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The American University in Cairo
School of Humanities and Social Sciences

Post-Revolutionary State Building Processes
Democratization or divergent paths?

A Thesis Submitted to the Department of Political Science
Under the supervision of Professor Nadine sika

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In partial fulfilment of the requirements for the degree of Master of Political Science
Fall 2020

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Table of Contents

Chapter one: Between democracy, autocracy and hybridity	4
Introduction	5
Research questions	11
Research methodology.....	11
Hypotheses:.....	13
The dependent variable:	13
The independent variables:	13
Literature Review	14
How does revolutionary change lead to divergent regime outcomes?	16
Between democracy, autocracy and hybridity	16
Associational rights.....	20
The existence of an independent civil society	22
Horizontal accountability.....	24
The absence of overriding powers of unelected elites over representative bodies.	26
Conclusion	28
Thesis outline	29
Chapter two: Eastern Europe prior to the collapse of USSR	33
Introduction	33
The type of old regimes and their legitimacy	39
Associational freedoms	45
Civil society organization	46
Conclusion	49
Chapter three: Structural and Institutional Change in Poland Post 1989	54
Introduction	54
The institutional and structural reforms in Poland.....	59
Institutional evolution and decentralization.....	59
The type of electoral regime/ vertical accountability	62
The Polish constitution of 1997	63
Electoral laws.....	64

Local councils in Poland.....	68
The position of executives	69
Associational freedoms, Horizontal accountability and the rule of law	70
The functioning of the judicial system.....	73
The police.....	74
Media freedom	75
The existence of an independent civil society	76
The absence of overriding powers of unelected elites over representative bodies	78
Conclusion.....	80
Chapter four: Structural and Institutional Change in Serbia post 2000 A façade democracy	86
Introduction.....	86
Institutional change.....	91
The type of electoral regime/ vertical accountability	94
Rule of law, associational freedoms, and horizontal accountability.....	95
The Constitution and the Constitutional Court	97
The parliament	101
The police.....	101
The existence of an independent civil society	102
The absence of overriding powers of unelected elites over representative bodies	104
Conclusion.....	108
Chapter five: Conclusion.....	114
Poland post revolution of 1989/1990.....	115
Serbia post the Bulldozer revolution of October, 2000	119
Bibliography	126

Chapter one: Between democracy, autocracy and hybridity

Introduction

Still democracy appears to be safer and less liable to revolution than oligarchy. For in oligarchies there is the double danger of the oligarchs falling out among themselves and also with the people . . .

Aristotle, The Politics. Book , pp1¹

Since early 1970s, democracy has been on rise globally, which was coined by Huntington as "the third wave of democratization." Events began by the mid-1970s in Southern Europe, then by the mid-eighties, they spread to Latin America and to Asian countries like Korea, and the Philippines, and finally by the late 1980s and early 1990s to Eastern Europe, the Soviet Union and parts of Sub-Saharan Africa.² According to Huntington, history involves three periods (1828-1926; 1943-1962; 1974-2000) during which democratization or even partial democratization have occurred. He coined those changing events as "waves" which occur whenever "changes toward democracy clearly outnumber changes towards autocracy."³ With the beginning of the 2000s, the world witnessed around 100 democracies worldwide, which is double the number in 1989 and almost three times higher of what existed after the Second World War. By the end of the twentieth century, elected officials governed more states than at any previous time in history.⁴ During this era, 85 authoritarian regimes have ended.⁵ Transitions have resulted in "30 surviving democracies, 9 democracies that lasted only for a short time before being overthrown; 8 cases in which there have been elections and leadership changes but in which either democracy appeared very unstable or important groups were excluded from competition; 4 descended into wars; and 34 new authoritarian regimes" emerged.⁶ Yet, by the 2000s, the world witnessed several revolutions that

resulted in autocratic reversal. In general, regime change is triggered by different types of events that occur differently in different states.⁷

Scholars have proved that revolutionary actions against autocratic regimes do not always lead to authoritarian breakdown nor to the establishment of democracies.⁸ According to Samuel Huntington's argument, "Nondemocratic regimes are more likely to be replaced by other nondemocratic regimes than by democratic ones."⁹ He asserts that regime change happening through "replacements" are likely to "result in politically unstable polities, not democratically consolidated regimes."¹⁰ For him, one of the reasons behind that is "there is too little time for the acclimation of oppositions to adjust from the politics of the streets to the politics of accommodation."¹¹ He adds that "democratic regimes that last have seldom, if ever, been instituted by mass popular action."¹² Similarly, Terry Karl states that "no stable political democracy has resulted from regime transitions in which mass actors have gained control even momentarily over traditional ruling classes."¹³ Usually, revolutions and revolutionaries are romanticized and according to many political scientists, the accomplishments of revolutions are limited.¹⁴ For example, Huntington asserts that masses usually replace one kind of oppressive situation with another. Both Goldstone and Skocpol stress that a key outcome of "social revolutions" is the establishment of stronger and more bureaucratic states that are as oppressive as their predecessors.¹⁵ Goldstone concludes that "history shows an almost uniform tendency of episodes of state breakdown to culminate in populist, usually military dictatorship." He wrote: "Revolutions are not so much part of the solution to tyranny as they are part of the problem of that tyranny."¹⁶ Similarly, Hannah Arendt explains that the meaning of the word revolution originally is restoration. She states: "hence something which to us is its very opposite, is not a mere oddity of

semantics. The revolutions of the seventeenth and eighteenth centuries, which to us appear to show all evidence of a new spirit, the spirit of the modern age, were intended to be restorations.”¹⁷

Other scholars argue that revolutionary actions causing regime change generally produce powerful coercive structures, and different processes that generate different outcomes which depend on the various structural and institutional political paths chosen by the newly established regime. Those scholars such as Seymour M. Lipset, Barrington Moore, Harry Eckstein and others stress the importance of the phase post regime change. They acknowledge the necessity of the structural and institutional processes that must take place to reorder the state. They explain that part of the reasons behind reverse back to autocratic rule revolves around the structural processes of state building that revolutionaries and the newly established regime face and plan for once they topple the old dictatorship rather than the type and nature of the uprisings that overthrew the authoritarian regime. Those scholars in addition to others stress the fact that the political trajectory of the newly established regime is highly depending on the structural and institutional plans that take place in the aftermath of toppling dictatorship. Once revolutionary forces win state power, it must put down a structural plan for efficiently restructuring the state aiming at real institutional change while considering its unique context, without triggering extensive bickering and struggles over power distribution and control. This is similar to the argument of the previous scholars yet their reasoning about regime outcomes and the mechanisms of the institutionalization of democracy are different.

While the Arab uprisings at the beginning generated historical change in many Arab countries, it has demonstrated that democratization is far from being a possible regime outcome following these revolutions where authoritarianism emerged as an obvious outcome. In the anticommunist revolutions of the late 1980s and early 1990s, the “people power” movements at

the same period, and the color revolutions of the 2000s, all of these events left different regime trajectories in their wakes.¹⁸

From a structural point of view, the establishment of democracy necessitates the establishment of a set of institutions through which socio-economic and political order can be obtained and then maintained. Those institutions are diverse and they do not remain static forever but they develop and change over time and through events and confrontation. The course of their evolution differs from a state to another because each state has its own distinctive historical and social order. The removal of autocratic regimes and the establishment of new ones change and shape the social and political orders within societies. Accordingly, the establishment of institutions cannot be the same everywhere.¹⁹ The institutionalization processes are shaped also by the historical conditions from which they originated and by the history of the state itself and its interaction with other nations which highly define the variations in the very structure of those institutions.²⁰

Consequently such variations between cases and outcomes of revolutionary events instigated scholars who tried to understand and explain factors shaping states behavior and choices. Here, Killian Clarke posed several questions: why do some states democratize? Why do other states develop durable authoritarian regimes? Why do still others swing wildly between these poles, unable to settle at a stable political equilibrium post-revolutionary moments?²¹ These foundational questions have encouraged rich tradition of research to explain state building processes and comprehensive change post-revolutionary moments.

Scholars such as Ronald Inglehart, Adam Przeworski, and Seymour Martin Lipset made generalizations about macro and micro dynamics and procedures leading to the institutionalization of democracy or its absence such as: cultural and economic variables, electoral systems,

constitutional arrangements, the significance of civil society, the existence of political parties and state-society interactions. Yet there is no agreement between scholars about the structural and institutional framework leading to democratization.

In my thesis, I contribute to this scholarly debate, while contesting Huntington's assumption that post-revolutionary regimes are doomed to be autocratic. Here, I explain and analyze why post-revolutionary regimes foresee different regime outcomes, and why some of them move toward democracy, while others become hybrid regimes or even reverse back toward authoritarianism.

My hypothesis is that transition to democracy or autocratic reversal do not depend on the dynamics of revolutionary actions and uprisings. Yet, there are five core structural and institutional processes that take place after toppling the old regime that shape and determine the state trajectory and the regime outcome which are the development of efficient electoral system that enhances vertical accountability, the establishment of associational freedoms and their protection, the development of civil society, the establishment of the rule of law to create horizontal accountability and finally imposing control over non-elected overriding bodies to avoid their interference into state politics.

I focus on the institutional/structural bases of democracy, while avoiding questions of substantive democracy that focus more on inclusion, and participation beyond the realm of politics. This substantive approach analyses democracy in terms of its targeted outcomes such as “wealth, power, justice, equality, and inclusion” based on a various liberal and radical modern and postmodern theory, from Aristotle, through de Tocqueville, to Bobbio. According to such heritage, substantive approach focuses attention on “the extent to which one can observe these and other putatively desirable outcomes as manifestations of the scope, breadth, and quality of society.”²²

I am arguing that the dynamics of revolutions and uprisings may affect their outcomes; yet structural and institutional processes in the aftermath of post-revolutionary actions are the main determinants of the new political/ economic trajectory followed by the newly established regime. Elite's decisions and state society interactions are crucial to determine the political trajectory of states. To further demonstrate this argument, I analyze the cases of Serbia after (the bulldozer revolution of 2000) and Poland after the revolution against communist regime back in 1988/1989 where change through replacement of the old elites did not bring more autocratic ones. I will analyze the structural and institutional dynamics that took place in both countries after the breakdown of the old regimes and how they determined the political trajectories of both states till the end of the first decade of the 2000s.

In 1987/88, Poland was ruled by a communist authoritarian regime that faced growing socioeconomic and political problems and simultaneously growing opposition and mass demonstration. Poland contributed historically to the fall of Communism in Eastern Europe as it was the first society to organize itself against a communist regime, and then paid the price for being the first. Poland triggered demands for political changes in neighboring and culturally similar countries.²³ As the domino effect went on, this was reflected in its acceleration. In Poland, the institutionalization of democracy took up to ten years. Social pluralism was initiated in Poland many years before the revolution against the regime and thus the society was efficiently organized and unified against authoritarianism. Moreover, Poland was by 1990 more or less a homogenous society unlike many states in Eastern Europe which resulted in high societal organizational capacity.

Serbia is a complex case. Under Milosevic by early 1990s, it was not an independent state but the largest of six republics of socialist Yugoslavia until the latter collapsed in 1991-1992. Later

on, Serbia became a federal unit in the Federal Republic of Yugoslavia (FRY) along with Montenegro. However, Serbia tried to act independently till the phase of full disintegration in 2006. These critical junctures although beyond the focus of my study, were in the historical memory of Serbia and affected events during and after the revolution of 2000. The era of conflicts produces high tendency of ultra-nationalism and radicalism in society that later on after the revolution added a dimension of complexity to the transition toward democracy that does not exist in the case of Poland. Contrary to Poland, Serbia was always suffering from the lack of societal unification and the disintegration of civil society. Different social and oppositional groups were busy till the late 1990s fighting about their own interests and had internal conflicts. Political fragmentation and wide polarization weakened the regime and the functioning of the state. To a large extent, this was the reason behind the failure of mass attempts to topple Milosevic until early 2000s when they decided to learn from their mistakes and overcome their organizational weaknesses.

Research questions

- *What is the impact of revolutionary change on regime outcomes?*
- *Why do some post-revolutionary regimes move toward democracy, while others, become hybrid regimes or even reverse back toward autocratization?*

Research methodology

The thesis mainly depends on desk analyses and secondary sources like books, academic articles, and reports. I am conducting critical text, and policy analyses using a comparative approach. As many scholars argue that revolutionary changes generally leads to autocratization, evidence from recent revolutionary changes in post USSR republics and Eastern Europe demonstrate that divergent regime types emerge thereafter.

On the one hand, the case of Poland in the aftermath of the collapse of USSR demonstrates that the first few years after regime removal from power are crucial to the emerging new regime. Additionally, Poland proved that democratization can emerge if various institutional settings take place hand in hand with the existence of certain dynamics that shape decision making processes and society agency.

On the other hand, the case of Serbia after the bulldozer revolution proves that toppling dictatorship does not automatically lead to transition toward democracy. With “only” the replacement of leadership without real and efficient institutional and structural reform plans, and the absence of rule of law that inculcates and protects civil and political rights, a reverse back toward authoritarianism or the emergence of an unstable hybrid regime is the definite outcome. My thesis is concerned with understanding the reasons behind such divergent outcomes of regimes in the aftermath of revolutionary change. Moreover, my thesis adopts a comparative historical analysis design following the lead of Theda Skocpol to compare and map the trajectory of practices while analyzing the cases of Poland and Serbia that had different state building dynamics and different outcomes of regimes. The former is classified by the Freedom House Index as a “Free” State with 84/100 points and the latter is classified as “Partly free” with 66/100 points.²⁴ Accordingly, I am looking at the context of Poland after the collapse of USSR and the breakdown of its communist regime post 1989-1990 focusing on the different structural and institutional processes that paved the way for the institutionalization of democracy. Then, I analyze the case of Serbia after the Bulldozer revolution in October 2000 to compare the applied reforms that led this regime to be a hybrid one.

I am considering Macro level analysis such as the relations among states, elites, popular groups, and foreign nations; the ideologies or cultural frameworks of both cases; and the national

patterns and conditions such as social mobility. I also look at Micro level analyses. Additionally, I consider the assumption of a reverse back to authoritarianism for those regimes post 2010. Finally, I consider similarities and contrasts across cases, drawing conclusions based on the links and gaps between putative causes and outcomes.

Hypotheses: transition to democracy or autocratic reversal do not depend on the dynamics of revolutionary actions and uprisings. Yet, there are five major structural and institutional processes that take place after toppling the old regime which shape and determine the state trajectory. These are the development of efficient electoral system that enhances vertical accountability, the establishment of associational freedoms and their protection, the development of civil society, the establishment of the rule of law to create horizontal accountability and finally imposing control over non-elected overriding bodies to avoid their interference into politics.

The dependent variable: The type of the established regime (hybrid/democratic or authoritarian regime) post revolutions.

The independent variables: based on the literature review that I am presenting below, and based on my selected cases, these are among the most significant independent variables that affect regime trajectory in the aftermath of revolutionary actions.

1. The type of electoral regime/ vertical accountability
2. Associational freedoms
3. The existence of an independent civil society
4. Horizontal accountability and the rule of law

5. The absence of overriding powers of unelected elites over representative bodies.

Literature Review

When regimes are toppled through political or social mobilization, all rules of the game are in flux, new leading groups emerge, and different kinds of problems, demands, and interests clamor for a share. During critical juncture, the ideal situation occurs when the available leaders are aware of their vital task to order the transition in ways that ensure “minimal loss and maximum possibilities for future growth and stability consolidation.”²⁵ According to O'Donnell, and Philippe C. Schmitter in their book “Transitions from Authoritarian Rule: Prospects for Democracy”, the creation of durable structural methods to deal with the occurring uncertainty is critical to the whole process whenever democracy is targeted.²⁶ They emphasize the inherent ambiguity and deviation in the outcomes of regime transitions post regime removal from power because of elites` decisions. According to them, a transition from authoritarian rule can lead in some circumstances to the establishment of democracy, or it can end up in a reverse back toward authoritarianism (dictablanda), or a third type of regimes that is not part of the unidimensional spectrum of democracy/autocracy which is a restrictive, illiberal democracy (democradura).²⁷

As previously mentioned above, the phase post-revolutionary actions is crucial to the outcome of regimes, during which decisions are crucial to the whole process of change.

Many scholars have argued that the first action that determines the path for democratization or otherwise is the containment of popular mobilization to minimize losses. One proposition argues that uncontained popular mobilization and increased pressure from below can spoil the chances for democracy, which Nancy Bermeo has named the “moderation argument.”²⁸ Similarly, Daniel

Levine asserts that the main lesson learned from experience is that "conservative transitions are more durable."²⁹ He explains that whenever decision makers are able to contain and manage the resulting situation post revolutions, rooms for structural and institutional reforms leading to democratization become available. Even Rueschemeyer, and Stephens assert that democracy is the result of people mobilization especially the working classes, they also highlight the need for moderate interactions with radical parties immediately after revolutionary events.³⁰ Fear of the masses forms the root of the moderation argument. The need for setting the rules for negotiations, and compromise is another needed step. For example, Juan Linz and Larry Diamond explain that in many Latin American cases "the choice of democracy by political elites clearly preceded...the presence of democratic values among the general public."³¹ According to Robert Kaufman, transition can occur successfully, when the first step is to contain the "threat from below" to be able to set the rules guiding the juncture.³² This moderation argument is linked to the argument about the cost and limit of toleration explained by Guillermo O'Donnell and Philippe Schmitter by asking "how much is too much?" Here they argue that mobilization activity is necessary to instigate change and reform. Yet if such activity threatens "the vertical command structure of the armed forces, the territorial integrity of the nation-state, the country's position in international alliances, [or] ... the property rights underlying the capitalist economy." If any of these extremes are reached, they write, "then the available leaders will conclude that the costs of tolerating such excessive activity are higher than those of control which can inhibit any democratization attempt."³³ This argument goes in line with Robert Dahl's argument in Polyarchy, in which he differentiates between the amount of opposition activity and its content.³⁴ This is tackled through the cases through which I am analyzing systematically how interactions between masses and elite response to them pave the way for the institutionalization of democracy or its absence.

What Dankwart A. Rustow stresses accordingly is that democracy is the outcome of "choice" and "conscious decision" on the part of political elites. This choice determines the path that the newly established elite aims to follow and also determines the state track.³⁵ According to Philippe Schmitter and Nadine Sika, the institutionalization of democracy is simultaneously a process that incites "universalistic" events, and symbols, while involving a much more "particularistic" and 'realistic' adaptation attempts to the structures and circumstances of states that take place during and after the political juncture.³⁶ Similarly to the previous assumption of complexity, Wolfgang Merkel asserts that newly established regimes are formed through very complex structures. Hence, after containing the existent popular mobilization, elites need to move to the following phase during which they should adopt structural conditions of modern rule, domestically in terms of complex societies and abroad in terms of the challenging external environment. Additionally, they have to develop certain domestic structures to fulfil various state functions.³⁷

For the purpose of my thesis, the next section is dedicated to determine and analyze the core institutional factors (the independent variables) shaping the outcomes of regimes post-revolutionary actions.

How does revolutionary change lead to divergent regime outcomes?

Between democracy, autocracy and hybridity

Although scholars share different understanding about democratic, autocratic and hybrid regimes, they may share common agreement about the existence of different dynamics that take place post-revolutionary mobilization that lead to different regime outcomes. Here many scholars

highlight the importance of the years in the aftermath of revolutions as being the time when decisions of the newly ruling elites, state society interactions, institutional reforms and agency are crucial to the type of the emerging regime. Jack A. Goldstone stresses the necessity for the fourth generation of revolutionary theoreticians to consider that revolutions are emergent phenomena that are followed by a crucial phase and factors that cement regime stability.³⁸ Several scholars analyzing different regions assert that transition to democracy is not a uniform process that involves the same interactions between different social classes, nor the same types of socio economic and political decisions.

