rational, consistent and effective, and unresponsive to special interests. If so, this expectation has proven to be far from realistic. As we have seen, democracies are no less vulnerable than other governments to ad hoc and impulsive uses of the criminal law.

Like their counterparts elsewhere, criminal law scholars in Russia need to uncover and accept the way that criminal policy is made, so that they can appreciate how they can best contribute to it. Scholars who refuse to recognize and explore the politics of criminal law will hold no sway against counterproductive political forces; instead they may well marginalize themselves.

I will start by summarizing what we know about criminal policy-making in the USSR and post-Soviet Russia, and then consider what we would like to know in the light of the concepts and approaches used in studies of criminal policy-making in the West.

Until 1998 the Soviet Union and post-Soviet Russia had experienced a consistent pattern of criminal policy-making – one marked by an alternation of periods of codification (efforts to address the criminal law as a whole), in which scholars played a direct, though not necessarily determinative role, and a flow of individual changes in the law usually initiated by the political leaders or high law-enforcement officials, where the involvement of scholars was infrequent and episodic. Apart from the first half of the Brezhnev period, the role of social research was also limited. To a considerable degree this represented the pattern found in countries of Western Europe.

During the years of perestroika and post-Soviet turmoil, from 1988 to the adoption of the 1996 Criminal Code, the frequency and scope of individual changes in the criminal law increased dramatically. It is possible that some of these initiatives were connected to the electoral needs of deputies from single-member districts, aware of the public insecurity produced by the crime scare of 1989. Expectations of drafters notwithstanding, the new Code did not stem the tide,

as deputies representing special interests as well as law enforcement kept coming forward with proposals, some of which were blocked by a group of scholars assisting the Duma committee that handled criminal law. This situation was novel in two ways: the presence of initiatives from below that had not been cleared by the authorities (i.e., the presidential administration) and the involvement of scholars with proposed changes outside of the writing of codes. As we saw, both the Federation Council and the President seized the initiative and revived a holistic approach to reform, in which the particular expert council at the Duma seems to have lost its voice. But the use of a presidential working group that represented the interested agencies was a reasonable approach, even if scholarly representation turned out to be indirect. It reproduced for criminal law the mechanism used for the judicial reform and the reform of the federal system being pursued at the same time (in contrast to the handling of the Criminal Procedure Code, where the deputy in charge was herself a scholar).

Some of the core ideas reflected in the Medvedev program for the criminal law came from legal experts who played a role in setting the agenda and suggesting relevant details, but the actual elaboration of the laws came once again through working groups representing the interested agencies. At the same time, from 2004 to 2012, the flow of individual initiatives did not cease. While some were processed, even filtered out, by the Duma committee, it appears that none was actually adopted without the agreement of the presidential administration (and, if money was involved, the government).

This summary portrait of criminal policy-making in Russia provides insights, but it lacks crucial details that might support or qualify its arguments and introduce nuances. One set of questions concerns the role and impact of deputies to the Duma. Which deputies initiated changes in the criminal law, and on whose behalf? To what extent were they personally committed to reforms? Were they in any way appealing to their own constituencies? (Arguably, the end of single-member districts with the election of 2007 would have made such appeals pointless.) How often did deputies initiate changes in the criminal law on behalf of narrow interests, including business firms, or police seeking new tools for extracting rents from business firms? There is also the role played by chairs of key Duma committees, including Pavel Krashenennikov, and his relationship to figures in the presidential administration. Moreover, some of the proposals to change the criminal law of Russia in the new millennium came from legislative assemblies of the regions and republics, although it seems that these were often discarded before or during reviews by Duma committees.

A second group of questions concerns the presidential administration and the role that it played as a filter for proposals as well as an organizer of the drafting process. Was this activity concentrated in the State Legal Administration, and to what extent did top figures in the presidency supervise it? These are matters that require more research, including access to working documents and interviews with relevant players.

Then there are the concerns of this inquiry about the role of scholars and of evidence from research on law enforcement or judicial practice. In investigating these questions, but also the first two sets, it would be useful to keep in

mind the distinction between agenda-setting and decision-making and to adopt a comparative perspective. First of all, in the West the involvement of experts in decision-making about criminal policy, with the exception of codification in Europe, has been consistently modest, not only with the recent onset of penal populism in some countries, but also before that and also in countries that have not experienced that phenomenon. At the same time, it is clear that criminal law scholars and criminologists alike often helped to shape the agenda for reform. They played an important part in the process of social learning that made new approaches possible. It would be worthwhile exploring and explaining analogous processes in Russia.

A fourth focus of interest is the symbolic role of law and the scope for penal populism in Russia and other countries. Arguably, symbolic politics has mattered in Russia, and explains why the government has hesitated to actually eliminate capital punishment from the criminal code (it is permanently suspended by a decision of the Constitutional Court). But direct appeals to voters to ensure support are likely to matter more in a political environment where there is competition for power between political parties and/or contestations in single-member districts where particular candidates can gain from crime-based appeals. After the election of 2003, subsequent elections to the Russian State Duma were based entirely on proportional representation with a single national constituency.

Finally, there is the urgent problem of the instability of the criminal law in Russia and what it signifies. Addressing this problem should begin with the facts, specifically, whether or to what extent the rate and depth of change since 2000 has actually been greater than it was in past periods of Russian history and than one finds in other countries in the same period. By my counts, criminal law in Russia became especially unstable in the late 1980s, when frequent changes in the law become commonplace, and the numbers of changes in the new millennium, while perhaps higher, represent a direct continuation of that trend. As we saw, in the early 1990s there were some fifty changes a year in the criminal code, and after a few years' interruption, this rate returned to the Russia of Putin and Medvedev. A recent study of changes in the criminal codes of ten post-communist countries for 1997 to 2002 found that Russia had the most changes in the period (Primakov, et al., 2010). There is evidence of frequent changes in the criminal law of other post-communist countries (Hungary) and occasional similar complaints in Western countries as well. Thus, in England and Wales, according to a much-cited newspaper article, between 1997 and 2006 some three thousand new crimes were created, and of these nearly two-thirds were done in regulations rather than through legislation (Nagy, 2007; Nigel, 2006). Only a comparative approach will elucidate what is normal.¹¹

To understand what has happened to the criminal law in Russia calls for studies of the politics of criminal policy-making, as opposed to the narrower prism of the writing of legislation. Only in this way can the interplay of interests and the dynamics of competing views and priorities be revealed. Even when legal scholars play a significant role, one should not expect anything resembling a rational process, although more attention might be paid to the way changes in one part of the law affect other parts.

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NOTES

- ¹ By 2012 a sizeable share of criminal law scholars believed that criminal law in Russia was experiencing a crisis, for which a new Code or at least a new edition of the current code was the answer. See the survey of scholars conducted by the Saratov Center for the Study of Organized Crime and Corruption at “Otsenka uchenymi rossiiskogo UK i ugolovnoi politiki,” http://info-pravo.com/blob/otsenka_uchenymi_rossijskogo_uk_i_ugolovnoj_politiki/2012...”
- ² For explication of the rational model of policy-making see Dror (1978), as well as most textbooks in public policy. A criminologist who has eloquently articulated the ideal way that criminal policy should be made is Roger Hood. See his “Some Reflections on the Role of Criminology in Public Policy” (1987) and *Criminology and Public Policy: The Vital Role of Empirical Research* (2002). See also Lucia Zedner and Andrew Ashworth (2003), introduction and *passim*.
- ³ Perhaps, some legal scholars believed that by investigating the political bases of criminal policy, they would be giving legitimacy to tendencies of which they disapproved.
- ⁴ See, for example, “Public Criminologies,” a symposium with seven articles, in *Criminology and Public Policy*, 9: 3 (2010), pp. 721–805, especially the lead article Uggen, Ch. & Inderbitzen, M. “Public Criminologies.”
- ⁵ In Common law countries many criminal law scholars bemoaned the failure of legislatures to pay heed to criminal law theory and its purveyors. See for example Darryl Brown, (2009).
- ⁶ See: Solomon, Jr.(1978, Ch. 2); Solomon, Jr. (1996), pp., 406–408. For discussions of the draft criminal codes of the late 1940s, see GARE, f.9492, op.1, d.1962 and 1963; f.9492sch, op.2s, d.45 and d.49; f.7523sch, op.65s, d.243.
- ⁷ “Ugolovnyi Kodeks RSFSR ot 27 oktiabria 1960 g., izmeneniia i dopolneniia k kodeksu,” *Ugolovnyi kodeks RSFSR i Ugolovno-protsessualnyi kodeks RSFSR*. Moscow: BEK, 1995, 19–50. Anatoly Naumov has done similar counts for earlier periods in Russia and Soviet history, demonstrating the relative stability of the criminal law that characterized those eras (2012, pp. 10–13).
- ⁸ Poiasnitelnaia zapiska k proektu federalnogo zakona “O vnesenii izmenenii i dopolnenii v Ugolovnyi Kodeks Rossiiskoi Federatsii” (n.d., 2003).
- ⁹ Data from the website of the Judicial Department (www.cdep.ru), as compiled by Todd Foglesong.
- ¹⁰ This section is based upon Peter H. Solomon, Jr. (2011) and Peter H. Solomon, Jr. (2013). References to primary sources are provided in these places.
- ¹¹ Benjamin Noble is collecting data on patterns of change in criminal codes in a variety of countries.

THE FORMATION OF A SYSTEM OF OPEN GOVERNMENT IN RUSSIA: EXPERIENCE AND PROSPECTS*

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ABSTRACT

This paper analyzes the development of forms and methods of interaction between government agencies and the experts' community, public organizations, and citizens under the influence of a whole host of factors, including a transition to networked forms of administration; the production and exchange of big data; the dynamic development of information and communication technologies; and the development of the need for various interest groups, members of the mass media, and citizens to comment and influence government decision-making. The goal of the paper is to demonstrate that open government and increasing citizen activity is a two-way street. The paper uses the results of the monitoring by experts in 2014 of the implementation of principles and mechanisms of openness in federal executive agencies.

One of the paper's tasks is to show that government bodies today face the extremely difficult challenge of not merely informing citizens about decisions that are made but also maintaining the smooth operation of mechanisms that are able, given the current level of social development, to ensure that the interests and expectations of as many stakeholders as possible are taken into account. The paper also analyzes issues related to streamlining the current mechanisms of openness.

The authors regard these technologies and mechanisms of openness and public participation in government administration as interconnected elements of a new, nascent model of public administration.

Keywords: open government; open data; civic councils; openness rating; mechanisms and principles of openness; presence in social networks; interest groups; system of open government; experts' monitoring.

* Translated by *Steven Shabad*

Introduction

The formation of a system of open government in Russia is a natural phase in the improvement of public administration.

The previous period involved the implementation of an administrative reform in the Russian Federation, the reform of the civil-service system and the introduction of e-government technologies. The key objectives of the reforms of the 2000s were defined as ensuring that government information resources are open and accessible to citizens and organizations, increasing the transparency of government activities at all levels and streamlining the interaction between the civil service and civil-society institutions.

However, the absence in the process of bureaucratic self-reformation of tools for independent control of the quality and effectiveness of results, and the limited stake of bureaucrats in developing and advancing into the public arena successful practices for involving civil-society entities in framing tasks for government and determining paths of socio-economic development, have made it necessary to undertake new efforts and comprehensive measures to further improve the system of public administration.

Russian society today needs real evidence that government bodies are ready not only for nominal support for the decisions they adopt but also for partnership, for looking for compromises with a minority and for building a constructive nationwide dialogue.

Open and transparent government is one such guarantee.

Based on the above, the authors have formulated the principal hypothesis of their study as a working definition of a system of open government. It is *a system of institutions (including principles, legislative statutes, and the organization of activities) that are created for the interaction of public government bodies with citizens and civil-society entities, as well as technologies that provide for feedback and mechanisms (tools) aimed at citizen involvement and participation in the drafting, adoption, implementation, and public monitoring of government's administrative decisions.*

The performance and productivity of a system of open government can be evaluated only in an integrated fashion: by evaluating both the performance of its individual elements and the openness and transparency of the exercise by government bodies of their powers and functions.

In order to support their hypotheses, the authors will first define the goals, tasks, and major elements of the system of open government. Then they will describe the experts' monitoring methodology and, using the example of selected mechanisms for applying the principles of openness, reveal the key areas for implementing the system of open government and evaluate the stages of its formation. Finally, some overarching conclusions will be drawn about the prospects for further development of the system of open government.

Prerequisites for the formation of open government

Theorists and practitioners continue today to search for new concepts and models that allow technological achievements to be adapted most effectively to

organizing systems of public administration. The most important international studies are the doctrine of “lean government” formulated by Janssen & Estevez (2013) and the model of “networked government” proposed by Goldsmith & Eggers (2004).

The doctrine of “networked government” provides for concentrating the efforts of government managers not on administering resources and processes but on changing the problem-solving principle – by creating a network of involved partners, namely nonprofit organizations, businesses, experts, and citizens with initiative. Responsibility for the end result, however, remains with government.

The “lean government” doctrine implements the ideas of “networked government” on the basis of e-government technologies. While simplifying internal administrative processes and incentivizing innovative approaches to problem-solving, government bodies introduce crowd-sourcing and wiki and mobile technologies that are designed not only to obtain more quickly information on society’s problems and needs, but also to adopt decisions online while factoring in the views of all stakeholders. The “lean government” doctrine calls for the creation of platform-based solutions that allow both government and nongovernmental services to be set up on a common platform, according to common standards. The technological platform practices the principle of competition, whereby any supplier of services will be able, provided that it meets the prescribed requirements and standards of platform compatibility, to develop and sell services on it.

By developing “platform-based governance,” a government will be able to flexibly formulate and change priorities, incentivizing developers and meeting the interests of citizens as the end users of services. In addition, commercial services will ensure an influx of users and indirectly promote government services, thereby speeding the process of repayment of government investments in the creation of e-government. Finally, government services on a common platform will be able to compete with commercial ones, which in the medium term will enhance their quality and availability.

The term “public sector information” (PSI) is used today to define government information. Burkert (2004) notes the substantial change in government’s role in the provision and use of PSI under the pressure of increased demand from civil society. While initially society assigns to government the functions of gathering, storing, and providing socially important information, at the following stage, as an OECD report noted, market competition will lead to the emergence of new, advanced products on the basis of open government information (Organisation for Economic Co-operation and Development, 2006). Finally, Stiglitz (2000) regards government’s role as that of a facilitator that accelerates the processes of market growth and corporate development, services, and ideas on the basis of usage, including government information that is disclosed.

An equally important factor in the search for an efficient model of government is the initiatives of leading world politicians and leaders. Above all, this means the initiatives of the international community of 64 countries that belong to the Open Government Partnership and formulate an international agenda.

Thus, the incomplete status of the previous stages of reform of the system of government, and the dissatisfaction of government and the public with the lack of

obvious achievements on the one hand and the evolving worldwide trends on the other, were the source for the doctrine of open government in Russia.

Sources of the open-government doctrine in Russia

One of the most important achievements in this area was the adoption in 2009 of the Federal Law “On Providing Access to Information on the Activities of National and Local Government Bodies” and a whole host of statutory instruments. The significant progress in this regard is confirmed by the international Right to Information (RTI) Rating, which evaluates, according to 61 parameters in 102 countries, the quality of national legislation on access to information (<http://new.rti-rating.org/country-data>). Based on data from year 2009, Russia ranked overall 31st (a score of 98 out of 150), in the middle part of the ranking. We should note that the websites of all national government bodies in the Russian Federation have now been unified on a common server, “Official Russia” (<http://www.gov.ru>), which greatly simplifies access to them.

This also resulted in the creation on the Internet of a whole host of government information portals and systems that disclose information on the activities of national government bodies and enable them to interact with citizens. They include the Unified Portal of National and Municipal Government Services (Functions) (www.gosuslugi.ru); an information system that monitors the quality of national and municipal services (<https://vashkontrol.ru>); an official website that posts orders for goods, work, and services (zakupki.gov.ru); a common portal that posts information on the formulation by federal executive agencies of drafts for regulatory and legal statutes and the results of their public discussion (<http://regulation.gov.ru/index.html>); and many others.

The significant results also include the formation of a representative community of experts on public administration: more than 1,000 independent experts were recruited as part of the activities of the working groups established under the Government Commission on Administrative Reform. Another consequence has been a surge of theoretical papers and research projects and the emergence of a large number of research centers and public organizations that deal with issues related to the improvement of public administration in Russia.

Russian President Vladimir V. Putin explicitly stated in his annual Message to the Federal Assembly of the Russian Federation on December 12, 2013, that Russia today must have a broad public debate, and one with practical results, where public initiatives become part of government policy and society monitors their implementation.

Despite the fact that current Russian law already contains a whole host of provisions that allow government bodies to construct a system of interactions with the public, its primary vector is based on government dominance in the regulation of relations with the institutions of civil society. For example, the memberships of civic councils are approved by orders from agency heads; independent experts are invited as consultants and sources of additional information during the discussion of decisions prepared by government bodies; and nonprofit organizations are recruited primarily as participants in the implementation of government programs.

What is a system of “open government”?

The traditional forms of organizing interaction between government bodies and the public, under which they act within their authority and issue information to society at their discretion, piecemeal, not only impede an efficient exchange of information but also engender passivity among Russians, distrust toward government institutions, and a reluctance to participate in the political and socio-economic transformations under way in the country.

Access to information on the activities of agencies that provides sufficient and accurate facts on the results of their work and on government's intentions expands opportunities for public participation in governance and enables citizens, public associations, and the business community to make better-informed decisions based on objective information.

Therefore, if the institutions of civil society are to participate more actively in forming an open information society, and if intersectoral partnership is to develop among government bodies, business, and the public, there must be qualitative changes in the way the activities of the executive branch are organized, based on the principles of open public governance. In this sense open government is *the technology of institutionalizing the interaction among government, business, and society*. This is the principal purpose of the system of open government that is to be created.

Another, no less important goal is *the adaptation of the institutions of public governance to the challenges of forming a market economy*.

It is a universally accepted view that effective socio-economic development requires that legal and political institutions are aligned with economic institutions. Today it is becoming increasingly obvious that the development of a market economy in Russia, among other things, is hamstrung by the enormous legacy of the administrative-command system of governance. The doctrine of “new public management,” which propounds the use of the private sector's managerial techniques in the public sector, has been adopted only in certain areas of public governance.

The dominant role chosen by the government at the current stage in establishing platforms and channels for interaction with civil society must change. Government institutions, of course, retain all of the key resources and levers. But the vector of development today must be changed: materials, equipment, and information resources must be transferred to civil-society institutions, providing an incentive for them to organize themselves and to instill in every citizen entrepreneurial activism and responsibility for themselves and their future, rather than a passive expectation of assistance from the government. Civil society must strive to take on responsibility for the regulation of public interests, while government bodies must develop a need in ordinary citizens to participate in public governance. Such processes will make it possible to escape the administrative-command style in public governance.

Certain positive examples are already appearing in Russian practice; for example, the establishment of annual ratings of the openness of information on the activities of national and local government bodies at official websites. These rat-

ings are conducted today both by using the government automated information system “Government Website Ratings” (<http://gosmonitor.ru>) and by the Institute for the Development of Freedom of Information, a nonprofit organization (<http://svobodainfo.org/ru>) going back to 2005.

It is important to note that government bodies take the results of both ratings into account. For example, in competing with each other, the government and private ratings promote an improvement of the official websites of national and local government bodies. The application of the “networked government” model, in our view, will make it possible to turn a few examples into a widespread practice.

And finally, *the introduction of a system of open government* should ensure the creation of a qualitatively new level of representation of public interests and the aggregation of the needs of various civil-society entities.

We share S.S. Smoleva’s position that social development in an open society should be planned not by the representatives of government but by all individuals who take a critical view both of their own activities and of government’s steps. We also support the conclusions of T.A. Modasova regarding the key role of public participation, the purpose of which is to articulate public interests and, and by achieving the mutual alignment of interests among various social groups, to determine the sequence and priority in dealing with various issues (Mordasova, 2011, Smoleva, 2008).

We will now look at the key elements of the system of open government in more detail.

First are the *formalized provisions of the law*. As of the time when the projects to increase the openness and transparency of the activities of public government bodies were launched, more than 40 federal regulatory and legal statutes containing provisions in this area had already been adopted. A regulatory and legal framework for the establishment of a system of open government is already undergoing intensive development. Above all, this includes the Federal Laws adopted in 2014 “On the Principles of Public Monitoring in the Russian Federation” and “On Citizen Participation in the Maintenance of Public Order” and a Federal Law that deals with issues related to providing independent ratings of the quality of services rendered by entities in the realms of culture, social services, health care, and education.

An important role in forming the system is played by the adoption of the Openness Standards for Federal Executive Agencies, as part of the work of the Government Commission to Coordinate the Activities of an Open Government, with the active participation of members of the Experts’ Council under the Russian Federation Government, the Civic Chamber of the Russian Federation, and the Council under the Russian Federation President for the Development of a Civil Society and Human Rights, and in dialog with the civil servants of executive bodies (hereinafter, the Openness Standards).

The Openness Standards constitute a comprehensive document that consists of a Framework of Openness of Federal executive agencies, approved by the Russian Federation Government; Guidelines for Implementing the Principles of Openness in Federal Executive Agencies; and a Procedure for Rating and Evalu-

ating the Openness of Federal Executive Agencies, approved by the Government Commission to Coordinate the Activities of an Open Government (Standart ot-krytosti federalnykh organov ispolnitel'noi vlasti).

Second are the *basic principles of openness*, which are defined in the Openness Standards as the guiding values for establishing a system of open government:

- the principle of openness of information;
- the principle of clarity regarding the goals, tasks, plans, and results of the activities of executive bodies;
- the principle of civil-society involvement in the formulation and implementation of governmental decisions;
- the principle of public monitoring and the accountability of government bodies.

The *third* major element of the system of open government is the formation of a far-flung system of administrative institutions. Primarily these are formal and informal procedures of interaction with the following administrative entities:

- consultative and advisory bodies, attached to the President and the Government of Russia; to federal executive agencies; to the government bodies of constituent entities of the Russian Federation; and to local government bodies;
- the Civic Chamber of the Russian Federation and civic chambers in the constituent entities of the Russian Federation;
- human-rights representatives and representatives for the protection of entrepreneurs' rights at the federal and regional levels;
- professional, youth, and public associations, nonprofit organizations, etc.

As of October 1, 2014, there were more than 100 consultative and coordinating bodies attached to the President and the Government of the Russian Federation; of these, 72 were government commissions, and there were 18 President's Councils and 13 Presidential Commissions (President's Councils; Russian Government Coordination and Consultation Boards). Consultative bodies are also being established and attached to other government bodies, such as the Prosecutor General's Office, the Supreme Court, and others, and to the government bodies of constituent entities of the Russian Federation.

In addition, administrative institutions include mechanisms and instruments whose development helps to create a new system of relations between government bodies and civil-society entities. They consist, above all, of a public declaration, plan and public reports by an agency; independent experts' anticorruption reviews of draft statutes that are being prepared; a presence in social networks, etc.

The *fourth* element of the system of open government is the institutionalization of ICT (information and communication technologies) (Fountain, 2001). ICT technologies are being introduced into key administrative processes in all government bodies: the provision of government services in electronic format (e-government); the discussion of drafts by agencies and citizen initiatives (e-participation, e-rulemaking); access to information by means of websites, mail-outs, social media, and so forth. We believe that ICT are the most conducive means to the development of mechanisms of openness.

Key areas for implementation of a system of open government

Experts' monitoring methodology

In order to test the hypothesis of open government as a system, the authors developed a methodology for monitoring by experts, with due regard for the provisions of the Procedure for Rating and Evaluating the Openness of Federal executive agencies, approved by the Government Commission to Coordinate the Activities of an Open Government, on the basis of the approved performance criteria:

- the orientation of the openness mechanism toward the end user (including interest groups, citizens, public associations, etc.);
- the degree of involvement of the experts' community and public associations in the work of the openness mechanism and the demand for it;
- the transparency of the openness mechanism's operation.

As part of this paper, the results of the study will be presented in the case of four openness mechanisms: civic councils, interest groups, open data, and social networks. The reason they were chosen was that they make it possible to test the level of implementation at federal agencies of three different principles of the system of open government:

- openness of information (in the case of working with open data);
- public monitoring (in the case of civic councils);
- civil-society involvement in the formulation and implementation of governmental decisions (in the case of interest groups and social networks).

The experts' monitoring employed questionnaires, a survey of experts, and an analysis of official websites. The questionnaires for experts, prepared for each of the openness mechanisms, included up to seven or eight parameters, grouped according to three criteria: the accessibility, clarity, and utility of the mechanism for citizens. The reason for choosing these criteria was not so much the need to verify the results of the previous self-survey conducted by federal executive agencies regarding the implementation of openness mechanisms, as the importance of an evaluation by experts of the level of development of each mechanism.

The questionnaires were filled out using a point scale to rate each of 78 federal executive agencies in two stages: first, junior experts (who consisted of students in the social sciences division of the Higher School of Economics) did a formal evaluation according to each parameter; then, senior experts (researchers at the Institute of Public Administration and Municipal Management of the Higher School of Economics) conducted a qualitative evaluation according to all the parameters selected to evaluate the mechanism, with the ability to selectively double-check and correct the quantitative evaluations.

