

## Democracy against Bureaucracy: the Russian Case

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### Abstract

Weber noted the conflict between egalitarian ideals and the tendency of bureaucrats to become a status group, as well as the generic problem of controlling them. This was in its core a principal-agent problem, with the people as principals and discretionary power beyond law the issue. His discussions of Russia illustrate a case in which bureaucratic power and the outsourcing of decisions and power to advisory bodies produced a kind of pseudo-constitutionalism. The case is analogous to present democratic deficits, and with a similar consequence: populist reaction.

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The current political situation appears to represent a radical departure from the deference accorded to elites allied with the modern bureaucratic state and to their opinions: a lack of deference stigmatized as 'populism'. The situation has parallels in Max Weber's time and in his writings, parallels which are of course far from exact. But there are many continuing themes, some of which point to important features of modern and particularly post-war American and European political life in general. One is the return of constitutional issues. The other is the 'populist' response to bureaucracy and bureaucratic rule. The international and comparative level points to other parallels. The late nineteenth century up to the Great War was consumed with tariff issues, financialization and monetary issues, the control of trade via colonialism and its current analogues, and in the United States the use of immigration to disadvantage the working class and the 'nativist' response, alliance instability, and issues of the distribution of wealth.

What is novel, and inspires fearful comparisons to the period between 1918 and 1940, is the inability of liberal democracies and its traditional political parties or elites within the parties to respond effectively, which is to say to quell the dissatisfactions, and to redirect them away from elites.

'Populism' is a disputed tag, but it is appropriate enough: it is a term for a largely unorganized response to elite failure, and particularly the failure of accredited or official 'experts' who are responsible for unpopular policies. This paradigmatically 'democratic' response is described as a threat to democracy, a term which has now acquired associations other than the sovereignty of the people, and more commonly is used to denote a bundle of 'progressive' policy preferences and attitudes over such topics as immigration, but also of interpretations of the concept of the rule of law, protest, citizenship, and much more.

The second presidency of Donald Trump has brought this conflict into a particular focus: his 'populist' attempts to rein in the bureaucracy have been interpreted as 'authoritarian', contrary to the rule of law, unconstitutional, and themselves anti-democratic. But it is clear that the issues raised by his actions go far beyond the United States. They are paralleled in Europe and elsewhere by analogous crises, which take different forms as a result of the differences in the character of the states and polities in question. All this requires some disentangling, some of which we can do by paying attention to Weber's own writings on the Russian political situation during the 1905 unrest, which have as its theme the failure to secure the kinds of reforms that would produce and maintain a functioning liberal democracy. But to get there requires some background.

#### *How Did We Get Here?*

The model of bureaucratic order Weber repeatedly invoked was ancient Egypt. The rules were simple: the Pharaoh was a God, the bureaucrats were slaves or de facto slaves. The ideal-type could be constructed on the basis of this general model of hierarchical authority and in legal theory 'democracy' could replace the Pharaoh. The schematic picture of democratic governance works as follows: the people become the surrogate for the absolutist monarch, and through some agreed form of representation issue laws that are binding on all, enforced by an executive officer or set of them with defined and limited powers, which in turn authorizes more such offices in a hierarchy under the control of the executive. This is a 'rule of law' picture of bureaucracy. The law is made by the law-giver, and the bureaucrat both obeys and enforces it. In the ideal-typical case, this is an almost mechanical process carried out by the machine made of men.

Weber observes, repeatedly, that the technical superiority of machine-like bureaucracy makes it indispensable for the modern state, that 'the forward progress of bureaucratic mechanization is irresistible',

that 'there is nothing, no machinery in the world, which works so precisely as does this human machine-nor so cheaply!' (1978 [1921-22]: 984). If this was the whole of the story, there would be no conflict between bureaucracy and democracy: bureaucracy would simply be a mechanism for carrying out the results of democracy. Weber himself observed that 'the progress of bureaucratization within the state administration itself is a phenomenon paralleling the development of democracy' (1978 [1921-22]: 984).