On the contrary, Harry Eckstein argues that the institutionalization of democratic processes do include various social/cultural conflicts and political confrontations.³⁹ This goes hand in hand with the assumption that democratization is a procedural matter rather than substantial one. Similarly, scholars declare that democratic evolution is not a steady process that is homogeneous over time, yet it is more gradual and dynamic.⁴⁰ There is a large political science literature analyzing dynamics of institutional and structural processes after regime collapse that lead to divergent regime paths; whether authoritarianism, democracy, or hybridity. Seymour M. Lipset and Barrington Moore emphasize the structural settings of democracy such as income level and class stratification. More recent works have focused on the strategic interactions between elites in power and oppositions (soft versus hardliners) hand in hand with civil society organizations. Goran Therborn and Dietrich Rueschemeyer are closely related because both stress the relevance of the disenfranchised poor classes, and minorities during the process of democratization.⁴¹

After reviewing the literature in an attempt to critically pick and analyze the most significant structural institutions that are shaping the outcomes of political regimes post-

revolutionary actions, it is evident that the following interdependent structural factors are among the most effective factors in determining regime outcomes which are highly related to the chosen case studies. Those are: the establishment of an electoral regime (with its own characteristics), the promotion of political rights of effective participation, the creation of a civil society that enhances and protects civil rights, the existence of horizontal accountability, and finally and most importantly the absence of overriding powers over representative bodies which guarantees putting powers in the hands of elected bodies to govern. The first four are related too to the criteria set by Freedom House according to which Poland is considered as “free” and Serbia as “Partially Free.”

The type of Electoral Regime/ vertical accountability

According to Lipset, the regulations and dynamics for choosing and changing the representative authority define the legitimacy of the newly established regime which consequently determines the pillars for social stability and limits radical mobilization against the regime.⁴² He explains that elections providing rooms for voicing concerns out and highlighting people`s say in choosing the representative bodies provide more stability.⁴³ Elections, in this view represent a “safety valve” for voicing out societal discontent and simultaneously confining the opposition.⁴⁴ Yet, elections of representative bodies have several conditions that must exist in order to allow democratic choices. Such conditions were broadly studied by political scientists and scholars as these conditions determine also the outcomes. Following the concept of “embedded democracy” coined by Wolfgang Merkel, a democratic regime must establish five interdependent partial regimes in which a democratic electoral regime is the first required.⁴⁵ Aiming at democratic institutionalization, the newly established regime must create an electoral system that allows access to public power positions of the state depending on the results of open, and competitive

elections. Accordingly, the electoral regime is at the core of the five partial regimes of embedded democracy, as it is the most recognizable expression of the sovereignty of the people through “the participation of citizens and the equal weight allotted to their individual preferences.”⁴⁶ Moreover, pluralistic competition for power positions is a distinguishing feature of democratic rule in which access to power is based on regular, free, general, equal and fair elections.

Many empirical studies of procedural democracy have been concentrated on the necessity of elements defining the created electoral regime such as: institutionalizing political competition which highlights the extent to which structures and institutions permit “open competition for political power and safeguard political rights of participation. Here participation refers to the extent of individual inclusion within the system including minorities.”⁴⁷ According to Huntington, societies that mainly value the achievement of more power but disregard the need to accommodate others are conducive to autocracy.⁴⁸ Similarly, Schmitter and Karl elaborate on the multiple-path structures guaranteed through the establishment of a variety of channels through which competitive processes are accessible, suggesting that the institutionalization of democracy allows participation to come in a variety of forms.⁴⁹

On a similar ground, Dahl defines his concept of “polyarchy” through the creation of eight institutional guarantees which according to him are: “the right to vote, broad eligibility for public office, the right to compete for support and votes, free and fair elections, and the dependence of public policies on citizens’ preferences, freedom of organization, freedom of expression, the availability of alternative sources of information. Those eight guarantees are characteristics of two underlying dimensions which are “contestation and inclusiveness.”⁵⁰ He defines contestation as whenever citizens “have unimpaired opportunities to formulate their preferences, to signify their preferences to their fellow citizens and the government by individual and collective action, to have

their preferences weighed equally in the conduct of the government.”⁵¹ While he defines inclusiveness as “variation in the proportion of the population entitled to participate on a more or less equal plan in controlling and contesting the conduct of the government.”⁵² Finally, Robert A. Dahl emphasizes that there is an increased probability to lead the state toward democratization whenever in his own terms: “the expansion of contestation precedes the expansion of participation.”⁵³ He stresses the agency of citizens hand in hand with policy maker to bring democracy into existence.⁵⁴

Similarly, Robert Dahl asserts that a democratic electoral regime has four associate elements: “universal, active suffrage, universal, passive right to vote, free and fair elections and elected representatives.”⁵⁵ Hence, in his view, elections are considered as processes of vertical accountability.⁵⁶ They usually reflect the consequences of leaders’ decisions since the access to and retention of power positions are directly dependent on the preferences of the voters and their interests. Thus, citizens can effectively sanction elected representatives during elections whenever they are corrupt or so. Yet, we cannot negate the fact that this citizenry control is only limited to the choice of representative bodies yet it does not control the use/ misuse of power by politicians between elections.⁵⁷ Hence, a democratic electoral regime is a necessary, but not sufficient condition for democratic governing which highlights the need for the establishment of “Horizontal accountability.”⁵⁸

Associational rights

Similar to Dhal previous argument, Joseph A. Schumpeter categorizes a regime as democratic whenever its most powerful representative bodies are chosen by the people through periodic elections during which politicians can freely and equally compete for votes, but more

importantly all adult population is eligible to choose through the voting system.⁵⁹ This argument expands on the necessity of crucial political rights among which the ability to choose between competing slates of leaders through genuine competition, and the existence of relatively low barriers to participation are at core. Thus, procedural equity and defined rules for access and participation, are chief in this view.⁶⁰ According to Wolfgang Merkel, political rights of participation are preconditions for elections themselves. They are not limited to the right to vote. He stresses that “they complete the vertical dimension of democracy and make the public arena an independent political sphere of action, where organizational and communicative power is developed.”⁶¹ Thus political rights function to allow organized elections and the unorganized pluralistic interests of composite societies.

In this view, the institutional center of political rights is mainly the right to political communication and organization. Accordingly, they are interdependent with the right to freedom of speech and opinion and the right to association, demonstration and petition. Automatically, the existence of freedom of speech entails the existence of private media that should have considerable influence in society. Here access to information which includes the distribution and reception of information and news must be protected and enhanced through the rule of law. If the previous rights are protected, an active society will emerge in which people will be able safely to organize interest groups operating on the ground independently from the state which creates emancipated cultural and political awareness within society that later on protects and guides the democratization process.

It is of central importance that the institutionalization of rights of freedom constitutes an autonomous sphere of democracy within society that becomes the ‘backbone’ protecting the regime itself.⁶² The logic behind the need to provide citizens with political rights of communication

and organization goes beyond the focus on political power in a limited sense. Yet, in the public arena, social and communicative rights enhance the development of political opinions and demands without abiding by the formality of restrictive processes. From this point of view, the first two partial regimes can only lead to the establishment of democratic elections whenever they are mutually interdependent. According to Merkel, combined together, both factors promote “responsive governing by supplementing the periodical control of elections with soft but steady public control between elections; yet still both alone cannot secure the constitutional democratic standards of responsive and responsible governing.”⁶³

The existence of an independent civil society

According to the work of John Locke, civil society is the barrier that protects people from arbitrary state rule. He mainly stresses the significance of an “independent societal sphere” vis-à-vis the state.⁶⁴ Locke perceives society, similarly to what Adam Smith did later with more persistence, as a sphere “beyond political space.” In the ideal case, this apolitical sphere is protected and enhanced but never controlled by the state. From this perspective, the main tasks of an aware civil society are protecting individual autonomy and property from state intervention.

Furthermore, civil Society is perceived by Diamond as the ‘Political Base’ upon which democratization is built. For him, the presence of an active civil society equates the presence of myriad “mediating institutions,” including groups, media, and networks that operate independently between individuals and the state.”⁶⁵ From a similar perspective, Lipset, Trow and Coleman stress that civil society form “subunits, capable of opposing and countervailing the state” whenever acting aggressively.⁶⁶ Furthermore, Weffort believes that building democracy is a continuous process of “institutionalizing conflict.”⁶⁷ From a similar point of view, Carl J. Friedrich, E. E.

Schattschneider, Bernard Crick, Ralf Dahrendorf, and Arend Lijphart stress the fact that conflict and reconciliation are essential procedures for democracy.⁶⁸ Thus Toqueville asserts that political associations are then believed to be free schools in which the whole community learn “the general theory of association.”⁶⁹ Here Gellner describes the main role of civil society as opposing and countervailing the state", which makes state repression much harder and increases the cost of violence for ruling elite.⁷⁰ That does not mean that an active civil society role is limited only to direct the state whenever it is misled by political leader. But, this model of active civil society stimulates the sensitivity of state established institutions to the interests of citizens and intensifies societal accountability vis a vis state institutions. In this regard, scholars found that organization capacity triggers different interests and activities within societies between different groups.

On the one hand, a fully operative civil society is meant to be participant in various domains. More importantly, civil organization diminishes confrontation to unexpected changes because it inhibits isolation of state institutions from the societal polity and hence lightens interest differences early on which limits conflicts. Instead of struggling to reach political power, various groups in society such as different classes, religions, economic, and professional, compete with one another first to gain popular support to be able to achieve their own agendas. Here I am looking at civil society from a liberal perspective in which civil society is a vital actor in the democratization process. Throughout my analysis, civil society groups were significant for triggering change through mass mobilization and more importantly they were in the case of Poland mediators between the elites and the society after toppling the old regime. Yet, there are other perspectives to look at civil society such as the Marxian and Gramscian perspectives that are considering civil society as a continuation of conflict between different class structure and the political elites.

It is important to notice that institutionalizing political rights, inculcating rights of freedoms of association, communication, and sharing information entail the emergence of groups independent of state tutelage and control. Such groups progress and ultimately create the notion of collective identity hence become able to lead autonomous actions against states and officials whenever the state main aim deviates and becomes more oriented toward domination rather than establishing or maintaining democratic procedures. Scholars explain that among the functions of civil society is pressurizing the regime to influence policy agendas while laying the ground work for more enduring decentralization and democratization.⁷¹

On the other hand, the absence of civil societies post-revolutionary actions or even its suppression by the newly established regimes give higher chances for societies to be dominated by centralized radical powers that are usually not elected by citizens.⁷² The existence of strong civil society that is able to mobilize against authoritarian regime such as in Poland, and South Africa, later on after the breakdown of authoritarianism were able to foster a democratization process.⁷³

Horizontal accountability

During the transition process that took place in some Eastern European states and the post-Soviet republics, elections may have seemed to be competitive, but in some cases incumbents' access to state resources and media was unfairly assigned hence affected elections outcomes. Voters had free from coercion access to polls and the tabulation of votes were accurate, while the constituencies within which they were clustered were in some cases systematically benefiting some at the expense of others. Winners, even from the opposition, were allowed in parliaments, but parliaments had no legislative powers.⁷⁴ Here the defect was not about the absence of electoral

regime nor the lack of an active civil society, but more importantly, such evidences highlight the lack of horizontal accountability and rule of law. The fourth partial regime of a constitutional democracy comprises the division of powers and resulting ‘horizontal accountability’.

Horizontal accountability defined by Wolfgang Merkel in accordance with O’Donnell exists whenever elected bodies are monitored by a relatively autonomous set of institutions that apply the concept of “the rule of law.”⁷⁵ Such institutionalization of horizontal accountability according to Merkel “closes a central gap of control in the basic democratic structure, one that is not covered by the previous three structural procedures.”⁷⁶ Vertical accountability generally controls the government periodically, through elections and referenda or even through the public sphere. The guarantee of civil rights inhibits state infringing on individual freedoms. Crucially, horizontal accountability is mainly about the structure of power itself within the state. “The term includes lawful government actions checked by the division of powers between autonomous legislative, executive and judicial bodies.”⁷⁷ Horizontal autonomy denotes that the “three bodies check each other reciprocally, without one body dominating or interfering with the constitutionally defined core-sphere of the others.”⁷⁸ Through horizontal accountability, government is not only controlled and monitored by elections, but also permanently controlled through the constitutional powers that mutually check and balance representative bodies.⁷⁹ This necessitates first the establishment of an independent and functional judiciary that is responsible to monitor executive and legislative acts.

Accordingly, there is a vital link between the notion of horizontal accountability and the rule of law. Both Acemoglu and Robinson stress the inevitability of the "rule of law," not just for a regime to democratize but also to endure. For them, the rule of law is defined as when “ people and institutions are treated equally by the institutions administering law, courts, police, and civil

service; and that people and institutions can predict with reasonable certainty the consequences of their actions, at least as far as the state is concerned.⁸⁰ In 1991, the World Bank has emphasized the importance of the rule of law not only for a healthy political life but more importantly for a stable environment for economic activities: "The rule of law is a key element of predictability and stability where business risks may be rationally assessed, transaction costs lowered, and governmental arbitrariness reduced."⁸¹

The absence of overriding powers of unelected elites over representative bodies.

Since the 2000s, scholars analyzing the Middle East and Latin America have focused more on structural and institutional elements that boosted resilience of authoritarianism. Among which scholars argue that the existence of a powerful array of coercive non-elected institutions that have long been systematically intervening into both internal politics, domestic economy and imposing their power over representative bodies are among the fundamental deficiencies that inhibited transition to democracy after mass uprisings and regimes removal in these regions.⁸² Those overriding bodies such as military institutions, intelligence agencies, or even the security service sectors are able to suppress any democratic initiative originating from below or even from within the elected bodies. Nonetheless, they were able to reach full control over state resources, and they controlled access to information. Accordingly, different scholars explain that for democracy to be established after revolutionary actions, the new ruling power must guarantee that only elected representatives are the ones who actually govern and hold powers while abiding by the rule of law. This feature prevents extra-constitutional actors/ non-elected bodies that are not subject to horizontal accountability from holding power or even override elected bodies by having control over decision making process in certain policy domains. Leonardo Morlino thus points out to

“reserved policy domains” which are “areas over which the government and parliament do not possess sufficient decision-making authority, as well as the specific problem of insufficient control over the military and the police.”⁸³ Similarly, Merkel explains that one of the main features of an embedded democracy is that the effective power to rule lies in the hands of democratically elected representatives that are accountable to people through institutionalization of the rule of law.⁸⁴

Schmitter, and Sika explain the example of Egypt post 2011 mass mobilization. In this case, the military has constantly been a dominating force over the assumed transition process since the early events of 2011. The military that controls political and socioeconomic life in Egypt since 1952, as it is authoritarian in nature, has dominated as the main hegemonic power in the country overriding all representative bodies.⁸⁵ Due to the existence of very weak civil society that does not reach the masses and has no political strategy, such vacuum was immediately filled by the military. “This leaves political power, legitimate or not, in the hands of the military – in a manner not dissimilar to the descendants of the former KGB and Communist Party in present-day Russia or Belarus.”⁸⁶

According to Przeworski, to reach a path for democracy “institutional agreements” through “compromises about the institutions that shape prior possibilities of the realization of group-specific interests” must be at hands.⁸⁷ Additionally, he advocates the above argument about uncertainties by stressing that the first critical problem that must be solved post mass mobilization is the institutionalization of uncertainty without “threatening the interests of those who can still reverse this process.”⁸⁸

Conclusion

The above literature does not suggest to expand the concept of ‘democracy’ to an all-inclusive umbrella term, nor my thesis intends to make an "either or" choice between the different structural and institutional variables that are all complementary to the process. Additionally, my thesis does not generalize by a “formula”. Yet, it assesses the links between the above mentioned independent variables and transitions that happened in Poland and Serbia with its results. The thesis analyzes some vital structural elements shaping the outcomes of established regimes in both states post-revolutionary actions and if those variable were at the core of states transition.

Analytically and following the theoretical framework of my thesis, the final outcome of the newly established regimes whenever is considered a democracy should be able to answer the following questions: first, what are the defining elements (institutions and structures) of a democracy? Second, how these elements are mutually interdependent normatively and functionally? What are the most common defects of the established regimes in both Poland (a democracy) and Serbia (partial democracy)? Third, what are the causes of these defects? Finally, how scholars perceive and analyze the development of a democratic regime if parts of its defined core are damaged?⁸⁹ Answering these questions can help future studies to determine the possible necessary reforms needed and the mistakes that must be avoided in order to secure the establishment and the consolidation of a democracy within constantly changing internal and external environments while considering that the structural and institutional reforms needed for the establishment of democracy post-revolutionary actions may vary enormously from the ones needed for democratic consolidation.

Thesis outline

The thesis is divided into five interrelated chapters.

Chapter two gives historical background about Eastern Europe focusing mainly on Poland and Serbia. This includes a thorough analysis of the existing authoritarian regimes, institutions and society in those countries and how those regimes incited uprisings that ended in regime overthrow.

Chapter three, and four deconstruct and apply the reviewed independent variables on Poland and Serbia. Here I analyze the structural and institutional state building processes that took place in both countries while comparing them and their effects on mapping the political trajectories taken by both countries post 1990s.

Finally, chapter five summarizes the main findings of the thesis and sheds light on the different outcomes of state building while explaining deeply the reasons behind variations of outcomes and comparing them. Additionally, it tackles the assumption of a prospect reverse back to autocratization by both states and the reasons behind that.