Then the identified trends of development of the openness mechanisms were applied to the theoretical models: those of civic councils were applied to Freeman's stakeholder theory (Freeman, 1984) and Tullock's externalities theory (Tulloch, 2011), while those of social networks were applied to Mergel's model (2013). The open data were evaluated by experts; since their development was just beginning, no evaluation of the economic benefit of open data was conducted.

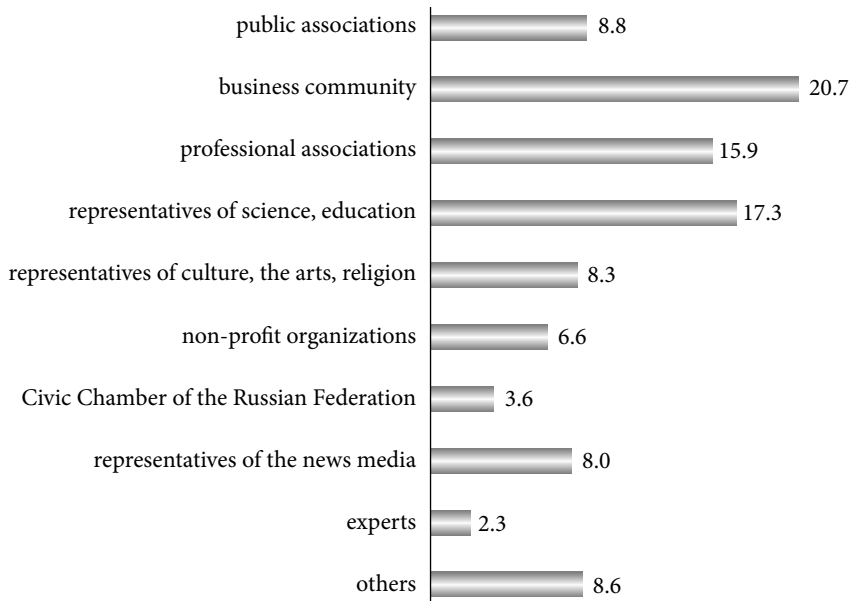
Some results of restarting the civic councils

As of October 1, 2014, civic councils had been set up for 58 federal executive bodies, and a total of about 2,200 people had been recruited to serve on them. An analysis of the overall makeup of the civic councils attached to federal executive agencies (FEAs) identified the following specific features of the approved memberships of these councils:

- more than 70 percent of the members of civic councils are the heads or deputy heads of the entities that they represent;
- every tenth participant belongs to two or more civic councils;
- about 8 percent are simultaneously members of the updated Experts' Council attached to the Russian Federation Government (Sostav, 2012).

Figure

Distribution of interest-group representation in the approved memberships of civic councils attached to federal executive agencies (FEAs), %



The figure shows the percentage distribution of interest-group representation in the approved memberships of civic councils attached to federal executive agencies. The diagram shows a clear predominance of professional experts on civic councils over representatives of the public.

It is worth noting that, in addition to civic councils, more than 60 experts' councils and the same number of other scientific-technical, coordinating and other councils, commissions and working groups have been established for federal agencies. Many members of civic councils have been included in their memberships as well.

Thus, the system of consultative and advisory bodies at the federal level alone currently numbers about 200 councils (for 78 FEAs) and more than 3,500 participants who have been recruited to serve on them.

An analysis of the practice of applying the law in involving citizens and public associations in the process of formulating and implementing government policy as part of the activities of civic councils attached to federal executive agencies shows that this work so far has been quite ineffective. For example, in the first nine months of 2014, all operating civic councils attached to federal agencies considered at their meetings a total of 76 drafts of regulatory and legal statutes, one draft per council (with the exception of the civic council attached to the Russian Ministry of Labor, which has considered 22 drafts at seven meetings held in 2014). In the process, Resolution No. 877 of the Russian Federation Government of September 1, 2012, approved the list of regulatory and legal statutes and other instruments drafted by federal agencies that may not be adopted without prior discussion at meetings of their civic councils. We should also underscore the fact that during the same period more than 6,500 drafts and about 700 notifications that must be considered at civic councils were posted at a common portal for posting information on the drafting by federal executive agencies of regulatory and legal statutes.

Civic councils attached to federal agencies were even less productive in considering other matters prescribed in approved statutes. For example, in 2014 only a few civic councils considered at their meetings reports on the work of the agencies for which they were established, in specific areas: under the Russian Health Ministry, the Federal Tariff Agency, Rosfinnadzor (Federal Financial and Budgetary Oversight Agency), and Rosgrantsa (Federal Agency for the Development of State Border Facilities) – an evaluation of the performance of agencies in 2013; under the Ministry of Education and Science – on the results of the implementation of the Ministry's Public Declaration; under the Federal Migration Service – on the progress of implementation of the Service's Plan of Activities for 2013–2018; under the Ministry of Internal Affairs – a report on the implementation of the roadmap for reform of the Ministry; under the Ministry of Construction – on the implementation of the government program "Providing Affordable and Comfortable Housing and Utilities for Citizens of the Russian Federation."

The number of other initiatives on the agendas of meetings of the civic councils is either minimal or there are none at all.

We believe one of the reasons for the unsuccessful restart of the civic councils and their ineffectiveness is the unbalanced representation of interest groups on them.

On the one hand, the work to identify interest groups for each agency has only begun and is having significant difficulties: the groups themselves are being structured incorrectly (for example, at a number of agencies one of the groups was defined in formal bureaucratese as "citizens"), and there is no key principle for identifying the interest groups – the powers, goals, or mission of the government agency. On the other hand, the civic councils, which essentially must act as public barometers of the attitudes and expectations of various interest groups, are turning into just another experts' community that advises the agency on matters that are important to bureaucrats but not to citizens.

Over the 30 years in which stakeholder theory has developed, several approaches have evolved in the academic and specialized literature to identifying stakeholders (groups). Within the scope of our study we will highlight only two aspects, which

are important for understanding the mechanism of identifying interest groups and taking their interests into account in the activities of government bodies.

First, unlike the role of stakeholders in private companies, regarding whom and in whose interests a large portion of the research was conducted, the interest groups of a government agency must not exert direct influence on the decisions it adopts because of the legal status of civil service. Otherwise, given the absence of rules on lobbying in Russian law, such activities may become a corrupting element.

Second, the fundamental way in which the interest groups of a government agency differ from the stakeholders of a private company is that the government agency must take into account the interests of both those who benefit from its decisions and those whose position becomes impaired. Therefore the point of identifying interest groups for a government agency is to determine in each regulated area the range of citizens' social groups for which the decisions or actions of the government agency create, according to Tullock, externalities, both positive and negative, or "activities that harm or benefit someone without his consent" (Tulloch, 2011). By relying on a graph of the normal distribution of potential externalities, one can propose a technique for each agency to select and structure its own interest groups.

It is fundamentally important that consideration of the interests of various interest groups becomes an indispensable condition of success for the implementation of large-scale projects of government information systems, as well as the introduction of a system of open government (Bretschneider & Mergel, 2010; Scholl, 2004).

The first results of the publication of open data

The use of open government data (the authors regard this term as identical to PSI, except that open data, unlike PSI, are always provided free of charge)¹ became a priority for federal executive agencies throughout 2013 as a result of the issuance of Decree No. 601 of the President of the Russian Federation dated May 7, 2012, "On the Main Areas for Improvement of the System of Public Governance."

Below are some results of the experts' rating of the work of federal agencies with open data:

- as of October 1, 2014, 1,017 open-data sets had been published at the official websites of 78 federal executive agencies;
- 71 federal agencies publish open data in a format no lower than "2 stars";
- 47 agencies post the terms of use of open data, and three of them (the Ministry of Industry and Trade, the Federal Service for Intellectual Property and the Federal Tariff Agency) published data under the Creative Commons open license;
- at two agencies – the Ministry of Internal Affairs and the Ministry of Culture – software applications were created with open data:
- at the Ministry of Internal Affairs – a tool for emergency communications with the closest police department, searching for the current contact information of the local police officer and station address; and a service for online filing of messages to the MIA unit in a specific region;
- at the Ministry of Culture – the Statistics of Cultural Institutions of the Russian Federation contain statistics for all types of cultural institutions in the Russian Federation from 2001 through 2011;

- the websites of five federal agencies count views and downloads of open-data sets: the Ministry of Labor, the Ministry of Culture, the Ministry of Finance, the Federal Migration Service, and the Federal Tariff Agency. The websites of the Finance Ministry and the Federal Migration Service conduct an overall count for the year, while the others conduct it on a weekly basis. This indicator indirectly shows how much (or little) interest users of the website of a federal executive agency have in the open-data sets that are posted.

Another indicator used by experts is the number of open-data sets that federal agencies publish above and beyond the mandatory list prescribed by Directive No. 1187-r of the Russian Federation Government dated July 10, 2013. Currently there are not many such agencies: the Finance Ministry, the Culture Ministry, the Ministry of Education and Science, the Ministry of Industry and Trade, the Ministry of Internal Affairs, the Roskomnadzor (Federal Service for Supervision of Communications, Information Technology, and Mass Media) and others. The activist agencies boast not only a large number of published open data sets but also a high formatting level of data storage, they have data sets that are potentially valuable for consumers.

As the experts' ratings showed, federal agencies are not only organizing their work with open data. At the current (initial) stage government bodies are publishing open data pursuant to the guidelines of the Ministry of Economic Development, creating certificates for open-data sets and a registry of all open-data sets. We should note the high formatting level at which open data are posted at most federal executive agencies: the dominant formats are XLS and CSV, which make the data machine-readable.

Unfortunately, there are very few "big" data sets that contain both a complex structure and a large number of entries (lines) in the data set. Most open data deal with the agencies' internal operation and contain information that is of little interest to the public at large.

Finally, mention should be made of the successes of the open-data project at the regional level. One example is the portal data.mos.ru, where 260 data sets have been published and mobile apps are successfully functioning, such as:

- "Places for Moms" – allows moms to look on the map for recreational places to go to with their children;
- "Get to Know Moscow" – a guide to interesting places in Moscow;
- "Moscow's Ice-Skating Rinks" – a guide to ice rinks, with an analysis of prices and conveniences;
- "Moscow Parking" – a search for available parking spots in the city and payment for them by cell phone.

At the time of this writing, there were 28 apps at data.mos.ru. The total number of downloads of all data sets since the portal went online in February 2013 has exceeded 770,000.

The presence of federal executive agencies in social networks

Social networks today are a universally recognized Internet tool for involving citizens in a discussion with government bodies both on private matters and on large-scale, socially important problems.

As Lazer et al. (2009) note, government bodies can determine through social networks how much support their objectives (mission) have in society. Mergel (2013) proposes a three-stage model of steady development of the presence of government bodies in social networks: from providing information through counseling to joint project work. Criado et al. (2013) show that government bodies use the social networks that are most popular among the public.

According to LiveInternet, as of the end of April 2014 the number of users of Facebook in Russia was 23.8 million, while for the VKontakte network (the Russian counterpart of Facebook) it was 52.1 million.³ The developing popularity of foreign and Russian social networks has not gone unnoticed by federal agencies.

In characterizing the presence of federal agencies on social networks as one of the tools of openness, we should note that the extent to which this tool has been implemented at federal executive agencies varies significantly, although on the whole it is still at a fairly low level – based on Mergel (2013), at the level of providing information.

According to the expert rating data, the presence on social networks of federal executive agencies is distributed as follows:

Twitter, 31 FEAs (40%); Facebook, 26 (33%); YouTube, 14 (18%); VKontakte, 13 (17%); Instagram, 8 (10%), LiveJournal, 7 (9%), Odnoklassniki, 2 federal agencies. The leaders among federal agencies are: Rosreestr (Federal Service for State Registration, Cadastre and Cartography), in 8 social networks; the Ministry of Emergency Management and the Federal Antimonopoly Service, in 6; the Ministry of Internal Affairs, the Culture Ministry, and Roskosmos (Federal Space Agency), in 5 social networks.

The experts' ratings have identified some highly successful experience that has been gained by federal executive agencies:

- the Ministry of Foreign Affairs – the level of 397,000 subscribers to Twitter and 155,000 to Facebook is continually maintained by the posting of up-to-date news in real time, with a large amount of video and graphics;
- the presence of the Ministry of Emergency Management on VKontakte (more than 28,000 subscribers) features substantive material and current topics, as well as an active response to comments and questions from users; the MEM today has more than 280,000 subscribers on Twitter;
- posts by the Ministry of Defense on social networks (e.g. Facebook) receive strong support from users in the form of “Likes” (there are news items that receive up to 150 Likes);
- the Ministry of Education and Science in 2013 won the Runet Blog Prize in the category of “Blog on Science and Education.”

The vast majority of federal agencies, however, have chosen the tactic of a one-way channel of information for citizens, broadcasting news from their official website, including the identical audio and video content, to all social networks on which the agency is present, regardless of the specific type of audience.

Far from every federal agency publishes the rules of operation and conducting a dialog on its page. Examples of the posting of operating rules are presented on the MEM page on VKontakte (<http://vk.cm/mchsgov>), and the Ministry of Education and Science page on LiveJournal (<http://mon-ru.livejournal.com/67185>).

html). Many agencies have not undergone verification by the administration of the social network and have not received a “seal of authenticity.”

Yet the strategy of one-way information signifies minimal activism by citizens. They do not consider it necessary or useful to themselves to participate in writing comments or questions on the news posted by agencies on social networks, which is uninteresting, uninformative and do not deal with matters that are relevant to citizens or specific interest groups.

The majority of agencies on social networks do not moderate or provide incentives for debates on socially important problems. Often only posts are published, but a forum debate on the social-network page is not supported. Agencies do not make use of a whole host of opportunities to provide information on the social network in a convenient form, for example, a calendar of events or various information applications (such as links to Twitter and YouTube from other social networks, a video-streaming application, etc.).

One of the reasons, in our view, is that the employees of agencies who are responsible for communicating with the public on social networks often do not have the necessary skills, including setting up forums, publishing operating rules, posting pictures, structuring information on a page, and so forth. Another reason is the absence of internal rules or policies that officials could follow when interacting with interest groups through social networks.

The problem of filling an agency’s official page with content on social networks right now is still highly important for federal executive agencies. The more serious the problems to be discussed, the larger the audience and the higher user activity is. Conversely, filling a page in a perfunctory manner on a social network with irrelevant content that does not deal with citizens’ real problems is more likely to weaken the government agency’s authority among social-network users and not to increase confidence in it.

The most difficult problem is still the conversion of activism on social networks to concrete work by the government agencies (e.g. the initiation of a new project, the drafting of a regulatory or legal statute or guidelines, the revision of industry regulations, etc.). It is impossible to establish a connection between initiatives on social networks (when they are put forth by citizens) and the decisions formulated by agencies. A typical example is the large number of polls on social networks whose results are not implemented as practical projects.

Thus, social networks today are viewed by government agencies primarily as an additional channel for providing information to citizens. And as a consequence, there are very few citizen initiatives and serious debates on the pages of federal agencies on social networks.

Outlook for the development of a system of open government

The Openness Standards for Federal Executive Agencies in Russia define four principles and 10 mechanisms (tools) of openness. Today the task is, by developing legislation and administrative practice, to expand the basic elements of the system of open government to the regional and municipal levels of governance.

The development and adaptation of openness tools define the interest groups. Therefore involving regional entities in this process will promote not only the proliferation of the open-government system but also a qualitative improvement of the openness tools themselves and the system of rating and evaluating the openness of federal executive agencies.

A rating of the openness of executive agencies based on a three-tier system of evaluation will make it possible to accomplish several tasks simultaneously:

- (1) by comparing the experience of other bodies, federal agencies will be able to adopt the most successful practices;
- (2) an opportunity opens up for their regional counterparts to develop similar mechanisms in the provinces;
- (3) the country's leaders can use the ratings of the openness of federal agencies to evaluate the effectiveness of interaction with civil-society institutions and the level of public confidence in the heads of federal agencies;
- (4) for citizens, taking part in the evaluation is an excellent opportunity to articulate their expectations of the federal government, and the rating results are a way to inform the public about the performance of federal agencies and a good incentive to get involved in the formulation and implementation of government decisions.

Improving legislation in this area remains an important factor, which will pre-determine the development of an open-government system in Russia. On the one hand, there is a substantial layer of conflicts in the law that need to be resolved and are preventing the work of executive agencies from being optimized through the introduction of ICT. For example, reducing the costs of processing citizens' communications by building up a social-network presence. On the other hand, the enactment of regulatory and legal statutes must support and expand effective administrative practice in introducing openness principles by formally establishing quantitative and qualitative indicators of the productivity of openness mechanisms.

In the medium term, the technological component of the application of openness tools must grow, since a high growth rate of Internet access for Russians increases their demand for virtual interaction on the whole, including with government agencies.

We will now take a look at the basic prospects for the development of the openness mechanisms described in this paper.

Russia has not yet settled the question of the type of license under which open data are provided. The majority of federal executive agencies (except for three) do not use licenses, replacing them with independently formulated terms of access to open data. In our view, the use of the international Creative Commons license is a step toward unifying the rules of working with governmental open data on an international scale, as well as an opportunity to raise Russia's international rating in the realm of open data.

As part of the experts' rating, we discovered activist agencies that offer industry data that should draw the attention of various interest groups and that require further, serious work in data discovery, including from various internal information systems. We believe there is a potential for expanding the group of activist agencies. Unfortunately, at the federal level the principal beneficiaries of the "open

data” project to date are still sectoral experts’ communities, major news agencies, and independent analysts. But the involvement of new interest groups in this process must grow. Otherwise, work with open data cannot be considered satisfactory.

In our view, the most important area in working with open data at the federal level should be interagency work to create truly valuable data sets, based on data from different information systems operated by various agencies. It is enough to publish 20 valuable data sets to draw an avalanche of interest from designers, experts and journalists in the use of such information. Achieving this goal requires continuing the process of inventorying agency information systems, conducting a dialog with society regarding interest in various data files, organizing interagency work to coordinate data-exchange processes and establish periods of data updating.

It also seems to us that the substantial costs of keeping technically current many data sets that are not in demand is an expensive process that has no value to society.

Requests have been gathered today from a large number of representatives of interest groups to open up complex and useful data sets.⁴ Targeted work should continue to ascertain the demand and needs of the members of key interest groups with regard to the regulation of agencies, providing an incentive for cooperation on the basis of opening up data and solving sectoral problems with innovative methods.

The operating costs of agencies related to meeting requirements for the publication of open data sets should be shouldered by the federal open-data portal – data.gov.ru – which was launched at the end of 2013. The portal team should become the key leader in promoting open government data, enlisting a broad audience for cooperation and stimulating and evaluating the demand for open government data.

With regard to developing the system of consultative bodies attached to federal executive agencies, the most pressing task today is still to delineate the functions of civic and experts’ councils. Unless experts’ and consultative functions are differentiated from public monitoring functions, it is impossible to build an effective and constructive dialog between a government agency on the one hand and interest groups and civil-society entities on the other.

The development of a mechanism of interaction between government agencies and interest groups through social networks in Russia will involve formalizing the internal work rules of civil servants on social networks, which will describe how to provide information while differentiating among the needs of interest groups and how to answer citizens’ questions and comments.

The interaction between agencies and citizens on social networks is already today becoming for the agencies a way of analyzing public opinion and testing the extent to which citizens understand and support the agency’s goals and tasks. This trend will intensify.

Finally, interaction on social networks may be used by agencies as a platform for testing new ideas and projects, and it is important to stress that this will be done on the agencies’ initiative.

Another aspect of the formalization should be to accumulate communications practices on social networks and to analyze the application of the law so as to determine compliance with current laws on access to information, on protecting

personal data, on the mass media, and so forth. Russia will have to go through a wave of debates about the sufficiency, timeliness, and reliability of the government information that is provided. It is quite possible to create an institution of information ombudsmen, who would uphold citizens' rights to information, and to promote the creation of an objective evaluation of the consequences of providing government information at official websites and on social-network pages.

The development of the system of evaluating the openness of executive agencies will be of particular importance. Evaluation of the performance of government agencies on social networks, in our view, could become one indicator not only of the openness of federal executive agencies, but also a component of the rating of the quality of public governance.

Conclusion

The results of the experts' rating of the introduction by federal executive agencies of openness mechanisms confirm our hypothesis that there is an internal relationship between the principles and mechanisms of openness and the presence of a multiplier effect when creating open government as a system.

As was shown above, an absence of interest groups that are structured according to the goals (regulatory areas) of a federal agency leads to serious distortions in picking the members of civic councils. A narrow, expert-based civic council, in turn, significantly shrinks the list of matters that are considered at its meetings. A civic-council agenda that is created on the basis of the agency's interests rather than those of representatives of a broad range of interest groups, which is not of interest to citizens, cannot generate an active and serious public debate, including on social networks. Furthermore, a strategy of behavior for a federal executive agency on social networks that is primarily aimed at reporting on decisions that have been adopted provides no incentive for citizens to discuss and propose alternative solutions to various problems of socio-economic development. Ultimately, an unwillingness to implement decisions that have been adopted without considering people's opinions leads to a disregard by them and disrespect for government institutions.

Therefore, despite the fact that the mechanisms (tools) of openness may be regarded as independent phenomena, the effectiveness of their practical implementation in public governance depends on how integrated their development is, since the relationships among them as elements of an open-government system remain highly important, which was demonstrated in our work.

Hence a consistent implementation of an open-government system in the activities of executive agencies at the federal and regional levels makes it possible to advance to a qualitatively different level of public governance.

The primary area for further study of an open-government system must be the improvement of the rating and evaluation of its effectiveness. Another area is the search for new mechanisms and technologies that institutionalize the interaction between government agencies and civil-society entities. In our view, the ratings by experts of the implementation of openness principles and mechanisms could become a source of ideas.

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NOTES

- ¹ In a 2008 recommendation, the Organisation for Economic Co-Operation and Development (OECD) Council for Enhanced Access and More Effective Use of Public Sector Information defined PSI as “information, including information products and services, generated, created, collected, processed, preserved, maintained, disseminated, or funded by or for the government or public institutions, taking into account (relevant) legal requirements and restrictions”.
- ² In Tim Berners-Lee's model for assessing how well developed open data are, “two stars” mean that the open data are structured in tabular form (mostly Excel format); “three stars” appear when the Excel format is converted to a nonproprietary format (CSV in particular); and “four stars” are assigned to a set of data when it is possible to link to it on the basis of a unique identifier (URI).
- ³ LiveInternet – <http://lenta.ru/news/2014/04/23/tns/>.
- ⁴ Report on the Results of Implementing the Open-Data Model in 2013, HSE National Research University – <http://opendata.open.gov.ru/upload/iblock/d3a/d3a1d78c-5ca9ebd269d38d9ed35ab9d5.pdf>.

STATE FINANCES IN POST-COMMUNIST POLAND: BUILDING CAPACITY AND CONSENT

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ABSTRACT

In the early 1990s, post-communist state actors struggled for the first time with trying to get people to pay taxes. They sought to create new systems of revenue extraction for their quickly changing transition economies. Their immediate concern in devising means of revenue extraction was to break out of the inherited fiscal constraints of the old regime – weak administrative capacity and narrow revenue base. This required finding accommodation with society. Post-communist states cultivated tax compliance in a variety of ways: some states relied more on consent-based strategies, while others adopted more coercive strategies. Poland developed a distinctively non-coercive approach to building capacity and consent, which enhanced the fiscal capacity of the post-communist state. Poland's strategy of "legalistic consent" as the basis for its new system of revenue extraction proved a smashing success. The fiscal capacity of the post-communist Polish state was sufficiently strengthened to overcome the crippling initial domestic fiscal crisis and to withstand the fiscal shocks of two international financial crises in 1998 and 2008.

Keywords: fiscal policy; taxation and tax compliance; Poland.

Defining the parameters: Fiscal capacity and consent under post-communism

The fall of communism in Poland was a negotiated process in which counter-elites eventually took full control of the government from communist elites. When counter-elites came to power, they inherited the existing communist state apparatus more or less intact. The first post-communist government may have fantasized about razing the communist state and unleashing the free market, but once in power it could not simply dismantle the old administrative apparatus. Poland did not experience the same type of fragmentation of the state's bureaucratic-administrative resources as did some other post-communist states. In particular, Poland's system of state finances remained relatively coherent and centralized during the

1990s. Even though the communist-designed tax administration was woefully ill-equipped to function in the transition economy, it still managed to collect sufficient revenue to avert fiscal crisis, while undergoing extensive internal reform at the same time.

The Ministry of Finance (MinFin) dominated the revenue extraction process. The ambitious and savvy personalities of several finance ministers – Leszek Balcerowicz, Grzegorz Kolodko, Marek Belka – reinforced the bureaucracy's top position. Tax policy, tax administration, customs agency, fiscal control, and state treasury were subordinated to MinFin (Borodo, 2000, pp. 42–44). Bureaucratic competition occurred among the departments but the all-inclusive organizational scheme kept inter-agency rivalries from causing fiscal dysfunction. The bureaucratic lines of command in state finance were widely recognized and rarely challenged. Within MinFin, revenue extraction was a priority task, as indicated by the “vice minister” status routinely accorded to the undersecretaries for tax collection and fiscal control. State finance also benefited from stability in leading personnel in the revenue extraction process, especially during the social-democratic governments from 1992 to 1998¹.