But this is of course not the whole of the story, either of democracy or bureaucracy, as Weber makes clear. The political concept of democracy, 'deduced from the 'equal rights' of the governed' is anti-bureaucratic: it 'postulates: (1) the prevention of the development of a closed status group of officials...and (2) minimization of the authority of officialdom in the interest of expanding the sphere of influence of 'public opinion' as far as is practicable' (Weber 1978 [1921-22]: 985). But what minimization is practicable?

The rule of law model runs into a difficulty: laws need to be applied. This creates a classic principal-agent problem: whether the law comes from a king or Pharaoh or 'the people' someone needs to do the work of applying the law. Those persons, the intermediaries who interpret and apply the law, in turn need to be governed: held to account. Weber gives a variety of examples of how this is done.

...the Egyptian officials were slaves of the Pharaoh, if not legally, then in fact. The Roman latifundia owners preferred to commission slaves with the direct management of money matters, because of the possibility of subjecting them to torture. In China, similar results have been sought by the prodigious use of the bamboo as a disciplinary instrument (1978 [1921-22]: 967-68).

The modern method of controlling officials gets the same results: an assured salary with the opportunity of a career that is not dependent on accident or arbitrariness, and 'taut discipline and control which at the same time have consideration for the official's sense of honor, and the development of a prestige sentiments of the status group' (1978 [1921-22]: 968).

Is there an intrinsic connection between bureaucracy, which is to say the principal-agent delegation of powers in a hierarchical system, and inequality? Weber describes these status groups and alludes to their peculiarities in many places. And he connects this to the development of the economy:

the growing complexity of the economy, partial nationalization or 'municipalization', and the size of national territory, creates ever new paper work, further specialization and administrative training—which means the creation of a caste. Those American workers who were against

'Civil Service Reform' knew what they were doing. They would rather have been governed by upstarts of dubious morality than by a class of professional mandarins – but their protest was in vain (Mayer 1979 [1956]: 109-110).

Weber applies this 'rule of the few' and 'Iron Law of Oligarchy' consideration to organizations generally, and especially to political parties. The '*demos* itself, in the sense of a shapeless mass, never 'governs' larger associations, but rather is governed' (Weber 1978 [1921-22]: 985). This is the core conflict: as a practical matter 'the people' cannot rule.

The sheer ubiquity of inequality-creating distinctions that become more or less stable – of which 'caste' is simply an extreme form – means that searching for a general principle here is gratuitous. In the case of bureaucracy itself, however, we can point to something approximating a general principle: rule or authority, whether it is narrowly legal or merely administrative exercises of decision-making, is acting on behalf of others, whether the others are Pharaohs or 'the people'. And in acting the official or agent operates within limits. But the limits are themselves subject to a general principle of sorts. Carl J. Friedrich named the problem, and described it, not very memorably, in terms of a rule: 'the rule of anticipated reaction' (Friedrich 1946: 589-90). The rule was basic to administrative authority. The theoretical source of authority was elsewhere: in the sovereign, the people, the constitution, or the law. But in actuality bureaucrats exercised coercive power and this inevitably required discretionary power with unclear limits. The rule described the response of the bureaucrats to the political constraints produced by the possible 'reaction' of countervailing forces, given the reality that the source of their authority was always at least in part indirect and dependent on other sources of power and legitimacy.

The idea behind the 'rule', which is actually a descriptive empirical generalization, was that when bureaucrats navigated the problems of decision-making by using their powers, meaning their discretionary powers, to apply the law, to interpret it, to invent regulations, to punish and reward, to ban and permit, and to do the rest of the things bureaucrats do, they did so in ways that anticipate avoiding 'reaction' that might lead to restrictions on these discretionary powers, punishment, censure, loss of position, and so forth, which is to say the powers of the principal in an agency relation. Their actions thus inhabited a zone in which powers were not challenged, their actions were accepted as legitimate uses of their authority, and there were no attempts at legislative or judicial restraint on them. This category was not in any strict sense defined by law, but was rather a matter of what the bureaucrat could get away with in using state powers.