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Chapter two: Eastern Europe prior to the collapse of USSR

Introduction

The Polish sociologist Edmund Mokrzycki, explains the nature of the socialist system: the “so-called real socialism—that is, the system that took shape in the Soviet Union and in European socialist countries—is a social system in the strong sense of the term; it has its own equilibrium mechanisms, its own dynamics, and the ability to reproduce its constitutive characteristics.”¹

The late 1980s and early 1990s were historical critical junctures when several Communist regimes in Europe started momentous processes of political, and social change. Indeed, in Eastern Europe between 1948 and 1989/1990, using words like sovereign, and domestic to describe politics was not realistic, given their coexistence within the coercive system of Soviet dominance and the fact that USSR attempted to impose ideological, political, military, and economic structures on its East European “outer empire/ satellites” with the help of the established communist regimes there.²

Many scholars who looked at the collapse of communist regimes found that firstly, some characteristics of the previous established nondemocratic regimes in Eastern Europe incited social and political grievances that resulted in mass mobilization against those regimes, and secondly those characteristics had serious implications on mass struggle affecting the transition paths available and the outcomes of the newly established regimes.³ The characteristics vary from the type of the old communist regimes (totalitarian, authoritarian, sultanistic, etc), the institutional character of the regimes, the organizational base if existing or not within societies, the regimes coercive power and use of repressive apparatuses, the use of laws to legitimize coercion and

repression, and finally, the regime dependence on Soviet military interventions in some crucial cases.⁴

After the Second World War, almost all communist regimes in Eastern Europe and the Balkans were faced with a serious problem of legitimacy due to their status as satellites of the Soviet Union.⁵ Those regimes were imposed rather than elected. According to Weber, systems of domination attempt to create a belief in their legitimacy for which a type of mass compliance is required and accordingly, a specific structure of administrative apparatus is established to guarantee the existence and endurance of compliance. In such cases, obedience is perceived as a matter of “personal loyalty” to the chief and not based on a rational ground. Selection of the administrative staff is based on the rulers` will and party interests rather than competence.⁶ Furthermore, there was no separation between party and state. Yet, both of them represented the same entity and controlled all domains of citizens` life. Thus, the state apparatus became the sole owner of “the nationalized means of production.”⁷ Accordingly, managers of socialist enterprises were simultaneously representatives of the state and part of its bureaucrats. Party and state bureaucracy were far from any Weberian type of rational bureaucratic organization.⁸ Janos Kornai explains the continuous overlap between the party and the state and shows the total control of the party over appointments, promotions and dismissals within the state apparatus down to the smallest local level.⁹

According to Richard Snyder and James Mahoney, the established political regimes and the way in which the ruling elites decide to manage and control have significant repercussions for any attempted institutional change, because those regimes and the rules that they impose on society strongly influence the capacities, the behavior and the agency of regime incumbents, and their opponents.¹⁰ Additionally, Linz and Stepan argue that the regime type substantially determines the

available channels and space for popular mobilization against non-democratic rule, and its forms and levels.¹¹ For example, closed non-democratic regimes, such as totalitarian and sultanist ones with excessive use of violence and repression normally ban all possible avenues through which non-violent popular protests can occur to voice out societal and political grievances. On the one hand, “low-capacity regimes” including some sultanist and authoritarian ones, generate revolutionary movements within society while providing them with prospect for success. On the other hand, high-capacity authoritarian regimes increase the cost of mobilization for any revolutionary movement which renders any revolutionary action a risky non-tolerated move.¹² According to Levitsky and Way, competitive authoritarian regimes usually allow for some restricted freedoms in society. Those regimes organize regular multi-party elections, which are not competitive nor fair with different degrees of manipulation. Additionally, democratic institutions may exist, but with no rule of law applied.¹³ The legislature, the judiciary and local governments are generally weak and submissive to authoritarian rulers, but can transform into arenas of conflict whenever mass mobilization takes place. Those regimes provide more space for independent media, interest groups than other forms of authoritarianism. Opposition candidates, activists, and journalists are sometimes intimidated or targeted. Human rights violations are common. State resources are usually exploited for party purposes through patronage, corruption and extortion. Massive electoral fraud may also occur in some cases.¹⁴ Although they provide some room for societal maneuver, competitive authoritarian regimes create significant grievances in society that can turn against them at any time as they “feature personalist and arbitrary rule, and high tendencies towards familial and dynastic power, narrow social base, politicized, corrupt and stagnant economy.”¹⁵

Social movement scholars explained that by allowing for opposition's organization and operation, authoritarian regimes raise expectations for the opposition. Yet, sometimes opposition is not capable or may not choose to challenge authoritarian rulers whenever they are weaker than elites, or they do not have enough popular support. In such cases, they wait for political opportunities and threats that shrink the power imbalance so that they can mobilize effectively against rulers. Those opportunities can be the defeat of an external war, stolen elections, economic underperformance, conflict and democratization in neighboring states or others.¹⁶ According to Goldstone and Tilly, threatening the interests of some groups and the escalation of repression in society may also trigger mobilization.¹⁷

Moreover, Soviet military intervention was a decisive factor that inhibited several attempts of heterogeneous resistance the “satellites” managed to generate. Soviet troops were present in four of the seven Warsaw Pact countries, mainly Poland, Czechoslovakia, Hungary, and the German Democratic Republic, while they were sent to other Eastern European countries when necessary.¹⁸ This explains why the announcement of Gorbachev in December 1988 to the United Nations about the withdrawal of 240,000 men, 10,000 tanks, and 820 combat aircrafts from Eastern Europe and from the Western military district of the Soviet Union closest to Eastern Europe by the end of 1990, was detrimental to communist regimes in those countries. According to Charles Gati “more than any other single event, that announcement set the stage for the dramatic developments of 1989. “By suggesting that Moscow was prepared to remove Soviet forces from its East European dominion, Gorbachev informed the regions Communist leaders that Soviet tanks would no longer protect their rule. It did not take long for the people of Eastern Europe to understand that their leaders were therefore vulnerable— that some of them were, in effect, on the run.”¹⁹ Through this announcement, Gorbachev seriously underestimated how “illegitimate and unpopular many of the

regimes were and how destabilizing the combination of his statements...would be.”²⁰ The withdrawal of Soviet soldiers and tanks altered power relationships and balance in Eastern Europe.²¹

Furthermore, political society is not only about revolutionary movements but it also includes political parties. But forty-five years of “party-state” rule in Eastern Europe and more than seventy years in the Soviet Union have given the word party a negative connotation throughout the region. Accordingly, almost none of the major political movements in Eastern Europe that were formed under communist rule (operating underground for sometimes) called themselves parties such as Solidarity in Poland, Civic Forum in Czechoslovakia, Hungarian Democratic Forum in Hungary, popular fronts in the Baltic countries, and Union of Democratic Forces in Bulgaria. Furthermore, movement leaders in the region such as Walesa in Poland, and Havel in Czechoslovakia refused to join or lead political parties.²²

We next turn to the arena of rule of law and its primary organizing principle, constitutionalism. In Eastern European states under communist rule, the concept of the rule of law had different interpretations. In 1926, the first president of the USSR Supreme Court wrote “Communism means not the victory of socialist laws, but a victory of socialism over any law.”²³ Under Stalin, the legal theorist of the regime, E. B. Pashukanis, wrote “under developed socialism, policy and plan would replace law.”²⁴ This perception of law is consistent with the ideal of totalitarianism, in which the defining feature is that a leader “rules with undefined limits.”²⁵ This negates the core assumption of the concepts of the “rule of law” or any attempted “self-binding” mechanisms.²⁶ The self-binding quality of a law generally entails a hierarchical structure of laws, with pre-established norms and procedures that guide their change and that are applied over everyone equally and fairly.²⁷ However, in party-state systems, most laws were heavily dependent

on the party's initiative and rulers' interpretation and will. The Australian scholar, T. H. Rigby, wrote in 1980, highlighting the weakness of "self-binding" concept in post-totalitarian socialist legality: "The Soviet Constitution, even in its latest variant, is a notoriously misleading and incomplete guide to the distribution of power in the system [The] core aspect of the Soviet system, the party-state relationship, is regulated, as it always has been, by discretion and not by law.... The Soviet regime ... has never been prepared to limit itself within the rules which it itself prescribes."²⁸ In socialist societies, the one-party state claimed a full monopoly of knowledge and information based on the Universalist principles of Marxist–communist doctrine. The constitutions of Soviet-style regimes declared the leading role of communist parties as they are the sole representatives of people.²⁹

Additionally, the established bureaucracy and existing institutions are another contentious elements that shape regime change and affect the outcome of the new regime. When the bureaucracy of the previous nondemocratic regime is recruited according to political criteria defined and set by the old regime in which the leadership of the old regime is deeply colonizing it, problems of "serviceability" to a new regime arise. Among those potential problems we can find the following: "the lack of a clear distinction between the party and the state indeed, the party generally dominates the state which means that the collapse, disintegration, or massive rejection of the party can also disrupt much of the normal functioning of the state bureaucracy. Efficacy is damaged, when many potentially loyal and effective civil servants are fired due to guilt by association or when administrative positions are immediately "colonized" by anti-regime but possibly incompetent forces."³⁰

By the early 1980s, USSR hand in hand with communist regimes in Eastern Europe, and the Balkans tried to introduce some limited freedoms. However, these freedoms proved to be a

double-edged sword when applied. Adopted in USSR, they contributed to its final disintegration in 1989/1990 and the fall of communist regimes afterwards. Opposition movements in Eastern Europe that were back then working underground, gained some freedoms to work publically and were able to mobilize masses against their regimes. Accordingly, they perceived these reforms as significant signs of weakening power and system collapse. When events began to unfold in the Soviet Union and the threat of military intervention became impossible, oppositions became more radical and overt, and rulers had no choice but to address and acknowledge the inadequacies of their rule.³¹ The Domino theory was an integral part of the explanation of communist regimes collapse as by the end of the year 1990, communist regimes in East and Central Europe collapsed one after another and those events continued for the followed decade of the 2000s in the Balkans.³²

The following section is dedicated to analyze the effects of the above mentioned factors on the communist regimes established in both Poland and Serbia and their different institutional and structural features before revolutionary actions which triggered mass mobilization against them. Both cases provide a foundation for the comparison of similarities and differences of regime features in different types of non-democratic regime within a broadly shared historical, political and institutional context. Poland and Serbia therefore comprised authoritarian and competitive authoritarian regimes that experienced recurrent waves of mass demonstration causing considerable political implications that ended in regime change in both states with real structural and institutional reforms in one and inefficient reforms in the other.³³

The type of old regimes and their legitimacy

The regimes in both Poland and Serbia similarly to almost all European communist regimes are imposed ones, hence they suffer from lack of solid basis of legitimacy, and rather, they imposed

“non-legitimate domination”. In those societies, there was no evidence of mass consent since the beginning of the 1980s. Additionally, the base of sociopolitical stability was not regime efficiency in handling state functions.³⁴ According to Weber, legitimacy entails voluntary mass compliance and “generalized normative support.” Because of this normative character, legitimacy is usually linked to high level of socio-political stability reflected in bureaucratic efficiency. Whenever a legitimate authority is established, the people are expected to obey commands and rules including the unpopular ones as they are valid and morally binding.³⁵ Compliance here is strengthened by a sense of responsibility on the part of civilians.³⁶

Poland was never classified as a fully installed totalitarian regime. However, scholars categorize Poland from mid 1970s as an authoritarian state with some de facto degree of societal pluralism.³⁷ Poland possessed some totalitarian but stronger authoritarian tendencies. Because legitimacy in Poland under such authoritarian regime did not satisfy the normative element of the Weberian definition, the rulers in Poland were in dire need of various micro stabilizers of the sociopolitical order. Staniszkis presents a whole range of 'micro-stabilizers most of them operated on an informal level; such as “regulation of rewards, reduction of aspirations, pre-emptive blocking of public activities, ritualized pseudo participation, and control through organizational selection and promotion systems.”³⁸ Yet, these measures never led to stability in society in Poland in which various mass protests erupted against the regime till the establishment of a military rule headed by an army figure, General Jaruzelski, in 1981. Since then, the regime decided to use excessive coercion and never cared again about legitimacy to end mass aspiration to power. Accordingly, martial law was declared on December 1981.³⁹ This created a major crisis in the assumed legitimacy of the communist party. Additionally, it reflected the inability of the communist regime to cope with its own deficiencies. Furthermore, the opposition was subject to uncontrolled

repression.⁴⁰ According to Monica Ciobanu, the regime crackdown on society led to the emergence of a culture of passive compliance or negative legitimacy.⁴¹

Moreover, the real result was that society became highly aware of the need to systematically organize itself against the regime while incorporating different groups in such organization. Thus an underground Solidarity movement emerged and worked in conjunction with intellectual dissident groups and the Catholic Church that possessed a degree of autonomy to challenge the established political authority. Simultaneously, an underground independent press succeeded in making its voice heard.⁴² It is noticeable that the establishment of military rule and the excessive use of coercion on the one hand resulted in apparently controlling societal activities, while on the other hand triggered societal anger and mobilization.

Serbia is a complex case. Under Milosevic by early 1990s, Serbia was not an independent state but the largest of six republics of socialist Yugoslavia until the latter collapsed in 1991-1992, and then Serbia became federal unit in the Federal Republic of Yugoslavia (FRY) with Montenegro. Yet, Serbia effectively operated as an independent polity during much of this period till the final disintegration in 2006.⁴³

In his attempt to preserve the old regime's resources and maintain control over huge material assets of the party-state in Serbia, Milosevic created The Socialist Party of Serbia (SPS) which was systematically organized, and formed directly from the Serbian League of Communists in 1990.⁴⁴

Slobodan Milosevic's regime turned Serbia into a veritable wasteland. During that time all the necessary institutions for a functioning society that were there have been degraded and destroyed.⁴⁵

In fact, Milosevic established an autocratic regime that went through two phases; the first between

1990 and 1998 during which he established a democratic façade while it was autocratic in nature.⁴⁶ This order degenerated to a pure authoritarian order from 1998 till his removal from power in October 2000 during which the regime was purely sultanistic and aggressive.⁴⁷

Early 1990s, he introduced new institutions, allowed for restricted political parties, created a parliament, and finally allowed for elections that were never free nor competitive. However, these actions aimed at creating a sense of legitimacy between people in Serbia and projecting a good image of the regime internationally. The hybrid regime was held until 1998, when the regime excessively resorted to violence and repression against all societal groups, opposition parties, independent media and NGOs. His legitimacy was never consolidated even as early as 1990 and thus coercive capacity was generally high.⁴⁸ He highly invested in his coercive apparatus; at its core, he has the large and well-equipped Secret Service, and an increasingly potent police force.⁴⁹ By mid-1990s, he increased the police force from 80,000 to 100,000 personnel who were mostly veterans from Bosnia and Croatia. Belgrade alone had 25,000 policemen making it “the most heavily policed capital in Europe.”⁵⁰

Furthermore, institutions were created in Serbia in 1990, but they were active deep within the sphere of influence of the ruling SPS. The SPS retained all the levers of power in its own hands: the state apparatus (particularly the army and the police), the economy and the media.⁵¹

The electorate in Serbia was shaped during a 12-year war (1988-2000), which ended in the abolition of private life and almost the abolition of the public sphere with the imposition of severe restrictions over civil society. By that time, given the lack of organizational capacity and collectivist basis of the existing opposition, elections lost their sense of competition. Instead “no-alternative politics” was dominant there hence not allowing for any real choice. The duality of the Serbian party scene (neo-communists vs. opposition), which could trigger change of government,

did not exist during this period, except to a limited degree and for the first time during the local elections in 1996.⁵² The available opposition was always fragmented, hence incapable to compete as a unit against the main party. Under such circumstances from 1990 to 1998, the parliament played a subsidiary role vis a vis the president; the opposition -if organized to participate in elections- were steadily marginalized; and elections were always under full control of the ruling party.

It can be stated that until 2000s, elections in Serbia if existing were never free nor fair, they were full of rigging and political manipulation was very common through different mechanisms. This included gerrymandering, fraud, clientalism and patronage.⁵³ Furthermore, cancelling election results was a normal practice in Serbia whenever results indicated the real preferences of the citizens. After November elections 1996, the government annulled municipal-election results in which the opposition participated and gained significant seats for the first time in Serbia.⁵⁴

In November 1996, the opposition Zajedno (Together) won for the first time local elections in Belgrade and other major cities. However, the government responded by rejecting results and cancelling elections, which incited massive protest all over Serbia. Nonetheless, the government led massive arrest campaigns against the opposition that kept on mobilizing people in daily protests for almost three months.⁵⁵ Under massive international pressure Milosevic accepted the opposition victory, yet, all state and governing-party structures remained intact and the protests failed to incite any real change. According to Thomson and Kuntz, stolen elections are substantial critical junctures for the government and the opposition too. This occurs when a “regime hinders an opposition victory through blatant manipulation of the vote count or through the annulment of the electoral results.”⁵⁶

It was only after November stolen elections that the political setting changed fundamentally and that mass protest became closer to success than before. This event was a turning point for both the regime and the opposition. On the one hand, the regime discovered that allowing for some restricted association in society can trigger unexpected protest waves especially with the regime recognition of the emptiness of its legitimate base. Additionally, stolen elections tested the allegiance of regime personnel by triggering conflicts and divisions between those who were willing to ignore election results to stay in power and those who favored accepting the fact that the opposition could reach power anyway. Divisions weaken “regimes at a time of mass mobilization, which in turn makes regime collapse in the face of societal protest more likely.”⁵⁷

On the other hand, the opposition found that if various oppositional groups reached unity and systematically organize themselves, there would be higher prospect for success whether in elections or even in toppling autocratic regimes. This event caused mass outrage when voters were robbed of the victory. In short, scholars assert that stolen elections help to “amalgamate the opposition, improve its organizational capacities, and motivate the development of its mobilization network.”⁵⁸

This is why from 1998 to 2000, the regime cracked down on societal opposition, which it tried to offset by relying more and more on repression. The regime intensified attacks on independent media that the regime decided to stigmatize through publishing information about financial assistance that the regime claimed they were receiving from abroad.⁵⁹ By that time, the regime war in Kosovo had started and accordingly domestic opposition and independent media were accused of receiving aids from Serbia`s enemy abroad.⁶⁰

Associational freedoms

The Polish autocratic regime gradually turned more autocratic by 1980s.⁶¹ The party and local government attempted reforms to increase their control over society throughout years. At the same time, reforms increased the structural complexity of the regime while actively boosted the organizational capacities of civil society that included different youth organizations, and the Catholic Church with its related organizations, workers movements and intellectuals. After the protest wave of 1970, Gomułka the party's general secretary fell and Gierek and his associates reached power. This change of generations in the party ruling elite simultaneously with the growing influence of educated officials led to declining party ideological pressure over society.⁶² The limited "pressure release" resulted in a rapid growth of Solidarity as a newly formed independent trade union with massive membership that reached ten million members which forced the regime to officially recognize it. However, this did not last for long. By the end of 1981, and the establishment of a military regime led by general Jaruzelski who declared martial law, freedom of association, and societal organizations were banned. However, mass resistance to the party-state gradually reemerged through extensive underground operation, education, publishing and distribution systems that were not reached by the authority. After 1984, the party-state gradually relaxed again restrictions and eased repression against civil organizations which gave again civil society and opposition the chance to work efficiently raising societal awareness about the need to topple the autocratic military regime.⁶³

In Serbia, by early 1990s, the party as previously mentioned was not imposing excessive suppression and thus was allowing for some restricted freedoms, among which independent media was tolerated in society. Yet, when Milosevic's hold on power was seriously contested in November 1996 due to disastrous government performance, western sanctions beginning in 1992

leading to hyperinflation in 1996 and mass unemployment, the political scene changed into aggressive authoritarianism.⁶⁴ Since then, the ruling order had been accusing the independent media of treason. Therefore, on the second of October 1998, a “Law on Public Information of the Republic of Serbia” was passed to restrict the activity of independent media and limit the flow of information. Accordingly, the Law prescribed heavy fines (Article 69) set by “magistrates” and not criminal court. “Magisterial bodies are not courts in the constitutional sense; they do not enjoy constitutionally guaranteed independence and permanence of judicial function. Magistrates are appointed by the government of Serbia and could be deprived of office by simple procedure.”⁶⁵ Thus, the party could easily manipulate the magisterial bodies than regular courts.