The new tax administration struggled to locate capital flows in the transition economy. Plans to enhance monitoring capabilities took time to implement. The tax administration was supposed to be fitted with a high-tech information-gathering system, called Poltax. But it was not until 1993, four years after the introduction of radical economic reform, that a network of French-provided computers was installed (*Polish News Bulletin* 29 January 1993). And, it was not until the next year that MinFin began to assign identification numbers to the country's 20 million taxpayers and to organize a property registry, the main sources of information for the proposed Poltax database (*Polish News Bulletin* 20 May 1994). The Poltax system was not fully up and running until the final push to join the European Union (EU) in the 2000s. Thus, the state's tax collection was hampered by bureaucratic blind spots, such as the outstanding tax debt of the public sector or the volume of cross-border trade that sidestepped the customs agency (*Rzeczpospolita*, 13 February 1997, p. 37).

The tax administration was further hampered by narrowly defined powers of investigation and enforcement. Taxpayer bank accounts were off-limits to tax inspectors. This information could only be obtained through special permission from the tax inspector general's office, which itself could not be obtained unless a tax law violation was established. But without access to a complete record of financial assets, tax inspectors had difficulty determining whether violations had occurred. Moreover, tax inspectors could not themselves determine fraud or issue fines, matters that only a court was empowered to decide on. The director of MinFin's Tax Department, Andrzej Zelechowski, however, complained that the courts were too slow and too lenient in dealing with tax cheats (*Gazeta Wyborcza*, 20 August 1994). The tax inspector was anything but an imposing figure; indeed, just the opposite. Tax inspectors were often refused access to records and shown the door at the businesses they came to audit; tax inspectors and their families were subjected to physical threats; and a Poznan inspector handling a high stakes fraud case was badly beaten on the sidewalk in an attempt to rob him of his brief-

case. MinFin appealed to the prosecutor general to do something about all this, but the prosecutor's office declined to get involved².

As early as 1993, the finance ministry urged the Sejm to bolster the authority of tax inspectors, but it took three years before the urge became legislation. MinFin proposed to expand the information-gathering powers of inspectors, to allow inspectors to enter the homes of suspected evaders, to limit the number of taxpayer appeals against the claims of the tax administration, and to relieve the tax administration of having to prove "intended guilt" of tax evasion in court cases.³ In 1996, the Sejm finally passed legislation to enhance the powers of the tax administration. But this fiscal administrative reform act immediately aroused indignation among taxpayer groups, the mass media, the National Bank, and even the Helsinki Commission. The opposition was especially determined not to give the tax administration the power to access the bank records of taxpayers. The Ombudsman, an official constitutional watchdog agency, said that this measure violated the right to privacy. The Constitutional Tribunal agreed, and struck down this particular provision. Even though tax evasion was on the increase, the greater concern was not to give too much authority to the state's revenue agents. When it came to the administration of tax collection in Poland, institutions were deliberately designed to protect capital from coercion.

The Polish state sought to cultivate societal compliance with its new revenue claims by non-coercive means. In so doing, a new tax regime was built on the basis of "legalistic consent." Legalistic consent is a minimalist form of quasi-voluntary compliance. In principle, Polish society accepted its newly assigned status as taxpayers as well as the state's new revenue claims. In practice, however, Polish society tended to avoid complying in full and contrived a variety of formal means to reduce its tax burden instead. Polish taxpayers big and small readily took advantage of tax law loopholes and legal checks on the state bureaucracy. As a result, the new targets of state tax collection – wage earners and petty capitalists – managed to hang on to a larger share of their wealth, while still paying at least something to the state. It was enough. The Polish state succeeded in establishing new revenue claims and expanding the revenue base, thereby securing the foundations of fiscal capacity. What is most notable about this achievement is that it was done without resort to coercion.

The rules of engagement in the transitional tax regime reinforced the Polish state's compliance strategy of "legalistic consent." The post-communist state did not create a formal framework to define roles and obligations in the new tax regime until the enactment of the 1997 Constitution. However, a working apparatus was left over from the communist regime. These inherited institutional mechanisms, the Ombudsman and the Constitutional Tribunal, acquired unexpected prominence after the fall of the old regime. In the competition for capital in the transitional tax regime, these institutions patrolled the boundary line between state and society, and helped to shape the behavior of each. Most importantly, they constrained the state bureaucracy from acting on arbitrary impulse and from using coercion to compel compliance.

Polish taxpayers were quick to recognize the formal limits on the state's means of extraction and to carve out an informal sphere of acceptable behavior. In gen-

eral, Polish citizens complied with the state's new revenue claims, to the minimal extent that they were legally obliged to. Taxpayers had several options available, including appeal boards within the tax administration and the independent administrative courts. Taxpayers, especially businessmen, also had society-based organizations to help them with tax disputes along with a blossoming tax-consulting industry. Polish taxpayers took advantage of the legal checks in the collection process by devising strategies to avoid paying their full tax obligations.

The opportunity for corruption, of course, existed in the new tax regime, as it does any place where power and wealth meet. Political contributions and well-placed bribes were informal means by which entrepreneurs dealt with their tax obligations. Still, buying a tax exemption or reduction was consistent with the "legalistic" façade of the transitional tax regime. In one high-profile case in Poznan, local leaders encouraged the business community to help sponsor the underfunded local police force. This market-based solution to local law enforcement, however, caused a national scandal and high office resignations, when it was found that some local businessmen provided police with computers, office equipment, prostitutes, and vodka in exchange for protection against tax inspections (*The Guardian*, 15 March 1994, p. 9).

The shortcomings of the tax-collection system situation were well known, yet tolerated by the fiscal managers of the post-communist state. From the state's perspective, it was more important to legitimize its new revenue claims, and it did so by getting as many taxpayers as possible into the system. They fought outright evasion, but accommodated widespread avoidance. An anonymous tax inspector summed it up well: "Most businesses cheat, but if you take only 20–30 percent from the Treasury, then you are still a decent taxpayer and inspectors have no time or energy to bother with you" (*Polish News Bulletin* 12 August 1991). This was the essence of the state's compliance strategy of "legalistic consent" that shaped Poland's new tax regime. Legalistic consent was most notable for not inhibiting the development of new businesses, which enabled the state to expand its revenue base.

Strengthening fiscal capacity by expanding the revenue base

In charting a path from the fiscal wreck of the old regime, the Polish state stood out among its post-communist peers for successfully expanding the revenue base. At the outset of the transition, Poland's domestic economy did not contain prosperous and easily exploitable income sources. The natural resource base lacked coveted commodities, and the manufacturing sector lagged behind global standards. Its former communist trade partners were no longer compelled to take Polish goods. Beyond the bloc, there was not a lot of profit to be had from coal, canned hams, and outdated industrial stock. What the new Polish state had plenty of was rising debt and falling currency. But as the revenue base expanded, fiscal capacity was strengthened: by decade's end, the Polish state was credit-worthy and zloty-stable.

The Polish state at first teetered at the edge of fiscal abyss (Rosati, 1998, pp. 135–139). Finance Minister Leszek Balcerowicz inherited a desperate financial

situation, which shock therapy only exacerbated. Emergency fiscal measures were enacted. First, an austerity program targeted budgetary expenses. Social payments and industrial subsidies were slashed, and investment projects suspended for fifteen months. Whereas in 1988, enterprise subsidies accounted for one-third of state budgetary expenditures, in 1990 the figure was reduced by almost a half to 16.9 percent, and in 1991 declined further to 9.4 percent (Belka et al. 1993, p. 24). Second, the unabashedly pro-capitalist government succeeded in securing relief from western creditors for its \$30+ billion foreign debt, already in default. An informal clique of international financiers, the Paris Club, first agreed to reschedule Poland's debt obligations and later to forgive nearly half of Poland's outstanding foreign debts (OECD, 1992, pp. 30, 31; Wellisz et al., 1993, pp. 29–33). It was both a gesture of goodwill and good business, as the Polish market was opened up to western business ventures. Finally, the currency was devalued. The worth of a Polish zloty was established by making it convertible to the U.S. dollar; the zloty's value quickly slid downward: from 1,400 zloty to one dollar in September 1989 to 9,500 zloty to one dollar in January 1990 (Belka et al., 1993, p. 26).

With the state industrial sector reeling from shock, the government had to locate new revenue sources. Tax reform was one of the priority policy areas of the Balcerowicz team. The existing tax system was an incoherent mess of rates, reductions, and exemptions, mostly negotiated on an individual firm-by-firm basis. In November 1989, Balcerowicz formed a special task force to design a new tax system. In early December, the reformers began meeting in special committee sessions with members of the Sejm and the Senate to work out the details. In the spirit of "extraordinary politics," the process was not especially contentious. In late December, a comprehensive package of eleven macro-reforms was passed by the legislature, including two pieces dealing specifically with taxation: a tax code meant to remove the punitive burden on the private sector and a tax penalty meant to impose a punitive burden on the public sector. The Balcerowicz team designed a tax system that could serve the main goals of shock therapy – the promotion of market capitalism and demolition of command socialism.

Shock therapy was meant to instigate a socio-economic revolution. The new pro-market tax code was intended to facilitate both the growth of capitalism and demise of socialism. By 1992, 3.5 million new jobs were created in the private sector, yet more than 12 million workers still remained in the state sector. The communist state was long accustomed to extracting revenue straight from its industrial sector; the post-communist state recklessly sundered this relationship. The share of central state tax revenue as a percentage of GDP dropped from 28 percent in 1990 to 23 percent in 1991, causing the budget deficit to reach 6 percent of GDP in 1992 (Bratkowski, 1997). The unexpectedly steep revenue drop forced the government back to the familiar state sector. Unlike the emerging private sector, state enterprises were well known to the tax administration, which readily applied the *popiwiek* (tax on excessive wage increases) and dividend taxes, further squeezing the already shrinking real incomes of public employees. (See Table 1.) These taxes were blamed for putting state enterprises in a position of competitive disadvantage in the transition economy. Thus, the unequal tax burden between private and public sectors became a rallying issue to Poland's hard-hit workers.

Table 1

Tax burden on public/private sectors, 1991, %

	Public sector	Private sector
Total share of sales	72	28
Total share of taxes	90	10

Source: Główny Urząd Statystyczny (GUS) (Main Statistical Office), as cited in Crombrugge & Lipton, 1994, p. 117.

With state enterprise profits in decline, the government targeted instead the wages of state enterprise employees. The excess wage tax, the *popiwek*, was supposed to be a fiscal instrument to check inflation, but it quickly became a vital revenue source. In 1990, the *popiwek* and the dividend taxes together made up 11 percent of the state's total revenue take; in 1991, the figure reached 17 percent (World Economy Research Institute, 1992, Table 8).⁴ Government budget planners originally estimated that the state would collect 3 trillion zloty for the *popiwek* in 1991, but in November the figure was revised upward to 23 trillion zloty (Ibid., Table 7). Desperate for income, the government gouged state industrial enterprises with onerous taxes. Even liberal economists criticized the government's punishing tax policy. Citing "excessive tax fiscalism" as a principal cause of industrial recession, an editorial in *Zycie Gospodarcze*, an influential pro-market economic newspaper, complained that "Polish firms in the so-called socialized sector pay the highest taxes in the world" (30 July 1991). (See Table 2.)

Table 2

Tax burden on state industry gross profits (in trillion zloty)

Taxes	1989	1990	1991	1992 (I-III Q)
Total	38	53.2	158.5	176.6
Corporate				
income tax	31.1	37.3	77.6	96.4
<i>Popiwek</i>	1.5	6.7	40.5	49.6
Dividend	5.4	9.2	40.4	49.6

Source: Belka et al., 1993, p. 38.

The political reaction led to the early departure of the free-market government and return of the political left, in the form of reformed and reorganized social democrats. But Balcerowicz had already made an invaluable contribution to the post-communist state, through policies that spurred an onrush of private enterprise. When Balcerowicz left office, in 1992, the private sector was still a fuzzy gosling, but the Polish state would soon have for itself a golden goose. Where the free market liberal-democratic government had pursued hard policies toward the state sector, the social-democratic government displayed a softer touch. Instead of starving the state sector, they invested in it. Instead of punitive wage taxes, they gently introduced the personal income tax (PIT), easing the burden at first. They also extended the state's revenue claims to the new private

sector. They did so in an incremental fashion, trying not to elicit too loud a hiss. The combination of these hard and soft strategies enabled the Polish state to expand its revenue base.

In Poland, as elsewhere, fiscal trends follow economic trends, and Poland's economy was the first in the post-communist world to start to grow again. Polish productivity increased every year between 1992 and 1998, marking seven consecutive years of growth for the first time since the 1970s (OECD, 1998, p. 13). By 1995, Poland's GDP returned to the pre-transition level; and, by 1998, its GDP was roughly 20 percent higher than the pre-transition level (OECD, January 2000, p. 25). Most notably, by 1995, new start-ups accounted for fifty percent of GDP, the highest rate in Eastern Europe (Aslund, 2002, Table 7.3). The growing economy, of course, meant that there was more to tax. The revenue-poor post-communist state introduced tax reforms designed to exploit two new sources of income: private businesses and employee households. By expanding the revenue base, the Polish state shored up the foundation of fiscal capacity – income. Total revenue receipts (including social security) as a percentage of GDP barely declined at all during the transition decade, from 42 percent in 1991 to 41 percent in 1998 (OECD, January 2000, Figure 29). Poland's ability to maintain steady income levels was a rare accomplishment among reforming post-communist states. (See Table 3.) But while these macro-indicators implied fiscal stability, they did not mean structural continuity. The Polish revenue base underwent fundamental change.

Table 3

Poland – Macroeconomic and fiscal trends, 1991–1997

(A) Economic growth, 1991–1997 (% change on preceding year)							
	1991	1992	1993	1994	1995	1996	1997
Real GDP	-7.0	2.6	3.8	5.2	7.0	6.1	6.9
Capital investment	-4.5	2.8	2.9	9.2	18.5	21.6	21.9
Industrial output	-11.9	2.8	6.4	12.1	9.7	8.5	10.8
Agricultural output	-1.6	-12.7	6.8	-9.3	10.7	0.7	0.5
Consumption	7.5	3.5	4.6	3.9	4.1	7.2	6.2
(B) State budget, 1991–1997 (% of GDP)							
	1991	1991	1993	1994	1995	1996	1997
Revenue	26.1	27.2	29.5	30	29.3	27.5	27
Expenditures	29.9	33.2	32.3	32.7	31.9	30	28.3
Budget deficit	-3.8	-6	-2.8	-2.7	-2.6	-2.5	-1.3

Sources: For Part A: World Economy Research Institute, 1998, p. 42 (Table 1). For Part B: OECD, 1997, p. 38, 40 (Figs. 14, 15). Budget figures do not include social security funds.

The main taxation trends of the 1990s were: from corporations to households; from public to private sector; from large to small firms; and from direct to indirect

taxation. (See Table 4.) In 1990, corporate income tax (CIT) alone accounted for 43 percent of taxes collected to the state budget, but by 1994 that figure was reduced to little more than ten percent (OECD, 1994, p. 37). Meanwhile, household wealth was tapped to fill the void. Personal income tax accounted for one percent of taxes collected to the state budget in 1990, but shot up to more than 25 percent by the mid-1990s, and remained stable for the rest of the decade (Ibid.).⁵ Following a general transition pattern, economic activity increasingly shifted away from the public sector in the 1990s. Poland was particular in that economic growth was not led by privatized state enterprises, but by a rash of new start-up small businesses, where more than 60 percent of the workforce was found (OECD, 2001, p. 75). Whereas in 1990, households and transactions accounted for less than half of the total tax take, by mid-decade they made up two-thirds of all tax receipts (OECD, 1994, p. 37).

Table 4

Poland – Breakdown of tax revenue (as % total state revenue)

	1990	1991	1992	1993	1994	1995	1996	1997
VAT/Excise taxes	21	29	32	39	41	42	47	46
Corporate income tax	43	24	21	17	15	13	11	11
Personal income tax	1	2	21	23	25	25	24	25
Excess wage tax	20	22	8	2	1	–	–	–
Other*	14	23	20	19	17	20	18	18

* The “other” category includes privatization revenues.

Sources: OECD, 1994, p. 37 (Diagram 5); OECD, 1997, p. 40 (Figure 15); OECD, 1998, p. 39 (Table 8).

The expanded revenue base provided income from two main sources: small businesses and wage-earner households. First, the Polish economy experienced a surge in petty capitalist activity. The new entrepreneurial private sector became the driving force in the recovery of the Polish economy. The private incentive policies of Finance Minister Balcerowicz encouraged hundreds of thousands of Poles to organize as small business entrepreneurs. Many of the new entrepreneurs benefited from an initial phase (usually three years) of income and transaction tax breaks to help them get started; by mid-decade, however, the small business sector began to contribute an increasingly larger share to the state’s total tax take. Between 1993 and 1994, for example, the amount of tax income generated by small businesses to the state budget increased in real value by nearly 30 percent (Grabowski & Smith, 1995, p. 111). At the start of the Polish transition, roughly 7500 state enterprises provided over 80 percent of total revenues (Mieszkowski et al., 1993, pp. 93–95).⁶ By 1993, however, the economy boasted over two million small and medium businesses, of which more than 1.8 million were registered with the tax authorities and making some form of payment to the state budget.

Second, the personal income of wage earners became a new revenue source for the state. Labor could not move its assets the way entrepreneurs could. The unfit tax administration may have had trouble keeping pace with the bookkeeping tricks of petty capitalists, but it had a much easier time catching up to the pay en-

velopes of industrial workers and salaried employees, especially those in the more visible public sector (OECD, January 2000, p. 125). This was openly admitted by the government's vice minister for taxes, Witold Modzelewski, who expressed concern that an over-reliance on households would undermine civic morale to pay taxes (*Polish News Bulletin*, 20 May 1994). Employers were compelled to deduct the state's revenue claim from employee paychecks, making it difficult for workers to escape the notice of tax officials, at least without management's cooperation. But unlike the punitive *popiwek* payroll tax that cut into enterprise profits, the new personal income tax (PIT) did not unify the economic interests of managers and workers. The implementation of the PIT in 1992 had an immediate effect on the revenue base. The share of PIT in the state's total tax take went from about one percent in 1991 to 20 percent in 1992 (OECD, 2000, pp. 116, 121–123). The number of individuals making PIT declarations to the state's tax authorities rose quickly. PIT accounted for nearly a quarter of total revenues collected in the mid-1990s.

The dispersion of economic activity from large industrial conglomerates of several thousand workers to small retail trade and service businesses of ten or less employees dramatically remolded the structure of the revenue base. The amounts of revenue available from any small entrepreneur or individual wage earner were miniscule, but when amassed these two groups offered potentially significant income sources. Because the state was able to capture an adequate share of this wealth, state finances remained relatively stable. The deficit of the consolidated government budget, which approached six percent in 1992, was cut by more than half, remaining less than three percent between 1995 and 1998 (OECD, 1994, Table 8; OECD, 1998, Table 7).⁷

Nonetheless, the state–labor revenue bargain put pressure on state finances. One part of the bargain was to take care of public employees who departed the active workforce. The social-democratic government increased the state's social commitments to the unemployed, retired, and disabled. In 1990, for example, the state subsidized 7 million pensioners (retired and disabled), but in 1998 the number rose to 9.5 million. Moreover, the value of the pension increased from 53 percent of the average public wage in 1989 to 67 percent in 1998 (Lenain & Bartoszuk, 2000, p. 5). Significantly, nearly 15 percent of Poland's GDP was invested into pensions – twice as much as the OECD average. The government's strategy of easing the economic hardships of structural reform on displaced workers served the political interests of the social democrats, but not the fiscal interests of the post-communist state. Budgetary expenditures in 1997 amounted to 45 percent of Poland's GDP, comparable to its prosperous neighbor Germany and more than 5 percent higher than the OECD average; Poland's total revenue take, however, was only 40 percent (Ibid, figures. 2, 4). The cost of these commitments overextended the state budget. Meanwhile, another part of the bargain was the use of tax exemptions to subsidize wage-earner households. But the loss of income from this strategy was not insignificant: the percentage of lost PIT revenue was a whopping 24 percent in 1996, 15 percent in 1997, and 14 percent in 1998. The PIT rate brackets ranged from an upper 40 to a lower 19 percent, but with all the exemptions the real PIT average tax rate for the whole economy in 1998 fell to 12.5 percent (OECD, 2000, p. 127).

Even with an expanded revenue base, the Polish government still had to deal with deficit financing. To make up the difference between expenses and

income, the government returned to credit markets. Poland began the transition in debt and in default, but quickly acted to straighten out its credit situation. First, the free-market government renegotiated outstanding debts to the West, while the social-democratic government renegotiated outstanding debts to the East. One of the advantages of appointing Balcerowicz as finance minister was that he was a true-believing capitalist and conversant in the manners of the international financiers. President Lech Walesa's first visit abroad as head of state was to the United States to appeal to have Poland's debt obligations reduced by eighty percent. The rescheduling of Polish debt to the West removed a huge constraint on the first post-communist government, enabling it to introduce radical reform in the midst of fiscal crisis. In 1994, Poland reached agreement with the London Club, which forgave nearly half of Poland's \$14 billion in debt to Western commercial banks (World Economy Research Institute, 1998, p. 170). Table 5 shows how by mid-decade the heavy burden on state finances was significantly eased as a result of Poland's successful petitions for foreign debt relief. The tax system generated sufficient income for the state to make regular payments for rescheduled debts. As a result, Poland's credit rating was raised, and new lines of credit were opened, which covered budget deficits.

Table 5

Poland's foreign debt burden

	1990	1991	1992	1993	1994	1995	1996	1997
Total debt (\$bln)	48.5	48.4	47.0	47.2	42.1	43.9	40.5	38.0
Debt service (% GDP)								
– interest	35.9	26.6	33.3	28.8	14.7	5.3	4.6	3.7
– principal	42.6	42.4	13.2	10.2	11.4	2.4	4.2	2.8

Source: World Economy Research Institute, 1998, p. 139 (Table 30).

With steady income and credit restored, the Polish state did not have to take any drastic devaluations of currency. The government pursued a policy of gradual disinflation. By mid-decade, the zloty was stable. Moderate increases in the money supply were consistent with economic growth trends. (See Table 6.)

Table 6

Currency trends, 1991–1997 (% change from previous year)

	1991	1992	1993	1994	1995	1996	1997
Inflation	47	43	35.3	32.2	27.8	19.9	14.9
Money supply	75	56.6	34.8	39.3	34.8	29.1	28.8

Source: World Economy Research Institute, 1998, p. 100 (Table 15).

By the late 1990s, Poland's transitional tax regime was in place. It was flawed, it was contested, *and* it was bringing in enough revenue to keep the post-

communist state operating with only minimal deficits. The compliance strategy of legalistic consent worked sufficiently well for the post-communist state to strengthen fiscal capacity and maintain social welfare commitments.

State fiscal capacity and the 1998 financial crisis

When the financial crisis of emerging market economies reached Eastern Europe, in 1998, the Polish state remained solvent. The state's resilience to the capital crisis was not because of good fortune, but good policy, enacted by Poland's post-communist elites, who in the late 1990s came to consensus on prudent management of state finances.

In 1997, Poland benefited from elite consensus, with negotiation and promulgation of a post-communist constitution. In January, a draft constitution outlining a mixed system, in which the balance of power was tipped in favor of parliament, was introduced for public debate. The draft was delivered by a special parliamentary commission, which had been working on the document for nearly three years. The commission comprised the four major political groupings in the 1993 Sejm: social democrats, free-market liberal democrats, peasant party, and trade union bloc. To become the law of the land, the draft had to be debated, amended and accepted by both houses of parliament, and then approved in a nationwide referendum. But Solidarity and the Catholic Church raised objections: the former, still obsessed with punishing former communists and collaborators, wanted explicit rejection of the old regime; and, the latter, still concerned with preventing a secular state, wanted explicit recognition of a higher power. They threatened to obstruct the process unless their demands were met. Negotiations were hastily convened, as political leaders urged compromise. Sejm Speaker Josef Zych made a nationally televised plea to rally popular support for the draft constitution (*Rzeczpospolita*, 30 January 1997, p. 2). Prime Minister Włodzimierz Cimoszewicz stressed that the draft reflected the willingness of partisan political actors to find common agreement even when divided by particular interests and others should do the same (*Nowa Europa*, 12 February 1997, p. 8). And, President Aleksander Kwasniewski went further: "The draft does not correspond 100 percent to a single author, because this work rests on many ideas and on compromise, which is the great virtue of the constitution" (*Gazeta Wyborcza*, 3 March 1997, p. 3). Consensus prevailed; the challengers were appeased with modest concessions. In July 1997, Poland at last had a post-communist constitution.

The constitution not only delineated a division of power in the post-communist state, it also provided a legal framework for the management of state finances. Political party leaders agreed on the need to establish a set of formal institutional constraints on fiscal policy, which went into law in the constitution and in several follow-up financial reform acts. The adoption of fiscal institutional reform formalized the basically sound fiscal practices of the social democrat government. And when the social democrats strayed too far, the free-market liberal democrats in parliamentary opposition were quick to mobilize a political response to check excessive taxation or extravagant spending. While the con-

stitutional codification of fiscal prudence reflected the concerns of influential domestic political actors, it also made for a nice gesture to skeptical EU technocrats about Poland's commitment to fiscal responsibility. The new measures were intended to depoliticize the fiscal policy process as well as to limit the options of state financial policymakers.