'Getting away with' is an ill-defined concept, and for a reason: this is a dynamic relation between principal and agent. The bureaucrat is the agent, the principal is classically the sovereign, and in a bureaucracy the higher office holder with hierarchical control; but in a democracy, as Frank Knight pointed out, there are many principals, including users with a capacity to respond, judges who can restrain, voters, and so forth (Knight 1960: 180-81). The principal-agent problem is fundamentally about interests and the limits of discretion: the interests of the principal who is authorizing the agent diverge from the interests of the agent, and the divergence needs to be controlled and monitored. This has a specific application to democracy signaled by Knight's comment, which needs some explanation. The democratically authorized law can only do so much to define the relation, which needs to be interpreted, and in any case needs to be enforced. This zone between law and application in bureaucratic decision and the exercise of power is the space of 'bureaucratic' power. It wears the face of law, and has the force of law, but is not the clear product of the processes that make and define law.

Not only can expectations change, the devices for control can also change. Indeed, the agents, the bureaucrats, can persuade others to act to establish procedures and devices that give them more immunity from control. In short, the principal-agent relations here are not static, as in the case of the Pharaoh or the absolutist monarch, but dynamic. And this introduces a whole new range of complex considerations. It points to the constantly changing procedures and practices that make up the domain of administration of all kinds—of rules and regulations, enforcement, and involves the passive acceptance or rejection of changing practices, which is a part of the response to new technologies and innovations.

### *The Russian Case*

The example of Egypt as the greatest and most extreme example of bureaucratic power was constantly invoked by Weber as exemplifying the tyranny of the minor official. But the 'other' which was a constant point of reference was Russia, particularly in reference to the comparative roles of the Kaiser and the Tsar, but also in terms of the nature of the bureaucratic class. And Weber's references to Russia in *Economy and Society*, as well as his extended commentaries on Russia in 1905 and 1917 (Weber 1995), reflect his sense of the similarities and differences, as well as the contrast to the United States, which he also has constantly in mind. But the Russian case presents something distinctive: an overt example of the hypertrophy of bureaucratic power and its strangulation of the possibility of liberal democracy. And as such it holds lessons for

the less overt strangulation of liberal democracy in nominal liberal democracies.

The basic story Weber tells about the 1905 revolution involves the constitutional democratic movement, which represented an alliance of bourgeois parties and Slavophiles, and held congresses to formulate demands for political reform. The basis for this activity was a form called the *zemstvo*, which was, as Weber described it, 'a modern body of self-government' which had responsibility for local public works. These corporate bodies were regulated but largely independent of the state bureaucracy, which they regarded 'as a parasite existing only for the preservation of the existing political distribution of power, almost devoid of relevant interests other than those of finance' (Weber 1995: 47). The *zemstvos* were constantly obstructed in their activities in support of their communities by the police, whose authority they nevertheless depended on. The reform efforts that led to the 1904–1905 events that Weber chronicles were, as he understood them, a constitutional change in response to this situation, in which the bureaucracy made cosmetic changes in the constitutional structure but retained power by various legal gimmicks and by a divide and conquer strategy in response to the very different demands and expectations of the peasants, the petty bourgeoisie, the captains of finance, and other groups. The story reflects a general feature of authoritarian bureaucratic rule: it thrives on deep social and political divisions that block political coalitions. The striking feature of this situation was the combination of hostility on the part of many groups to the bureaucracy and the grudging acceptance of it.

Discretionary power is a feature of the principal agent relation. For the Russian bureaucracy abuse was a given and expected. As Weber put it, discussing the peasants,

In general, the application of force by the police, wherever it occurs offends the Russian peasant's sense of justice, although, and partly because, he is accustomed to yield to it outwardly, in probably a greater measure than in other countries; for he sees in it nothing whatever 'moral', nothing but the purely 'random' and senseless brutality of power, which is in the hands of people who are his sworn enemies (Weber 1995: 190-91).

Needless to say, the rule of anticipated reaction gave the bureaucracy a great deal of scope, which they used, by doing such things as shutting down political meetings.

But the abuses added up and created a well of resentment. The peasants' yielding, their general respect for the Tsar, and a certain patriotism, persisted as a prop to the regime. But their respect did not extend to the bureaucracy, which survived by other means:

The bureaucracy of the autocratic regime would still manage to harvest the fruits of its long-running demagogic policy of, on the one hand, fostering capitalism, and, on the other, strangling any ordered development of bourgeois independence and playing off the classes against each other (1995: 112).