It is noticeable that the law was a significant tool in the hand of the regime to impose control rather than managing society. By 1998, the regime activated the “University Law” which considerably restricted the autonomy of universities with respect to the state, and by 1999, it imposed the “Law on Local Self-Government” which aimed at decreasing the already low level of self-governance and autonomy of communities and towns with respect to financial decisions and recruitment of personnel. The above-mentioned laws considerably restricted citizens’ freedoms and rights and served as a tool to legitimize oppression of society and violence against citizens.⁶⁶

Civil society organization

A central difference between Poland and all the other East European Communist states including Serbia was the unusual “horizontal relationship of civil society with itself” created due to the unique moral and organizational style of Polish opposition.⁶⁷ This effectiveness of “self-organization” of Polish civil society was applicable in an authoritarian regime, but impossible in a totalitarian one. The relationship between opposition groups was shaped over time since the first

student mass protests in 1968. At the beginning, interest groups in society organized mass protests yet other groups did not join as they did not share similar interests. For example, in late 1970 and early 1971, workers organized demonstrations yet intellectuals and students did not join them. Then, the opposition found that unity is a key for pressurizing the party and achieving societal and political ends. Hence, in 1976, intellectuals formed the Committee for the Defense of Workers (KOR) to support workers claims whenever they were punished for strike activities. With the beginning of 1980s, real unity between different groups took place which resulted in solid Polish resistant groups.⁶⁸ Solidarity's strength in society, and influence over the economy and the polity were obvious that in August 1980, the party-state was not the sole representative of the people – as it always claimed- when Solidarity became the first legally recognized independent trade union in Communist countries. Later on, Solidarity forced the government to decrease the use of violence against activists.⁶⁹ In a Gramscian sense, by 1981, Solidarity possessed “hegemony” over society while the party-state maintained its control over the coercive forces of the army and the security services.⁷⁰

Furthermore, the Church played a vital role throughout the communist period, first as a moderating power during 1970s, and later on as a negotiating force between the regime hardliners and the opposition in the mid and late 1980s.⁷¹

In Serbia, Unlike the SPS, which had all the above-mentioned pillars of power, the political opposition since its emergence suffered from lack of unified systematic organization which was the main deficiency behind the delay of democratization in Serbia by 1990s similar to other communist states. Until 1996, the political opposition was not able to confront the party state as it was busy with its internal conflicts of interests and agendas. During the 1990s, civil society in Serbia developed in a conflicting political arena. On one hand, the political change that took place

post 1989 when Milosevic reached power triggered the emergence of the first initiative of civil activism. On the other hand, the Milosevic regime was enormously hostile to civil society activists. Some of the civil society actors were targeted by the regime and even assassinated. After 1996/97 large-scale fraud in local elections, Milosevic regime cracked down harshly on societal association through maintaining the lack of a legal framework for civil society activities, police raids, and detentions of activists and treason allegations against civil society activists in the regime-controlled mass media. These events led to the “explosion of civic spirit ...in winter protests sometimes called "the Serbian middle-class revolution," the protest campaign lasted for three months and involved opposition parties, various civil groups human rights, women, student, youth and independent individuals.”⁷² These protests forced the regime to respect election results which was the first crucial civil society unity that succeeded against Milosevic. These groups were the ones that in the following two years developed civic activism. The period 1997-2000 was in general most productive for the development of activism in Serbia.⁷³

By 2000s, NGOs, and citizen groups allied with the DOS, to remove Milosevic from power.⁷⁴ During that time, ethnic lines were blurred as different ethnic minority parties and minority civil society organizations joined DOS for the removal of Milosevic. Ivana Spasic wrote: “For the first time in pluralist Serbia actors were acting on political, rather than ethnic bases, demonstrating that such joint effort was possible, after a bitter recent history of mutual hostilities.”⁷⁵ Among the participants in the October Revolution were the striking miners of the Kolubara coal mines. They prevented attempts of strike breaking by taking off parts of the machinery and hid them. Otpor "Resistance" was among the most active groups during the uprisings. It was formed in 1998 of students. In the following two years, it grew to attract more university students, then young people, “high school pupils, outstanding intellectuals, and finally all categories of people, in spite - or

because - of unprecedented persecution campaign by the regime.”⁷⁶ Otpor was a new phenomenon in Serbia; it was founded by youth groups in response to “the university law, which in effect abolished the autonomy of the universities.”⁷⁷ The movement did not announce any personal or group interests. Additionally, it did not have any a hierarchical organizational structure.⁷⁸ Otpor was the target of severe police repression through detentions, cruel beatings, and long interrogations. Thus, the movement appeared as “the symbolic backbone of the whole popular anti-regime mobilization” of 2000 as it reached 30,00 to 40,000 activists.⁷⁹

Conclusion

The history of communist regimes in Eastern Europe in general, Poland and Serbia in particular present several arguments regarding regimes domination and the nature of their collapse. Firstly, the ability of those regimes to endure despite the absence of a consolidated legitimacy can be linked to several factors such as the lack of unified opposition, various micro stabilizers applied, excessive use of force, domination over power aspects and resources, and systematically organized communist parties, etc. Although, the regimes tried to impose control over all aspects of citizens’ life, they were interested in creating a sort of mass compliance that gave them a façade legitimacy even in the eyes of the International Community. Thus, they were able to reach stable domination through passive compliance of the masses yet this did not meant that they were away from resistance. Secondly, the threat of Soviet military intervention was also exploited by communist leaders to maintain control in Eastern European states and in the Balkans. Thirdly, when the socialist regimes allowed for some degrees of freedoms while introducing some reform plans, this also allowed citizens in society to organize themselves and create dissenting views as alternatives source of power. Nonetheless, expectations for more freedoms were guiding opposition to increase mass mobilization and learn at the same time from their weaknesses and failures.

I would argue that ultimately communist regimes in both Poland and Serbia found themselves forced to engage the opposition in dialogue at a specific point even if such decision was motivated by necessity rather than voluntarily after excessive mass demonstration to secure peaceful regime change instead of ending up in uncontrolled violence.⁸⁰

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Chapter three: Structural and Institutional Change in Poland Post 1989

Introduction

In 1989, strikes broke widely in Poland reaching the world's headlines mentioning that authoritarian communism was under severe challenge by active, nonviolent mass movement of people demanding full rights and freedoms while calling for the overthrow of the communist regime. Since 1970 and onward, Poland was led by autocratic regime which triggered simultaneously growing problems and rising opposition.¹

The movement Solidarity gained unprecedented political and legal recognition not only from the Polish people but more importantly from the ruling Communist Party.² Historiography generally proves that major social and political transformations trigger new interpretation of the past events and provoke scholars to look for new dominant historical narratives and competing explanations. After the fall of the Berlin Wall in 1989, the struggle over the legacy of the past in Eastern Europe entered a vigorous phase and was stimulated by the rise of new authorities and political elites who needed to legitimize their new rule and move away from the imposed communist identity.³ The comprehensive and vast changes that took place in Eastern European countries from late 1980s onward have been beyond imagination.

While some Eastern European countries in general and Poland in particular witnessed earlier failed attempts to overthrow the communist regimes, the dismantling and disintegration of communist structures that happened by the 1980s have never achieved their goals on such a wide scale before. Although there were significant variations in the degree to which communist

institutions and authoritarian regimes have been displaced in various countries, the scope and depth of change have generally been sufficient for many scholars to speak of a "post-communist" era or even as Francis Fukuyama calls it "the end of history."⁴ However unique and deep these developments have been, the disintegration of communist systems in East Europe can be usefully perceived as a subcategory of a more comprehensive phenomenon of transition from authoritarian rule toward democracy.⁵

Transition from authoritarian regimes generally consists of two analytically distinct but empirically interrelated phases. On the one hand, there is the process of overthrowing the preexisting structures and institutions of authoritarian rule. On the other hand, there is the task of establishing new structures and institutions to take their place while guiding the change processes and protect them from any encroachment.

This chapter is mainly analyzing and discussing the second stage of the creation and institutionalization of new structures and institutions in Poland post-revolutionary actions after toppling the old communist regime.⁶ Scholars assert that dismantling autocratic regimes does not guarantee a democratic outcome. The former is a necessary but not a sufficient condition for the latter.⁷

Robert Dahl has noted that among the crucial conditions for successful transition is the pace of transition itself in which transition should be carried slowly and initially limiting political contestation to a small stratum of the population.⁸ Furthermore, the theory of hard/ soft liners is central to the explanation of transitions in Poland. The relationship between regime hard-liners, soft-liners, and the opposition side played a significant role in shaping the institutionalization of a new regime with new types of institutions in Poland and allowing peaceful transfer of power through democratic channels of elections.⁹ Poland in specific had a long history of contestation

and national grievances since the communist regime was established back in 1940s which provided a well-prepared soil for the emergence and development of real opposition and very active and efficient civil society that led the revolutionary actions against communism in 1989 and onward.¹⁰

By 1989, Poland was ethnically and religiously homogeneous, unitary and extremely centralized state.¹¹ The communist party/state was in full charge of all state services and monopolized all sources of power. The post-war change of Poland's borders westwards causing the expulsions of ethnic Germans and the annihilation of Jews during the Second World War turned it into a homogeneous state.¹² Additionally, social pluralism survived in Poland after the Second World War to a much greater extent than in other countries of the Soviet bloc. The Catholic Church retained a degree of strength and autonomy vis a vis the communist party-state.¹³

According to Stephan and Linz, the Polish national identity originally developed against the communist ideology and the imposition of soviet rule in Poland through polish elites which with time weakened the communist ideology versus the homogeneous society that became able to speak of its nationalism by the 1980s.¹⁴

Huntington asserts that democratic systems generally have a common institutional core that establishes their identity and provides for their legitimacy. Accordingly, authoritarian regimes are defined simply by the absence of this institutional core.¹⁵ In the early 1980s, for instance, Poland was characterized by the existence of a decaying communist one-party system and a military-based martial law system led by a military general who was also the secretary general of the Communist Party.¹⁶

Transitions are categorized along a continuum according to the relative importance of the role played by governmental sources and opposition groups during the process. Linz presents three broad types of transitional processes. "Transformation or, in Linz's phrase "reforma" occurs when

the elites in power take the lead in bringing about democracy. Replacement “Linz's rupture” occurs when opposition groups take the lead in bringing about democracy, and the authoritarian regime collapses or is overthrown. What might be termed transplacement or "ruptforma" according to Linz occurs when democratization results largely from joint action by government and opposition groups which defines the case of Poland.¹⁷ In 1989, the state was shocked by mass demonstration and strikes calling for the end of the regime, and this movement led to round table talks that aimed at reaching compromise after toppling the communist regime.

Today, more than 30 years after the collapse of communist regime in Poland, it is often forgotten how tough Poland's initial move toward democratic politics was and how much determination political elites needed back then to move away from the communist legacy. In 1999, Poland joined NATO and in 2004 the state becomes a member of the European Union.¹⁸ However, Poland's acceptance and integration into these Western institutions was preceded by years of hardship, including mass unemployment, social dislocation and lack of trust in some political elites.

The overthrow of the old regime was followed by comprehensive institutional and structural reform packages, and structural building in major domains that was also enhanced by Western development aids.

Here, it is useful to identify three main streams of reforms. The first one is directly related to the political transformation of 1989/1990, the transition from centralist, non-democratic politics to pluralist democracy that encompasses both decentralization and local self-governments. Additionally, new laws were promulgated to define the legal framework of the operative electoral regime to guarantee societal representation through elections and accountability. The shape of new domestic political institutions and the vital steps of institutional reforms constitute the most central

element of that stream of changes.¹⁹ The second stream of reforms involved institutional settings that mainly targeted the incremental corrections of the regulations related to the local government institutional environment, the creation and protection of civil and political rights.²⁰ Last but not least, there were the changes in the local government operation, and the establishment of the rule of law that inculcated horizontal accountability within the new ruling system. In this context, they created new and more effective ways to manage services or to influence important local issues and solve societal problems. According to different scholars, the process of change in Poland was difficult yet fascinating because of the lack of sufficient earlier experiences about change and democracy in the state or even in the whole region of Eastern Europe and thus many perceive Poland steps as taking the form of "learning while doing".²¹

According to Norbert and Angelica, different countries in Eastern Europe followed various paths of decentralization reforms. They classified these approaches into three main models. Firstly, some states followed the "*The step-by-step*" approach. In this case, essential reforms that were applied after revolutionary actions against communism had some roots in previous events that paved the way for legal and economic changes. Hungary's reform is the closest to this model.²² Secondly, "*It's all happening too fast*" approach which indicates rapid and unexpected political change. In this approach, the central state administration stayed very reluctant to initiate decentralization reforms while promoting the argument of not being ready to take on new responsibilities, and that any devolution of power can trigger political chaos and economic crisis. Bulgaria, and Romania, and Serbia were examples of this approach. Finally, the "*Dive into the deep end*" approach. In this case, reformers were determined to introduce full scale reforms after the overthrow of the old regime. The Polish 1990 path was closest to the third approach.²³

The institutional and structural reforms in Poland

Institutional evolution and decentralization

The Polish political life after 1989 was profoundly unstable with three presidents coming to power and nine prime ministers holding office from 1989 to 1998 under three sets of constitutional arrangements. This was due to the overlapping of the lack of democratic experience with a real will to establish an efficient system with full-fledged institutional and structural building.²⁴ The problem of democracy is about the absence of handbook or bulletin that instruct the necessary steps to reach democratization. Accordingly, reforming the state is left to the will of the rulers, the patience of citizens and finally the context of the state itself and its relation with the foreign actors and the international community. This assumption highlights the significance of actors' decision making, behavior, and societal agency.

Before 1989, the highly centralized doctrine of the communist regime rejected all attempts of local self-government in Poland. Both Norbert and Angelica explain that the Local administration before 1989 was hierarchically dependent on “the upper tiers and branch ministries of the central government” who were submissive to the communist party. This meant a total absence of local discretion in decision making regarding financial issues or services delivery.²⁵ The communist party inhibited any reforms aiming at real democratization of political process and kept all decisive powers within the hands of the central government which was formally presenting the communist party in Poland.

According to Regulski one of the main authors of Polish decentralization reforms, the main challenge for any Eastern European state is breaking the five monopolies of the communist state which are: first, “The political monopoly of the communist party.” Communist elites imposed

full control over political representation and candidates in local elections had to be nominated or approved by the communist party which left no room for real choice for voters nor representation. Second, The doctrine of the "homogenous state authority" which implied vertical, hierarchical dependency of the lower tiers of the government on the upper ones. Third, the author discussed "the monopoly of state property" under which municipal property never independently existed as separate from state/party property before 1990. Forth, "the monopoly of the state budget". The ruling elites were considering local budget as part of the central government finance and the state budget. Furthermore, discretion in raising local revenue was never allowed. Last but not least, "The monopoly of the state administration" according to which local bureaucrats were subordinate to branch ministries more strictly than to the local council or local executives.²⁶

Following the "*Dive into the deep end*" approach, Poland went directly into local government reform after the overthrow of the communist regime through passing the new "Local Government Act", in March 1990, which was followed by local elections in May 1990. "The Local Government Act" determined only the general directions of the reform, while many specific details such as divisions of power between the state and the local government administration or the funding of local governments were regulated and amended separately later through individual laws. The first package of decentralization reforms comprised only the municipal level of government, while the territorial organization of state remained untouched. According to the new municipal reforms, the municipal authorities gained substantial autonomy, thus increasing their political position vis a vis the state. Although, the reform of the territorial organization, and the introduction of local self-government were delayed for several years, they were implemented by 1998.²⁷ Michal Kulesza, who was the Plenipotentiary of the Government for the Reform of the State System in December 1997, state that:

“The favorable moment during which the central bureaucracy (which usually defends its position) is weak enough to allow any substantial changes is usually very short. The question of time is crucial. If the reformers are not ready to present their concepts and their particulars exactly when it is needed the time will probably pass... Young democracies do not like big structural reforms, which hit economic and political interests of many parties and groupings by destroying their positions and mechanisms present in the functioning of the state, economy and politics ... In 1998, the reformers had only six months to implement the reform ... The main factor to guarantee success was to maintain the high pace of work ... My aim was to implement the reform even if quality was to suffer. .. In my opinion, we managed to achieve as much as 80 per cent of the target, which is a lot. As for the rest, it must be done by local governments in their constant struggle with state centralism, still alive and kicking in Poland.”²⁸

After four years of continuous reforms, Poland established almost 2500 municipalities, 315 counties, plus 65 cities with county status and 16 regions. Both on the municipal and on the county levels, self-government becomes the only acceptable form of public administration by 1995 only five years after revolutionary uprising. On the regional level, reformers created dual structure: on the one hand, they established an elected self-government, while on the other hand, there is a governor, nominated by the Prime Minister, with his/her independent administrative apparatus. Thus, they created a system that inhibits any forms of hierarchical subordination between them and guarantees horizontal accountability by the state and the people.²⁹ Additionally, municipal governments gained increasing fiscal autonomy. In general, local governments are financed by a mix of local revenues mainly local taxes which are determined within boundaries defined by law and collected by local governments, as well as by shares in central revenues collected by the central government. The proportion of local revenues is noteworthy on the municipal level and reaches about 35%. Counties and regions are funded predominantly by grants. Moreover, the municipal level is the only one, which was responsible of local taxation added to some discretionary powers

to decide upon local tax policies. According to the new Constitution adopted in 1997, the status and duties of local governments were systematically defined.³⁰

Through the period of reforms, vital institutional changes were also introduced outside the perceived "milestones" of system changes. Among introduced changes, the scope of functions allocated to the municipal level has gradually broadened throughout. Starting from 1996, primary schools were run by local administration. A massive transfer of duties and decision making regarding secondary education, health care, regional roads, social welfare and culture sectors was achieved. All of these domains were in the hands of the communist state/ party prior to 1990. Although, some scholars and analysts perceived that these decentralization efforts were mainly vicious attempts by the central government to decentralize its problems rather than its resources and powers, the general trend of strengthening the character of local governments cannot be denied. Sector ministries created a full-fledged legal framework by promulgating legal regulations and laws that define local governments' tasks, duties and powers and define also the different mechanisms of accountability.³¹

The type of electoral regime/ vertical accountability

On February 6, 1989, the first round-table talks started between the Communist regime and the Polish opposition led by leaders of Solidarity. The vital results of these talks included the authorization of trade unions, the establishment of the president office to be elected for a 5 years term by the parliament thereby ending the authority of the Communist Party General Secretary, and the revival of the second chamber "the Senate" with the Lower House the Sejm while upholding parliamentary control over government.³² By 1990, a change to direct election was introduced which constituted a substantial change toward "semi-presidentialism". This move curbed the dependency of the president on parliament and provided the office with independent

legitimacy.³³ The 1997 Constitution had many ambiguities yet the institutions were clearly defined.³⁴ Negotiations continued for long and deadlocks were faced several times about the division of powers between the president and the parliament which was only solved when Aleksander Kwasniewski's proposed a freely elected Senate which pushed Solidarity to accept the presidential powers. During the bargaining process, Solidarity pushed hard to limit presidential powers while increasing those of the Senate and the Sejm as long as General Jaruzelski is in power till the coming presidential elections.³⁵ The breakthrough was mainly about the agreement to allow for a partially free elections, with 35% of the seats of the Polish National Assembly to be openly contested while 65% were reserved for the Communist Party and its candidates. In the new Senate, 100% of the seats were open for freely contestation. On June 4 1989, the citizens voted for the first time in over 60 years and 100% of the Assembly seats were filled by solidarity backed candidates. The single non-Solidarity seat in the Senate went to an independent.³⁶

The Polish constitution of 1997

The constitutional framework for the new Polish state remained a matter of continuing political controversy from the time of the Round Table negotiations of early 1989 up to and beyond the successful referendum on the new Constitution on 25 May 1997.³⁷ With a turnout of 42.86%, 52.71% of the population agreed to pass the constitution while 45.89% rejected it and only 1.4 % spoiled their ballots during the constitution referendum.³⁸ Although the process of drafting the constitution was extremely hard, its endorsement was a triumph. The constitution includes all strands of Polish political culture within the framework of a democratic legal framework. This necessitates high level of political and societal compromise to blend all features of liberalism, nationalism, religious traditionalism and social democracy in one document that must provide for all categories of citizens.³⁹ From 1992 to 1997, the system was parliamentary, with obvious power

shift toward the dual executive. The Constitution guarantees for the separation of powers.⁴⁰ Although the 1997 Constitution was a milestone in state building in Poland, various legal interpretation and extended experience of custom and practice were shaping the legal framework of the political system. There was also a need for temporary mechanisms to bridge the change to the new constitutional regime, an issue addressed by the Constitution itself. Although the Constitution defines the 'territorial system that protects the decentralization of the public authorities in article 15 (1) and states, the principle of territorial self-government in article 16, the division of powers between the central government and local administration are clarified through also the political experience.⁴¹

Electoral laws

According to various scholars, democracy generally highlights three main defining criteria considering first the sources of authority for government, goals achieved by the chosen government, and procedures through which the government is constituted and representation is applicable. Huntington declares that the core procedure of democracy is about the process upon which leaders are selected through competitive, fair and free elections by the people they rule.⁴² In this regard, Joseph Schumpeter in his pathbreaking study, *Capitalism, Socialism, and Democracy*, criticizes the deficiencies of what he called the "classical theory of democracy," that defines democracy in terms of "the will of the people" (source) and "the common good" (purpose).⁴³ Schumpeter advocates what he considered another theory of democracy: The "democratic method," he explains, "is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote."⁴⁴ He asserts that one of the most vital roles of citizens is "to produce a government, or else an intermediate body which in turn will produce a national executive or

government.”⁴⁵ With the coming of 1980s, elections criterion became more significant for regimes with the increasing international observation of elections. According to Kenneth Benoit and Jacqueline Hayden, “Electoral systems are uniquely distributive political institutions that shape political outcomes, yet are themselves endogenously shaped outcomes of political choices.”⁴⁶ They agree that “electoral institutions shape party systems, but themselves are formed in an environment of partisan electoral competition.”