First, fiscal institutional reform restricted the influence of political actors and enhanced the role of policy experts in the fiscal policy process. The constitution curtailed the powers of the president, taking away the presidential veto over the state budget. The parliament, meanwhile, was no longer allowed to amend monetary policy. The powers of the National Bank were scaled back as well, as the constitution forbade it from lending capital to finance budget deficits. Real responsibility for the national currency was entrusted to a new Monetary Policy Council (MPC), which oversaw the implementation of monetary policy. The MPC was chaired by the head of the National Bank, and composed of nine financial experts, three each nominated by the president, the Sejm and the Senate. To further insulate fiscal policy from politics, MPC members served fixed six-year terms, subject to recall only under extraordinary circumstances.⁸

Second, new restrictions were placed on budgetary policy. The range of options for financing the state budget were explicitly defined and limited: the government must rely on income, not currency or credit. It was not a strict "pay-as-you-go" policy, but it encouraged a more cautious approach toward the expenditure side of the state ledger. The new constitution erected a debt ceiling for state finances at 60 percent of GDP. In May 1998, more elaborate rules were announced by which a series of corrective measures and spending freezes would go into effect if the debt exceeded 50 percent of tax income. The government was no longer permitted to include privatization sales as budgetary revenue, since these were one time transactions and not regular income. Meanwhile, further down the administrative chain, tight controls were placed on the spending and borrowing practices of local governments (OECD, 2001, pp. 52, 53). Finally, in a related act, the financial reform package also included a more comprehensive regulatory regime for the commercial banking sector.

The big test for Polish state finances came in 1998, when the capital crisis of emerging market economies spread from Asia to Eastern Europe. The first smallish tremors were felt in January: Korean investors pulled out of a multi-million dollar joint venture deal and the Warsaw Stock Exchange dropped five percent of its value (*Gazeta Wyborcza*, 29 January 1998, p. 21). The MPC was forced to make a minor devaluation of the zloty; the currency corrective calmed foreign investors who returned in February. In May, an official from the European Bank for Reconstruction and Development (EBRD) praised Poland as the only emerging market economy in Eastern Europe unscathed by the Asian crisis; and, in June, Merrill Lynch touted Polish short-term treasury bills as an attractive and safe foreign investment opportunity (*Rzeczpospolita* 12 May 1998; *Prawo i gospodarka* 3 June 1998). But in August, the resounding fiscal crash of post-communist neighbor Russia sent shockwaves through Poland's transition economy.

Political leaders from across party lines (social-democratic president, Solidarity bloc prime minister, and free-market liberal-democratic finance minister) quickly found common purpose to prevent a panic. On television, in the press, before business audiences, to whoever would listen, they talked up the economy's underlying strength and played down investors' rising fears (*Rzeczpospolita* 22–23 August 1998, p. 7). They consulted on strategy with international financial organizations in the West, and coordinated tactics with fellow post-communist governments in the East. They renegotiated the 1999 state budget, cutting back previously planned spending increases and lowering revenue projections. Even if basic macro-indicators were sound, political actors on all sides recognized that the psychology of investors could rattle the foundations of state finance and threaten fiscal crisis.

Despite the reassurances of a united political front, the initial response of foreign capital was to flee the Polish economy. On the day after the Russian crash, the Ministry of Finance held an auction for foreign buyers of short-term debt treasury bills. Nobody showed up (*Polish News Bulletin*, 18 August 1998). In the fortnight that followed, foreign investors cashed out over one billion dollars from the financial system. The accumulated value of traded shares on the Warsaw Stock Exchange tumbled its way down to a 30 percent loss. Under pressure to adjust the exchange rate again, the MPC authorized another minor devaluation of the zloty. The currency devaluation was meant to help Polish producers, whose second largest export market was Russia (*Rzeczpospolita*, 18 August 1998, p. 1; 27 August 1998, p. 16). Poland's foreign trade deficit leapt from \$250 million in August to \$1.5 billion in September. A nationwide survey conducted a month after the Russian crash indicated persisting public anxiety, as more than 70 percent of Poles expressed fear that the international financial crisis would hit them next (CBOS Polish Public Opinion, October 1998).

But the political campaign to convince foreign capital to stay put was not a baseless appeal. Polish state finances really were in good shape. By 1998, Poland was a leader among post-communist states in building fiscal capacity – income, credit, currency. First, Polish state coffers were regularly replenished from the new sources of income. While income as a percentage of GDP declined one point (from 42 to 41 percent) from the previous year, GDP was growing, so the state's total revenue take in 1998 actually increased by 14 percent from the previous year (from 197 billion zloty to 225 billion zloty) (OECD, 2000, Table 6). The 1998 budget deficit remained a manageable 2.5 percent, although the next year it climbed back over three percent. Most importantly, Polish businesses remained profitable. Some producers, especially in agriculture, were hit hard by the loss of the Russian market; however, Russia accounted for less than ten percent of exports. By 1998, Poland's trade relations were reoriented to the West, and thus were not adversely affected by the capital crisis to the East. Germany had become Poland's largest trading partner (*Prawo i gospodarka*, 18 August 1998, p. 1).

Second, with sufficient income sources at hand, Poland was not overextended in credit when things fell apart all around them. State finances were no longer constrained by crippling foreign debt, most of which was earlier renegotiated and some of which was now retired. The cost of debt service to the

budget steadily dropped, as shown in Table 5. Even if foreign creditors were now to leave en masse, the state was not dependent on their capital. By 1998, Polish households, enticed by a personal income tax deduction, were the main purchasers of government bonds (OECD, 2004, p. 84). Foreign investors owned only 8 percent of short-term Treasury bills and 21 percent of long-term bonds (*Rzeczpospolita* 22–23 August 1998, p. 7). Maybe foreigner investors did not rush to buy MinFin's latest T-bill offerings, but they did not cash out the T-bills they were holding either. As indication of the state's manageable credit situation, interest rates on short-term debt remained moderate and stable throughout the summer and fall of 1998, suggesting relatively low risk (*Rzeczpospolita* 17 July 1998, p. 1). Third, since the state was not overextended on credit, it was not forced to undercut the zloty. In August, the MPC approved only a small currency devaluation to help Polish exporters. By mid-September, the head of the central bank, Hanna Gronkiewicz-Waltz, reported that the financial system was still in good shape and that the zloty had withstood the crisis, retained its value, and was stable (*Rzeczpospolita* 12–13 September 1998, p. 8). Indeed, by the year's end, the value of the zloty appreciated.

The fiscal capacity of the post-communist Polish state, in the 1990s, was sufficiently strengthened to survive the capital crisis of the emerging market economies. Poland did not experience a flight of foreign investment (Warsaw Voice, 1998, pp. 22, 23). State fiscal managers were not forced to default on debt obligations, nor did they undertake inflationary currency devaluation. Even though business activity stuttered, the economy still registered nearly five percent growth for the year. And people paid taxes; maybe not all that was owed, but enough to keep the state solvent. Underlying the fiscal capacity of the Polish state was a transitional tax regime, which provided reliable sources of income, and an elite consensus, which reinforced responsible fiscal management.

State fiscal capacity and the 2008 financial crisis

In 1998, Poland had good fiscal fortune because it had good fiscal policy. But the transition economy did not go unscathed. For the next year or so, there was noticeably less investment capital, higher borrowing costs, and lower output levels. In the second half of the 1990s, state finances were sustained by strong economic growth; but in the early 2000s, an economic slowdown threatened to weaken fiscal capacity. At that time, the inherent tensions between political and fiscal interests, found within the state–labor revenue bargain, could no longer remain suppressed. The costs of maintaining the revenue bargain, particularly the use of tax exemptions as social subsidies, was cutting into the state's budgetary income as well as violating the EU's conditional demands. By mid-decade, however, the economy was again in good form, and the state again claimed a sufficient share of society's wealth. Poland benefited from both capable fiscal management and dynamic economic growth. In 2008, when the international financial crisis struck, state fiscal capacity once again absorbed the blow.

As the economy goes, so goes state finances. The second decade of the Polish transition brought continued economic growth, though it did not start out

that way. When economic growth stuttered, state budget deficits ballooned past 5 percent in early 2000s. But the economic slowdown proved short-lived, by mid-decade Poland boasted one of Europe's strongest growth rates. Table 7 provides an overview of the Polish economic and fiscal trends in the second transition decade.

Table 7

Poland – Macroeconomic and fiscal trends, 2001–2009

(A) Economic growth, 2001–2009 (% change on preceding year)										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Real GDP	4.3	1.2	1.4	3.9	5.3	3.6	6.2	6.8	5.1	1.7
Investment	3.9	-13.4	-7.2	3.3	14.7	1.4	16.1	24.3	4.0	-13.4
Industrial output	6.3	-0.8	-0.5	7.8	10.5	3.5	10.0	10.1	6.8	-0.3
Consumption	2.9	2.3	3.0	2.7	4.3	2.7	5.2	4.6	6.1	2.0
(B) Consolidated state budget, 2001–2009 (% of GDP)										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Revenue	36.5	37.1	36.7	38.6	38.6	39.1	39.6	41.3	40.3	40.2
Expenses	39.3	42.0	42.5	43.8	43.2	41.7	41.7	41.2	41.9	44.0
Deficit	-2.8	-4.9	-5.7	-5.2	-4.5	-2.6	-2.1	+0.1	-1.6	-3.8

Sources: Part A: Główny urzadz statystyczny (GUS) (Main Statistical Office), 2010, p. 696 (Table 575); Part B: *ibid.*, p. 642 (Table 536).

When Wall Street popped its bubble, Poland's government was in the hands of market liberals. Prime Minister Donald Tusk entrusted state finances to Jacek Rostowski, who turned out to be another strong-willed and most capable finance minister. His first official act was to have the portraits of communist-era finance ministers removed from finance ministry and consigned to a museum (*Dziennik* 10–11 May 2008, pp. 20, 21). Rostowski's resume impressed: the British-born and western-trained economics professor founded the influential Polish think-tank CASE (Center for Social and Economic Research), worked with Balcerowicz at the Ministry of Finance and the National Bank, and advised the Russian government when it undertook liberalizing fiscal reforms. His appointment, however, was anything but well-received. Still smarting from electoral defeat, the conservative populists questioned Rostowski's patriotic credentials: How can a foreigner who does not pay taxes in Poland possibly manage MinFin? From the ranks of market liberals, Rostowski was assailed by disgruntled rivals for not being a real party member or an authentic neo-liberal.⁹ Former finance minister Zila Gilowska ridiculed Rostowski for not holding a doctorate degree (*Polityka*, 23 May 2008, pp. 16, 18). Unlike previous finance ministers, Rostowski appeared to lack political clout, since he was not named deputy prime minister. What he did have, however, was the full confidence of his friend, the prime minister.

Rostowski came to office with a mostly liberal policy agenda: controlling social spending, trimming tax rates, deregulating the business sector, and joining the Euro-zone. He was a genuine fiscal conservative, not a knee-jerk free marketeer. Although Rostowski pushed for personal and corporate income tax cuts, he was careful not to disrupt revenue flow to the state budget.¹⁰ First, he removed the flat tax reform from the policy agenda, citing a need to act both fiscally and socially responsibly. Second, he opposed the elimination of capital gains tax, arguing that it was the most effective means to assure that Poland's very rich pay taxes. Third, he supported the "50+" initiative, which promised incrementally higher pension rates for each year that a worker stays on past retirement. This policy based in individual-incentive market economics was, in fact, meant to help sustain the personal income tax (PIT) as a revenue source. Fourth, he seized income-generating ventures, existing discreetly within state officialdom. In particular, he targeted for privatization a chain of hotels run by the Military Property Agency. When the Ministry of National Defense protested, he caustically countered that liberating the military from the tourist trade would not likely sacrifice national security. Finally, he refused to lower sales taxes to encourage consumption, again, because of the need to maintain budgetary income. This last issue almost forced his resignation.

Poland's conservative populists did not care much for the finance minister, and the feeling was mutual. Rostowski was openly derisive of the Kaczynski brothers' chauvinistic rhetoric, saying that it harmed Poland's standing in Europe.¹¹ The international financial crisis provided the opportunity for Rostowski's critics to act. In June 2008, Jaroslaw Kaczynski, leader of the Law and Justice party in the Sejm, insisted that the government cut the petrol tax; Rostowski refused even to consider the proposal, saying the measure would only benefit the fuel industry (*Rzeczpospolita* 13 June 2008, p. 4). Kaczynski threatened that if the tax was not cut, he would initiate a no-confidence vote (*Wall Street Journal Polska* 31 May – 1 June 2008, p. 3). (The fact that it had been Kaczynski's government that raised the petrol excise tax was omitted from the populist rhetorical barrage.) Neither side budged. The populists went ahead with the no-confidence vote in the Sejm, which Rostowski survived by a count of 235 to 150 (*Gazeta Wyborcza* 14–15 June 2008, p. 37). A year later, the Kaczynskis tried again. Rostowski's 2009 budget was based on an overly optimistic growth assessment and had to be readjusted several times. This led to charges of amateurism and mismanagement. The Law and Justice deputy head of the Sejm public finance committee suggested that Rostowski's budget read more like "science fiction" than state finance (*Gazeta Wyborcza* 23 May 2009). The conservative populists instigated yet another no-confidence vote, this time with support from the social democrats. Rostowski survived yet again, though by a lesser margin, 223 to 193 (*Polish News Bulletin* 26 June 2009).

At the start of 2009, Rostowski was pilloried by the Polish parliament; by the end of 2009, he was hailed across Europe as "Finance Minister of the Year."¹² Unlike the rest of Europe, in Poland, Rostowski refused to shed market liberalism for "crisis-Keynesianism." To begin, he insisted that the real economy was strong, and that it would withstand the worst effects of the financial crisis. Next,

when the economy began to slow, he resisted using state funds to stimulate activity, citing the detrimental long-term effect of large budget deficits. Finally, he shot down all parliamentary proposals for populist tax breaks. These policies incurred rancor and ridicule, but eventually were vindicated. In 2009, Poland was the only country in Europe to escape recession, scoring nearly two percent positive growth. Rostowski may have overestimated the strength of the Polish economy, but not by much. Economic activity slowed, but did not stop; credit became tighter, but banks did not fail. In 2010, the World Economic Forum promoted Poland to 39th place on its annual Global Competitiveness Index, stating: «This significant improvement for a second year in a row reflects the country's relatively stronger resistance to the economic crisis as a result of more prudent economic policies and its growing domestic market size.»¹³

Though unwilling to make dramatic public gestures to cue private actors, Rostowski was keenly aware of the effect that state fiscal capacity had on the economy as a whole. When the stability and credibility of state finances were threatened, he did not hesitate to intervene.¹⁴ To compensate for income lost from slower growth rates, Rostowski moved to privatize more state-operated entities, including power companies and the Warsaw Stock Exchange. When a run on the currency began, he used the government's special savings to buy up zlotys. The daring move succeeded to restore confidence in the currency, saving it from freefall. The value of the zloty fluctuated, before settling down at a moderately lower value, which, in turn, benefited domestic producers. Unlike its neighbors, Poland's economy experienced neither a sharp rise in inflation, nor a major drop in household consumption. Despite these steps, the budget deficit still increased, surpassing the EU-mandated three percent ceiling. The government made up the difference through the successful issuing of long-term, low-interest bonds and by securing a generous credit line from the EU. In early 2010, Rostowski announced a "financial consolidation package," which stated fiscal priorities for the next couple years: to reduce the deficit below three percent, without raising tax rates; and, to move Poland into the Euro-zone.

Poland was in an advantageous position to survive the 2008 international financial crisis because of the structure of its economy, which was not overly dependent on foreign capital and trade; and the strength of fiscal capacity, which was able to absorb the external shock. Poland's institutions of state finance, The National Bank, the Monetary Policy Committee, and the Ministry of Finance provided a coordinated and flexible response that kept the Polish domestic economy mostly insulated from the international financial crisis. Underlying state fiscal capacity was the ability of the state to assure a steady flow of income. Because of this, even when the budget deficit rose, the state was able to gain access to credit at manageable interest rates and did not have to resort to currency devaluation. This was all possible because state fiscal capacity rested on a sufficient and reliable flow of income, which was the result of Poland's "legalistic consent" tax regime.

When tested by international financial crisis, the Polish state fared well. Poland's tax regime provided sufficient revenue to establish a secure fiscal foundation for the new state. The revenue base expanded to include a share of the

wealth of wage earning households and enterprising small businesses. By creating new sources of income, the Polish state strengthened fiscal capacity during the transition decade and beyond. When international capital crises moved across Eastern Europe in 1998 and 2008, Polish state finances held firm. Because of the steady stream of income flowing into the state treasury, Poland's currency and credit remained stable. Underlying Polish state finance was a tax regime based on "legalistic consent."

By post-communist standards, the Polish case of fiscal reform was a smashing success. The factors that best explain this outcome are economic and political. First, social scientists and policymakers have long debated whether the path to economic prosperity lies in radical free market reforms or gradualist social market reforms. The Polish case shows that this is a false choice. Poland's impressive economic recovery would not have been possible without the introduction of generous material incentives aimed at individuals to take the initiative to leave the state managed economy to start over in the private sector. The social dynamic that boosted Polish economic growth and steadied state finances was revenue generated by the new small business sector. But unbridled "shock therapy" would have torn asunder any semblance of a social contract. It was the social-democratic policy of regulated markets, investment in the public sector, and social protection that skillfully restored political peace without quashing the nascent private sector.

Second, Polish success benefited from a political condition – elite consensus. Despite the residuals of bitterness often displayed in politics, Polish elites remained united on the basic contours of the post-communist future: Poland should be a democracy, should have a market economy, and should be part of Europe. When conflicts arose that threatened to become paralyzing crises, Polish elites, particularly the social democrats and liberal democrats, were capable of sitting down and reaching compromise solutions. An elite consensus was evident in the handling of state finances, perhaps inspired by memories of communist Poland's debilitating fiscal crises. By the late 1990s, a set of policies, concerning debt, borrowing and currency, was enacted to insulate state finances from partisan politics. These policies did not put an end to debate over taxes, social subsidies and the like, but they did define broad consensual parameters over the prudent management of state finances. These economic and political factors help to distinguish the Polish case from so many of its post-communist East European peers. They are the foundation upon which Polish state finances were successfully reconstructed.

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NOTES

- 1 From 1992 to 1996, Witold Modzelewski, who was connected to Finance Minister Grzegorz Kolodko, was the vice minister for taxes; subsequently he was tasked with the founding of a new National Fiscal Academy. From 1992 to 1998, Waldemar Manugiewicz, who was connected to the social democrats, served as vice minister, overseeing the introduction of the value-added tax (VAT) reform, heading the fiscal control department, and serving as undersecretary for taxes.
- 2 See interview with Jerzy Osiatynski, *Polish News Bulletin*, 3 September 1992.
- 3 See interview with Andrzej Zelechowski, MinFin's tax department head, in *Gazeta Wyborcza*, 20 August 1993.
- 4 The dividend tax was another of Balcerowicz's punitive taxes on the state sector.
- 5 These figures are for total tax take, and did not include social security contributions.
- 6 Total tax revenues include direct and indirect taxes on the corporate sector as well as social insurance taxes for the year 1988.
- 7 The deficit numbers sometimes appear even lower, when privatization revenues are included in the calculations.
- 8 Author's interview with Stanislaw Owsiak, member of the Monetary Policy Council, in Krakow, 6 July 2005.
- 9 Rostowski's main nemeses were: from the conservative populist Law and Justice party, the deputy-head of the Sejm's finance committee, Aleksandra Natalli-Swiat; and, from the market-liberal Civic Platform party, Zbigniew Clebowski, who fancied himself as finance minister and made the elimination of the capital gains tax his personal mission.
- 10 Rostowski's policy agenda is summarized in an interview in *Polityka*, 23 May 2008, pp. 16, 18.
- 11 Ibid. Lech Kaczynski was president and his twin brother, Jaroslaw Kaczynski, was prime minister.
- 12 The honor was bestowed by *The Banker*, a subsidiary publication of *The Financial Times*.
- 13 See the World Economic Forum website: <http://www.gowarsaw.eu/en/news/poland-advances-to-39th-in-world-economic-forums-competitiveness>.
- 14 See the interview with Rostowski in *The Financial Times*, 23 October 2009.

THE TOOLS OF GOVERNMENT FOR THE DEVELOPMENT OF THE RUSSIAN HOUSING SPHERE

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ABSTRACT

This article examines the mix of policy instruments used by the Russian government in the sphere of housing development. The analysis is based on an influential framework for the study of public management and policy design – the “tools of government” – which distinguishes nodality (information), authority, treasure, and organization-based tools. The article also utilizes a distinction between “substantive” and “procedural” tools. It first surveys substantive tools used in Russian housing policy, including the Agency for Home Mortgage Lending, two state foundations for housing construction and rehabilitation, and mortgage lending banks, among others. Discussion then moves to the use of procedural tools, such as consultations between the government and business associations of the construction industry, and the organization of professional forums and conferences. The third section explains the use of the specific “mix” of government policy tools with reference to the structure of the “policy subsystem,” that is, the community of actors involved in this policy field. The conclusion relates the use of government instruments in Russia – predominantly treasure and authority for substantive tools, and organization and authority for procedural tools – to the use of similar instruments by other governments.

Keywords: housing policy; “tools of government”; substantive tools; procedural tools; nodality; authority; treasure; organization; policy subsystem

Introduction

Since the early 2000s housing construction in Russia has been on a steady rise. The use of mortgages has proliferated during the same period. The goals of development in the housing sphere are discussed in such policy documents as the “May” decree on housing N 600 (O merakh po obespecheniiu grazhdan, 2012) and the government programme adopted in April 2014 (Gosudarstvennaya programma, 2014). Several state foundations in housing were set up in the late 2000s. They work alongside the Agency for Home Mortgage Lending (AHML)

and several state banks that are leaders of the mortgage market in the country. How can we explain this “mix” of government instruments applied in the Russian housing sphere?

The article examines the mix of policy instruments used by the Russian government in the sphere of housing development. The analysis is based on a framework that is influential in the study of public management and policy design – the “tools of government” – which distinguishes between nodality (information), authority, treasure and organization-based tools. The article also utilizes a distinction between “substantive” and “procedural” tools. It first surveys substantive tools used in Russian housing policy, including the AHML, two state foundations in housing and mortgage lending banks, among others. Discussion then moves to the use of procedural tools, such as consultations between the government and business associations of the construction industry and organization of professional forums and conferences. The third section explains the use of the specific “mix” of government policy tools with reference to the structure of the “policy subsystem,” that is, the community of actors involved in this policy field. The conclusion relates the use of government instruments in Russia – predominantly treasure and authority for substantive tools, and organization and authority for procedural tools – to the use of similar instruments by other governments.

Development of the housing sphere – in terms of new housing construction, increasing affordability of home purchases, increasing scale of mortgage lending to facilitate purchases of new and secondary (second-hand) housing, as well as the renovation of Russia’s still predominantly Soviet-built housing stock and utility infrastructure – has been identified as one of the key priorities of Russia’s leadership. These objectives have been stated in various policy documents such as presidential decrees and government programmes. The attention to the housing sphere is not surprising given that since the Soviet period the “housing question” has represented one of the central points of grievances among the Russian public (see Attwood, 2010). At the end of the socialist era as much as a quarter of all Russian families were placed on waiting lists to receive housing from the state (Goskomstat, 1987). Post-Soviet Russia had to deal with this inherited housing shortage (see Burdyak, 2012; Zavisca, 2012).

Substantive tools

To implement the goals associated with housing development, the Russian government has relied on a combination of policy tools. These have been put in place over years and some appeared as early as the mid-1990s. At the time, the government reformers’ objectives were framed in terms of the “market reform” of housing – as a part of the country’s wider economic and welfare state restructuring – rather than in terms of “development.” Nonetheless, one of the central developmental tools of contemporary Russian housing policy, with the primary function of treasure but also that of nodality and organization, is represented by the Agency for the Home Mortgage Lending (AHML).

The Agency was set up in 1996 along the lines of an analogous American structure (Struyk and Kosareva, 1999) and, according to policy scholars, could be

classified as a “government- sponsored enterprise” (Stanton & Moe, 2002). AHML (www.ahml.ru) acts as an industry regulator. It also produces careful analysis and statistical data related to the operation of the Russian housing market and housing finance. Its primary function, nonetheless, lies in providing state funding to augment financial resources directed toward mortgage lending by the banks, in order to support and develop the mortgage market in the country. The size of the Russian mortgage market in 2014 was RUB 1.764 trillion (the relevant data will be presented in Table 2). If during the 1990s and 2000s, the Agency worked to kick-start the development of the Russian mortgage market, over the recent decade its activities turned more toward mortgages for socially vulnerable categories, development of municipal infrastructure, new housing construction, and the development of commercial rentals (Analiticheskii tsentr 2015, p. 12). Generally, it can be said that via the AHML the Russian state works with market players to increase the circulation of credit and aid economic activity within the housing sphere.

