

PAR in transition countries – a critical overview of some templates

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RG Young; 12 June 2006

PREFACE

In May 2006 I presented a paper in Ljubljana to the 14th Annual Conference of NISPAcee on the problems of technical assistance in administrative reform in transition countries (Young 2006). This was based on my 15 years of experience living for extended periods in countries of Central Europe and, latterly, Caucasus and Central Asia and working on such programmes. The paper looked briefly at the system of donors, beneficiaries and contracts in which we operate – and then focused on the limitations of the ideas and “consultants” in that system. Part of my argument was that consultancy is rarely in evidence since beneficiary demand is generally low (apart from the accession countries) and the activities are too often driven by partial, a-historical perceptions of western practical subject specialists who lack a comparative perspective.

A week later I went to Skopje to give a presentation to the core staff of the European Agency for Reconstruction in the Balkans (EAR). Their context (of motivated beneficiaries and “loads of money”) was very different from mine of the previous 5 years and I was still thinking about the more academic issues of the previous week. My presentation did not therefore satisfy me. To make amends I therefore sat down and tried to summarise (and comment on) the mechanisms used by TA for administrative reform in transition countries in the past decade – insofar, at least, as it is possible for one lone consultant to understand and make sense of the experience of more than 20 countries when he has personal experience of only eight!

My first thought was that this will be useful for those in the Balkans and further afield who have the responsibility for designing reform programmes and projects in this field. But, as I went through the early drafts, one shared deficiency of the 3 mechanisms became powerfully obvious and a more immediate and realistic objective then became evident - to get help in correcting errors of fact or judgement in this draft.

A lot of the text draws on material I wrote for beneficiaries when on assignment and I am very conscious that I am not able to draw on the resources of UNDP and World Bank with their comparative data-bases and experiences. It is therefore a bit of a foolhardy venture. There are, however, 2 reasons why I have persevered –

- Only one person seems to have attempted such general overviews (Verheijen). As a UNDP and World Bank employee, he can draw on a very wide experience but, equally, as I’m sure he would be the first to admit, is not able to develop the contextual understanding which comes when you are living and working in a country for a couple of years. And such people have to be very careful of what they say. At my stage of life, I can afford to be more blunt.
- The various case studies and papers on PAR don’t seem to offer practical help for those who want to know what to do now – in this particular context. Of course there is a strong school of thought which says that the key is simply to set up a process – and that it is arrogant and dangerous social engineering to imagine that one can construct blueprints for more effective programmes (Chambers). There is a lot of truth in this – but practitioners should be aware of practice elsewhere and can perhaps learn from it....

Since sending the paper to the EAR in June 2006, I have updated it marginally and would very much welcome feedback – either directly at bakuron2003@yahoo.co.uk or on the website I am developing - www.freewebs.com/publicadminreform/. This website contains some of my other papers

EXECUTIVE SUMMARY

This paper looks initially at three different contexts of post-communist state restructuring – and then at three of the tools or mechanisms being used in transition countries to improve the quality of work in their systems of public administration - Civil service laws and agencies; Functional review; and Impact assessment. Each of these three mechanisms focuses on a very simple injunction –

- *Make recruitment open and competitive*
- *Check that the activities of state bodies are appropriate*
- *Check that the consequences of draft laws have been calculated – and are likely to achieve their purpose*

Simple perhaps – but, sections 4-6 argue, very threatening to important forces in society!! In other words classic examples of the apparent clash between the rationality of TA and the politics which is avoided and treated with contempt by much TA. The paper then asks the whether these mechanisms are realistic. Section 7 looks at the question of who has the interest in these societies in having effective systems of public administration – and how they might be more involved in such reform efforts. Many people are asking the question why policies fail – and section 8 sketches the various answers which can be given and hence help create a better understanding of the purpose of admin reform.

The international community has had it lucky so far – EU accession was a powerful incentive to central European governments and societies to make changes in their ways of doing things. In non-accession countries the picture for friendly and effective state bodies is less rosy. So what does one do? Limit oneself in countries with a context hostile to reform – as the World Bank does – to funding NGOs and giving the odd scholarship? Keep one's powder dry and put one's hope in the future generation?