In Poland, the development of party system and the creation of competitive electoral system did not only involve parties adapting to “electoral institutions in each election, but also parties modifying these institutions prior to every election.”⁴⁷ Since 1989, a phase of trial and error started in Poland and lasted till 2001 during which the ruling elites hand in hand with parties and civil society created better competitive political environment. Every election contest has been preceded by periods of modification of the electoral law that reflected the development of party system and the adaptation to the new common interests. This resulted in four different electoral laws and five episodes of institutional changes in the period 1989–2001: the transitional electoral system of 1989, the electoral laws of 1991 and 1993, a failed attempt to modify the law prior to the 1997 election, and the electoral change of March 2001 before the September election.⁴⁸ Scholars presented various approaches to explain the choice of the type of electoral systems, ranging from “instrumental motivations” about policy or office, policy-seeking and office-seeking, personal gains or general welfare. Furthermore, there are non-instrumental explanation added too such as conformity to historical precedence, pressure from international community or external actors, imposition by technocrats, or the emergence of particular institutional forms stemming from broader sociological or economic forces.⁴⁹

The Transitional Electoral System of 1989 was established according to the Polish United Workers' Party/PZPR agreement to semi-free elections with Solidarity-led opposition during the Round Table talks. The motivation of each side was obvious. On the one hand, the communists, aimed to an arrangement that would preserve their rule while allowing the opposition and mainly Solidarity to enter Parliament and represent people. On the other hand, Solidarity wanted to achieve the legalization of trade unions and other forms of civil organization. To reach such ends, negotiations over electoral institutions and rules of the game took place between the PZPR and the opposition. Neither communist nor Solidarity negotiators expected that the long term results of the Round Table process would be the PZPR total loss of power and the formation of a Solidarity government.⁵⁰ The agreement final results was the following "the party agreed to 425 Sejm seats distributed among 115 multimember electoral districts, while Senators were to be elected in all 49 provinces (two each for 47 of them and three in Warsaw and Katowice). This system with seven separate segments of electoral competition guaranteed 65% of seats in the Sejm for the ruling PZPR coalition. Only 35% of the seats could be contested by nonaffiliated candidates."⁵¹ Electoral rules of 1989 were considered by some scholars as part of a comprehensive process of political and institutional transition from one regime type to another.⁵²

As the elections scheduled for October 1991 approached, Solidarity was divided into several new political caucuses, the largest being the Civic Parliamentary Club/OKP. Additionally, the former Polish United Workers' Party/PZPR had disintegrated into four separate groups, the largest being the post-communist coalition, Parliamentary Club of the Democratic Left/PKLD later to become Social-Democracy of the Republic of Poland/SDRP. This changes led to the need for another round of electoral system change. The alternatives were considered in a Constitutional Commission of the Sejm⁵³.

Although the general consensus at first dictated that the system should be proportional, President Lech Walesa who came to power rejected twice the proportional system with his veto power. Both Walesa and Kaczynski the government leader supported the majoritarian system because they thought it would boost their plans for a presidential system they hoped to engineer.⁵⁴ The Sejm overturned his veto by two-thirds majority required, and he eventually signed the new law of the Hare version of PR on 28 June, and rejected the adoption of any. The weak parties rejected legal thresholds and seat allocation methods as they usually benefit larger parties.⁵⁵

In 1993, a more restricted PR electoral law was passed based on the previous 1991 episode that created a highly fragmented parliament of 29 caucuses in the Sejm. This resulted in a political desire to push forward on the institutional agenda for more restrictive law that make effective governance more probable.⁵⁶ The law declared a 5% threshold for individual political parties, with 8% threshold for coalitions and a 7% cutoff for the 69 national list seats. The d'Hondt method substituted Hare-Niemeyer which led to a change in the structure of electoral districts, going up from 37 multimember to 52 multimember districts, with between 3 and 17 mandates.⁵⁷

In 1997, a new but failed attempt to change the electoral law took place. Finally, on January 1999, a new administrative division in Poland paved the way for a new political will for changing the electoral law which took place later in 2001. The final bill proposal suggested a reduction from 52 to 36 districts, abolished the national list, and changed the allocation method from d'Hondt to Modified Sainte-Laguë.¹ The 2001 episode was essentially close to the 1997 one, except that this

¹ The d'Hondt formula "is one of a number of mathematical methods for converting seats into votes under systems known as proportional representation. The common understanding of the Polish decision makers followed the conventional wisdom in electoral studies, namely that the d'Hondt system is the least proportional and most favorable to large parties, followed by the Sainte-Laguë, the modified Sainte-Laguë, and finally the Hare/Hare-Niemeyer formula, with the last resulting in the greatest proportionality and favorability to smaller parties." (Benoit, Kenneth and Jacqueline Hayden. "Institutional Change and Persistence: The Evolution of Poland's Electoral System, 1989–2001." *The Journal of Politics* 66, no. 2 (2004): 396-427. P409). For more details on the proportionality of various formulas. See Benoit, Kenneth. "Which Electoral Formula is the most proportional? A New Look with New Evidence."

time the change occurred increasing electoral proportionality which was less favored by large parties.⁵⁸

The established new regime moved through a phase of instability with eight prime ministers and four parliamentary elections between 1989 and 1997. This led to a declining trust in political rulers and the disintegration of political forces which allowed the Democratic Left Alliance in 1993 and 2001 to seize power in Parliament.⁵⁹ This in a way proves that elections revealed real popular will hence a successful democratic representation. Although some analysts consider that as a reverse back, yet many scholars praised such results as a proof of transparency and free representation achieved through free and fair elections. Nevertheless, the SLD's leader, Aleksander Kwaśniewski became the president in 1995 and was re-elected again in 2000. In the 1995 elections, the SLD's leader ran for presidency against the Nobel prize-winning hero of the Solidarity movement, Lech Wałęsa, and beat him.⁶⁰

According to the 1997 constitution, the decision for electoral law change is a majority vote of the Sejm while the decision for modifying the constitution, is a two-thirds vote of the Sejm with at least half of the whole number of deputies present.⁶¹ The same two-thirds vote is required to override a presidential veto. The 1997 constitution specifies the additional requirement of an absolute majority vote of the Senate with at least half of its members present.⁶²

Local councils in Poland

The established new regime has brought about crucial changes to the rules of local councils elections. In 1990, through law, the decentralized government determined how local councils would be elected. According to the new regulations, local councils are elected through two different systems: firstly is the proportional system in cities with more than 40,000 citizens and secondly the majority system with one councilor elected in every ward in smaller municipalities.

This variation is based on a logical argument about the character of small communities which allows for voting for personalities, while in big cities knowing all presented candidates is harder and voting for programs presented by political organizations or parties is more applicable.⁶³

The position of executives

One of the most significant change that the new government applied within the internal structures of municipal government was about the position of executive bodies, and, in particular, the position of local mayors. In this regard, there were gradual actions aiming at strengthening mayors' position. The new regulation increases the majority required to recall the Board from 50% of councilors present at a meeting to 3/5 of all councilors. Additionally, the new amendment to the law states that at least 30 days are required between the proposition of a resolution to recall the mayor and the actual vote.⁶⁴ Moreover, in case of mayor surviving the no-confidence vote, the board must wait for six months before the next attempt to recall him/her.⁶⁵

Although these amendments strengthen the position of executives in practice, a much more revolutionary change was ratified by the Parliament in June 2002 in a series of competent institutional changes to increase state efficiency. The new Law stated that from autumn 2002 local elections onward, mayors will be directly elected by the whole population of a given district to increase representation and vertical accountability. Nevertheless, the law determines that more than 50% of all valid votes are required, and if this did not happen, a second round of elections is called two weeks later. Additionally, the new law also expands the duties of new mayors to include the responsibilities of the collective Executive Board. Mayors can also be recalled before the end of their four years terms through local referendum.⁶⁶ Although the benign intentions behind all of these reforms, many surveys published that popular opinions regarding local governments became

lower since then. For example, the level of trust in local authorities, which was tremendous at the beginning of the political transformation in 1990 has been on a decreasing slope recently according to some local surveys.⁶⁷ In a conducted survey in March 1999, the Centre for Public Opinion Research in Poland (CBOS) discovered that the legislation to curtail salaries of local authorities and councilors was supported by 90 % and opposed by only 4 % of the population.⁶⁸ Accordingly, the parliament prepared relevant draft legislation for such purpose.

During the reform period, new practices for local policies were tried with the help and consultancy of foreign experts and advisors coming from the European Union and funded by its international programs, and bilateral donors such as USAID or British Know How Fund. This led to a great diversity of techniques known as “New Public Management” applied to increase local government efficiency and hence improves state service provision. Yet, the character of executives, councilors, and mayors working on the application of reforms was very significant to the process. Therefore, a new mayor may in some cases prevent all introduced innovations and return to traditional methods of management.⁶⁹

Associational freedoms, Horizontal accountability and the rule of law

One of the most significant yet controversial areas of democratic development in Poland is the establishment of the rule of law to provide for horizontal accountability, and the definition of rights and liberties of citizens vis-à-vis the state. Theoretically, this process intended to change all existing laws drafted during the Communist era and introduce new laws efficiently governing state- society relationships. Nevertheless, the process also required the establishment of institutions to guarantee the independence of judiciary, a professional policing system and the necessary mechanisms to safeguard individual rights. Practically, this process was more complex than it appeared. Mazowiecki’s government in autumn 1989 declared the following: “the umbrella

principle of upholding the law meant that however bad or inappropriate, Communist laws should continue to apply until revoked or amended. Repealing entire swathes of law would leave a legal vacuum, untenable for any modern society.”⁷⁰ Yet a counterargument to this approach emerged and claimed that “citizens had no obligation to obey or uphold ‘bad’ laws and ought not to do so”.⁷¹ A compromise was necessary during that time. Thus the government declared that a comprehensive process of institutionalization of democratic processes is highly needed and that citizens must cooperate to reach that goal. The comprehensive procedure included the promulgation of: “the principles of operation” the creation of efficient “legal system”, the amelioration of the nature and quality of existing legislation, the efficiency of adjudication, and the promotion of “effective compliance with legal norms by public and private bodies and citizens alike”.⁷² Nevertheless, there was a strong political and social will for the inclusion of basic legal principles: the assertion of the supremacy of the Constitution, the prohibition of any retroactive or arbitrarily operation of legislation, and the prevention of concepts of collective guilt.⁷³ To achieve such aim, the new Constitution created and retained key institutions for protecting individual rights and upholding the rule of law. These institutions are the following: “the Superior Institutions of the Legal System, the Constitutional Tribunal, the Supreme Court, and the Supreme Administrative Court. In addition, the Civil Rights Ombudsman and the Supreme Audit Commission (NIK) maintained their supervisory functions. The National Broadcasting Council gained constitutional status as the ‘guardian of freedom of speech, the right to information and the public interest’” (Art. 213). Most of these institutions had proved their effectiveness in protecting sociopolitical rights against any attempt of state encroachment over individuals.⁷⁴

The responsibility of the Polish Civil Rights Ombudsman included securing people`s rights and freedoms through the establishment of state bodies abided by laws that monitor and protect the

principles of community life and social justice. The Ombudsman is elected by the Sejm with the consent of the Senate for five years according to the 1997 Constitution, it works autonomously and has both the right to suggest initiative and to respond to requests and complaints by individuals, to “refer legislation to the Constitutional Tribunal for judgment, to make proposals for amending laws, and to request clarification of points of law from the Supreme Court.”⁷⁵ Operating efficiently, its caseload about unlawful behavior of the state raised from 24,336 in 1992 to 60,000 in 1997, which required the appointment of twenty new judge.⁷⁶ Nevertheless, citizens for the first time in Poland were able to use constitutional provisions as basis for direct appeal to the Constitutional Tribunal in 1997. The constitution declares that “rights and freedoms could be limited only by law but not ‘in their essence’ and ‘only when necessary in the democratic state for its security or public order, whether for the protection of the environment, health and public morality or to secure the freedoms and rights of other persons” (Art. 31 §3). The constitution also provides for a wide array of rights such as the following: “Everyone has the right to legal protection for his/her private and family life, reputation and good name, as well as the right to make decisions about his or her personal life’ (Art. 47)”. Furthermore, the basic liberal rights were obviously embodied in the new Constitution such as: “rights to private property, freedom of expression, worship, association and assembly, freedom from torture or inhumane treatment, the inviolability of the person, the right to life, to vote and petition.”⁷⁷ Additionally, other less universally acknowledged freedoms were also present, such as the “freedom of artistic and scholarly creativity, the right to information about environmental protection measures, and parental rights to choose a non-state school for their child.”⁷⁸ Regarding socio-economic rights, positive rights such as the rights to health care and free education were secured too. Moreover, the constitutions includes also articles that preserve the good of the family’ (Art. 71 §1) and that ‘the authorities are obliged to make particular health

provision for children, pregnant women, disabled persons and those of advanced age' (Art. 68 §4) which strengthens family values. Similarly, the state proved to be a positive vehicle for change through its desire of promulgating policies aiming at full employment through "programs of combating unemployment, including organizing and supporting advice and vocational education and public works....in article 65 §4) and to carry out policies aimed at satisfying 'the housing needs of citizens, and in particular encouraging the construction of social housing, supporting citizens in acquiring their own homes, and opposing homelessness' (Art. 75 §1)."79 Unlike the old communist constitution -in which citizens` "rights were negated by their equal status as responsibilities "as when the right to work coexisted with the duty to work)", the inclusion of a list of civic duties was controversial and problematic.⁸⁰ Some legislators supported by public opinion rejected the inclusion of such lists of duties in the constitution as they asserted that "the citizen may be brought to book for failing to obey the law (Art. 83) or pay taxes (Art. 84), but such failure cannot negate his or her rights vis-à-vis the state, which must be equal for all citizens."⁸¹ The legislators of the new constitution advocated that the duties have a "quaintly, morally exhortative function, much as the Scouting Code: A good citizen cares about the common good, is loyal, looks after the environment, pays taxes and defends his or her Country when called upon".⁸²

The functioning of the judicial system

The securing of rights and freedoms depends directly and indirectly on the efficient and autonomous functioning of the judicial system. Additionally, the principles of due process of law, equal protection of laws and the right to a fair and speedy trial also rely on the quality of the judicial system. According to Millard, "the judiciary is the institutional embodiment of the principle of the rule of law".⁸³ Since 1989 and onward, there was an extensive load put on the judiciary. Duties of judges at all levels amplified due to increased volume of new legislations and the required speedy

changes in the law on the one hand, and a rise of civil litigation on the other. In 1989 the number of new cases increased from about 2 million to 6.5 million in 1996. Consequently, the number of judges increased too from about 7200 in 1994 to just over 8000 in 1996.⁸⁴ After 1991, it was very common to hear about ‘crisis in the judiciary. Complaints about the judicial system became the second most frequent source of complaints to the Ombudsman.⁸⁵ To protect the autonomy of judges, the constitution introduced articles that protect their status such as the “irremovability” of judges, appointed by the president with exception of specific cases defined by law’ (Art. 60 §2).⁸⁶

Among the success stories of these reforms was when a journalist in a provincial town was denied access to information regarding salaries of the town councilors. The journalist escalated the issue to court and asked for a ruling as to whether such information would be declared confidential or should it be made public, since it is about public activities funded by public money. The court protected rights of access to information and ruled in favor of the latter interpretation, and the town council was forced to release the required information. Later on, major newspapers published lists of mayors with highest salaries. This provided national politicians with the chance to initiate relevant reforms supported by popular opinion.⁸⁷

The police

Although faced with problems of corruption, the police proved to be less politicized. In 1990, the State Police (Policja Panstwowa) replaced the Civil Militia (Milicja Obywatelska) of the old Communist system and became a centralized force under the umbrella of the Interior Ministry employing some 100,000 (plus civilians) in 1997, with divisions for “crime prevention, criminal activity, traffic control, economic and organized crime, and an anti-terrorist unit.”⁸⁸ The Law on the Police was amended in October 1995 and provided the body with increasing powers for the investigation of serious crimes. However, there was high level of police corruption that led to the dismissal of 500 policemen and 110 were charged with

criminal offences in 1993. Due to efficient checks and balances over police forces, national police Chief Zenon Smolarek was removed in February 1995 due to proved corruption allegations. Furthermore, the Ombudsman reported 311 complaints of police brutality.

Media freedom

Ensuring media freedom was a vital goal of the newly established regime. For them, freedom of expression was seen as a prerequisite and a crucial feature of democratic, and pluralist society. According to Millard, without equal access to information for everyone, “genuine debate and the ability to disseminate different views, other freedoms such as freedom of association and assembly and freedom of electoral choice cannot be fully realized.”⁸⁹ There was a general political will to remove all restrictions on the development of press, the removal of censorship especially that dismantling the communist press empire deprived the state of its direct ownership and control over the press.⁹⁰

The Polish successes to establish the rule of law, and the imposition of efficient system of accountability obviously outweighed assumed failures or controversial ambiguity, with noticeable institutional achievements. The 1997 Constitution, despite some flaws defines the framework for institutional relationships between the various bodies of the state and also for judicial and quasi-judicial institutions protecting citizens` freedoms and procedural legality. Many of the general civil rights provisions of the Constitution were clarified later through the promulgation of specific laws. However, some areas of collective rights of specific groups such as women, and LGBTQ movement remained marginal due to some cultural and religious foundational elements. The battle over the necessity of state protection for socioeconomic rights was still fought in parliamentary legislation on health, education, pensions, and the environment till the beginning of the 2000s.

Yet, these battles, and debates form elements of liberal democracies as they are part and parcel not just of institutionalizing democracy but of consolidating it.

The existence of an independent civil society

Scholars such as Linz and Alfred Stepan often differentiate between ‘political society’ of social institution seeking political power through electoral processes, political parties and parliamentary representation and ‘civil society’, “the realm of intermediate groups which are relatively autonomous of the state.”⁹¹ Nevertheless, Michael Bernhard stresses that the core of civil society is about “clear distinction between the public and private spheres, with ‘a new public space’ between the two whose autonomy is sanctioned and protected by the state.”⁹² Other scholars stress the values that must be present in civil society as part of the aspect of ‘civility’ such as mutual respect, recognition and obligation.⁹³ While some civil society groups and organizations do not target political activity, yet they are oriented toward recreational activities, charitable work and self-help groups, others are highly politicized, cooperating to the political process at national or domestic level. Furthermore, some groups are multi-functional; while other nonpolitical groups shift toward political activity to advocate their own interests.⁹⁴

In Poland, by the late 1970s, groups of workers and intelligentsia created counter community through which they mobilized the whole society. With the rise of Solidarity, this counter-community led mass social movements against Communist rule that led to the overthrow of Communism in Poland by 1989. After round table talks, the new legislation offered new legal framework for right to association and assembly, securing the basis for lawful participation in parties and other types of civil voluntary association.⁹⁵ In that regard, many national agencies emerged to assist, coordinate and facilitate the activities of domestic bodies such as the Forum of Non-Governmental Organizations and the Bureau for Supporting the Movement for Self-Help

Initiatives. Additionally, international organizations provided trainings for volunteers to develop organizational skills and enhance capacity building. As a direct consequence for the rise of civil society activities, manifestations of social dissatisfaction increased in magnitude through organized activities leading some observers to condemn civil groups as being ‘too powerful’ and even ‘destabilising’.⁹⁶ Demonstrations reached peak in 1993, yet strikes continued to be a very significant tool for public expression.