The Agency does so in two classic ways: first, by purchasing mortgage loans originated by banks, thus freeing their account of liability and allowing them to lend more against their capital assets; and second, by providing advice and originating and purchasing “mortgage backed securities” or “covered bonds” issued by other Russian banks (Analiticheskii tsentr, 2015, pp. 18–19). Securities generally represent a type of financial obligations that are backed by a certain type of financial assets and sold in the stock exchange. They are purchased by investors, of which pension funds are prominent (see for instance: ECBC 2014). For the Russian mortgage securities market, investments by the Vneshekonombank (VEB) are important as it manages the Russian Pension Fund (*FNB*; see AIZhK 2014b: 5, 32). By issuing securities backed by mortgage loans, Russian credit institutions with expert assistance from the state Agency, provide greater liquidity (i.e., finance) for the development of the Russian housing market.

At the same time mortgage securities are complex financial instruments, requiring high financial expertise in use. The fact that an increasing number of state but also private banks have started to issue mortgage securities over the last few years indicates a considerable level of cooperation and congruence between developmental goals set by the government and the commercial interests of the banking community. The government program sets a long-term target for securitization to reach 30 percent. In 2014 the figure was around 13 percent, which is an improvement from the 3.6 percent level achieved in 2010 (Analiticheskii tsentr, 2015, pp. 18–19; AIZhK, 2014a, pp. 5, 10).

The AHML, however, does not stand alone among the government treasure-based tools. Russian state-owned banks, such as Sberbank, Gazprombank, and Bank VTB in particular represent the other channel through which the state extends credit to Russian families for the improvement of their housing conditions. These state-owned banks are market leaders in terms of providing credit in the housing sphere (see AIZhK, 2014a: 4). *Sberbank*, for instance, apart from providing commercial mortgages, also, with support of the AHML, provides subsidized mortgages to several categories deemed as socially vulnerable. These include families with three or more children, young families, young scientists, teachers, military personnel, and mothers when they have second or further children – a “maternity capital” initiative

(Gosudarstvennaia programma, 2014, p. 22; AIZhK, 2014a, p. 4).¹ In addition to these state banks, which are involved in mortgage lending, Bank Moskv, a subsidiary of Bank VTB, has funded local infrastructure development projects. State-controlled banks are managed as commercial entities. Therefore it would be incorrect to view them as a form of government organization instruments. Yet, their role as treasure-based instruments can hardly be overestimated.

A greater level of government organization marks the work of two state “development institutions”: the Foundation for the Development of Housing Construction (*Fond RZhS*) and the Foundation for the Reform of Housing and Utility Services (*Fond ZhKKh*). The two organizations were originally set up in 2007–2008.² The task of the Foundation for the Development of Housing Construction (see www.fondrgs.ru, accessed April 2015) lies in the integrated development of territories and their subsequent transfer for the purposes of housing construction. For this the foundation identifies available land plots in often heavily built-up urban areas and, after fast-tracking all the necessary administrative procedures, hands them over for the purposes of infrastructural development and housing construction to private firms using the auctioning mechanism. The emphasis is on the construction of affordable (budget) housing and low-rise construction projects. In 2014, the foundation converted for housing construction 45 percent of all the land plots involved in housing development in the country during that year. Its activities span Russia’s 76 regions.³ The foundation therefore takes upon itself the complex work of dealing with the regional and local authorities as well as with local private property developers. At the federal level it works closely with the AHML and Ministroi, the government ministry responsible for housing policy.

The purpose of the Foundation for the Reform of Housing and Utility Services (see www.fondgkh.ru) has been to provide organizational and financial resources for renovation of dilapidated local housing and utilities infrastructure. During 2014 and early 2015 the foundation reported that around 200 thousand citizens were rehoused from substandard buildings as a result of its work.⁴ Like the Foundation for the Development of Housing Construction, the Foundation for the Reform of Housing and Utility Services deals with the local authorities and private contractors of renovation works as well as with the federal authorities.

At the time of its establishment the role of the latter foundation was seen as temporary. While its activities for renovating dilapidated housing still continue, the government has turned to authority-based tools in regulating housing renovation in the long run with the law on “Capital (major) housing repairs” passed in December 2012 (*Zakon o kapremonte*, 2012). The law has obliged residents of private apartments in multi-family residential blocks to make monthly savings for the repairs of their apartment buildings. The law has specified the mechanisms for the administration of the accumulated savings (either by the regional authorities or by the organizations of the owners themselves) and the scheduling and implementation of renovation works by private contractors. While this law prescribes the procedure associated with major repairs, the centerpiece of the authority-based tools that regulate relations in the area of housing in Russia is the Housing Code adopted in December 2004 along with the many amendments made to the code since its adoption.

The use of authority-based instruments is also evident with the promotion of competition among the great number of small municipal enterprises that operate in the housing maintenance and utilities sphere. The number of loss-making enterprises in this area comprises 28 percent. These have to be transferred to concessions by 2016.⁵ The promotion of efficiency-enhancing competition is paramount for an industry such as housing and utility services, which for decades going back to the Soviet era has been characterized by wastefulness and loss-making.⁶

The government further prefers to use its authority to prescribe the targets for new housing construction for different regions, which are set in various government papers and developed by the already mentioned Minstroi (see www.minstroyrf.ru).⁷ The ministry produces diverse guidelines and standards for the industry, including housing construction, management, and maintenance. It also coordinates the activities of the two state foundations addressed above and liaises with the AHML. Notable for our study is the history of this ministerial structure. Minstroi, which was set up in November 2013 (<http://www.minstroyrf.ru/about/#codex>), prior to that existed in different forms during most of the 2000s as a subordinate structure or a set of departments within the Ministry for Regional Development, and during the 1990s and early 2000s as Gosstroi of Russia. During the last 25 post-Soviet years Minstroi/Gosstroi has gone through innumerable organizational and personnel changes.

Finally, in terms of nodality-, or information-based tools that are applied by government to change behavior or deliver public goods, these can generally be divided into those aimed at the public at large and those that relate to the housing industry and the associated expert community. Already in the 1990s, the government aimed to use its nodality to increase awareness of the public about the process and the benefits of the housing reform and particularly of the reform of housing and utility services (Institute Ekonomiki Goroda, 1997).

Currently, information about mortgage finance is widely available through media coverage and banks' advertising of mortgage-lending schemes. Such government initiatives as maternity capital – a large lump-sum benefit to mothers of second and further children – in addition to its other functions in terms of demographic policy and welfare, has also popularized the idea of mortgage borrowing as a way of improving housing conditions for families. To use an example of the effectiveness of these instruments, a survey by the World Bank conducted in the early 2000s found that most of the respondents knew little about mortgage borrowing (World Bank, 2003, p. 5). This situation has certainly changed over years since; by 2014 a quarter of all home purchases were made with the use of a mortgage (AIZhK, 2014b: 8).

In addition, the two state foundations in housing provide an informational component as well. Their work, particularly in the housing and utility services area, has been discussed in the media and is often viewed in a positive light.⁸ This has contributed to a favorable assessment of the government's work⁹ in what is perceived by the public as a troubling policy sphere. To illustrate the level of citizens' anxiety related to housing and utility services, we can refer to opinion poll data according to which increasing costs were among the top three most impor-

tant issues that concerned the Russian public during 2012 and 2013. These were overtaken by geopolitical concerns in 2014 (Levada-Tsentr, 2015: 9).

Finally, the reliance on information resources – for “effecting” change and for “detecting” change in society and gaining access to valuable information needed in the process of policy-making – is evident in several perhaps isolated cases of the organization of direct consultations with the public on issues related to housing and urban development. Here initiatives of the government of Moscow can be noted. For instance www.moscowidea.ru conducted a survey of citizens suggestions on the issues of the city’s development (also see <http://urban.hse.ru/news92170075.html>), with the results subsequently published as a book. Another example could be the open discussion that unfolded around the competition for the best project for the development of the Moscow area during 2012–2013 (see for instance: <http://irsup.hse.ru/news/60319015.html>). All of these efforts, while involving non-governmental organizations, were organized with direct encouragement and participation of federal and regional state structures, such as *Minstroï* and the Moscow city administration, as well as other development institutions, for instance *Bank Moskvÿ*. The latter as noted has expertise on the issues of housing and urban development.

While the government appears to be effective in “beaming” information at the public, in terms of “tools of government” literature, it can be argued it is less effective in using its “nodal detectors” for collecting information from this broad societal audience. Such information is, nevertheless, indispensable in the process of policy-making. Few institutional channels that exist are used to engage the general public and local communities in questions of development. Institutional structures that are currently in place and could act as links between the public and authorities are the associations of homeowners (*TSZh: tovarishchestva sobstvennikov zhil’ia*). The government reformers throughout the 1990s and 2000s have sought to develop these as a way to organize homeowners’ control over maintenance of their multi-family blocks of flats. Yet, by 2007 only 7 percent were organized in such associations (*Poslanie Prezidenta*, 2007). Problems with their organization may relate to the low levels of interpersonal trust and the underdevelopment of civil society in Russia, which was particularly the case during the 1990s (Evans, 2012). Yet, there are institutional barriers to such associations organization as well (Vihavainen, 2009). For instance it has been argued that in the process of the implementation of the law on capital repairs, the associations of homeowners are likely to be disadvantaged.¹⁰ Greater proliferation of homeowners’ associations and self-organization in the housing sphere and a two-way cooperation between public organizations and the authorities could provide important channels for the exchange of information and basis of effective policy-making.

Moving away from the general public, the government has appeared more effective in establishing two-way communication with professional communities involved in the housing area. Among nodality-based instruments aimed at professionals can be noted several annual industry and investment events organized for entrepreneurs, experts, academics, and investors. Examples include the Russian Investment and Construction Forum (www.ribf.ru), the Forum for Housing and Utility Services 2015,¹¹ and the annual international Moscow Ur-

ban Forum (www.mosurbanforum.com), with an associated series of regional urban development conferences.¹² (The latter, it may be said, is to a certain degree addressed toward the local public, as well as professionals.) These are accompanied by broad information campaigns that comprise publication of specialist periodicals with ample on-line and other media coverage.

In terms of information tools, we can further mention government communications with several sectoral business associations involved in the areas of housing construction and mortgage finance. Among these are the Association of the Construction Industry of Russia (*Assotsiatsiia stroitelei Rossii*, www.a-s-r.ru), the Russian Union of the Construction Industry (*Rossiiskii Soiuz Stroitelei*, RSS, www.omorrss.ru), and the National Union of the Construction Industry (*Natsionalnoe Ob'edinenie Stroitelei*, Nostroi, www.nostroy.ru), as well as those pertaining to the mortgage industry, such as the Association of Russian Regional Banks (*Assotsiatsiia Regionalnykh Bankov Rossii*, www.asros.ru) and the Association of Russian Banks (*Assotsiatsiia Rossiiskikh Bankov*, www.arb.ru). Some of these public organizations were formed in the early post-Soviet period but have stepped up their activities since the second half of 2000s. Some of their leading figures – this particularly relates to the case of the construction industry groups – had accomplished careers during the Soviet period. Many others have built their careers over the post-Soviet period.

Procedural tools

With reference to the government's work with the professional associations, as well as the conferences and other public consultations organized by the authorities, we are moving from the nodality-based substantive tools toward what I defined earlier on as procedural tools. The latter instruments are used by the government to steer the policy process itself and structure relations among its diverse societal participants.

The analysis of the work of the professional associations in the housing and housing finance industry reveals their close cooperation with government departments as well with the country's representative institutions. Many members of staff at these professional associations have had experience of working in leading posts within state bureaucracy, acted in advisory positions and some have been elected members of parliament. These connections are indicative of the informal inter-personal relations that exist among these actors. The mutual work with the government structures includes participation in expert groups and other forms of consultation on policy issues as well as the promotion of the institution of "self-governance" within the industry.

Self-governance has been particularly important within the highly fragmented and localized construction industry. The national association Nostroi is the case in point. While this organization was set up in the early 1990s its activities were encouraged by the government in the second half of 2000s at the time of the adoption of the legislation on self-regulated (-governed) organizations (SROs) in 2007–2008.¹³ Subsequently, in 2010 a joint Memorandum of cooperation was signed between the association and sectoral ministry at that

time, MinRegion. Currently this umbrella association joins 274 local associations which cover 130 thousand large as well as small and medium construction enterprises (SMEs) (see statistics at the association's website). Only 7 percent of these are large businesses, whereas the vast majority remaining are SMEs. Working through such corporatist arrangements the government has sought to increase its outreach within the housing industry with an objective of promoting its procedural objectives as managing within-the-industry conflicts and gaining access to industrial expertise, while also pursuing substantive objectives: housing development, innovation in the sector, and monitoring standards.

With the help of industry experts from the professional associations, the government has also sought to engage investors and other market participants as well as a wide spectrum of experts and academics to promote industry-wide dialogue, exchange of ideas and investment. Examples of this trend are the high-profile forums set up over the last five years, already mentioned above. Among the consultative structures that are set up by the Russian executive institutions are the President's Council for Housing Policy and Increasing Housing Affordability, and the Working Group for the Development of Housing and Utility Services at the Russian government Expert Council. Experts from the professional associations and from research organizations, such as the Institute for Urban Economics (IUE) participate in these and other consultative bodies and produce joint research. For instance, a research project conducted by the IUE in cooperation with Nostroi in 2011 examined the problem of administrative barriers in construction. Although the sources of research funding were not mentioned, the objective of the study coincided with the government's and the president's aims to improve the investment climate and the ease of doing business in Russia (*Moskovskie novosti*, 2 April 2012, p. 6).

To summarize the argument of this section so far, with regard to the use of substantive policy instruments, the Russian government has relied most heavily on treasure-based tools working through the AHML, two state foundations in housing, and a number of state-controlled banks to develop the housing market. In the case of these structures, particularly the AHML and the state foundations, direct organization as a government resource has also been used. Authority was also relied upon when providing the regulatory framework for the housing sphere and its participants, including citizens and business, with the key legislative act being the Housing Code. All these tools are underpinned by government nodality with information about mortgage funding provided to the general public by the state agencies and the banks.

In relation to procedural tools, the government has relied on the use of all four resources (nodality, authority, treasure, and organization), but particularly those of authority and organization, in implementing its procedural tasks. Examples of these are frequent institutional reforms of the industrial ministry Minstroj and the encouragement of nongovernmental business interests to organize and participate in policy-making, generation of expert proposals, and managing intra-industry relations. These instruments are ultimately helping with the pursuit of substantive policy tasks. This is delivering increases in the volumes of housing construction and mortgage lending. In a graphic form, the substantive and procedural tools associated with Russian housing development are presented in Table 1.

Table 1

Procedural and substantive tools in the Russian housing sphere

Nodality	Treasure	Authority	Organization
Substantive tools			
Public: Information on – mortgages – state programs	AHML <i>Fond RZhS</i> <i>Fond ZhKKh</i> State Banks for – mortgages – infrastructural projects	Housing code Other housing and housing industry-related legislation	AHML <i>Fond RZhS</i> <i>Fond ZhKKh</i>
Procedural tools			
Industry and experts: Communication/policy involvement: – business associations – expert groups Public (rare): – Focus groups – Online initiatives	Funding research	Setting up/encouraging business associations Agreements on cooperation between executive departments and business associations Advisory groups attached to different executive departments	Ministerial reforms Forums and conferences: – Urban forum – Construction forum – Housing and Utility Services Forum

The choice of tools explained

Why did the Russian government select this specific instrument mix including substantive and procedural elements? As proposed earlier, from the perspective of public policy literature, the choice is influenced by two variables: state capacity to affect societal actors and the complexity of the policy subsystem concerned. Treasure and nodality represent less invasive government tools, while authority and organization are positioned on the other end of the spectrum.

In the case of substantive instruments, the predominant reliance on treasure-based and authority-based tools seems justified given that the government has aimed to influence a vast and highly diverse terrain, which potentially includes the entire Russian society – or at least those families who wish to improve their housing conditions – and a great number of private firms involved in housing development. The high capacity of the state to deliver financial resources to the housing sphere is underpinned by its use of direct organization in the case of the AHML and its control of the largest banks which are the primary mortgage lenders. The use of the organizational resource in this case seems logical in conditions where a market of mortgage finance had to be created from scratch during the post-Soviet era, which means that the capacity of the state to implement this policy including knowledge, resources, and motivation exceeded the capacity of the subsystem's participants, i.e., private banks. In addition, the financial market in Russia includes a far lesser number of participants – 956 banks – compared to a greater

number of firms, over two hundred thousand, involved in the area of construction and maintenance.¹⁴ Therefore, according to public policy literature, it should be easier for the state to intervene and coordinate the smaller number of actors in the case of the former in comparison to the latter.

My survey of the procedural tools has demonstrated that “heavier” tools of authority and organization are used more often in relation to the professional community. This indicates that the Russian government has actively sought to manage the subsystem involved in the housing development process. It aimed to promote self-organization and self-governance in order to be able to manage and monitor developments in this large and fragmented community. The government’s effort in this regard is assisted by the use of informal networks that join up the representatives of the professional community involved in the housing process at the local, regional, and federal levels.

By contrast, a “lighter touch,” or the least effort, appears to be invested in terms of the procedural tools to engage members of the general public. Predominantly, the government’s nodality is used to provide general information to the public. Yet, the efforts to promote its self-organization – while formally adopted in legislation – have clashed with the institutional disincentives for the public to organize and do not match government efforts to structure and manage relations with the housing industry.

Housing development results

Briefly, we could comment on the issue of the effectiveness of the government tools in the housing development sphere. Results are presented in Table 2. The data indicate that housing construction in Russia has increased at impressive rates. Mortgage borrowing proliferated from a negligible 0.2 percent of GDP in 2005 to 5 percent in 2014. The development of the housing sphere took place against the background of the general improvement of income levels in the country.

Table 2

Russian housing and mortgage market development, 2005–2014

Indicator/ Period	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Volume of Mortgage lending, RUB Million	–	263 561	556 399	655 808	152 500	376 331	716 944	1 031 992	1 353 926	1 764 126
Average floor space of new built housing per capita, Square meters per person	0,31	0,35	0,42	0,45	0,42	0,41	0,44	0,45	0,49	0,56
Aggregate floor space of new housing built, Thousand square meters	43 609	50 174	60 350	63 690	59 830	58 114	62 264	65 220	70 485	81 856
Mortgage debt to GDP, %	0,2	0,9	1,8	2,7	2,6	2,5	2,7	3,2	4,0	5,0
Average income per capita, RUB	7 826	9 817	12 427	14 934	17 008	18 717	20 713	22 719	25 957	27 749

Sources of data: AHML, Rosstat, and Bank of Russia

Conclusion

This article utilized the tools of government approach from the public policy literature to examine the way the Russian development project is implemented using the instruments of government action in the area of housing. The survey of the tools applied in the housing sphere, divided into substantive and procedural – and within these categories, into those relying on four government resources: nodality, authority, treasure, and organization – has been helpful for at least two reasons. First, it allows us to identify dimensions of housing policy where the most effort was made and to link those to the types of government resources applied. In this respect, it is evident that Russian government has employed a range of instruments to promote development of the housing sphere. Whereas treasure, authority, and direct organization are important among substantive tools; authority and organization, i.e., heavier government tools, predominate for the substantive category. Second, it allows us to identify patterns in the way the Russian government is going about implementing its developmental agenda, to compare this process to similar processes carried out by other governments, and to make generalizations about governance in Russia. These generalizations need to be verified by extending the study from the one socially important area analyzed in this paper (housing, due to its historical significance in Russia, could very well be an outlier) to other areas where the developmental agenda has been pursued, in order to increase the robustness of the conclusions.

The government policy in the area of housing has responded to the public's social demands. The Russian state's engagement in the housing sphere can be defined as a "capability-enhancing" development or "a social policy by other means." Peter Evans (2014) argues that such policies contribute to the creation of human capital which lies at the heart of economic growth, particularly of knowledge-based industries. It is probably indicative that the Russian policy documents on housing express the strategic aims of the sphere's development not only in terms of "satisfying [citizens'] needs in housing,"¹⁵ but in terms of "providing [citizens with] the high quality of life broadly defined" (Gossudarstvennaia Programma, 2014, p. 22).

Further, the Russian state is preoccupied with controlling and directing finance, which is documented in this study by the predominance of treasure-based tools within the substantive category. The use of finance and of specialized financial institutions is a widely applied policy by states pursuing developmental strategies. Moreover, developmental states have prioritized and encouraged savings and capital investment over consumption. The effort to create the institution of mortgage borrowing in Russia follows this pattern. In addition, the mechanisms used to organize liquidity provision to the housing sphere by the AHML and state banks, and via mortgage securitization that ties together savings, such as pension savings, with the investment in the housing sphere, are not unlike those applied by other developmental states (Mkandawire, 2014, pp. 22 and 25).

As far as the capital and – we can add – expert communities are concerned, the analysis has demonstrated that Russian authorities have worked on elaborating mechanisms for engaging their representatives in the policy process.

The vehicles for these have been various expert consultative bodies, professional associations, and conferences encouraged and organized by the state in collaboration with societal organizations. While this effort to create intra-industrial ties in the Russian housing sphere has been work in progress, the authorities' fall-back response to the challenge of promoting development in an industry populated by a large number of small players has been to achieve developmental tasks by the means of authority and direct organization. The authority was used to select a small number of large market players, with which state bureaucracies face less difficulty of conducting working relations. This need to achieve a working relationship with private business plus the need to have an influence over the finance of investment have led Russia in the case of housing, as well as developmental states in general, to use a small number of state-controlled banks for directing investment. The work of these market players is supplemented by the state's organization resource, housing foundations the case in point, in areas where private actors lack expertise and outreach.

"Embedded autonomy" in Russia is the least developed in relation to local communities and the general public at large. While particular effort has been put into forming the linkages that would connect the public with the powers – as demonstrated with the example of the recent initiatives sponsored by the Moscow city administration – basic institutionalized structures such as homeowners associations are weakly developed and apparently face considerable institutional barriers. It is hardly surprising that the issue area of housing and territorial development, more broadly, has produced possibly the greatest number of conflicts with the local authorities over recent years. Some of these seemingly local disputes, such as one concerning the "Rechnik" housing cooperative and the conflict over the Khimki forest, have spilled into issues of federal and even international significance (see Evans, 2012). By contrast, conflicts within the construction industry are virtually unknown, as a result of its being more carefully managed and more actively engaged with over recent years.

These observations support findings of those scholars of Russia who note that social actors, such as business associations, have had an impact in the policy-making process, by providing expert advice to government officials and Duma deputies (Cook, 2007). The case of housing development presents, therefore, a contrasting story to the case of industrial policy in the sphere of nanotechnology, where no wider industrial engagement was observed (Connolly, 2013). Moreover, the substantive and procedural instruments of housing development analyzed in this article tell a story compatible with the "upstairs-downstairs" economy argument offered by Easter (2008), but offer a different, development-related rationale behind the state actions.

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NOTES

- ¹ On “maternity capital” see Zavisca (2012).
- ² O fonde sodeistviia reformirovaniu zhilishchno-kommunal'nogo khoziaistva, Federal'nyi Zakon N. 185-FZ, adopted on 21 July 2007, *Sobranie Zakonodatel'stva Rossiiskoi Federatsii*, 2007, no. 30, st. 3799; O sodeistvii razvitiu zhilishchnogo stroitel'stva, Federal'nyi Zakon N. 161-FZ, adopted on 24 July 2008, *Sobranie Zakonodatel'stva Rossiiskoi Federatsii*, 2008, no. 30, part 2, st. 3617.
- ³ For more figures on the work of the Foundation for the Development of Housing Construction see its 2014 Annual report (*Popechitel'skiy sovet utverdil godovoy otchet fonda za 2014 god*, 22 April 2015, available at http://www.fondrgs.ru/press/news_detail.php?ID=38411, accessed April 2015) and “RZhS Foundation in Numbers” (*Fond RZhS: Tsifry i Fakti*, 27 April 2015, available at <http://www.fondrgs.ru/files/docs/27.04.2015.pdf>, accessed April 2015).
- ⁴ For more figures see Information on the Foundation's operations from 1 April 2015, available at http://www.fondgkh.ru/result/result/get_finance/index.html, accessed April 2015.
- ⁵ See *Minstroy Rossii budet derzhat' na osobom kontrole kontsessionnye konkursy v gorodakh s naseleniem svyshe 250 tysiach chelovek*, 29 April 2015, available at <http://www.minstroyrf.ru/press/minstroy-rossii-budet-derzhat-na-osobom-kontrole-kontsessionnye-konkursy-v-gorodakh-s-naseleniem-svy/>, accessed May 2015.
- ⁶ See Rosstat data, Table 22.36 shows that while the situation improved between 2005 and 2012, losses made by housing maintenance enterprises were among the greatest across the economy, available at http://www.gks.ru/bgd/regl/b13_13/IssWWW.exe/Stg/d4/22-36.htm, accessed June 2015; also see Table 22.2 for the budget spending for the HUS and Table 22.38 for the percentage of loss-making enterprises within the sector.
- ⁷ Also see *Gossudarstvennaia Programma* (2014).
- ⁸ See for instance: *Rukovoditel' apparata fonda ZhKKh Ekaterina Shaturova priniala uchastie v programme “Bol'shaia Strana” na “ORT”*, 29 April 2015, available at <http://www.fondgkh.ru/news/168578.html>, accessed April 2015; *V Krughe Sveta: Galina Khovanskaia i Dmitrii Yanin*, *Echo Moskvy*, 24 November 2010, available at <http://www.echo.msk.ru/programs/sorokina/728586-echo.phtml>, accessed 25 November 2013.
- ⁹ For instance opinion polls showed an improvement in public perception of the government's work in the 2008–10 period (see www.levada.ru/index accessed April 2015).
- ¹⁰ The contributions for the repairs of residential buildings are to be either accumulated on individual accounts managed by the TSZh of each of buildings. Or, an alternative option, in cases where a TSZh is not formed, involved the transfer of the savings for major renovations to purposefully created regional accounts. Some

public figures as Galina Khovanskaya expressed the concern that buildings managed by TSZhs would be discriminated against by regional authorities in the process of scheduling of renovation works.