In places where that incentive does not realistically exist, **competition** of two sorts seems to offer some footing for PAR –

- To be investment-friendly regimes
- To have the image of making most progress within the particular Region (particularly to attract TA and develop the new Neighbourhood mechanism in eg Caucasus)

But such competition is rather a blunt incentive compared with that of accession. Attention needs to be paid to the details of each local context. Laws, regulations and other policy tools will work if there are enough people who want them to succeed. And such people do exist. They can be found in -

- **Parliaments** – even in tame and fixed parliaments, there are individual respected MPs impatient for reform
- **Street-level bureaucrats** and their **national Associations**; many officials are frustrated with the legal overload, lack of funding and preparation for laws. Professional associations – which presumably the Acquis Commaunitaire has helped develop – are an important force for testing the feasibility of draft policy measures if the consultations required by impact assessments are carried out seriously.
- **Ministries of Finance**; have an interest in policy coherence.
- **NGOs**; those which actually do represent specific social interests also have a high motivation to solve problems
- **Local Government Associations**; municipalities have great potential for change. They have legitimacy – although generally they are starved of resources. But if the councillors can develop strong links with local people and establish good national links – eg with an effective Association of municipalities – this can have a very positive effect.
- **Audit Bodies**; as government audit extends beyond the question of whether the spending of state bodies has been legally sanctioned, it moves into the critical area of “value for money”. This, however, takes considerable time...
- **Younger generation** – particularly in academia, policy shops and the media

The question is how they can become a catalytic force for change – and what is the legitimate role in this of donors? To begin to answer such an enormous question takes us into a wider literature than is normally read by consultants in the PAR field – those of history, development and policy development.

ABBREVIATIONS

AC - Acquis Commaunitaire – the 80,000 odd pages of law to which all member states of the EU have to subscribe.

CIS – Commonwealth of Independent States

EC – European Commission – the civil service of the EU

EU – European Union

FR – Functional review – see para 5 of this paper

NISPAcee – Network of Institutes for Public Administration in central and eastern Europe

NPM – New Public Management – the fashion for contracts which swept the Anglo-saxon world in the 1980s

OECD – Organisation for Economic Cooperation and Development

PA – Public Administration

PAR - Public Administration Reform

SIGMA – support for the improvement of governance and management – the programme funded by the OECD and EC which has published various guides for transition countries and annual assessment of their systems of PA

TA – Technical Assistance

1. CREATING ADMINISTRATIVE CAPACITY in Transition Countries

“Government overload” was a popular term in late 1970s – signifying the perception that the spread of government responsibilities in social and economic fields had outstripped the administrative and fiscal capacity of the state. Thatcherism and the “rolling back of the state” followed in the 1980s – most evident in privatization of state industries and contracting out by central and local government bodies of a range of auxiliary services. The state, however, still retained its share of GNP – even if the structures it chose in countries like Britain for spending - via sub-contracting and Agencies dealing, for example, with assessment and payments of social security benefits - led to a reduction in the number of civil servants. The resulting “core executive” (Rhodes) was supposed to allow civil servants to focus on essential strategic advice tasks – “steering, not rowing” (Osborne and Gaebler). At the same time, however, the increasing pace of European integration meant a shift of power (steering) to Brussels, giving central governments the space and time to turn its attention to local government issues. In some countries (France) this meant legislation for decentralization (Loughlin) but in others (UK) it meant a transfer of powers and finances from local government to local agencies and central programmes (Stoker) controlled by central government.

Twenty years on, the core members of the EU are still wrestling with the issue of how their systems of public admin can be structured not only to deliver effective health and education services but to deal effectively with a range of increasingly complex and wicked problems.

*The term “overload” may not be heard any more in west Europe – but it is in fact a highly appropriate term for many countries in **Central Europe** and **the Balkans** who spent the 1990s setting up the structures of democratic and market systems and who are now, in 2006, at different stages of implementing the huge range of legal obligations embodied in AC. In the last few years, many of them have recognized that they lacked*

- *the political capacity to set strategic priorities which stick; and*
- *the administrative capacity to implement their laws*

– and have taken various steps to deal with this problem. There one hears the question – how can we get agreement about what needs to be done and drive it through? Political, rather than administrative overload, seems to be part of the problem with the coalition governments that characterize Central Europe.