With solid historical role in mobilizing society in Poland, trade unions continue to be as active as before. By 1998, one-quarter of society participated in some form of social organization and almost 275,018 citizens were candidates in local government elections.⁹⁷ Thus 1989 was not just considered as the year for the establishment of democracy in Poland, but more importantly the year for the refurbishment of civil society in its fullest meaning. This was highlighted by various political changes and legislation that enhanced and protected them. Many organizations that were banned by the Communist government in 1952 were re-instated.⁹⁸ The year 1989 witnessed changes regarding the registering conditions and monitoring methods.⁹⁹ Under the communist law, the obligatory registration was left to the will of the internal security authorities that had the right and sources to fully monitor all civil activities and to penalize or dissolve any organizations at any time without justification. The new law on the contrary “divorced the principle of registration from licensing the associational activities.”¹⁰⁰ Furthermore, the new law imposed drastic restrictions over reasons for registration rejection, moving registration process to the judiciary, and putting administrative monitoring under judicial review, with an emphasis on contradictory procedural rules.¹⁰¹ Given the independence of the judiciary, and the eradication of control of the political secret security branch of the Interior Ministry, full freedom of association was granted and protected from this point on.¹⁰² The Polish constitution of 1997 states that "The Republic of Poland

guarantees the freedom of creation and action for trade unions, the social-professional organizations of farmers associations, civic movements, other voluntary unions and foundations."¹⁰³ This article is known as the Article on Civil Society, mentions four forms of associations covered by the specific laws (trade unions, farmers' organizations, associations, and foundations) as well as two others: civic movements and "other voluntary unions."¹⁰⁴

The absence of overriding powers of unelected elites over representative bodies

Many scholars who studied Latin America and Eastern Europe transitional attempts found that the existence of powerful array of coercive non-elected organizations that have long been systematically intervening into domestic politics, controlling the economy and imposing their power over representative bodies inhibits any prospect for transition to democracy in those regions.¹⁰⁵ Overriding bodies such as military institutions, intelligence agencies, and secret security units are in most cases powerful enough to suppress any initiative for change originating from below or even reforms from within the elected bodies. Nonetheless, they usually dominate over state resources, and they control and restrict access or transfer of information. Accordingly, different scholars assert that for democracy to be institutionalized post-revolutionary actions, the new ruling regime must establish a legal framework that only allows elected representatives to access power and govern while preventing non-elected body to intervene in domestic politics. Accordingly, such legal framework prevents extra-constitutional actors/ non-elected bodies that are not subject to accountability from holding power or even overriding elected bodies by having control over decision making process in certain policy domains.

In the case of Poland, there were two types of non-elected bodies who were enjoying full control over the state: the communist party and lately the military. The intervention of the military

in Politics did not have a long history as it started with the rise of General Jaruzelski, the minister of Defense to power by 1980s. This triggered two stages through which the new rising elites in Poland decided to end the monopoly of non-elected bodies in Politics. First of all, the new constitution of 1997 provides many constitutional provisions curbing the dominating role of the Communist party. Furthermore, the party assets were put in question: “should they be retained by the party, nationalized by the government, sold by the party to the highest bidder, or distributed in some equitable manner among social and political groups?”¹⁰⁶ The other crucial problem was ideological. In one-party systems in Eastern European countries, the state ideology/ identity were part and parcel of the ideology/ identity of the communist party. Accordingly, there was not any significant distinction between the party and the state. Rather, the communist rulers were considering the state and the party similar. This meant that opposition to the party amounted to treason to the state. To legalize opposition to the party and get rid of such overriding body, the new regime in Poland established another identity to which the Polish people and state can identify themselves with. In the case of Poland, this task was not difficult as the Polish state had a prepared soil of national identity that was created and promoted since 1956 when a Polish counter community evolved against communist rule. This counter community mobilized through years the whole Polish society and promoted Polish nationalism as being the true identity of the state. Nationalism in Poland developed to strictly oppose communism. When the communist party was overthrown, Poland redefined itself in terms of its nationalism.¹⁰⁷

Second and more importantly, the Polish rulers decided to impose full depoliticization of the military. During the communist era, all army officers were members of the Communist party (willingly or unwillingly). After 1989, the parliament ratified a law that prohibits officers’

membership not only to any political party but also to have any affiliation to any civil organization.¹⁰⁸ The military was accordingly out of politics and moved back to its barracks.

Conclusion

After reviewing the previous structural and institutional processes that took place in Poland after toppling the old communist regime, it is obvious that the regime political trajectory cannot be analyzed using unilateral explanation or using a single analytical framework. The complex interdependencies of comprehensive change create an interlocking loops weaving political, economic, societal and culture factors together into a complex frame. Different conceptual and theoretical approaches can be used to analyze the transformation process. This proves that there is not any overarching approach that can be fully convincing. Explanations that focus on institutions or more narrowly on elites, others focusing on behavioral analyses and decision making, all of these can present a valid explanation for the transition toward democracy or the reverse back toward automatization. Some theories stress the fact that the old system fostered change within its bosom.¹⁰⁹

Yet after going on the previous literature, it is proved that democratization of Poland that took place after 1989 was evolutionary and non-violent. The phase of popular uprising was followed by a vital comprehensive process of major structural and institutional building that determined the legal framework for the state peaceful transition toward democracy and guided the whole process. Without such institutional and structural reforms, Poland would have never been able to reach stability and democratization even with a rising economic status. Poland applied wide state building dynamics that shaped the sociopolitical sphere which paved the way for economic and cultural development. The new established regime had clear intentions of putting the state on

a secured road and allowed it to move gradually through legal channels toward democracy and representation. Successive elections resulted in a peaceful transfer of power which avoided episodes of total failure of state and bloodshed. Basic civil and political freedoms were enshrined in the Constitution, with well-founded institutional safeguards. There were no obvious challengers to the democratic process although agreements on regulations and compromises were not easily achieved.¹¹⁰ Among the crucial factor that led to a nonviolent transition was the “tactical ‘forgetting’, applied by the new regime through a pragmatic approach to differences and avoidance of historical conflicts which cannot be resolved but which might break up society, inflame passions or cause disorder.”¹¹¹ Andrzej Walicki, an influential historian and a respected figure in the Polish academic establishment rejected all attempts of de-communization and lustration. He announced that any investigation of Polish communist history should be left to historians not to politicians to avoid polarization of society.¹¹² This was a call for “national reconciliation” that did not allow putting the ex-communists through any actual or symbolic trial. Democratization as Rostow states, is not an easy process, it can take generations to reach peace and stability especially in highly polarized society. Although Poland rulers post 1989 had their flaws while applying structural change, yet no one can negate the fact that due to their will and decisions, they were able to institutionalize stable state society relationship within legal framework of the constitution.

Considering the current events, Poland witnesses the rise of ultra-nationalism and populism which highlights the risk of backsliding toward autocracy. Since taking power in late 2015, the populist, socially conservative Law and Justice (PIS) party has implemented serious policies that intensify political influence and manipulation over state institutions which indicates a possible reverse back toward authoritarianism.¹¹³ Likewise to what happened in Serbia with the rise of radicals and populists in the aftermath of the October revolution which was a major impeding

element of democratization, events in Poland now need to be further analyzed and investigated to explain the reasons behind the rise of populists and the attempt of reverse back toward autocracy.

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Chapter four: Structural and Institutional Change in Serbia post 2000 A façade democracy

Introduction

We Serbs are the only ones who slept through the fall of the Berlin Wall and didn't in the least

understand the political and economic dynamics in Europe and the world ...¹

The fall of the Iron Curtain in 1989, followed by the fall of USSR in 1990 triggered one of the most significant social re-engineering in Eastern Europe and the Balkan states in the twentieth century. States that had been trying to establish a sustainable communist system abolished the whole experience. This posed a question: how to design and facilitate the transition of those states towards a more democratic structure?²

Serbia during the early and mid-1990s, competitive authoritarianism was supported by high authoritarian structural power and western support for President Slobodan Milosevic who was a valuable ally in resolving regional conflicts. Generally, competitive authoritarianism in Serbia was the result of an incomplete transition that took place back in 1990.³ The Serbian Military defeat coupled with severe deep rooted economic crisis which weakened the Serbian regime. After 2000 election, serious demonstrations took place all over Serbia and toppled Milosevic regime.⁴ Oppositional groups received huge Western assistance. In the run-up to the stolen election, the United States and EU delivered \$40 million to \$70 million to opposition groups.⁵ This money was used to fund independent media, pay activists' salaries, and most importantly, the money initiated a massive get-out-the-vote campaign.⁶ On October 5, more than 600 thousand demonstrators assembled in Belgrade and stormed the parliament building, and Radio-Television Serbia.⁷ The

Serbian security sector met demonstrators with passivity.⁸ Police officers across the country resisted orders to protect the regime.⁹ In Belgrade, many officers laid down their weapons and refused to shot down the opposition.¹⁰ Likewise, the Secret Service refused also to protect Milosevic. Accordingly, Milosevic found himself without protection and decided to step down, and Kostunica took over as Yugoslav President.¹¹

Immediately after the Revolution, Vojislav Kostunica became the president of Yugoslavia, the Democratic Opposition of Serbia (DOS) won Serbian parliamentary elections held in December 2000, and Zoran Dindic became Prime Minister in January 2001.¹²

The established new regime was crisis ridden. Intense societal polarization occurred due to severe rivalry between President Kostunica and Prime Minister Dindic. Serbia was subjected to the influence of the international community throughout the 2000s. The EU provided five billion euros to Serbia and Montenegro between the year 2000 and 2004 in the form of reform aids; in 2005, Serbia signed with the EU the “Stabilization and Association Agreement.”¹³ In this context, Serbia’s political leaders glorified Western governments, institutions, and NGOs and highly considered cooperating with them to achieve stability and reforms.¹⁴ The world recognized the political change and thus the International Community decided to lift trade sanctions and diplomatic relations were restored in November and December.¹⁵

The revolution in Serbia took on a “social character” with popular take-overs of many state-owned firms through the creation of ‘crisis committees’ coordinated by Zoran Djindjic to consolidate power and maintain control.¹⁶

In the aftermath of the revolution, the state was not able to provide for stability. Protests for conflicting interests hit stability all over Serbia. Nevertheless, streets did not calm down, and

the regime was not ready nor willing to provide for reform. Protests were sometimes about workers` demands for the dismissal of corporation directors linked to the old regime, as well as minor disputes over salary payments. Serbia witnessed substantial disputes and strikes in the chemical and rubber industry at Tigar Pirot in December 2000, strikes done by teachers, and others done by Jat workers, the state airline that lasted till early 2004.¹⁷

Serbia similar to other transitional countries, decided to embark on a supposedly ‘comprehensive’ reform program to institutionalize a democratic states. Yet, the country faced severe problems in the process of transition that never ended. Problems are very complicated while the state resources are scarce even with tremendous foreign aid to reform the state. Thus, the government was focused more on making “tough choices” and “prioritizing”, rather than designing and implementing endogenous comprehensive development strategy in both private and public sectors.¹⁸

Although reforms in Serbia have advanced with time, their political legitimacy was always weak, since real societal dialogue and engagement has never been established and accordingly a societal consensus about what to be done was never reached.¹⁹ In socio-political terms, the reform process in Serbia has been perceived in numerous ways, mostly negatively as a “process of transition from one disaster to another.”²⁰ Consequently, there has been a vital collapse of “strategic thinking, research and governance” in Serbia.²¹ To make matters worse, the new leadership strategies hampered any possible democratic development. It all started with a lack of political will to design and enact strategic reform plans that respond to the state institutional development needs. Then, the leaders submitted the country to external development programs imposed by International actors as the elite’s main goal was to gain EU membership. More importantly, the regime had major defects in implementing external programs that were never

welcomed by locals and did not have any assessment or monitoring measures thus reforms became nil and void. What exacerbated the situation is the fact that the leadership initiated a program of institutional and legal reforms through the constitution and law provision which increased their manipulation over power and their unrestricted access to state resources. They made secret deals with unelected bodies, mainly the military generals, military intelligence and the security service sector to strengthen their control over society and suppress opposition. Consequently, the goals behind these deals were not to institutionalize democracy or even to increase state efficiency, but to consolidate, legalize, and institutionalize leaders' access to power and money. This is applicable to all reforms done through privatization policy in Serbia which suffered from lack of transparency during the entire period. It also applies to urban development, during which lands were always kept by the authority under state control.²² Different scholars and politicians asserted that reforms in Serbia have been construed and applied through structural power manipulation, paternalism, clientelism and “systematic and organized mobilization of interests and bias, as well as accompanied by general distrust.”²³ In the field of public administration, the reformers generally avoided open, responsive and participatory decision-making process.²⁴

In summary, the planning system and reforms in Serbia suffer from a “democratic deficit syndrome”, as well as from inefficiency.²⁵ On the political side, there is obvious lack of political will to introduce comprehensive strategic development. Planning is very slow, reformers did not benefit from the time of the aftermath of revolutionary change to foster institutional change. Rather, the sociopolitical society was torn by conflicting interests, demands and constant strikes.²⁶ Instead of inclusive and participatory strategic governance, a chaotic decision-making reigned over the state.

The geopolitical context and history of Serbia was also an impeding factor that inhibited its smooth transition. Serbia went through different critical junctures during the 1990s that remained in the historical memory of the Serbs and shaped their political context. The Western Balkans have been absorbed by nationalism since the collapse of Yugoslavia and the Balkan wars. With the fall of Yugoslavia, “the newly formed separate states looked as if they had an unofficial competition in which each tried to produce new, more vehement nationalist discourse.”²⁷ The renewal discourse of Serbian nationalism can be linked to 1989, when Milošević used national discourse to reach power. Milošević, speech during the celebration of the 600th anniversary of the Battle of Kosovo was a cornerstone of the twenty-first century Serbian nationalism.²⁸ Since 1987 Milošević exploited on this “Weberian moment” to manipulate power. “The Kosovo issue worked as a gateway for Milošević to become the dominant figure in Serbian national politics.”²⁹ Since then, Kosovo became the central theme around which Serbian nationalism is constructed. Consequently, the Serbian “media’s nationalist discursive hyper-production” reached its peak. Media promoted a “Kosovo-based Serbian nationalism” with the slogan “Kosovo is the heart of Serbia”, which nationalist hardliner Vojislav Koštunica repeatedly used as the last Yugoslav President (2000–2003) after the revolution of 2000, and later as Serbian Prime Minister (2004–2008).³⁰ By the late 1990s, as ethnic conflicts in Kosovo reached its zenith, Serbian media and politicians designated Kosovo’s ethnic-Albanian majority as “invaders”, similar to the “Turkish aggressor” from 1389. This was exacerbated by Kosovo’s effort for independence. Kosovo-based nationalism raised to be the main societal and political discourse.³¹

In February 1989, Milošević announced that Kosovo is no longer independent and he stripped its constitutional autonomy, removed the Albanian Kosovar leadership, and ordered the arrest of “Azem Vlassi—the local Communist leader who did not support Milošević when he usurped

power from Stambolic—and put in his own supporters into power, in essence bringing Kosovo back under Serbian control.”³² According to Milosevic, disunity was the reason for Serbian failure throughout history. Because of disunity, Serbs never had a solid identity.³³ Milosevic always used the myth of Kosovo to achieve his targets during the 1990s. He used it first to present himself as the new savior of the country during 1980s and then to access political power. Later on, he exploited during the Serbs wars with the Croats, Slovenes, and Bosnians in the early 1990s, and he used it again during the NATO bombing to stop the conflict within Kosovo.³⁴ Through his aggressive nationalist discourse and rhetorical strategies, Milosevic normalized ethnic violence in the former Yugoslavia while creating an exclusive Serbian “people”.³⁵ Through the myth of Kosovo, the Serbs saw themselves as a “distinct Serbian people” who were always victims throughout history.³⁶ The war in Kosovo and the bombardment of Serbia by NATO in 1999 magnified the self-perception of Serbs as victims. State discourse highlighted the victimization of Serbs by neighboring nations and by the international community.³⁷ In the Serbian case ultra-nationalism grew out of the conditions of the post-Tito era which is marked by a deep crisis and failure of communist Yugoslavia as a state. After the Bulldozer revolution, Kostunica the President of Yugoslavia, stressed the national question and used it again to control state power and resources.³⁸

Institutional change

After the mass uprising of the 2000s, the state suffered from the following: a deeply fractured nature of the political scene; second the fundamental conservatism of the military itself; and finally “the persistence of strong nationalist sentiment in Serbian society as a whole, and continuing western pressure and conditionality.”³⁹ The Dindic government that immediately gained power targeted the establishment of total control over society and instead of initiating

reform to achieve democratization, it implemented aggressive repression all over the state. For example, the government denied licenses to independent media after October 2000 which remained till 2004. When Dindic was assassinated in 2003 by military men who wanted to protect their interests against all reform plans, a state of emergency was declared which implemented harsh censorship rules and the closure of newspapers.⁴⁰

Theoretically, reforming the public service sector was considered essential for the consolidation of the government and state stability and legitimacy. After the early general elections of December 2000, the government triggered superficial changes in public administration. For example, all senior civil servants were replaced by new ones who were hired for a period of four years.⁴¹ This action was problematic on different scales. First, changing senior servants is a shallow change specially that the structure of the public administration remained the same as the one structured and consolidated by the toppled regime. Second, the new servants were accused of being chosen based on “political suitability” rather than their skills in the proper appointment process, as required by law.⁴² Last but not least, patronage and clientalism played a great role in hiring the new staff.

As the government declared its will to join the EU, it was forced to implement significant reform in Public Administration and to introduce performance indicators and monitoring mechanisms. Thus, the government established the “Government Council on Public Administration (Civil Service Council), chaired by the former senior UN Official and Emeritus Professor at the University of Belgrade, Dr. Dragoljub D. Kavran, in order to steer public services reform.”⁴³ The Council suggested the re-establishment of the Institute of Public Administration that was closed in the late 1980s. The institute was expected to be an educational, research and public policy hub leading the process of reform in Serbia in a systematic and analytical way.