- 11 *V Kaliningrade nachal rabotu tretiy "Forum ZhKKh 2015,"* 28 April 2015, <http://www.minstroyrf.ru/press/forum-zhkkh-2015-nachal-rabotu-v-severo-zapadnom-federalnom-okruge/>, accessed April 2015.
- 12 See: http://mosurbanforum.com/news/news/regional_cities/, accessed April 2015.
- 13 The case in point Federal Law N. 315-FZ adopted on 1 December 2007 "*O samoreguliruemymkh organizatsiyakh*", available at http://www.nostroy.ru/legislature/normativno-pravovye_akty/ accessed April 2015. Among its many subsequent amendments Federal Law N 148-FZ from 22 July 2008 established procedure for self-regulation in construction. See history of Nostroi at <http://www.nostroy.ru/nostroy/history/>, accessed April 2015.
- 14 According to Rosstat, 1094 credit institutions were registered in Russia in 2013, out of which 956 were active (Rosstat, Table 22.22, *Chislo i structura kreditnykh organizatsii*, available at http://www.gks.ru/bgd/regl/b13_13/IssWWW.exe/Stg/d4/22-22.htm, accessed April 2015); whereas a number of construction firms working in Russia in 2012 amounted to 205 075, which included 201 162 firms with a number of employees less than 100 (idid, Table 16.4, *Chislo deistvuiushchikh stroitel'nykh organizatsii*, available at http://www.gks.ru/bgd/regl/b13_13/IssWWW.exe/Stg/d3/16-04.htm accessed April 2015).
- 15 These would be measured in square meters of accommodation per person.

THE INTRODUCTION OF PROGRAM BUDGETING IN RUSSIA: 20 YEARS OF EXPERIENCE WITH RUSSIAN BUDGETARY REFORMS*

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ABSTRACT

This paper examines Russia's 20 years of experience with budgetary reforms. The authors focus most of their attention on the introduction into Russian budgetary practice of special-program methods, which is a key feature of the ongoing budgetary reform in the country. The main phases of the reform of the budgetary process are analyzed, from the formulation of programs for socio-economic development and the first attempts to apply the tools of program budgeting (the formulation of special federal programs) to the preparation of the federal budget on the basis of government programs and the transition to a program-based budgetary format for constituent entities of the Russian Federation.

Keywords: budgetary reforms; special-program methods; special federal programs; special government-agency programs; results-based budgeting; evaluating program effectiveness

The purpose of the article is to analyze the key results of current budgetary reforms; to diagnose and identify the strategic problems impeding the process of introducing special-program methods into Russian budgetary practice; and to propose a set of practical measures to streamline the administration of government programs.

The paper accomplishes the following tasks:

- assesses the phases of the introduction of special-program methods into the budgetary process of the Russian Federation (RF) in terms of successes and failures;

* Translated by *Steven Shabad*.

- identifies the major flaws in government programs stemming from the unsatisfactory quality of their formulation, including the absence of a direct link between the objectives, actions, and performance indicators of government programs, and by the choice of tools for evaluating them;
- defines the key elements of effectiveness and proposes criteria of effectiveness that should be applied when evaluating the results of the implementation of government programs;
- examines the specific features of various groups of indicators in the case of concrete government programs, proposes model indicators, and formulates an algorithm for evaluating the effectiveness of environmentally oriented government programs;
- identifies key problems that arise in the process of formulating and implementing the government programs of constituent entities in the RF and the factors preventing their transformation into an effective tool for achieving the strategic objectives of the country's development;
- formulates practical recommendations aimed at making government programs more effective at the federal and regional levels, including recommendations for increasing the transparency of budgetary procedures.

The massive scale of the budgetary reforms makes it difficult to describe in detail all of the actions that have been taken to modernize public finance. Therefore, this paper will focus on the introduction of special-program methods into budgetary practice, which the authors believe is the key aspect of the ongoing budgetary reform in Russia.

The prerequisites for the transition to program budgeting

The starting point for the transition to program budgeting was the entry into force of Federal Law No. 115-FZ of July 20, 1995, "On Government Forecasting and Programs for the Socio-Economic Development of the Russian Federation," which defined the objectives and content, as well as the general procedure, for drawing up forecasts and programs for the socio-economic development of the RF. This law subsequently became the foundation for creating a legal framework in this area.

Socio-economic programs for the medium term (Afanasiev & Shash, 2014, p. 56) began during this period to be based on data from the long-term forecast and strategy for socio-economic development. These documents were used as a guide in drawing up regional socio-economic programs, which were supposed to become tools for a comprehensive analysis of the situation in the constituent entity of the federation and for formalizing the priorities of socio-economic development and the planning of key activities to be funded by budgets at all levels in the medium term. Thus, the use of comprehensive programs of regional development in present-day Russia developed steadily; in 2008 the number of regional programs in effect in the country reached 50 (the most since the reforms began).

These regional programs were expected, on the one hand, to be organically built into the documents that defined the priorities for the development of the country as a whole, and on the other, to make it possible to coordinate sectoral

priorities within the region. During this period the transition to special-program methods of administration allowed planned budget expenditures to be linked to the priority areas of the country's policies by shifting the focus from managing costs to attaining important socio-economic objectives.

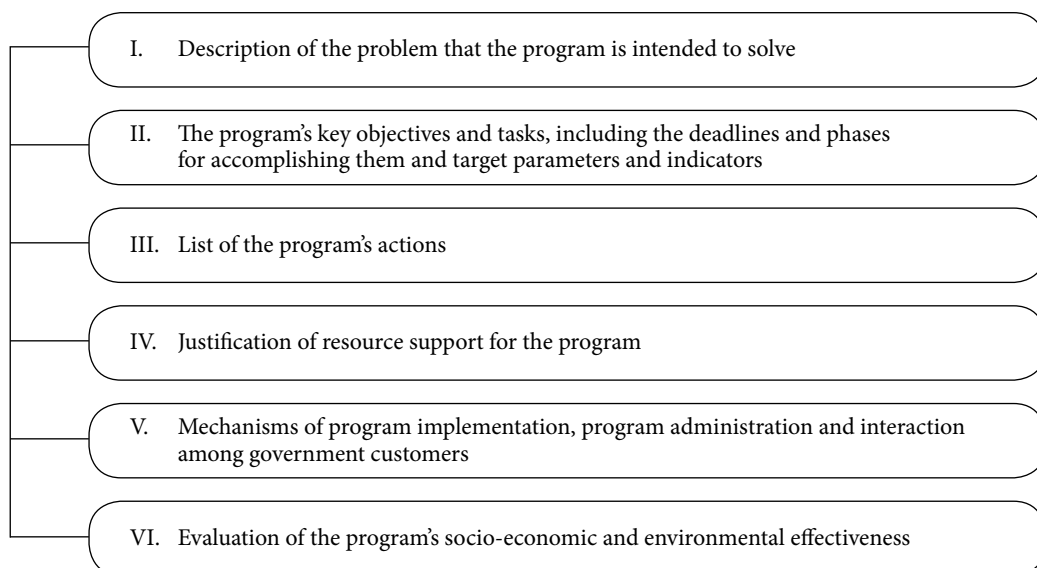
The next phase in Russia's budgetary reforms – in the late 1990s and the 2000s – was the implementation of a whole host of special federal programs (SFPs), for which the regulatory framework derived from Resolution No. 594 of June 26, 1995, of the Russian Federation Government, "On Implementation of the Federal Law 'On Deliveries of Goods for Federal Government Needs,' " and Resolution No. 842 of December 25, 2004, "On Revisions to the Procedure for Formulating and Implementing Special Federal Programs and Intergovernmental Special Programs to Which the Russian Federation is a Party."

These programs became one of the most important means of pursuing the Russian state's structural policy and of actively influencing socio-economic development, since they were focused on implementing the most important, large-sale investment and scientific-technical projects for the country that are aimed at solving systemic problems that fall within the jurisdiction of federal authorities.

The guidelines for implementing SFPs provided for an open tendering procedure for allocating funds, experts' assessments of the results of project implementation, a clear-cut definition of areas of activity, and earmarking of government investments, which was supposed to promote the development of competition among the recipients of budget funds for additional funding sources and more efficient utilization of budget funds. The structure and phases of the formulation of SFPs are shown in Figures 1 and 2.

Figure 1

Structure of a special federal program (SFP)



Source: Afanasiev, Shash, & Belenchuk, 2012, p. 157.

Figure 2

Phases of formulation and implementation of a special federal program

PHASE 1	Choice of a problem for program formulation
↓	
PHASE 2	Decision-making to draw up a program and its formulation
↓	
PHASE 3	Expert review and evaluation of programs
↓	
PHASE 4	Program approval
↓	
PHASE 5	Program administration and oversight of implementation

Source: Afanasiev, Shash, & Belenchuk, 2012, p. 160.

However, an analysis of the experience of introducing SFPs in the Russian Federation in the early 2000s suggests that they have not become truly effective and have been transformed from a tool for consolidating resources in priority development areas into a means of justifying additional funding for the current activities of government authorities (Afanasiev, Shash, & Belenchuk, 2012, p. 161).

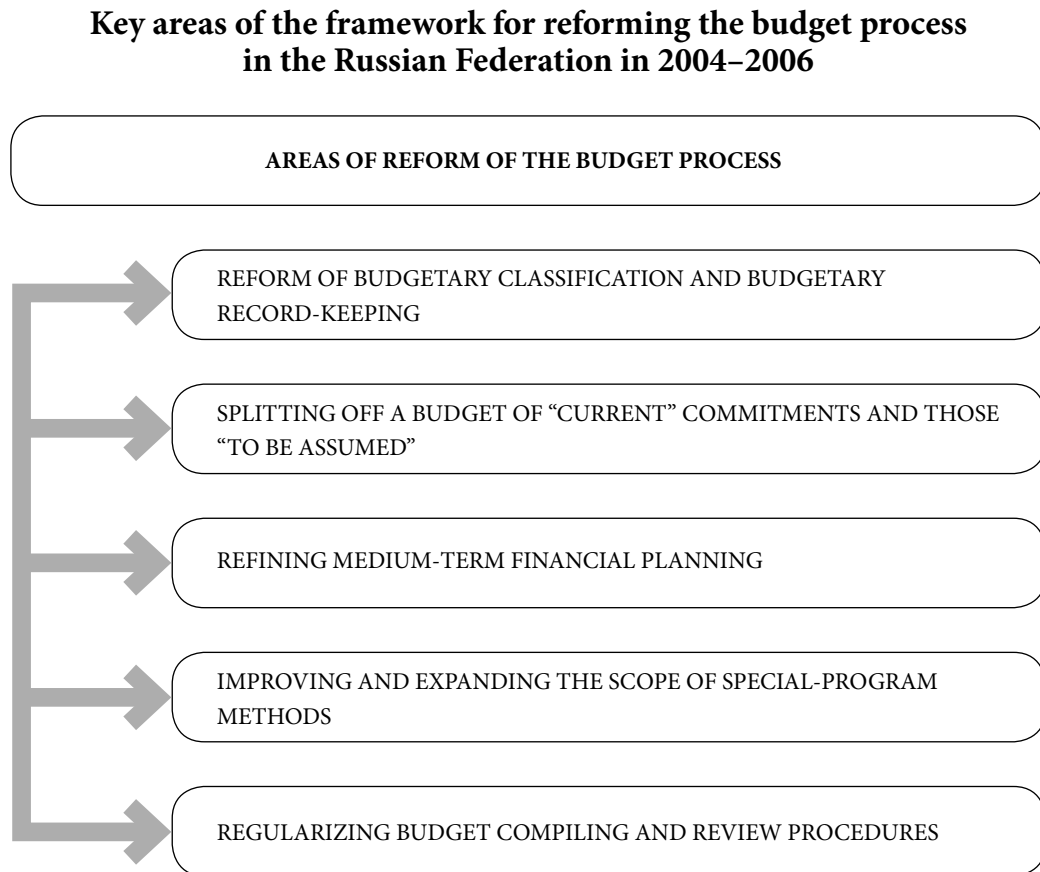
It should be stressed that the ineffectiveness of SFPs stemmed mainly from the unsatisfactory work of government customers at every phase of the life cycle of these programs, that is, during their formulation, implementation, and working-out of oversight mechanisms. Nevertheless, at that time special federal programs were the most transparent and refined tool for implementing public policy by using special-program methods.

Medium-term budget planning and results-based budgeting

The need for modernizing special federal programs in the mid-2000s in order to make them more effective and productive was dictated both by the tasks of achieving a high rate of economic growth and by the restructuring of the system of government that was in progress during that period. As a result, the Russian Federation Government adopted Resolution No. 249 of May

22, 2004, “On Measures to Increase the Productivity of Budget Expenditures,” whose implementation included approval of the Framework for Reforming the Budget Process in the Russian Federation in 2004–2006 in the areas shown in Figure 3.

Figure 3



Source: Produced by the authors on the basis of the provisions of Russian Federation Government Resolution No. 249 of May 22, 2004.

This became the foundation for building a legislative framework for a transition to medium-term financial planning and results-based budgeting (RBB) (Afanasiev & Krivogov, 2006, p. 36).

The transition to multiyear budget planning, which marked the beginning of the next phase of the budgetary reform, created new opportunities for increasing the effectiveness of program methods. The annual cycle of budget plans was coming into conflict with the ideology and practice of using program tools, which made it necessary to expand the horizon of budget planning. In addition, the introduction of RBB required the establishment of clear-cut rules for modifying the amount and structure of budget appropriations during a regular budget cycle, which made the Russian budget more predictable and hence more stable.

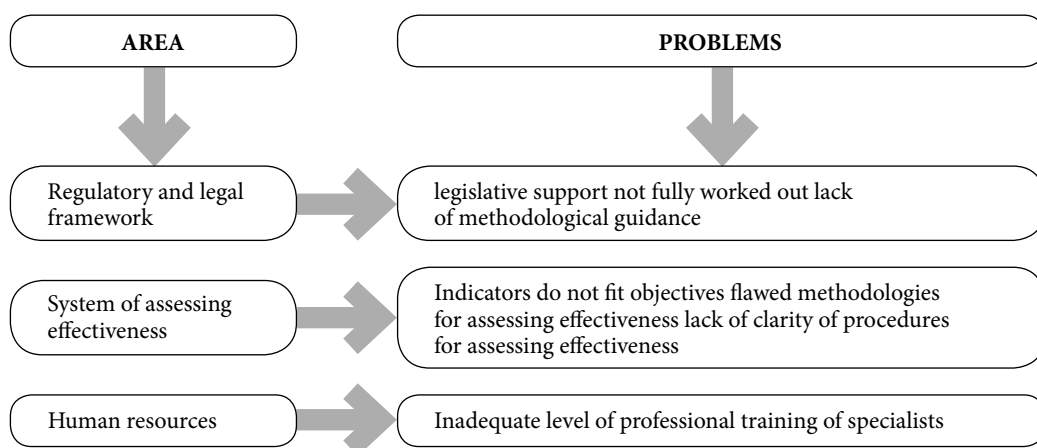
The effectiveness of new reporting requirements, however, did not meet expectations, and as a result, as part of the implementation of the Framework for Reforming the Budget Process, the Russian Federation Government adopted Resolution No. 239 of April 19, 2005, “On Approval of the Statute on the Formulation, Approval and Implementation of Special Government-Agency Programs.”

A special government-agency program (SGAP) contained a set of interconnected actions aimed at accomplishing a concrete tactical task described by measurable indicators – quantitative characteristics for each year of its implementation. In addition, these budget programs were to include indicators for determining the degree of attainment of planned results and objectives, as well as the planned level of budget appropriations.

An analysis of the use of SGAPs as a tool of budget planning in all of the constituent entities and in more than thirty of Russia’s municipalities identified problems in a number of important areas (Fig. 4).

Figure 4

Key problem areas in the implementation of special government-agency programs (SGAPs)



In addition, the analysis showed that the ineffectiveness of SGAPs derived in large part from the fact that regions directly duplicated the federal experience without taking into account the characteristics of their specific regions and without linking them more precisely with their own powers, spending commitments, and project funding (Afanasiev & Shash, 2014, p. 51). For example, when many Russian constituent entities worked out a methodological framework, they took RF Government Resolution No. 239 of April 19, 2005, as a basis, which reproduced defects and outright errors that were made at the federal level. Moreover, despite the fact that this type of program was created in order to regularize the budget’s current spending commitments, in practice the authors of government-agency programs often used them as a means of arguing for obtaining additional budget funds.

None of these setbacks, however, led to an abandonment of introducing special-program administrative methods into the budget process, the next phase of which was the appearance of government programs.

The formulation and implementation of government programs

The formulation of new budget programs was launched in August 2010 with issuance of the Russian Federation Resolution (No. 588) “On Approval of the Procedure for Formulating, Implementing, and Evaluating Government Programs of the Russian Federation.”

The formulation of government programs may be regarded as an attempt to consolidate all previously used tools for achieving the objectives of public policy. Russia at present has a whole host of high-level government tasks that can be accomplished only with the participation of several ministries. Such tasks cover integrated currents in public policy that are pursued specifically in the form of RF government programs, whose principal indicators must be reflected in a medium-term forecast for the country’s socio-economic development.

Beginning in 2011, the rendering of the expenditure portion of the federal budget in program format became one of the main tasks of the RF Government Program to increase the effectiveness of budget expenditures for the period up to 2012 (approved by Directive No. 1101-r of June 30, 2010). As a result, the expenditure portion of the budgets of all subsequent periods – 2011–2013, 2012–2014, 2013–2015, and 2014–2016 (along with the traditional one) – was partially presented in program format (Table 1).

Table 1

Program expenditures and nonprogram expenditures in the RF budget, 2011–2016 (billions of rubles, %)

RF federal budget expenditures	2011–2013		2012–2014		2013–2015		2014–2016	
	bln rubles	in %	bln rubles	in %	bln rubles	in %	bln rubles	in %
program expenditures	27,392.2	80.4	38,447.2	93.8	20,753.1	48.1	25,161.7	56.5
nonprogram expenditures	6,679.9	19.6	2,522.7	6.2	22,467.5	51.9	19,348.0	43.5
Totals	34,072.1		40,969.9		43,220.6		44,510.2	

Source: Official website of the Ministry of Finance of the Russian Federation (ww.minfin.ru).

The program portion of the Russian federal budget over the past four budget cycles has been presented in the form of the totality of government programs, grouped into five main blocks. In addition, the number of programs being implemented and the amounts of their funding have been updated in each subsequent budget cycle (Table 2).

Table 2

Allocation of budget funds by key blocks of government programs, 2011–2016

Program block	Number of government programs by blocks				Funding, billions of rubles			
	2011–2013	2012–2014	2013–2015	2014–2016	2011–2013	2012–2014	2013–2015	2014–2016
Innovative development and modernization of the economy	17	17	17	17	4,710.7	5,982.7	5,594.3	6,210.7
New quality of life	11	13	12	12	14,495.5	18,500.8	9,749.3	10,279.0
Efficient government	5	5	5	4	4,890.3	4,412.7	3,378.5	3,549.2
Balanced regional development	4	4	5	5	782.5	1,890.3	2,008.7	2,262.6
Safeguarding national security	2	2	1	1	2,513.2	7,660.8	22.4	5.3
Expenditures on activities in RF government programs that are state secrets								2,854.9
TOTALS:	39	41	40	39	27,392.2	38,447.2	20,753.1	25,162.2

Source: Official website of the Ministry of Finance of the Russian Federation (ww.minfin.ru).

As Table 1 shows, the program portion of federal budget expenditures began to decline in 2013, a result of the decrease in the number of government programs. These were programs with a large amount of funding, including the program to develop the pension system. This increased the share of nonprogram expenditures, since budget appropriations for the development of the pension system were planned in the amount of 9,320.1 billion rubles. In late April 2013 the State Duma adopted amendments to the Budget Code (No. 104-FZ of May 7, 2013) that were needed for the transition to a full-fledged program budget. These legislative revisions were expected to serve as an incentive for the Russian federal budget in the next budget cycle, 2014–2016, to be produced entirely in program format. But this did not happen. And as Table 1 shows, the share of program expenditures in the federal budget in 2014–2016 was 56.5 percent (an increase of only 8.4 percentage points over the previous budget). The reason for this was that two government programs that were intended to support national defense and develop the pension system and that provided for a large amount of funding were not adopted in 2014. Thus, 8,141.7 billion rubles were to be allocated for development of the pension system and 8,925.3 billion rubles for secret expenditures, including financial support for national defense. In the end, these expenditures remained in the “nonprogram” portion of budget expenditures.

In addition, inattention to the Russian economy's structural problems at a time of deteriorating international conditions and economic sanctions that were imposed became a serious obstacle to a transition to a full-fledged program budget. The unfavorable macroeconomic situation and the lack of incentives for development of the real sector of the economy have resulted in a recession and have limited internal opportunities for economic growth. All of this has adversely impacted financial support for government programs due to the need for substantial budget adjustments, since the draft federal budget for 2014–2016 was prepared at a time when previously forecast revenues were declining.

It is no accident that the idea of cutting government spending was the main thrust of the President's Budget Message of 2013. Sequestration affected most areas of budget expenditures. Worst hit was the housing and utilities sector, on which spending was to be reduced by roughly one-quarter (37 billion rubles). Spending on education was cut by 13 percent (or 88 billion rubles). In addition, a draft was prepared for optimizing government expenditures that would cut them by 1.1 trillion rubles, including by changing the procedure for funding the pension system and restructuring the public administration sector. Naturally, all of this, along with the worsening forecasts for the revenue portion of the budget, could not help but impact the amounts of funding and the allocation of budget resources for government programs in progress. Underfunding, however, is not the main reason for their ineffectiveness; a number of complex problems remain, and vigorous measures must be taken to solve them.

What is an effective government program?

The government programs being implemented in Russia have substantial differences from the majority of public programs being implemented in the United States, Canada, France, Sweden, South Korea, and other countries. Essentially they are more in line with the "missions" in France and "interagency programs" in South Korea. Each government program in the Russian Federation has its own structure and may include:

- subprograms and/or special federal programs;
- special government-agency programs and/or principal measures;
- measures.

Therefore government programs contain significant variations, based not only on the scale of the tasks to be accomplished but also on structural elements.

The multifaceted nature of government programs requires that even during the phase of the formulation of the federal budget, they must meet certain conditions, which may be regarded as the key elements of the effectiveness of government programs:

- clear formulation of the program objective;
- development of a logical structure for the program;
- a sound system for evaluating program effectiveness.

To be fair, it should be noted that this list is by no means complete. For example, there are a number of other requirements (including the definition of program subobjectives for each participating ministry; the allocation of responsibility

for the results of program fulfillment among participating ministries; the design of an incentive system for achieving targets) that are no less important. The latter, however, are not crucial, since without the first three, it is altogether impossible to talk about the effectiveness and productivity of budget expenditures (which is what special-program budgeting is actually aimed at).

The application of special-program budgeting methods in Russia is continuously developing, moving toward a modernization of the regulatory and legal framework. In December 2013 the Russian Federation Ministry of Economic Development issued an order approving the new version of the guidelines for the formulation and implementation of government programs. The new guidelines contain a list of requirements for objectives, which must conform to the priorities of public policy for the implementation of government programs and define the end results of their implementation. Furthermore, the objectives of a government program must possess such characteristics as specificity (the objective must be consistent with the domain in which the government program is implemented); concreteness (no fuzzy, obscure formulations that allow for an arbitrary or ambiguous interpretation); measurability (the attainment of the objective can be verified); achievability (the objective must be achievable during the period of implementation of the government program); relevance (conformity of the formulation of the objective with the expected end results of the implementation of the program). In addition, the formulation of the objective must be concise and clear and not contain special terms, references to other objectives, tasks, or results that are corollaries of achieving the objective itself, or a description of ways, means and methods of achieving it.

Our analysis, however, suggests that in most cases government programs need to be further refined, for example, with regard to formulating objectives. We can cite, in particular, government program 05, "Providing High-Quality and Affordable Housing and Services for RF Citizens," in which neither of the objectives – "Improving the affordability and quality of housing for the public" and "Improving the quality and reliability of the provision of housing and utility services" – meets the requirements of current guidelines. All of this also applies to other government programs, since it is impossible to regard as concrete, achievable, realistic, and measurable such objectives as: "Making health care accessible and improving the effectiveness of health-care services, the amount, types, and quality of which must be in line with the morbidity level, the public's needs, and advanced medical achievements" (government program 01, "The Development of Health Care") and "Creating legal, economic, and institutional conditions conducive to the effective development of the labor market" (government program 07, "Support for Employment of the Population").