*Further afield are **CIS countries** which don’t have the immediate pull of EU accession but which are variously aware that their closed, centralised and corrupt systems do not serve the public well and have accepted, with varying degrees of enthusiasm, TA programmes supporting changes, for example, in their judicial and local government systems.*

There, one hears the question – “we have good laws but why don’t our policies work?” Reluctance to delegate characterizes the CIS systems.

Western advisers go to transition countries from a specific national context which has experienced in past 2 decades a sea-change in their own domestic systems. One of the obvious questions is what the transition countries can learn from this experience. Although the idea of borrowing systems from elsewhere is now not politically correct¹, there may be lessons in the process of change – how a successful reform effort was put together and implemented

This note looks only tangentially at PAR experience in Western Europe and focuses instead on the efforts of the past decade in Central Europe to strengthen the “capacity to govern”.

The global revolution in the past 2 decades in thinking about government - its role and organization - has perhaps added to the complexity of the challenge of transition countries as they tried to construct new systems of public administration – since there have seemed no certainties. And Western Europe seemed to have been going in a different direction from that they were recommending for the transition countries! A World Bank paper drafted for the Russian Federation (Manning 2002)

¹ Local ownership is all – but one still hears the language of “best practice” rather than “appropriate” practice

expressed the difference between the “basic reforms” being recommended for transition countries and the “advanced reforms” being undertaken by OECD countries very neatly -

Table 1: The elements of 'basic' and 'advanced' reforms

		Basic reforms intended to achieve or strengthen public sector discipline	'Advanced' reforms
Public Expenditure Management Reforms	<i>Aggregate Cost Reductions Efficiency Improvements</i>	Hardening budget constraints Input oriented line-item budgeting – perhaps circulating some performance information	Changing format of the budget to link it to future plans
	<i>Accounting Reforms</i>	Strengthening cash accounting	Introducing double-entry book-keeping and accrual accounting
	<i>Auditing Reforms</i>	Strengthening traditional financial and compliance audit and undertaking some performance audits	performance auditing in the supreme audit institution and in internal audit
Civil Service Personnel Management Reforms	<i>Career Management</i>	Enhancing job security and protection from political interference	Decreasing tenure
	<i>Unity of the Civil Service</i>	Creating a legally defined cadre with common terms and conditions	Fragment and diversify pay arrangements
	<i>Individual Incentives</i>	Mechanical application of standard promotion and reward rules	Annual performance targets
	<i>Openness</i>	Encouraging career development within a closed system	Moves towards "position based" systems – with encouragement of lateral entry
Organizational Structure of the Executive	<i>Agency Size</i>	Simplify and consolidate ministry structures	Specialized, single purpose Agencies
	<i>Contractualization</i>	Limited use of performance contracts between government and some arms-length agencies	Extensive use of contracts across the public sector
	<i>Specification of Agency Targets</i>	Indicative targets and annual plans	Specific binding targets
Role and Policy Load Carried by Government	<i>Political Decentralization</i>	Minor changes of responsibility	Major reallocation of responsibilities from central to subnational government
	<i>Service Shedding</i>	Some minor reductions in service provision	Major shedding of previously accepted government tasks
	<i>Contracting Out</i>	Contracting out of the easily-specified support tasks	Contracting out of strategic or hard to specify tasks such as payroll management or policy-making

From - Manning, N and Parison N

One of the issues which has not received much attention in the literature on the admin reforms in transition countries is that of sequencing (Beblavy). In other words, which of these measures logically should precede others? Which can work in parallel?

Grindle has written a seminal paper (on “Good Enough Governance”) which identifies four types of regime and the different parcels of reform relevant to each.