However, the Institute has never materialized.⁴⁴ Furthermore, after the assassination of Prime Minister Dindic, the Council, was shut down, with Civil Servants dispersed throughout the entire Civil Service. All responsibilities were transferred to a newly created Ministry of Public Administration and Local Self-government that Premier Djindjic´ decided to close when he was appointed.⁴⁵ This proves the disorientation and confusion that characterized the political decision making process and accordingly affected the whole state. The government, and the civil service performance were always politically colored than they were under Milosevic. According to a senior government official “We get a number of young people sent by political parties and with an order from a minister to employ them. They are usually arrogant, lack knowledge as to what a Civil Service career entails, and cannot fit in at all. You do not conflict with them if you want to survive ... New ‘political commissars’, this is what they are; and call themselves ‘democrats’ with a capital ‘D’.”⁴⁶

Within such a “corporate climate”, it is difficult to determine the effectiveness of the implemented policies. Although a new law on Local Self-government was passed in 2002, the law did not state any performance mechanisms nor did it tackled the accountability of local government bodies to the general public.⁴⁷

The post-communist and post-conflict heritage of Serbia is characterized by being highly bureaucratic with weak institutional capacities, and underperformance of legal and judicial systems, which considerably impacted the functioning of public administration. Moreover, in the context of increasing hyperinflation and international conditionality and pressure, public administration was subjected to politics, as its role was about mere execution of decisions issued by political bodies. This context was fertile for various informal systemic practices to develop; those practices not only weakened the already existing operation but inhibit the public

administration reform efforts. The concept of informal institution was defined by Gretchen Helmke and Steven Levitsky, as “socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels.”⁴⁸ Furthermore, rigid administrative culture resists any suggested change, perceiving the introduction of reform policies as a threat to its “traditional modes of operation and personal.”⁴⁹ Nevertheless, the low degree of reform sustainability becomes a persistent element of the weaknesses of public administrations in Serbia.⁵⁰

The type of electoral regime/ vertical accountability

Following events of October mass uprising, premature elections were called for the parliament of Serbia, which was still dominated by Milosevic’s Socialist Party. These elections were won by the Democratic Opposition of Serbia (DOS), whose leader Zoran Djindjic then became Prime Minister of the Serbian republic.⁵¹ The new government did not initiate any electoral reconstruction. Yet it was more interested in maximizing their power share vis a vis competing forces. In this government DOS, the SPS, and the SPO shared power in each ministry. Theoretically, this prevented attempts of power manipulation, but in practice, this caused deep internal division and societal polarization that resulted in conflicting policies, perpetual political deadlock and anarchism. When the parliament was elected, it passed a law revising the electoral system only to reduce “the 29 multi-member constituencies to a single Serbian-wide district, allegedly in an effort to shore up the sliding fortunes of the SPS.”⁵²

The Serbian politics suffered from profound fragmentation, with power concentrating in the hands of key figures and their allegiant parties. In part, this has been a result of the existing electoral system that does not allow any single party to secure enough votes to govern effectively. The ending result is the existence of a formal political process “that often seems torpid with inertia,

but which in fact masks frantic maneuvering and bitterly active rivalries at the informal level.”⁵³ Politicians extensively use informal clientelism and patronage to secure their positions, control share and assert their influence in society through hidden deals. These practices shape the balance of power in the state as a whole, in the government, and more importantly in the parliament that generally did not represent citizens. Between 2004 and 2006, floor-crossing was welcomed; bribes were the mechanism of buying loyalty and political allegiance.⁵⁴ Similarly, parties have regularly used walkouts and boycotts to destabilize the parliamentary business.⁵⁵

Rule of law, associational freedoms, and horizontal accountability

Unlike Poland, since the 2000s, Serbia did not have real coherent political force within the state leading a transitional or reform process. Yet, reforms were actually initiated and pushed by different international actors such as the European Union and other international financial institutions.⁵⁶ Nevertheless, the ruling elites accepted the reform proposition and adopted the strategic plans. Thus, the Serbian Government, took a strategic approach for reform and defined specific goals to be achieved. This was strengthened by an Action Plan for its implementation (first for 2004–2008, and afterwards for 2008–12).⁵⁷

The first step mainly targeted the implementation of principles of “decentralization, depoliticization, professionalization, rationalization, and modernization.”⁵⁸ In such a manner, the state committed itself to establish the rule of law, accountability, transparency, effectiveness, and efficiency as well as the creation of a citizen-oriented public administration.⁵⁹ The years after the adoption of the Strategy were known as “the period of semi-implementation,” which hints at the several performance and implementation obstacles. First, there was a clear lack of implementation capacity of the responsible institutions, coupled with the absence of serious will and support for

the determined mechanisms.⁶⁰ Second, Serbia maintained a much distorted policy making and coordination system. Nevertheless, the regime did not familiarize the public administration bodies, and civil servants with the Strategy, the Action Plan, and its deadlines, which led to their low involvement and cooperation in the process although they are the ones who should implement and monitor results.⁶¹ This proves that “even when institutional links exist and reforms are on the way to implementation, attitudes and values embedded in administrative traditions can interfere with the desired path of institutional change.”⁶²

During that time, Serbia aimed at pursuing EU candidacy. This goal triggered also the acceleration of the reform pace.⁶³ Correspondingly, Džinić government worked to intensify assessing and monitoring reform measures in the following years through the Commission’s annual progress reports. Then, the government adopted a new Action Plan in July 2009.” Because the first strategic approach to PAR was characterized by legislative activity and poor implementation, the new action plan of 2009 were actually implemented in the beginning of 2014. Although the new strategy was considered more substantial and comprehensive, the implementation measures did not put into account the domestic context, culture, and needs of the Serbian society. The use of a unified framework to be applied for all states during transition does not satisfy nor consider the local context, and history of each state. In Serbia, reforms were never initiated locally and the regime never targeted reforms to institutionalize a new democratic state. Yet, its adoption of external reform plans targeted different goals such as EU membership, and eligibility for aids. In Serbia EU mechanisms were obviously unable to “break the informal rule,” while at the same time “the governing actors have not posed resistance to adoption of new rules, but showed great resistance to implement the laws.”⁶⁴ The time of adoption of the second action

plan coincided with the start of the Serbian EU accession negotiations, as a candidate country, which put the reforms at the forefront of political agenda.⁶⁵

Through the imposed reforms, a “performance appraisal system”, was institutionalized as a formal process to assess the performance of civil servants aiming at creating a depoliticized, merit-based, and professional civil service sector. However, there was a clear gap between the reasoning and the actual application. For example, one of the challenges relates to the prevalent inclination of the assessors, to destabilize the grading system by giving only the highest marks to their employees.⁶⁶

To summarize, Serbia suffers from a “parallelism between formal rules that exist on paper, and reality, which is resistant to these same rules, triggering a “reform faking” syndrome.”⁶⁷ As a consequence, the political and administrative climate suffer also from a lack of public scrutiny, accountability and transparency, as well as growing corruption, nepotism, arbitrariness, and finally a culture of secrecy.⁶⁸

The Constitution and the Constitutional Court

After the collapse of Milosevic regime, legislative and administrative reform have been consistently delayed or even avoided while the balance of power has been reconciled through informal mechanisms and secret deals. The “constitutional moment” was lost due to “quick polarization over the values of collective interests and rights-based liberalism and the confused reform implementation methods within the new government.”⁶⁹ Moreover, the Serbian Constitutional Court was prevented from working from February 2001 to June 2002 as “there was no quorum” because the parliament failed to elect replacements for retired justices.⁷⁰ This happened again when the SCC’s president retired in 2006 and was not replaced so it was suspended

until early 2008.⁷¹ Thus, the introduction of the new constitution in 2006 was a decisive victory reached after months of behind-the-scenes bargaining among different political actors.⁷² While the 2006 Constitution guarantees the legal basis for a modern democratic state, various scholars and politicians believe that it was imperfect. The main problem of this constitution is that it is based on conflicting standards and meanings of collective interests and rights-based liberalism. Furthermore, the new constitution lacked legitimacy since it was not subject to public debate. Additionally, there was excessive power vested in political parties which were proved to always seek power maximization rather than state stability.⁷³

The Court established under the 2006 Constitution has suffered from institutional issues from the very beginning. The Court legitimacy was questioned due to the non-transparent process of appointing judges and the total disregard of the prescribed selection criteria. In the context of a polarized political setting in Serbia, this provides a chance for the SCC to weaken the process of democratic consolidation through its inclination and bias to the political majority in power and, in particular, the delaying procedural strategies it employs.⁷⁴ Only in cases whose resolution would help to achieve Serbia's integration to the EU, did the SCC exhibit more active role.⁷⁵

Until 2006, the Ministry of Justice exercised full control over the appointment of judges and prosecutors, triggering serious questions about “judicial independence and political tampering with the courts.”⁷⁶ The 2006 Constitution considered this issue, and transferred the power of judicial appointment to the parliament while highlighting principles of impartiality and accountability in the civil service and judiciary.⁷⁷

The judicial independence is essential for the rule of law. This can be ensured only through constitutional provision and implementation.⁷⁸ Generally, an independent judiciary “maintains the balance” in the state system, since its main role is to inhibit the abuse of power. In order to

guarantee an efficient position of the judiciary, the Serbian Constitution of 2006 provides various constitutional values regarding judicial power such as: “autonomy and independence of courts, constitutionality and legality, obligatory nature of court decisions, collegiality of conducting trials, system of mixed jury, public hearing before a court, permanent tenure of judicial office, judicial immunity and incompatibility of judiciary function with other functions, actions or private interests (Art. 142, 145, 146, 149–152 of the Constitution.)”⁷⁹ On the contrary, the Serbian Constitution “entrusted the legislator with too much power in the field of substantive issues relating to the judiciary, especially in relation to the election and dismissal of judges. The Serbian Constitution contains major deficiencies related to the independence of judiciary. First, the constitution provides great influence to political authorities, primarily the National Assembly, in the election of judges. Second, the constitution did not contain provisions related to the termination of judicial office and dismissal of judges, so “the legislature has too much influence on the judiciary, because the National Assembly has complete freedom to provide grounds for termination of judicial office and dismissal of judges.”⁸⁰ The third issue is the politicized composition of the High Judicial Council, which is defined as an “independent and autonomous body” (Art. 153 of the Constitution), but such autonomy does not exist since all eleven members are elected, in a direct or indirect manner, by the National Assembly.⁸¹

One of the major deficiencies of the Serbian Constitution of 2006 revolved around giving the legislator excessive regulatory powers to deal with substantive issues related to the judiciary such as judges elections and dismissal. This in fact subordinates judicial power which should be independent to the legislative which inhibits prospects of separation of powers. The Serbian Constitution contains several issues related to the independence of judiciary.⁸² First, the definition of the principle of separation of powers, “which stipulates that the judiciary, which should be

independent from political authorities, is in relationship of “balance and mutual control” with them” (Art. 4.3). According to Marco Stankovic, “Mutual control” and “independence” are “mutually exclusive principles.”⁸³

The Serbian Constitution does not get rid of the influence of political authorities on judges’ election. Judges “beginners” who are elected for the first time to office, whose mandate lasts three years, are usually elected by the National Assembly. The situation is exacerbated by the constitutional mandate for the National Assembly elections of courts presidents including the president of the Supreme Court of Cassation (Art. 144 of the Constitution).⁸⁴ The Constitution of 2006 excludes the principle of permanent tenure for judges elected for the first time -which is a mechanism that protects judicial independence through providing judges with life tenure or long tenure to be able to decide freely on cases and respect the rule of law and judicial discretion. (Art. 146.2 of the Constitution. Judges elected for the first time are elected for three years. Permanent tenure of office helps gives judges to oppose freely political authorities.⁸⁵ This three years term for judges hinders judges’ independence as they would always target reelections by intimidating state elites and political authorities whether consciously or unconsciously, they would respect and implement the will of political and financial powers. Yet, the European Court of Human Rights such “trial period”, is not a threat to judicial independence, but should be at least five or six years.⁸⁶ In general, a major criticism of the constitution makers was that “the constitution-maker had no sense of the issues to be regulated in detail by the Constitution. Therefore, some important institutions are not defined precisely enough, while on the other hand, the Constitution has found the place for certain norms that should be the subject of laws or regulations.”⁸⁷ For example, the Constitution totally ignores the mandate for judges dismissal, status of judges and status of courts which were left to the law (Art.148.3).⁸⁸ According to R. Marković, “the deconstitutionalization

of the grounds for termination of judicial office and dismissal of judges weakens the position of the judiciary as an independent branch of power in the system of government.”⁸⁹ Additionally, the Constitution does not provide enough details about the organization of courts, assuming that “judicial power in the Republic of Serbia shall belong to courts of general and special jurisdiction” (Art.143.1), whereby “provisional courts, courts-martial or special courts may not be established” (Art. 143.3).⁹⁰ The only court that exists explicitly in the Constitution is the Supreme Court of Cassation.⁹¹ The Constitution proves the existence of wide discrepancy between “proclaimed principles of separation of powers” and “independence of the judiciary” in Serbia.⁹² Thus rule of law and citizens` rights are consequently not protected nor guaranteed.

The parliament

On the one hand, the Serbian parliament has suffered from some weaknesses due to internal partisan division, the parliament has high tendency to prioritize party political calculations over and above its main function of oversight.⁹³ Additionally, the parliament’s different oversight committees suffer from a lack of expertise and inadequate administrative support.⁹⁴ On the other hand, the parliament’s institutional and administrative flaws were solved over time. For example, there has been significant development of professional competencies of parliamentarians together with increasing support facilities such as researchers and analytical resource provisions. In addition, many parliamentarians have been actively engaged in activities of self-development and capacity building.⁹⁵ Yet the structural political problems were never solved.

The police

The police was the main protector and supporter of Milosevic autocratic regime. During that time, the police main duty was not protecting the people, or maintaining state security but

shielding the political regime.⁹⁶ Accordingly, after the fall of the regime, the cornerstone step of reform included the reform of the police structure. This was done through four main goals which are the four “‘Ds’ de-politicization, de-centralization, de-criminalization, and de-militarization.”⁹⁷ Additionally, a vital concern was that the police must represent population differences in terms of gender, national structure, but most importantly, ethnic representation. While reforms were successful in several superficial areas, the situation was very difficult with inclusion of ethnic minorities.⁹⁸ There are various obstacles that weakened any attempt for improving multiethnic policing in Serbia today. Some of the issues are linked to the framework for policing, while the others are due to the police institutional weakness and lack of systematic organization.⁹⁹

The existence of an independent civil society

Serbia has a long historical record of societal activism. Youth movements and advocacy groups were an integral part of Milosevic opposition during the 1990s, then they were instrumental in his final downfall. This does not mean, however, that the Serbian civil society has developed nor acted as the social guarantor of liberal-democratic politics. Although Serbia witnessed systematic increase in the numbers, influence, and professionalism of NGOs, civil society actors failed to act as mediators between the state and society, nor they were able to raise awareness about the necessity of reforms to foster the process of democratization. Many of them have played an active and progressive role in politics, aiming at joining the political forces and sharing power with them. The Serbian civil society was accused of promoting different illiberal habits. For example, many civil organizations were accused of corruption, and nepotism in their dealings with government or business. They also made secret deals to access benefits and resources. The point here is that in Serbia, there was nothing “inherently liberal or moderating about civil society.”¹⁰⁰ Instead, it functions as a mere “mirror of the state and society more widely, reflecting their

tendencies and proclivities both liberal and illiberal in nature.”¹⁰¹ Although Serbia was the target of large amount of aid, the money was used to fuel the proliferation of NGO establishment and activities. Yet, these new organizations and their activities did not reflect real grassroots activism. Additionally, legal regulation inhibited the development of civil society organizations. The old Law on “Societal Organizations and Citizen Associations” from 1982 remained operative after the Bulldozer revolution. Even when in 2001 when NGO bodies have called for some legislative formulation and drafted a new bill to regulate voluntary civic organizing, the draft was removed from the agenda of the Parliament because of "more important" issues to be dealt with, and has been waiting till today. In addition, other laws relevant for NGOs such as laws on taxation always remained out of the Parliament agenda.¹⁰² Furthermore, such activities were not sustainable, they did not target the liberalization of society nor the reform of the state.¹⁰³ Absence of activists motivation existed after toppling Milosevic. The removal of the “long-standing enemy -the Milosevic regime- triggered confusion in terms of activists identity, aims, strategies and practices “if we are no longer fighting against, what are we fighting?”¹⁰⁴ With limited exceptions, the majority of active Serbian NGOs remain small, with weak organizational capacities and lack of qualified staff. In 2006, Freedom House announced that 47% of NGO funding in Serbia came from foreign aid as the local organizations lack resources.¹⁰⁵ Contrary to Poland that was able locally to enhance civil society capacity building and organizational and structural reforms to create an active and efficient civil society that channels the needs, and grievances of citizens, Serbia did not consider such reform as part of its program for change.

The absence of overriding powers of unelected elites over representative bodies

After toppling Milosevic, the ruling elites decided at the beginning to disregard attempts of institutionalizing civilian control over the military, security service, and their intelligence agencies. This in part was the direct consequences of political weakness and polarization but also it indicated the continuation of past traditions of “participation and alliance building with the security sector that were so characteristic of both the socialist and Milosevic periods.”¹⁰⁶

Reforms of civil military relations including the security service sectors and its intelligence entail change on three inter-related levels. The first is about the inculcation of the principle and practice of civilian control over the security/military/intelligence agencies. The second consist of the consolidation of the democratic nature of control through creating efficient mechanisms of oversight, and accountability of these agencies activities, with the development of needed expertise and capacities to achieve that. Finally, there is the need for organizational reform in the agencies themselves, the reorientation of the perception of their new roles, and the abolishment of all corrosive legacies of the past.¹⁰⁷

Serbia has several intelligence agencies. Although there are wide range of organizational diversity that problematizes any unified approach to deal with them. Nevertheless, we can divide the Serbian intelligence agencies into two key power centers which are “the military and its intelligence agencies” and the “state security service.”¹⁰⁸

To establish civilian control, Serbia’s post Milosevic governments have implemented several strategies with various nature and dimensions. The Democratic Opposition of Serbia (DOS) worked to inhibit any direct praetorian encroachment of either the army, the police or any of the intelligence agencies on leaders’ political power or state resources. Additionally, the

government was also interested in pushing these organizations out of domestic politics. DOS decided to follow a negotiation process with the main actors concerned to achieve such goals. Yet, negotiations were not led by unified leadership of DOS, but separately through key competing figures within it. Vojislav Kostunica, the leader of the Democratic Party of Serbia (DSS), and Zoran Dindic leader of the Democratic Party (DS) negotiated independently through secret deals.¹⁰⁹ On one side, Kostunica chose to forge closer relationship with the military, and its Milosevic era director, General Aco Tomic. On the other side, Dindic communicated with the Serbian police and state security services, with its notorious commander Milorad 'Legija' Ulemek.¹¹⁰ These negotiated deals created for both Kostunica and Dindic their own basis of support and power while representing a considerable continuity with past traditions of politicization and clientelism rather than ending practices of authoritarianism.¹¹¹ The security service and the military intelligence agencies have been used to play a significant role in the political struggles to shape the state relations with civil society. Their usual access to information and their capacity in surveillance and espionage were used by the ruling elites as a weapon against activists by spying on them, and blackmailing political opponents.¹¹² Consequently, it was normal in Belgrade that key positions in the intelligence agencies and the military are mere political appointments of the state.¹¹³

It was always manifested that the submission of the security, military and intelligence agencies to the government was conditioned based on cost and benefit analysis protecting their own interests. These organizations resisted any intrusion into their own organizational, power and financial interests. For example, in November 2001, the Serbian government was forced by International actors to implement reform measures in the security sector. Consequently, the agencies mutinied, went into roadblocks and refused for a whole week to obey government orders

to disperse until the government decided to withdraw.¹¹⁴ Again in 2003, the government announced a strategic plan for comprehensive reform combating organized crime and cooperating with the International Criminal Tribunal for the former Yugoslavia in The Hague (ICTY). In response to that, the military special operation Unit (JSO) planned to kill Prime Minister Dindic shooting him dead in central Belgrade on 12 March.¹¹⁵ The government's response was sudden and unprecedented. It organized a joint operation between the police and army to disband the JSO, and arrested the perpetrators.¹¹⁶

Later on, further steps were done by the government to limit the power of such units. The government created a new "Council for National Security" in May 2007, to control and limit the authority of all various security and intelligence agencies and to curtail any further political abuse. The government's strategy was hesitant, and slow to avoid any backfire from their side. This again manifested the weakness of the government.