It must be acknowledged that there are serious problems with the logical structures of programs, most of which lack sections containing information about their interconnection with related government programs. In addition, disagreements over the approval of ceilings of budget appropriations for their implementation led to a point where a "compromise" solution was worked out in 2013 that provided for the possibility of formulating all government programs in two versions or scenarios: a baseline one (within the framework of the adopted three-year

budget) and a supplemental (preferred) one, which would provide for additional budget appropriations with an appropriate modification of targets. The result was that the majority of approved government programs in 2013 were approved in two scenarios (baseline and supplemental). Moreover, the approved programs were formulated in different formats, since substantial changes had occurred during this period in the regulatory and legal framework. This resulted in the fact that in the middle of 2014, all current government programs underwent a substantial reworking. The new versions of the government programs, however, are also far from being perfect (<http://programs.gov.ru>).

It must be noted that if the first two elements of the government programs do not meet the requirements, it is pointless to speak of a system for evaluating their effectiveness, since it is impossible to evaluate a program's effectiveness without a clear understanding of exactly what results must be achieved.

Moreover, one of the basic conditions for government programs to be effective is that there should be a direct relationship between actions and the parameters of the evaluation. If we try to trace that relationship, a whole host of questions arise. Take, for example, the government program "The Development of Education for 2013–2020," whose objectives are:

- to provide a high quality in Russian education based on the changing needs of the population and the long-term challenges of the development of Russian society and the economy;
- making youth policy more effective for purposes of the country's innovative social development.

The proposed indicators (there are seven in all) include those presented in Table 3.

Table 3

Indicators of the government program for the development of education

Indicators	2013	2014	2015	2016	2020
Percentage of the total population 5–18 years of age covered by education	98.5	98.3	98.0	98.0	98.0
Percentage of young people 14 to 30 years of age who participate in the activities of public young people's associations	21.0	22.0	23.0	23.0	23.0
Percentage of children in families with incomes below the poverty level	26.4	26.0	25.8	24.2	20.9
Total fertility rate	1.643	1.664	1.685	1.711	1.815

Source: Created by the authors.

It is not very clear how one can tie these indicators to the declared objectives – specifically, how it is possible, by means of a reduction (even a small one) in the percentage of young people receiving an education and an increase in the number of young people taking part in public activities, to provide a high quality of education and at the same time promote innovative and socially oriented devel-

opment of the country. It seems that this program needs to be seriously revamped with regard to developing a system for evaluating effectiveness.

Obviously, an indicator such as total fertility rate is not related in any way to the stated objectives of the government program, and therefore the effectiveness of budget expenditures on this program comes under question.

There are no fewer contradictions in the objectives and indicators of the government program "Economic Development and an Innovative Economy." The first thing to point out is the effectiveness of the objectives. It is not very clear why one of three stated declared objectives is "to make public administration more efficient" (the other two are: to create a favorable entrepreneurial climate and conditions for doing business and to increase the innovative activities of business) and to which objective, for example, the indicator "level of accessibility of official statistical information" corresponds.

These examples clearly demonstrate that a number of objectives are not effective, and as is well known, objectives that are not precisely formulated often may "lead in the wrong direction." You can be effective, carry out all of the stated activities, but move in the wrong direction.

Constructing a system for evaluating the effectiveness of government programs

The question of which parameters to include in a system for evaluating effectiveness is essentially a matter of receiving feedback for the improvement of government programs. Besides audit functions, an important aspect that should be kept in mind is whether the parameter/indicator provides information about what is happening e.g., quality, cost, etc.). Information on the changes that are taking place are provided specifically by parameters of effectiveness that represent the relationship between the degree to which the planned results have been achieved and the use of a certain amount of budget funds. Another problem is the fact that the proposed methodologies of government programs do not provide an evaluation of parameter levels with reference to funding amounts from each funding source (in addition to the variety of options for calculating parameters of effectiveness and of methods of obtaining reporting data).

The specific nature of the objectives, tasks, activities, and results of some government programs is such that the benefits from their implementation are indirect, circuitous, and pertain not only to the development of the sectors in which such programs are implemented but also to the living standards and quality of life, the social sector, the economy, public safety, government institutions, and so forth. All this makes it impossible to adequately evaluate the effectiveness of government programs. In addition, when evaluating a whole host of Russian government programs, one must pay special attention to calculating parameters not only of economic but also of social effectiveness. If we look at Russian practice, we will see that this is especially applicable to socially oriented programs in the "New Quality of Life" block, such as "Support for Employment of the Population," "The Development of Health Care," "The Development of Education," "The Development of the Pension System," and others.

We will now examine the specific nature of various groups of parameters in the case of the implementation of the subprograms included in the government program “Environmental Protection” for 2012–2020 (the “New Quality of Life” block) with 2014 funding of 31.7 billion rubles, the purpose of which is to raise the level of environmental safety and to preserve natural systems.

When formulating and implementing environmental subprograms (“Regulating the Quality of the Environment,” “Russia’s Biological Diversity,” “Hydro-meteorology and Environmental Monitoring”), it is important to orient expenditures toward achieving specific objectives and to evaluate their effectiveness on the basis of measurable indicators. One should therefore take into account a whole set of parameters that allow for evaluating not only environmental and social but also economic effectiveness (Afanasiev & Shash, 2013, p. 61).

Examples of parameters for environmental programs are shown in Table 4.

Table 4

Examples of parameters for evaluating the effectiveness of environmental programs

Parameters of effectiveness of environmental programs	
Parameters of environmental benefits	Share of solid-waste generation per capita*
	% of production-waste generation
	% of production waste recycled
	% of consumption-waste generation
	% of consumption waste recycled
	% of enterprises that improved their level of hazardous emissions
Parameters of social benefits	% of morbidity rate caused by environmental situation
	% of mortality rate caused by environmental situation
	Social benefit from environmental investments
Parameters of economic benefits	Resource-intensiveness of the economy
	Energy-intensiveness of production
	Proportion of environmentally clean output
	Economic benefits from environmental investments
	Increase in value of lands after environmental-protection measures
	Increase amount of fines for violation of environmental rules
	Amount of annual economic harm from deterioration in condition of the environment

Source: Created by the authors.

*It is important to include this parameter, since the average generation of solid household waste per capita is approximately 0.4 ton. The levels of solid-waste recycling are no less important, since our country currently reprocesses less than 40 percent of industrial waste and only 7–10 percent of solid household waste. Meanwhile, the annual increase in solid household waste is becoming one of the major pollutants of the environment.

The system for evaluating the effectiveness of environmental programs must also take into account *parameters of environmental effectiveness*, which must help to evaluate in the most objective manner possible the impact of measures taken on the environment, as manifested in an improvement of the composition of water, air, soil, and the environment as a whole, including an increase in a region's assimilative capacity. They may also be parameters showing the downward trend in the amount of pollutant emissions and discharges as a result of using highly efficient waste-treatment facilities, introducing advanced production technologies, and creating no-waste production lines, which can have a significant positive impact on the environment and on the increase in its biodiversity.

This group of parameters is of primary importance, since almost 60 percent of Russia's population currently lives in environmentally polluted territory and more than 33 percent of city dwellers live in cities with a high level of air pollution.

Parameters of *social effectiveness* should reflect the degree of utility for the population and society as a whole from implementing environmental measures, specifically evaluate what changes occurred in the morbidity rate and the mortality rate of the population living in the unfavorable environmental zone as a result of reducing, for example, hazardous emissions into the environment.

Social and environmental effectiveness may be manifested, for example, in an increase in life expectancy and the preservation and restoration of natural resources, as a result of limiting or eliminating the negative impact of economic and production activities on human health and the environment.

Parameters of *economic effectiveness* should evaluate the economic effect from implementing environmental measures, such as the amount of economic benefits, both for consumers of government services (legal entities and individuals) and for the government agencies implementing these programs. In particular, the economic effect may be manifested, for example, in an increase in the value of preserved natural resources and a decrease in budget expenditures on health care for the treatment of illnesses caused by environmental problems.

It should be noted here that the implementation of an environmental program that is ineffective for the environment and for society cannot be considered sound even if it is economically beneficial.

The development of a system for evaluating the effectiveness of a government program is not especially difficult, since during this phase it is usually a matter of evaluating the attainment of overall final objectives. For example, in environmental programs aimed at preserving/improving the environment, such a parameter may be a number for air quality, defined by the amount of air per million particles (in %); in social-block programs aimed at reducing unemployment and poverty, one can use indicators of employment and the share of the population with incomes below the poverty level.

At the same time, the development of a system for evaluating effectiveness at the subprogram level may involve serious difficulties. A whole host of experts point to the problem of choosing parameters for evaluation that correspond to the tasks of the subprogram. The reason for this is that in the context of subprograms, as a rule, there is a greater need for collecting and evaluating data.

The results of the evaluation may be used to analyze the effectiveness of the actions of a program. This will make it possible to improve the quality of the formulation of similar programs. If a program is designed for several years (which is typical for environmental programs), then an annual evaluation of the results obtained will allow for adjusting the program's actions in subsequent years.

For the actions of environmental programs, there should be a mandatory evaluation of their positive impact on the environment. In addition, the evaluation of their effectiveness requires taking into account the natural and climatic characteristics of each region that is covered by the program.

The evaluation of economic effectiveness should be preceded by an evaluation of environmental and social effectiveness, since the economic benefit from implementation of programs is measured to no less an extent, and even more, by social and environmental benefits and losses. To this end, one should use special methods such as a cost-benefit analysis and a cost-effectiveness analysis, which best fit the evaluation of environmental actions.

Other methods that better suit other types of programs may also be used for the evaluation procedure. The set of evaluation methods should be formed according to the specific nature of the government program.

The program budget from a regional perspective

The budget-reform process, especially with regard to introducing special-program budgeting in Russia, is continuing to develop. As part of the transition beginning in 2016 to preparing budgets in a program format, regions must do a great amount of work in the immediate future, including work to build the varied current programs (SFPs, various kinds of regional programs) into the new budgeting model.

Budgets have already been produced on the basis of government programs in almost twenty Russian constituent entities, including the city of Moscow; Volgograd, Leningrad, Kaliningrad, Penza, Rostov, Tver, Sverdlovsk, Murmansk, and Omsk regions; Khabarovsk and Primorye territories; the Republic of Chuvashia; and others. In addition, regulations governing the procedure for formulating and implementing government programs have been adopted in almost fifty regions. Substantial progress was achieved in 2013–2014 with regard to producing program budgets in regions, since, as data from the Ministry of Finance of the Russian Federation show that in 2012 the share of program expenditures in a whole host of constituent entities was not more than 5 percent. It can be concluded, therefore, that last year, despite the decrease in budget revenues and the increase in the budget deficit, Russia's regions took vigorous actions to introduce program-budgeting technology.

Russian regions take a variety of approaches to producing a program budget. One of the indications of this variety is the number of government programs. It ranges from 49 (Republic of Dagestan) to 11 (Chukchi Autonomous Region). It is interesting that 16.9 percent of the budget expenditures of the Republic of Dagestan are earmarked for implementing its 49 government programs in 2014, yet the list of government programs of the Republic of Dagestan consists of 53 programs. There are also significant differences in the effective periods of the government programs. Although the most common version is a government program for

the period up to 2020, there are cases in which programs are adopted for shorter periods (beginning with three or four years).

The number of government programs in various Russian regions is probably determined by the desired degree of detail. In this regard there are attempts to consolidate the “uncombinable” – for example, the Tula Region adopted the government program “The Development of Education and Archiving in the Tula Region.” Here is an example of excessive detail: The Republic of Dagestan adopted the government program “The Training of Dagestani Athletes for the XXXI Summer Olympic and XV Summer Paralympic Games in 2016 in Rio de Janeiro, Brazil, the XXII Summer Deaflympic Games in 2013 in Athens, Greece, and the XXIII Summer Deaflympic Games in 2017,” with budget appropriations for 2014 totaling 104,617,000 rubles. On a parallel track is another government program, “The Development of Physical Fitness and Sports in the Republic of Dagestan,” with budget appropriations for 2014 totaling 94,085,000 rubles. This sort of “breakdown” seems highly debatable, considering the spending amounts that are provided for their implementation.

The experience of transitioning to program budgeting in various constituent entities of the Russian Federation shows that each of them, to a greater or lesser extent, has encountered a whole host of problems that seriously impede organizing the actual process of formulating government programs and approving the budget in a program format. These problems are both of an objective nature, involving problems with legal and methodological support, and of a subjective nature, involving administrative stereotypes in specific regions. In addition, these problems may be divided into external (those directly dependent on federal authorities) and internal (dependent directly on the regional leadership). Despite the substantial quantitative differences in the lists of government programs, however, all of the Russian regions that are developing program instruments tend to have similar problems. The reason for this is that in most cases Russian regions continue, with admirable consistency, to borrow federal experience (which is often not completely refined), thereby transferring to the regional level budget practices that are by no means the best. Nevertheless, some constituent entities of Russia (e.g., the Tver and Volgograd regions and the Republic of Chuvashia) have accumulated fairly positive experience in applying special-program budgeting, which can be used with success by other regions in formulating budgets on the basis of government programs.

The contours of new budgetary reforms

The next important area in continuing Russian budgetary reforms is a transition to long-term budget planning, which will take place within the framework of budget rules and the strategic planning system, since a law “On Strategic Planning in the Russian Federation” (No. 172-FZ of June 28, 2014) has been adopted. Its main purpose is to create a legal basis development, construction and operation of a comprehensive strategic planning system in the area of Russia’s socio-economic development and national security. The law expands the period of forecasting and planning beyond the framework of the budget cycle (three years) and regulates the adoption and implementation of medium-term (three to six years) and long-term (more than six years) decisions.

The adoption of this law requires substantial modernization of the budget laws, so in 2014 a new version of the Russian Federation Budget Code was adopted. It was intended to be a more systematized and convenient document that conforms to the new economic and budgetary realities. The principal complaints about the Budget Code have been that it lacks fundamental principles and contains numerous amendments. No one denies that the amendments improve the regulatory instruments, but there are already about a hundred of them, which significantly complicates their use. As a rule, these amendments were a response to some political tasks that came out of the Budget Message of the President of Russia. Therefore, two principles that are to be applied to the new version of the Budget Code are to systematize and codify it.

The adoption of these documents is of great importance, since, due to the specific features of the current system of public administration and budget planning in the Russian Federation, a number of problems arise, including the following:

- (1) difficulties in selecting parameters for the productivity of government programs due to their multifaceted nature and structural differences;
- (2) disagreements among the participants in the budget process regarding the composition and structure of federal budget expenditures on the implementation of government programs;
- (3) specific sectoral features of some government programs that must be taken into account when evaluating the effectiveness of their implementation;
- (4) the necessity of improving the system of governmental financial oversight to further ensure the economical and efficient utilization of budget funds;
- (5) the selection of tools for evaluating effectiveness, including the determination of parameters for the productivity of government programs.

In addition, as a result of the slowdown in Russia's economic growth, the allocation of budget resources constantly needs to be optimized based on adjustments in socio-economic priorities and the goals of public policy. Moreover, given that government services are provided on a nonmarket basis, it is essential to constantly improve work aimed at increasing the effectiveness of budget expenditures, since attaining a certain level of effectiveness is becoming an important phase on the path to improving the efficient operation of the public administration sector. This process, however, is a long way from being completed. For example, the transition to a full-scale program budget is postponed every year. The procedures for adopting amendments to legislative statutes that would make it possible to do this within the originally planned time frame have been extremely protracted. The Program for Improving the Effectiveness of Budget Expenditures Until 2012, one of the areas of which was to introduce special-program administrative methods, has smoothly changed into another one – “Program for Improving the Administration of Public (Governmental and Municipal) Finance for the Period Until 2018” – most of which repeats the tasks that were not accomplished under the previous one. One of the important areas of this recently adopted document continues to be the modernization of the budget process during the introduction of special-program administrative methods.

There is no doubt, therefore, that work should be continued on refining all of the types of budget programs that are being implemented in Russia, both with re-

gard to objectives and with regard to the system of parameters for evaluating effectiveness. At the same time, it is essential to fundamentally improve planning procedures. Above all, one should not plan what is basically unattainable: there must be complete conformity between the needs being planned for and existing financial capabilities, since for a whole host of programs there simply are not enough budget appropriations to carry out planned activities. Obviously, such budgetary decisions cannot be regarded as completely responsible.

The next problem is that in regard to the transparency of budget procedures the potential readiness of the government and society has not yet been transformed into actual mechanisms by which agencies will provide full budgetary information and the public will influence on the budget process. The disclosure of budget information, however, will have a beneficial impact on the quality of budgets at all levels. The initiative here must come not only from government entities; the Russian public must also play a role. Without such crisscross initiatives, it seems impossible make full use of all the advantages that a program budget (unquestionably) offers.

So experts and practitioners should focus their attention on introducing approaches into the Russian budget process that are aimed at efficient administration of government programs. What is difficult about this task is that the specific nature of the Russian program-budgeting model prevents the direct borrowing of methods that are successfully used in countries that have transitioned to the program-format budget.

As a result, despite a number of obvious achievements, the budgetary reform process has not been completed. All the more so since, at a time of economic turbulence, one cannot rule out the emergence of serious new challenges based on the exacerbation of domestic and foreign imbalances, which require constant adjustments of budget strategy and budget policy in the Russian Federation.

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THE ACCOUNTABILITY AND COST EFFECTIVENESS OF REGULATORY POLICY: THE CASE OF THE BANKING SECTOR*

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ABSTRACT

This paper examines the contradiction between the accountability and cost effectiveness of regulatory policy at a time when the “delegation” model is dominant. Using the banking sector as a case study, it shows the relationship between formal and informal practices during volatile international and domestic market conditions. The authors analyze the practice of regulation by the Bank of Russia (Bank Rossii), the central bank of the Russian Federation, of a minimum level of capital and risk management at a particular commercial bank. The analysis is based on regulations and consolidated statistical data from the central bank and reporting data from lending institutions. The authors’ principal conclusions show that, given the closed nature of the decision-making process, banking-sector actors set up unofficial interaction channels in addition to legal ones, and this intensifies distrust in the market. Hence the capital ratio standard that is used in the reporting documents of lending institutions is not an accurate indicator of a bank’s financial stability. Given the weak institutions, the tasks of cost effectiveness are better served by a hybrid model of accountability that is based on a balance between delegation and hands-on participation. This model limits the actors’ ability to unilaterally influence the regulator and thereby reduces the systemic risks of the banking sector.

Keywords: “delegation” and “participation” models of accountability; regulatory policy; level of trust; regulation of the banking sector; central bank policy; capital ratio.

An instrumental vision of the institution of public regulatory policy regards it as an indispensable form for achieving desirable and predictable effects (Salamon, 2002). At the same time, one of the key ideas of institutionalism lies in

* Translated by *Steven Shabad*.

affirming preferences of interests and values in regard to institutional forms and policy outcomes (Olsen, 2010). It turns out that an assessment of the consequences of activities in terms of the feasibility of regulatory decisions that measures the implementation of predetermined and formally stated objectives is inadequate for understanding the nature of interaction between the regulator and the regulated. The use of the criterion of accountability makes it possible to identify the procedural weaknesses of regulatory action and to focus on the risks of growth of the shadow economy. Specifically, in an undeveloped institutional environment, the mechanisms of accountability boil down primarily to prohibitions and sanctions. Under these conditions, secretive decision-making contributes to increased uncertainty in the regulatory mechanism and, simultaneously, stimulates the use not only of formal but also informal methods of combating its dysfunctions. Parallel structures (informal institutions) take shape where the key tool for implementing rules consists of negotiations by participants in regulatory policy that result in an increase in exceptions to the rules.

This paper considers accountability as a specific type of relation that denotes a dominant status of one actor over another in the process of interaction; the right of one actor to participate in another's activities, influence decision-making, and receive an accounting of the performance of obligations. Therefore the accountability of actors who are the objects of regulatory policy is a specific state of administrative relations in which the regulator has the right to audit the activities of market actors, including the right to cancel or suspend their administrative acts, while the latter are required to provide the necessary opportunities for such audits and report on their activities. Accountability characterizes the activities in terms of following formal rules, based on the criterion of comparing actual behavior with prescribed standards; hence the focus is not on outcomes but on process.

Accountability in this interpretation implies that the regulator has the right to include the actors of economic relations in the network of standards, to judge whether they are fulfilling their obligations in accordance with these standards, and to impose sanctions if it decides that the prescribed obligations have not been fulfilled. This incorporates the interaction between the competent government authorities and those who ensure the exercise of their administrative powers, including by means of informational support. This interaction is based on the legitimacy both of the operational standards of accountability and the powers of the parties to the interaction, in which one party exercises specific powers while the other supports their accountability (Oakerson, 1989).

In analyzing accountability relationships, the authors will use the delegation and participation models defined by Ruth W. Grant and Robert O. Keohane (2005). These models show that the "standards/information/powers/sanctions" mechanism operates in democratic countries when society has the ability to hold power-wielders accountable for abuses of power either as the source of that power (the delegation model) or as the body affected by it (the participation model) or both. Therefore the concept of accountability implies that the actors being held accountable must act in ways consist with existing standards of behavior or the prescribed sanctions (penalties) will be imposed on them for their failure to do so. Norms (standards) and sanctions are connected by means of the relevant com-

munications channels, through which the necessary information is regularly provided: in one direction, on the substance of the norms; in the other, on the degree of conformity (divergence) between the norm and real actions.

However, the legitimacy of standards, sanctions, and powers is apt to decline in an environment of weak institutions with a low level of confidence in the actual procedure for producing regulatory decisions. It should be noted here that, in essence, the external accountability that is considered within the framework of regulatory policy is an institutionally constructed communication that provides an exchange of resources between the administrators of government agencies and market actors. The economic actors have important resources that the administrators need, including information on their projects and the capacity to act. The administrators have their own resources, in particular, powers, finances, and support that are essential for the economic actors. Accountability in this sense may also be represented as a barter relationship, in which each party makes deals with the other party to exchange its needs and resources (Khillman, 2009).

Delegation performs its functions under a developed institutional system. This accountability model is not practiced without transparent procedures; that is, its implementation imposes a requirement that transparent rules be followed not only by the regulated party but also by the regulator. This requirement can be fulfilled in an environment of weak institutions if associations of businesses and specific market participants are included in the process of working out accountability standards, which implies a blurring of the boundaries between the delegation model and the participation model. Such a hybrid accountability model, by using negotiations between governmental and nongovernmental entities with a stake in joint efforts to achieve a mutually acceptable result, may include a filter to screen for the effectiveness of planned regulatory measures.

In order to achieve accountability that meets the criteria of democracy and simultaneously promotes effective government regulation, it is essential to find a balance between specific mechanisms of external and intra-organizational accountability. For this task to be accomplished, there must be not only institutions of accountability that are able to combine oversight of the use of delegated powers and intra-organizational accountability of administrative managers, but also well-developed consultative channels of communication and consensus decision-making procedures. In this connection we should note that various accountability mechanisms are suitable for the established practices of economic and political actors.

A prime example of such practices in Russia, in our view, is the interaction between commercial banks and their regulator, the Bank of Russia (Bank Rossii), the central bank of the Russian Federation (RF).

We will consider the typical practice of commercial banks that is the subject of the government's regulatory policy. Banking activities involve an intertwining of the interests of different actors that have various resources (economic, political, administrative, informational, analytical, etc.), both with regard to assessing their own risks and with regard to influencing the regulator's policy. The banking business is an activity with high risk, which does not always lend itself to a precise assessment. The reasons for this are, on the one hand, the low transpar-

ency of the banking sector and, on the other, the lack of incentives for linking information on the level of stability of a specific commercial bank with financial decision-making by economic actors. The level of detail of the information that is provided (e.g., the disclosure of the amount of loan loss reserves; information on unprofitable or nonperforming assets, etc.) prevents a potential investor or shareholder from adequately assessing the degree of acceptance of risk by a commercial bank.

The practice of banking activities proceeds from the need to re-allocate risk in the economy, when a bank accumulates risks for which it receives payment from other economic actors: “Banks are regarded not simply as risk-bearing companies but as companies for which risks are sources of profit” (Vine, 2014). For a potential depositor or creditor, putting available funds in a bank (in deposit or settlement accounts) is a method of saving money. A commercial bank invests these funds in assets with various levels of risk, thereby transferring this risk to the creditors and depositors. In an environment with a nontransparent financial market, banks that have a strong appetite for risk may offer a higher interest on deposit accounts, which will be a key reference point for potential depositors. As a result, banks with a small proportion of risky transactions find themselves in a worse market position. As researchers have noted, the stability of the banking system is largely determined not only by the level of competition and a display of sustainable growth but also by the aggregate level of risk (Zrazhevskii, 2007). It is revealing that Russian law highlights the maintenance of the stability of the banking system and the protection of the interests of depositors and creditors as the principal objectives of banking regulation and banking oversight (Federal’nyi zakon , 2014). Thus the functions of accountability include providing information that is required not only for legal regulation but also for enabling investors and depositors to make well thought-out financial decisions by reasonably assessing the risk level.

Accountability, however, is not an equitable interaction. On the one hand, the regulator has the right to prescribe rules and sanctions in order to implement accountability mechanisms. On the other hand, there is an informational asymmetry when the measure of knowledge about the level of risk of a commercial bank’s transactions diminishes along the chain: bank – regulator – investor (depositor). Conditions arise that promote a gap between public (external) accountability and its latent mechanisms. From the standpoint of external accountability, its actors must fulfill the directives of the regulator in good faith. The latter, however, may orient itself in its activities not only toward standards and rules but also toward the interests of various regulatory actors. Regulatory actors (subjects) that have substantial political resources may construct back-channels of interaction with regulatory authorities, thereby making it possible to influence their decisions, including guarantees of assistance in the event their financial situation deteriorates. In addition, there are state banks in the Russian banking market, which have access to relatively cheap resources (e.g., by borrowing funds from state companies). In obtaining preferences, major players are interested in preserving the back-channel mechanisms of regulatory policy, based on informal practices of harmonizing interests. The exceptions in regulatory policy become the rule when formal

standards and requirements are mandatory only for actors with a low capacity for political influence, which increases the costs to end users of their services and reduces the overall effectiveness of the banking sector.