The general lesson here is clear enough: the ability to divide opponents or to exploit divisions is advantageous to bureaucracies and expands their ability to abuse power (Weber 1995: 112). This is a lesson that generalizes: bureaucracies can ignore the will of the people where there is no united will and where disunity can be produced by the actions and policies of the bureaucracy itself.

But there is another more powerful method of expanding power and avoiding responsibility: to make concessions that could be easily undermined by administrative devices. And here Weber stumbled, consciously or unconsciously, on the technique that came to dominate governance in the twentieth century, which the system of pseudo-constitutionalism that emerged in response to the crisis of 1905 exemplified. New bodies were created or granted powers, notably councils. These provided a form of representation and often had veto powers. But whose powers were sufficiently vague, and whose membership was sufficiently diverse, that it was difficult to place responsibility for outcomes and bureaucratic actions. The 'pseudo' aspect of this emergent form of constitutional rule derived from the replacement of relatively transparent laws, principles of representation, and personal forms of accountability with a proliferation of bodies, councils, and offices.

The 'pseudo' aspect of the constitutionalism that emerged is exemplified by the vagueness of the apparently vast powers conceded to the *Duma*, the parliamentary body. The *Duma* had a veto on permanent laws. But as Weber points out 'The question of which regulations are counted among the 'Fundamental State Laws' and are thus *outside* the initiative of parliamentary bodies...' is unanswered (1995: 181). In any case, its veto powers were paralleled by those granted to the Imperial Council, formerly a purely advisory body, which was reformed to include members from the nobility, academia, and elsewhere who were not appointed by the Tsar. The effect of all of this was to create the illusion of consent and support beyond the bureaucracy itself. But the effect was to free the bureaucracy to act by obscuring responsibility and gaining the apparent consent of non-state representatives. The effect was the expansion of discretion.

In a system of *pseudo*-constitutionalism the monopoly position of the council would necessarily become inflated to monstrous proportions, and the ministers, with a shadow parliament fabricated by their administrative

machinery and bereft of any securely based influence of the *law*, would simply do as they pleased (Weber 1995: 178).

These administrative devices and council served to block control by the Tsar, whose limited powers Weber memorably compares, following an observation applied to the turnover of French ministers, to a skittle boy. 'The bureaucratic interests in the Council are united to form a powerful trust...the Tsar is nothing but a skittle-player, who, if he *wishes* to, can knock down 'all nine', but then has to set them all up again himself, like the skittle boy' (1995: 178).

It might be noted that these immunizing devices, modelled in part on the idea of judicial independence, have proliferated in modern democracies. They are exemplified in the US by FDR's constitutional revolution of 1937 and the creation and empowerment of numerous regulatory commissions. NGOs, similarly, often exist as advisory bodies supported by the state, but beyond the normal checks of elections. Yet they are often very closely linked to regulatory actions, which they are used to justify, typically in the name of expertise, such as identifying 'hate crimes'. The reliance on quasi-private bodies for expert opinion, serves the same purposes as commissions. The newly extended role of such bodies is a silent constitutional revolution.

Weber did not think, in describing the Russian political situation of 1905, that he was predicting the future of western democracy. He was describing a classic 'wicked problem'. He recognized that a meaningful liberal democracy was, given both the conflicting viewpoints of the Russian classes and the position of the bureaucracy, not a likely solution. But the fate of liberal democracy was to mimic the same situation, one in which conflicts could not be meaningfully resolved within the framework of democratic discussion, and in which traditional political parties are no longer seen as the source of meaningful solutions. Policy paralysis in turn leads to an analogous pseudo-constitutional solution: the delegation of decisions and implementation to councils, commissions, and bureaucrats. The names of the bodies change. The powers granted to experts and NGOs change. But the patterns do not. More and more decision-making power is delegated and sequestered in organizations and bodies which represent expert authority or stakeholders and are immunized from 'democratic' control and transparency by procedures and barriers. The 'populist' alternative of knocking down 'all nine' and setting them up again emerges as an alternative to submission to a unified bureaucracy. But there is no practical alternative to 'setting them up again, which appears as a new tyranny. This is the new form of the problem of democracy and bureaucracy, with populism replacing the Tsar. It was not the kind of parliamentary order Weber expected.

But it would have seemed familiar to Weber after his engagement with the Russian situation of 1905.

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