Over time, the governments was able to move against the old leadership of those organizations and establish a new leadership to alienate reactionary figures from the previous regime. The removal of General Pavkovic, the Chief of Staff was a crucial step for the start of a new era of direct civilian control over the military.¹¹⁷ This change implemented three main new policies in 2005: first, the creation of institutional and legal subordination basis of the security agencies to civilian control; second, the introduction of legislative oversight of the sector; and finally, the emergence of civil society role such as the media and non-governmental organizations in assessing and monitoring the activities of these agencies and providing analytical reports.

However, this change was hampered by persistent obstacles. The structural traditional habits of secrecy and exclusivity of those institutions were solid and durable, and much of their work remained out of scrutiny.¹¹⁸ The security services were put under the total control of the

defense ministry which created rooms for political manipulation. In response to that, the parliament passed a new law “the Law on the Security Services.”¹¹⁹ This was a significant document as it was the first meaningful legal regulation of the security service. The law asserts the concept of civilian supremacy over the military security services and creates a parliamentary committee to oversee their activities. Furthermore, the law reorganized and renamed the services themselves, such as the Department of Security (KOS) becoming the Military Security Service (VSB).¹²⁰ Yet till 2006, most of the law provisions were not implemented on ground due to unstable political environment. Additionally, the parliamentary committee lacked the academic and practical expertise and organizational capacity to implement efficient scrutiny over the security services. Hence in 2005, the committee was disbanded. The constitution of 2006 tried to revive the previous provision and reestablish the parliamentary committee of oversight while trying to put efficient legislative framework for the institutionalization of civilian supremacy.¹²¹ Rade Bulatovic, the director of the military intelligence agency, claimed in November 2006 that he ordered the dismissal of third of operational staff who were replaced by others and that many’ of the BIA’s secret files were made public. However, these changes did not signify genuine transformation as the structure and command remained the same and the change occurred in total secrecy which inhibited the assessment of the dismissal process and the reasons behind it.¹²² These problems were accompanied with a lack of transparency in the defense sector. Enjoying total institutional autonomy, those agencies were always reluctant to reveal detailed information about their activities and budget although the defense budget was two thirds of the entire state budget in 2006.¹²³

After all, the security service sector remained bastions of conservatism regarding different issues. On the one hand, organizations leadership continuously rejected all external political and

governmental attempts of real reforms particularly if reform involved lustration or retrospective accountability, while on the other hand, the agencies suffered from lack of institutional capacity to reform itself from within.¹²⁴

Conclusion

Under Milosevic, Ivica Dacic, was the spokesman who justified and fostered Milosevic's wars in neighboring Balkan states. Aleksandar Vucic, the information minister of Milosevic, who defended the acts of ethnic cleansing of Albanians living in Kosovo. Tomislav Nikolic the deputy leader of the Serbian Radical Party who accused Milosevic of being too reluctant expanding Serbian territory to build a Greater Serbia. After more than 20 years, Ivica Dacic, became prime minister of Serbia. "Vucic is first deputy Prime Minister, and Nikolic, was president till 2017. In 2020, Vucic is the Serbian head of state. Together, the three compatriots "wrought a political metamorphosis by remolding their country's self-identity from 'bandit Serbia' to 'decent Serbia', as Vucic sees it".¹²⁵

The different ruling elites in Serbia since toppling Milosevic regime introduced several attempts of structural and institutional reforms, yet all suffering from major deficiencies. First of all, their intentions behind implemented reforms are extremely problematic as they were always targeting presenting Serbia as a Western European state in order to join the EU. Unlike Poland, Serbian elites never targeted real structural and institutional change for the establishment of democracy. Second, the reform methods and the strategic plans applied made the matter worse. On the one hand, they were not indigenous nor planned according to the need of the state for reforms nor considering the history and the culture of Serbia. Additionally, they were inefficiently planned and implemented with total absence of assessment mechanisms. The established new elite

did not benefit from the revolutionary moment to engage in a comprehensive structural and institutional reform program. Rather, they were reluctant for years and busy with power sharing and access to state resources and money.

Yet, the government tried in a way to combat corruption in public administration between 2004 and 2006 by implementing anticorruption and organized-crime legislation. This helped Serbia to make limited progress in Transparency International's Corruption Perception Index, moving from a rating of 1.3 in 2000 (the second-worst rating in the Index) to 3.4 in 2008. While laws were theoretically efficient, serious questions remain about implementation measures and scale.¹²⁶ To conclude, the previous discussion justifies the outcome of the Serbian regime today as being a partially free state according to the Freedom House index with 66/100 points where a reverse back to full autocracy is highly possible.¹²⁷

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Chapter five: Conclusion

The thesis has examined the outcomes of transition that take place post-revolutionary actions. It holds that establishing a democratic regime or reversing back to autocracy do not depend on the nature of revolutionary uprisings. Yet, there are major structural and institutional processes that take place after toppling the old regime to determine the regime political and socioeconomic trajectory. It did so by looking at Poland, analyzing the institutional and structure process of state building that took place after the 1989/1990 revolution against the Communist regime, and the structural reforms that took place in Serbia after the 2000 Bulldozer revolution toppling Milosevic Communist rule.

The thesis` main goal was to negate Samuel Huntington`s argument asserting that mass uprising against autocratic regimes usually establishes more autocratic ones, and that the type and events of revolutionary change are the main determinant of the new regime political trajectory. Similarly, Karl asserts that "To date, no stable political democracy has resulted from regimes transitions in which mass actors have gained control even momentarily over traditional ruling classes."¹

On the contrary, according to Michael McFaul "It is instead 'revolutionary transitions' the mode of transition thought to be least likely to facilitate democratic outcomes by third-wave theorists that have actually produced the most stable and consolidated democracies in the post-communist world."² He explains such variation by declaring that states post-communist experience are better explained through different theories than the ones that explained the third wave of democratization because the factors, regime types, causal mechanisms, and societal dynamics are different. He asserts that "Democratic imposition from below in which confrontation is the mode of transition is not a new phenomenon, unique to the post-communist world. On the contrary, there

is a tradition of democratic revolutions that includes some of the most important case studies in democratization.”³ Bruce Ackerman emphasizes that the American and French transitions to democracy were “confrontational armed struggles” during which oppositional forces imposed their will and established the new rules of the game.⁴ This means that Huntington and other scholars’ theories analyzing states transition during the third wave of democratization do not present the perfect, and real explanation of transitions that happened later in Eastern Europe and the Balkans.

Throughout the thesis, it was clear that the nature of revolutionary actions may affect the establishment of the new regime, and state society interactions after toppling the old one. But more importantly, the thesis asserts that the significant period post-revolutionary actions and the whole range of structural, and institutional state building processes implemented are the core of democratic institutionalization, and later of consolidation. The reform programs that the new regime decides to implement shape the socioeconomic and political environment of the state and its interactions with society, and with external actors.

The previous analysis proves that post-revolutionary regimes foresee different regime outcomes according to the nature, scale, strategy, and goals of the implemented structural and institutional reforms if any in the aftermath of revolutionary actions. Elite’s decisions, behavior, political will and state society interactions are crucial in settling and implementing the political trajectory of states and the reform strategic plans implemented.

Poland post revolution of 1989/1990

On the one hand, the case of Poland in the aftermath of overthrowing the Communist regime demonstrates that the first few years after regime change are crucial to the emerging regime. The new regime benefited from the “revolutionary moment” by starting a comprehensive reform

program. Poland proves that the institutionalization of democracy becomes possible if political elite has the real intention and power to implement decisive institutional change and organizational reforms with the creation or enhancement of certain sociopolitical dynamics that shape decision making processes and societal agency. McFaul declares that “Democracy emerged therefore in countries where democrats enjoyed a decisive power advantage. And hence institutions of power sharing or checks and balances did not result only from compromises between the ‘ancien regime’ and democratic challengers but rather emerged only if the hegemonic democrats chose to implement them.”⁵ Poland started by considering and improving the institutional weaknesses of its public sector through implementing capacity building programs for state servants to familiarize them with reforms. The process was evolutionary and non-violent to guarantee servants consent and understanding to implement different types of reforms as they responded to their real needs. Through dialogue and public discussion, the government incorporated civil society in the process of reform by creating channels through which citizens communicate their needs and grievances.⁶

In Poland, the phase of popular uprising was temporary and aimed at changing the whole autocratic structure, not just the regime leaders. For four years, the regime hand in hand with politicians, academics, and researchers worked on the constitution draft to produce an efficient document that protects the institutionalization of democracy and its consolidation.⁷ The legal framework was the main guild and protector of the whole process.

Poland’s new leadership had the political will to institutionalize democratic procedures through endogenously designing and implementing reforms in public administration sector, privatization policies, governance decentralization, urban development, and development of civil society organizational and communication capacities. Reforms were welcomed and enhanced by civil servants and employees in the public and private sectors. Both the political leadership and civil

society organizations were able after the revolutionary actions to sit together peacefully and determine the process for change. They were able to alienate radicals from both sides and to manage the situation through moderate agreements. Citizens too were aware of the need for cooperation with the leadership while giving enough time for change to happen, be assessed, and produce concrete results that they can relate to.⁸

The new regime in Poland decided to use the *"Dive into the deep end"* approach.⁹ In this case, reformers introduced reforms in key domains. First, the regime implemented full scale decentralization to break the five monopolies of Milosevic communist state which are: "The political monopoly of the communist party" through which the party imposed full control over political representation throughout elections. Second, The monopoly over state authority of Milosevic which inculcated vertical, hierarchical dependency of the lower tiers of the government on the upper ones while making local governance very weak and inefficient. Third, "the monopoly of state property" under which municipal property never independently existed as separate from state property before 1990 which were all dominated by Milosevic and his family. Forth, "the monopoly of the state budget" according to which discretion in raising local revenue was never allowed. Last but not least, "The monopoly of the state administration" in which firm centralization policies were implemented by Milosevic and local bureaucrats were subordinate to branch ministries more strictly than to the local council or local executives that were always kept weak.¹⁰

To end these monopolies, the state decided to reform the electoral regime shifting the process of presidential elections from indirect to direct elections to achieve independent legitimacy to the president.¹¹ Furthermore, the senate was open for free contestation.¹² To institutionalize legal civil and political rights, the parliament drafted a new constitution that was approved publicly on 25 May 1997 that establishes legal framework for the separation of power, a system for

horizontal accountability, checks and balances, and most importantly through different provisions, the constitution asserts various associational political, social and economic freedoms among which is the right for private property.¹³ Moreover, the state introduced vital reforms in the judicial system to guarantee efficient and autonomous functioning of the judicial system that protects citizens' rights and freedoms and implements the rule of law. Nevertheless, the state implemented measures of organizational capacity building to reform the security services and mainly the police.¹⁴

A key factor that shaped the institutionalization of democracy was the awareness of political elite and society of the need of efficient and active civil society that acts as a mediator between the state and citizens through which individuals can voice out their concerns and channel their grievances and also cooperate in the decision making process. Such understanding helped both sides to cooperate together to achieve their goals by allowing freedom of association, freedom of expression, and abolishing all bureaucratic procedures of state permission for association, and dismantling.¹⁵ Finally, the regime abolished the interference of any overriding non-elected body in domestic politics and prevented their rally to power.¹⁶

To summarize, the Polish success to establish the rule of law, and the implementation of efficient system of accountability obviously outweighs the resulted failures and the proclaimed controversial ambiguity due to the existence of noticeable institutional achievements. This does not negate the fact that flaws happened as the Polish experience was one of trial and error through deep and comprehensive learning process. Although Poland targeted joining EU and NATO, the reform strategic plans that the regime planned and implemented during the 1990s and even after that were endogenously designed respecting, and responding to the needs of the state, considering its institutional weakness, and its historical political and societal context. The regime was not just

targeting the fulfillment of the criteria of joining western institutions, rather it focused on real significant reforms that enhanced state institutional functioning which prepared the state for membership. Simultaneously, Poland benefited from international aid to develop its own sectors. Poland was a major recipient of Foreign aids post revolution in 1990s. European aid targeted helping Poland to establish efficient state institutions and enhance the emergence of a strong private sector to help the state establishing democracy and developing its civil society. The EU worked through governmental channels in Poland and provided the state with the “Assistance for Restructuring its Economies (PHARE).”¹⁸ By early 1990s the international community has devoted over 200 billion dollars to bring stability and economic development to South-Eastern Europe in general.¹⁷ Poland, as a front-runner of political transformation, received “the biggest financial assistance (especially if we include both debt reduction operations here) in both relative and absolute terms” during its transition time.¹⁸ Poland signed an agreement with London Club creditors in September 1994 to receive 47-49% debt reduction (6.8 - 7.0 billions USD out of 14.4 billion USD).¹⁹ Although Poland received huge financial aids, it was able to design and implement its own strategic plans for internal reforms autonomously with only a “supplementary support from foreign experts, including IMF and World Bank experts.” Yet, International organizations and Western governments experts played a bigger role in designing reform programs for states such as Serbia.²⁰

Serbia post the Bulldozer revolution of October, 2000

The case of Serbia on the other hand, is a complicated one because Serbia went through different junctures while joining and withdrawing from the federal alliance with Montenegro, and taking part in many regional wars until NATO military intervention against Serbia ended its aggression, and heavy international sanctions were imposed. Yet, the analysis did not focus on

these events but most importantly, it focused on the reform procedures that Serbian ruling regime decided to implement after overthrowing Milosevic in 2000.

The period of the 2000s in Serbia proved that toppling a dictator does not mean that the establishment of democracy is inevitable and that a reverse back toward autocracy is not possible. With “only” the replacement of leadership without real and efficient institutional and structural reform plans, coupling with the absence of rule of law that protects civil and political rights, a reverse back toward authoritarianism and the emergence of an unstable hybrid regime becomes the usual the outcome.

Serbia after the Bulldozer revolution went through a period of total instability during which protests and strikes for individual interests were hitting the state. Streets did not calm down, and the regime was not able to provide for security. Nevertheless, the regime was very reluctant to initiate any societal dialogue or to communicate with civil society organizations to reach agreement about the strategic framework for the state to implement reforms. This highlights the lack of the political will to reach agreement or even to design or implement significant reforms. The political environment in Serbia suffered from deep political fragmentation and accordingly the conflicting parties were fighting over power sharing and resource through secret deals with powerful actors and coercive security service sectors led by Milosevic generals to secure loyalty and allegiance.

During that time, the political elites aspired for EU membership as being the main goal of Serbia, and hence they welcomed external development programs to achieve that goal regardless of the real on ground needs of the state to democratize.²¹ Unlike Poland, the elites did not initiate endogenous structural and institutional plans for reforms. Yet, they were pressured by external actors such as EU representatives and UN different agencies to implement developmental

programs to join the EU. The political leadership did not even familiarize the public administrators with the external reform plans. Consequently, all action plans were never welcomed nor efficiently implemented by the locals for different reasons with no monitoring mechanism. First, those reform programs did not match the real needs of the state and its weak institutions as they did not emerge from inside the state or its institutions. Second, Serbia public administration sector suffered from a solid impeding culture of conservatism and traditionalism that rejects any attempts for change specially when change would threaten the interests of locals whether political or economic.²² Third, Serbia did not have the institutional and organizational capacity to implement reforms as the leadership did not initiate foundational changes. Nevertheless, implementation was very problematic due to the absence of assessment processes and monitoring measures. Additionally, Serbia did not institutionalize any legal framework for the protection of civilian social and political rights until the parliament drafted the constitution in 2006 which was also problematic in some views.²³ The rule of law, horizontal accountability, and separation of powers were not enhanced through constitutional provisions. More importantly, the judicial system was much politicized and applied delaying and avoidance strategies.²⁴ Political polarization in the parliament and the deeply fractured nature of the political scene due to the existing electoral framework were detrimental to the functioning of the Parliament.²⁵ Even when the oversight committee was established, the personnel lacked military expertise and knowledge to fulfill their tasks hence the committee was dismissed.²⁶ Political legitimacy was fragile, since real societal dialogue and engagement has never been established and accordingly a societal consensus about what to be done was never reached. Serbia suffered from the absence of coherent political force that could support state reforms while triggering societal awareness. Furthermore, decentralization was never achieved, and local governance remained vulnerable and affected by patronage, clientalism and polarization.

Although, Serbian leadership designed limited measures to fight corruption, sustainability was detrimental to the whole process. Successfully, Serbia was able to integrate women in the police as part of Western gender diversity policies, yet it was never able to integrate ethnic minorities and the police remained non representative of the whole community which boosted police violence against minorities.²⁷ Civil society was never allowed to develop nor was subject to capacity building measures. On the contrary, after 2002, Marshal Law was declared, associational rights were threatened, independent media was censored, opposition was targeted and some figures were assassinated.²⁸ The security service sector, the military and its intelligence were strongly intervening in domestic politics as they resisted all types of reform and constantly worked to protect their financial interests and political autonomy. This sector was a playing actor on the political scene, as it was a main partner in the political deals done by the president and the Prime Minister to confront each other since the early beginning of Kostunica and Dindic reign. Nevertheless, the security sector as a whole was part of organized crimes, as the military was directly involved in the killing of Dindic in 2003 when he was pressured by international actors to implement reform process that institutionalizes the concept of civilian control over those agencies, thus threatening their interests.²⁹ After all, the security service sector remained a center of conservatism, patronage, and polarization. They always manipulate power and impose control over the Parliament, the government while being always intimidated by the President to remain in power.

The experience of Serbia was totally different than Poland although both states faced international pressure to democratize through reform programs and aids, yet Poland decided to benefit from aids allocating them in real endogenous and efficient development while Serbia was

totally submissive to imposed attempts even with no will to initiate parallel reforms or even to implement imposed reforms efficiently.

Having outlined the significance of structural and institutional reforms for the institutionalization of democracy post-revolutionary actions, the study holds that the containment of popular mobilization after toppling the autocratic regime is crucial to minimize losses. Scholars argue that uncontained popular mobilization and increased pressure from below spoil the chances for stability and for democracy.³⁰ Similarly, Daniel Levine asserts that "conservative transitions are more durable."³¹ He emphasizes that whenever political leaders are able to manage the resulting situation after mass uprising, structural and institutional reforms leading to democratization are most likely to take place efficiently. Even Rueschemeyer, and Stephens, assert that moderate interactions with radical parties after revolutionary events are vital to stability and security.³²

The need for setting the agenda for negotiations, is another necessary step. For example, Juan Linz and Larry Diamond explain that political elites must have the will to guide civil society toward efficient reform through dialogue and negotiations. The process must be comprehensive and inclusive rather than implemented from above.³³ According to Robert Kaufman, round table talks contain threats from below that can ruin the whole period.³⁴ Similarly to the argument of Guillermo O'Donnell and Philippe Schmitter who explain the importance of mobilization activity to instigate change and reform. Yet there is always a cost and limit for toleration that the leadership must take into consideration while dealing with civil society if such activity threatens the process.³⁵

The study does not aim at establishing an overarching criteria for democratization, rather it aims at highlighting some crucial factors and dynamics of actions that trigger and smoothen transitions. To summarize, I assert that democratization is the outcome of "choice" and "conscious

decision" of political elites that shape their interactions with society, and their knowledge of the weakness and the needs of the state. This choice crucially determines the state track.³⁶ Wolfgang Merkel stresses the assumption of complexity that focuses on the complex structure through which the new regime is established and consolidated whether as a democracy, semi democracy, or even the autocratic one.³⁷ The above literature does not suggest to generalize the concept of 'democracy' to an all-inclusive approach, nor my thesis intends to make an "either or" choice between the different structural and institutional variables that are all complementary and necessary to the process. Yet, it assesses the relationship between the above mentioned independent variables and the state building process that happened in Poland and Serbia and its outcomes. The thesis proves that those variables are at the core of the democratization process. Yet, the distinctive features of "the fourth wave" of regime change in the post-communist world endorse a continuous research to understand and reach new theories of democratization and autocratization.³⁸

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