This situation in the banking sector is exacerbated by the following factor. The mobilization of resources for risky but highly profitable transactions utilizes funds from less profitable markets, which unbalances the financial system as a whole. Naturally, the regulator responds with directives seeking to limit the potential risks of depositors and creditors. But a tight regulatory policy generates additional costs for stakeholders. Banks are forced to increase expenses by fulfilling the regulator's requirements, which becomes an additional burden for the bank's borrowers and clients, since the price of banking services rises. The ratio of administrative and managerial costs to assets in a five-year period in Russia's banking system increased by 125 percent, while it rose by 8 percent in Germany and 5 percent in China. In the United States this ratio fell by 1 percent and in India it dropped 23 percent (Tosunyan, 2014). In addition, the increase in restrictive actions by the regulator provides new incentives for actors with political resources of influence to seek new back-channels of interaction.

At the same time, major players have an interest in exceptions to the decisions that have a substantial impact on their business. But it is precisely the routine decisions of the central bank (revising the calculation of guidelines, imposing additional itemizations, clarifying specific rules) that transform the banking business into an endless fulfillment of new requirements from the regulator. This problem is typical not only for Russia. Arthur Burns, the former chairman of the Board of Governors of the Federal Reserve System in the United States, described banking regulation as "a legal thicket in which one loses one's mind," as a system whose components "compete in the absence of clarity" (Sinkey, 2007). The low level of transparency of the regulatory process undermines confidence in the formal procedures of accountability, which in turn increases the impetus toward back-channels of interaction.

The authors of this paper find it helpful to consider the risks of the established accountability mechanism in the case of the regulation of a minimum level of capital and the quality of management of bank risks at a particular commercial bank. The purpose of this analysis is to define specific markers for a transition to an institution of accountability oriented toward implementing a participation model in an environment where the banking sector has structural imbalances.

During the current stage of development of Russia's banking sector, the following processes can be identified as reinforcing its structural imbalances.

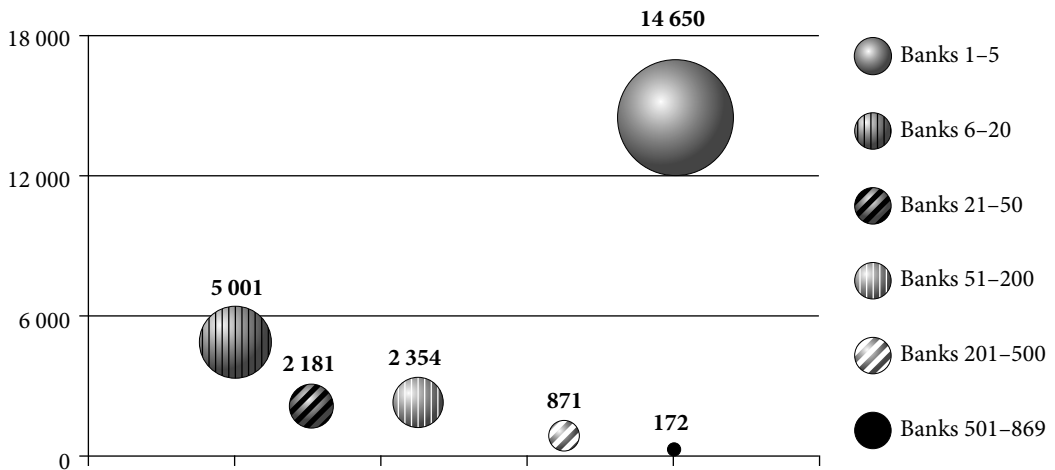
1. The market share controlled by a small group of major lending institutions is continually increasing (Timofeyeva, 2012), which is illustrated by Figures 1 and 2.

All five of Russia's largest banks (Sberbank, VTB [Vneshtorgbank], Gazprombank, VTB-24, Bank of Moscow) are banks with controlling government shares. In addition, the banks in which government bodies are present as shareholders automatically receive special status. This consists of a guaranteed market share; benevolent treatment from regulatory agencies; and an image, so rare in the Russian market, of a "reliable entity" with a transparent ownership structure (Artemev,

2010). Moreover, in the current unstable macroeconomic situation the chief reference point for most customers in selecting a financial intermediary is the amount of its capital and its market share. The latter enables the major banks to dictate their own terms to other market participants and strengthens their negotiating positions in interacting with the regulator.

Figure 1

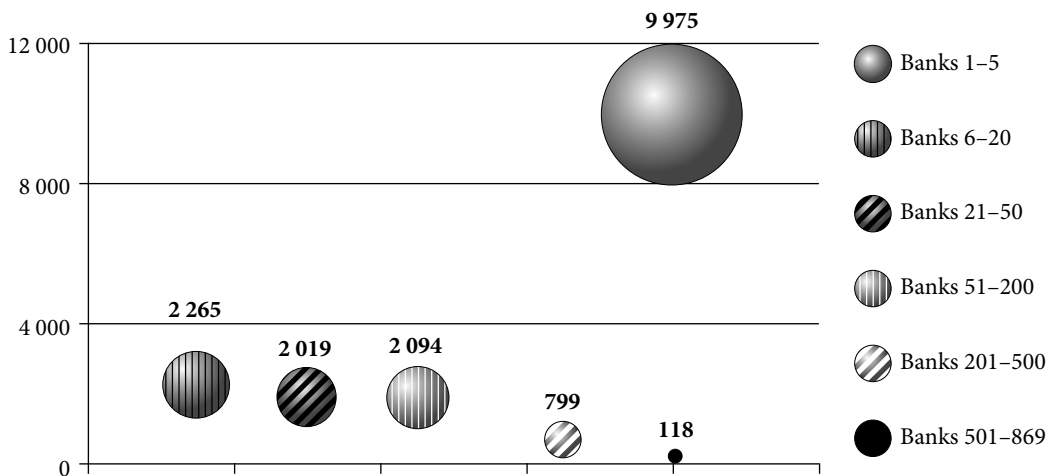
**Size of portfolio of loans granted to nonfinancial entities,
(billions of rubles)**



Source: Bank of Russia (2014d).

Figure 2

**Amount of deposits by individuals,
(billions of rubles)**



Source: Bank of Russia (2014d).

2. There has been a decline in the capital adequacy ratios of the major banks (Mamonov, 2012), which leads to increasing risks in the banking system as a whole (Table 1). A key factor in the growth of risks is the complex macroeconomic situation and the international sanctions, which limit the ability of Russian banks to raise financial resources in foreign capital markets.

Table 1

**Capital adequacy ratio
(H1 before 1/1/2014, H1.0 beginning 1/1/2014), %**

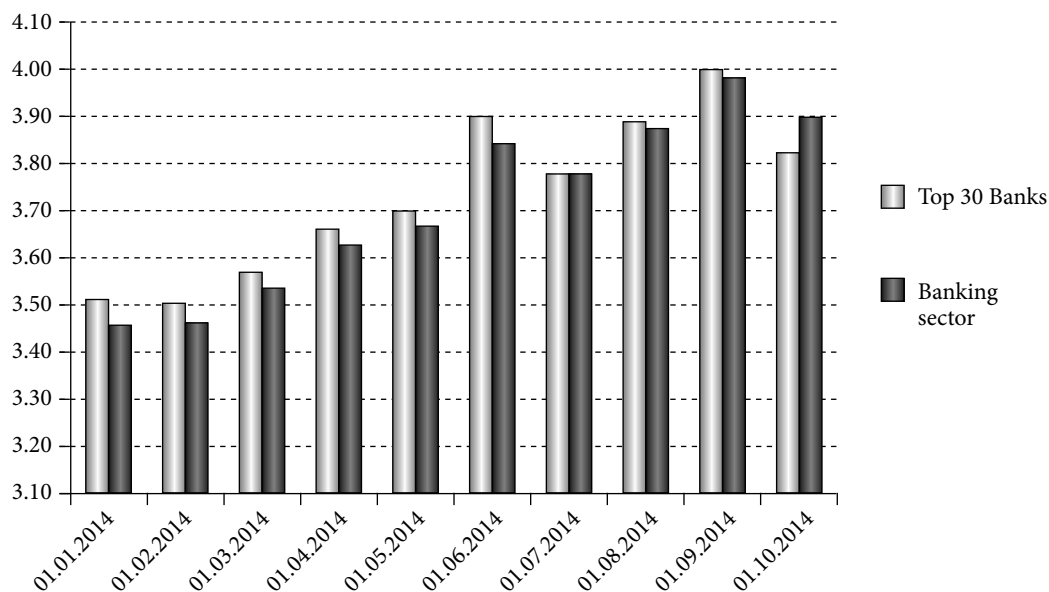
Bank	H1 as of 1/1/2014	H1.0 as of 9/1/2014
Sberbank	12.96	12.24
VTB	12.41	10.57
Gazprombank	11.43	11.15
VTB-24	11.00	10.90
Bank of Moscow	12.01	11.19

Source: Bank of Russia (2014b).

3. Increase in past-due arrears on loans. Beginning in 2014 the quality of the credit portfolio gradually declined for the entire banking sector, and the share of past-due loans has risen. The increased share of past-due loans causes an increase in reserves, which in turn leads to a diminution of a bank's capital. Figure 3 shows the trend in past-due arrears.

Figure 3

Share of past-due arrears (% of credit portfolio)



Source: Bank of Russia (2014e).

As is clear from the graphs, the banking sector shows a steady growth in past-due loans. This causes a deterioration of the quality of the credit portfolio, growth of reserves for offsetting potential losses from loans and other assets, and a decline in the capital adequacy level (a decrease in the value of H1.0). The growth of banking reserves, however, lags far behind the growth rate of past-due loans, something that can be attributed to two factors. First, commercial banks seek to rid themselves of bad loans by putting them up for sale to collection agencies. Second, one cannot rule out possible manipulations of reports on current reserves in order to understate the risks associated with specific assets. The latter factor causes a deterioration of the quality of capital, which is difficult to assess for stakeholders, especially in an unstable economic environment. The dearth of information and difficulties in assessing risks result in increased transaction costs. In addition, it fosters distrust of available sources of information (financial statements) and encourages the arrangement of back-channels of communication between market actors and the regulator. For example, G.A. Tosunyan, the president of the Association of Russian Banks, points out: "There is a kind of chain of distrust in the sector today: the Bank of Russia does not trust banks enough; banks do not fully trust their customers; customers in response do not trust the banks or their counterparties; to all this is added the factor of mutual distrust between the banks and the law-and-order authorities, the courts. As a result, the circle closes and a system of total distrust forms" (Tosunyan, 2014).

One of the lines of tension is the question of regulation of the levels of equity capital. Initially, banking-sector regulators sought an aggregate performance indicator for commercial banks that could reflect the coverage ratio and, simultaneously, served as a marker for regulatory authorities, investors, shareholders and bank managers. The role of such a marker was originally assigned to the equity-capital level of a lending institution.

As of today, the situation has substantially changed, and the amount of bank capital is determined on the basis of the level of accepted risks. The regulatory authorities' logic is simple enough: if a bank's management plans to conduct high-risk operations, it should take care of increasing capital. It should be noted that there are a number of rules that limit the right of lending institutions with a low capital level to provide specific types of banking services.¹ The central bank has set, effective January 1, 2015, a new minimum level of capital for banking institutions of 300 million rubles (Federal'nyi zakon, 2014). In addition, commercial banks are required to comply with the capital adequacy guideline (H1; and effective January 1, 2014, H1.0), which is calculated as the ratio of a bank's capital to its assets, weighted according to their risk level (Instruktsiia Banka Rossii, 2012).

Since 2013 the RF has pursued a policy of reducing the number of lending institutions. The regulator defines as one of the most important reasons for revoking a license "the pursuit of a high-risk credit policy and the failure to complete the establishment of loan-loss reserves that are adequate to accepted risks" (Ukazanie Banka Rossii, 2009). Table 2 shows a list of the banks whose licenses were revoked in 2014 (as of November 1, 2014). The following violations of accountability rules are usually cited as the official reasons for revoking the

license: investing the funds of depositors and investors in low-quality assets, loss of solvency or the establishment of reserves below the necessary level.

Table 2

**List of banks whose licenses were revoked
for conducting high-risk operations**

Commercial bank	Central bank license No.	Date of revocation of license to conduct banking operations	Level of capital as of last reporting date (thousands of rubles)	Level of capital adequacy ratio as of last reporting date
Simbirsk Regional Bank OJSC	653	11/11/2014	128,581 (11/1/2014)	13.25
IntrustBank Joint Stock Commercial Bank OJSC	3144	9/16/2014	1,906,849 (9/1/2014)	14.62
Fininvest Bank LLC	671	7/7/2014	2,176,182 (7/1/2014)	10.56
BFT Bank Commercial Bank LLC	2273	6/2/2014	664,800 (5/1/2014)	11.67
Moscow Lights Commercial Bank LLC	2328	5/16/2014	-417,918 (5/1/2014)	3.53
First Republic Bank OJSC	1730	5/5/2014	4,264,928 (4/1/2014)	10.71
Western Bank OJSC	2598	4/21/2014	3,171,783 (4/1/2014)	10.01
European Trust Bank Commercial Bank CJSC	2968	2/11/2014	n.a.	n.a.
My Bank LLC	2939	1/31/2014	2,185,415 (1/1/2014)	10.44
Bank for Project Financing Joint Stock Bank CJSC	1677	12/13/2013	3,569,001 (12/1/2013)	13.99
InvestBank Joint Stock Commercial Bank OJSC	107	12/13/2013	8,562,533 (12/1/2013)	10.39

Source: Bank of Russia (2014a).

It is clear from Table 2 that nine of the ten banks were meeting the requirements for the capital adequacy ratio. Eurotrust CB CJSC was not posting data on

the capital level and the mandatory ratios at the central bank's official website. For four banks (Simbirsk Regional Bank OJSC; IntrustBank Joint Stock Commercial Bank OJSC; BFT Bank Commercial Bank LLC; and Bank for Project Financing Joint Stock Bank CJSC), the capital adequacy ratio was more than 11 percent, which indicates a capital reserve. For five banks on the list the capital adequacy ratio is between 10 percent and 11 percent, which is a signal of problems that the lending institution may have. If these indicators are compared with the amount of the capital adequacy ratio for the five largest Russian banks, we will not see any advantages for the latter.

Tables 3, 4, and 5 show the level of account balances and the change in capital held by banks during the period immediately prior to the license revocation.

Table 3

**Change in customer account balances prior
to the license revocation, %**

Account type	Change during six months prior to last reporting date	Change during the month prior to the last reporting date
Current accounts of legal entities	-38	-29
Current accounts of individuals	7	14
Time deposit accounts of legal entities	-8	-19
Time deposit accounts of individuals	-7	-6

Source: KUAP, 2014.

Table 4

Change in capital and the H1.0 level, %

Indicator	Change during six months prior to last reporting date	Change during the month prior to the last reporting date
Capital	-12	-17
H1.0	-8	-6

Source: KUAP, 2014.

Obviously, the balances in the current accounts of legal entities are going down, while the balances in the current accounts of individuals are growing. The reason for this gap is that legal entities are better informed about the financial stability of the bank in which they are being served. But we should note that only in one of the listed banks (Simbirsk) were all of the funds withdrawn from the current accounts of legal entities. Among the banks in question, only in the European Trust Bank did the balances in the current accounts of legal entities rise from the previous month. The balances in the current accounts of individuals, conversely, increased on the average. At the Fininvest Bank, Investbank,

and First Republic Bank, the balances in the deposit accounts of individuals rose for the six months prior to the revocation of the license. These banks were fairly large; their capital exceeded 2 billion rubles. The total amount of customers' funds as of the last reporting date for the banks in question was 200.645 trillion rubles, of which the deposit accounts of individuals accounted for 143.532 trillion rubles (Table 5).

To be sure, the regulator's revocation of licenses from problem banks is aimed at protecting depositors and creditors against financial losses. To create an atmosphere of trust, however, the regulator's actions must be implemented as part of a clear strategy that is approved by all the market participants. But if these tough measures are sporadic and not always understandable to market participants, the latter are more likely to become increasingly distrustful of small and medium-size banks, which promotes a re-allocation of customers' funds to the largest state-owned banks. In addition, in an environment of nontransparent regulatory policy investors, depositors and creditors use the most varied methods to obtain additional information, including rumors.

The H1.0 ratio reflects the bank's capital adequacy for covering risks, but it does not show the quality of risk management. Yet it is precisely this quality that determines a bank's financial stability. In addition, the risk management system should be included in all of the bank's key business processes. Risk-management tools must also be introduced both at the strategic and at the tactical levels of bank management. But the determination of risk, its probability and ways of responding are where continual interaction between the regulator and commercial banks is important. The regulator's requirements are not always in line with these tasks. One example is the stress-testing procedure, in which the central bank worked out only the most general and fairly ambiguous requirements for how to conduct it, which did not spell out either the scenario requirements or a minimum set of variables that were needed to create such a scenario (Pis'mo Banka Rossii, 2012). The banks, following the central bank's requirements, formulate internal statutes on stress-testing and a stress-testing procedure, but sometimes do so in a fairly perfunctory manner, without integrating it into strategic management. Hence there is a danger of reducing the role of risk management to the creation of an informational setting that is comfortable for the regulator, customers, and shareholders and creates a false impression that a company is financially stable and that there are opportunities for it to grow aggressively, which raises the proportion of high-risk operations even more (Lobanov, 2009).

In order to improve risk management at commercial banks, the regulator itself must switch to risk-oriented accountability. Bank-management experts note that the success of applying regulatory standards in order to minimize systemic risks and improve monitoring of their level depends on the effectiveness of the risk-oriented oversight process designed by the regulator (Kozyrev, 2013). Risk-oriented regulation implies, on the one hand, an analysis of the change in the magnitude of risk when new regulatory rules are implemented and, on the other, the introduction of tools that encourage banks to introduce models of risk assessment into tactical and strategic management.

Table 5

Change in customer account balances at the banks being reviewed

Bank	Customer accounts	Account balances as of six months prior to last reporting date (thousands of rubles)	Account balances as of last reporting date (thousands of rubles)	Change during six months prior to last reporting date (thousands of rubles)	Change during month prior to last reporting date (thousands of rubles)	Change during six months prior to last reporting date (%)	Change during month prior to last reporting date (%)
Sibirsk Regional Bank OJSC	Current accounts of legal entities	82,657	29,286	-53,371	-64,763	-65%	-69%
	Current accounts of individuals	15,617	5,222	-10,395	-5,543	-67%	-51%
	Time deposit accounts of legal entities	620	0	-620	-2,620	-100%	-100%
	Time deposit accounts of individuals	732,600	597,053	-135,547	-90,365	-19%	-13%
IntrustBank Joint Stock Commercial Bank OJSC	Current accounts of legal entities	1,424,811	341,237	-1,083,574	-720,212	-76%	-68%
	Current accounts of individuals	258,500	188,448	-70,052	-172,770	-27%	-48%
	Time deposit accounts of legal entities	1,935,902	1,829,052	-106,850	-41,768	-6%	-2%
	Time deposit accounts of individuals	5,906,789	4,869,632	-1,037,157	-1,026,400	-18%	-17%
Fininvest Bank LLC	Current accounts of legal entities	1,676,744	345,615	-1,331,129	-43,977	-79%	-11%
	Current accounts of individuals	208,630	720,818	512,188	391,122	246%	119%
	Time deposit accounts of legal entities	501,006	500,006	-1,000	-6	0%	0%
	Time deposit accounts of individuals	12,479,904	11,520,170	-959,734	67,518	-8%	1%

Moscow Lights Commercial Bank LLC	Current accounts of legal entities	2,461,781	523,898	-1,937,883	-1,804,925	-79%	-78%
	Current accounts of individuals	402,977	273,652	-129,325	454	-32%	0%
	Time deposit accounts of legal entities	1,952,465	1,618,534	-333,931	-213,063	-17%	-12%
Western Bank OJSC	Time deposit accounts of individuals	11,991,418	11,756,450	-234,968	-48,129	-2%	0%
	Current accounts of legal entities	1,595,673	401,791	-1,193,882	-456,578	-75%	-53%
	Current accounts of individuals	231,792	192,312	-39,480	22,225	-17%	13%
European Trust Bank Commercial Bank CJSC	Time deposit accounts of legal entities	647,476	1,322,885	675,409	-56,290	104%	-4%
	Time deposit accounts of individuals	21,669,809	23,389,923	1,720,114	-256,261	8%	-1%
	Current accounts of legal entities	1,707,526	1,631,262	-76,264	179,565	-4%	12%
My Bank LLC	Current accounts of individuals	1,403,656	456,963	-946,693	-33,267	-67%	-7%
	Time deposit accounts of legal entities	6,932,566	8,564,032	1,631,466	1,197,943	24%	16%
	Time deposit accounts of individuals	5,349,088	4,179,878	-1,169,210	-68,630	-22%	-2%
My Bank LLC	Current accounts of legal entities	3,343,917	2,239,784	-1,104,133	-625,580	-33%	-22%
	Current accounts of individuals	433,311	679,291	245,980	337,441	57%	99%
	Time deposit accounts of legal entities	2,645,774	1,553,174	-1,092,600	-870,143	-41%	-36%
	Time deposit accounts of individuals	12,412,359	8,908,047	-3,504,312	-2,586,437	-28%	-23%

Bank for Project Financing Joint Stock Bank CJSC	Current accounts of legal entities	1,286,235	515,519	-770,716	-252,935	-60%	-33%
	Current accounts of individuals	453,141	425,326	-27,815	55,335	-6%	15%
	Time deposit accounts of legal entities	2,004,585	2,216,170	211,585	-531,100	11%	-19%
	Time deposit accounts of individuals	14,468,976	14,158,816	-310,160	-1,454,080	-2%	-9%
InvestBank Joint Stock Commercial Bank OJSC	Current accounts of legal entities	5,667,808	7,976,589	2,308,781	2,086,535	41%	35%
	Current accounts of individuals	1,272,315	1,037,852	-234,463	-66,656	-18%	-6%
	Time deposit accounts of legal entities	12,980,285	10,738,303	-2,241,982	-2,646,485	-17%	-20%
	Time deposit accounts of individuals	37,193,115	38,939,520	1,746,405	650,098	5%	2%
BFT Bank Commercial Bank LLC	Current accounts of legal entities	2,401,167	2,300,572	-100,595	-13,107	-4%	-1%
	Current accounts of individuals	120,330	117,226	-3,104	14,454	-3%	14%
	Time deposit accounts of legal entities	581,978	444,830	-137,148	-203,771	-24%	-31%
	Time deposit accounts of individuals	1,140,298	1,161,844	21,546	-17,209	2%	-1%
First Republic Bank OJSC	Current accounts of legal entities	2,925,125	3,296,147	371,022	-1,342,841	13%	-29%
	Current accounts of individuals	481,708	560,652	78,944	55,965	16%	11%
	Time deposit accounts of legal entities	5,244,955	4,066,750	-1,178,205	-149,593	-22%	-4%
	Time deposit accounts of individuals	22,575,826	24,050,618	1,474,792	353,766	7%	1%

Source: KUAP, 2014.

Conclusions

The implementation of new regulatory rules, often unexpected and unclear to agents of the market, runs into resistance (capital flight, abandonment of long-term investment projects, withdrawal of companies into the shadows), which creates new lines of tension that require the next round of tightening of rules by the regulator. In an environment where the delegated accountability model is dominant, the contradiction between the latter and the economic effectiveness of regulatory policy is exacerbated. The traditional task of deregulation is replaced by the need to design continuously functioning and transparent channels of communications between the regulator and the regulated. An analysis of the functioning of the tightly restrictive accountability mechanism in the banking sector shows the risks of the delegation model in an environment of weak institutions. Therefore the task of regulation in a country where institutional hybrids are dominant is to change from design-basis and reactive to reflexive standardization, when the priorities of regulatory policy (in the absence of a clearly formulated government strategy) shift from unilateral administrative rulemaking and the implementation of decisions to the creation of institutions of interaction as part of a new accountability model that is more oriented toward participation. As a result, it is recommended that the problem of the regulator's discretionary powers be solved through the partial de-statization of the accountability relationship, where, as shown in the banking-sector examples, a system can be designed whereby commercial banks and stakeholders participate in the regulation of the banking sector by changing from reactive regulation to a practice of institutionally designed interaction. Under this model it is possible to create accountability mechanisms that can strike a balance between managing risks at a specific commercial bank and risk-oriented regulation. A hybrid accountability model is more in line with the task of maintaining competition in an environment of weak institutions. It limits the ability of the largest banks to unilaterally influence the regulator and thereby lowers the systemic risks of the banking sector.

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NOTE

- ¹ For example, Federal Law No. 44 “On the Contract System in the Sphere of Purchases, Goods, Work, and Services to Meet National and Municipal Needs,” adopted in 2013, limits, for banks with less than 1 billion rubles in capital, the issuance of guarantees to companies participating in government contracts.