2. DIFFERENT CONTEXTS; DIFFERENT PROBLEMS

2.1 Accession countries

All accession countries had a history of democracy and market structures and have been able therefore to develop the basic structures and practices of democracy and capitalism with some ease. Developing, however, the capacity to govern takes much more time and pain. Their problems of public administration and governance were and are laid out in annual country assessments carried out and published by EU since 1997 -

- scale of new legislation required overwhelmed the ability of Ministers, Executives and parliament to assess critically and of state bodies to absorb and implement – leading to partial and poor implementation and frequent legal amendments.
- The strong legalistic approach of these countries meant that policies were rarely developed – rather draft laws are prepared with no indication of whether they were “fit for purpose”, affordable or properly prepared for implementation (action plan, budget, staff, training etc)
- Scale of patronage and political appointments undermining efforts to create a professional civil service
- The reaction to the centralist planning of the soviet model creating a reluctance to develop a strategic approach and central policy coordination devices
- Coalition politics made strategic leadership difficult
- Judicial system and legal framework missing for admin redress

2.2 CIS Countries

CIS countries have a more difficult cultural context – they have been and generally remain centralised, closed and corrupt; lack the tradition of inter-war institutions of democracy and capitalism; and now the pull of EU Accession as an incentive to reform. Very little analytical description is available from these territories – the social sciences which have produced such rich material from Central Europe in the last decade have still not developed in CIS countries – and only Russia (and Ukraine) has the developed Institutes of Public Administration which are beginning to get involved in TA programmes. Russia has seen some serious reform efforts in the past few years but almost all of the literature is uncritical donor material². The 2 countries I know best in this region are - centralised in -

- **policy-making style**; new policy directions are signalled in Presidential Decrees developed in secret – with parliament and state bodies playing no real role in developing policies
- **management style and systems** in state bodies; where old Soviet one-man management still prevails, with crisis-management modes evident and no managerial delegation
- the **absence of conditions for the new local government system** to flourish properly

closed in that -

- There is **little acceptance of pluralist methods of thinking**; for example about the need for separation of power; and challenge to ideas and conventional wisdom
- **Recruitment to civil service** is done on the basis of (extended) family links
- Bright graduates now go either to the private or international sector (including TA)
- Elections are often fixed; It is **difficult for independent-minded reformers to stand for election**
- **Censorship** is widespread – whether formal or informal through media being owned and controlled by government and administration figures

corrupt in that significant numbers of –

- Key government and administrative **positions** are bought
- public officials (are expected to) accept informal payments for **special favours**

² for example the Executive Summary “Institutional reform in Russian – moving from design to implementation in a multi-level governance context” (World Bank June 2006). One exception is Pat Gray.

- senior administrative figures have substantial and active economic interests”
- students can and do buy educational **qualifications**

Table one puts it more crisply –

Table 2: Overview of main governance features of a CIS country

Institution	Comment	Extent of reform effort
Political executive	Centralised and opaque. Baronial system.	Non-existent
Parliament	elections controlled; and not permitted to change draft laws from President	Minimal
Judiciary	Still not independent	Good TA project – but Ministry of Justice a laggard
Media	Strong state control (formal and informal)	Non-existent
Civil service	Positions bought and appointments made on grace and favour basis	Civil Service Agency established on paper
State bodies	Corrupt and insensitive to public need	Ministry of Taxation and Min of Foreign Affairs making efforts
Local government	elections controlled; No real powers or resources	Non-existent
Civil society	Major registration problems	
University	Examinations and Degrees are bought by more than half of the students	Minimal

2.3 Balkans

The Balkans lie between these two extremes – but have their specific challenges of ethnic diversity and memories of conflict and repression. The Austro-Hungarian tradition of the countries of the north is very evident – just as the Ottoman influences are stronger in the south. Romania dislikes attempts to include it in the Balkan camp but its negative experience of administrative change³ puts it firmly in the Ottoman area of influence.

“Entrenched bureaucracies have learned from experience that they can always prevail in the long run by paying lip service to reforms while resisting them tacitly. They do not like coherent strategies, transparent regulations and written laws, but status quo and daily instructions received directly from above. This was how the Communist regime worked and, as many scholars noted, after it collapsed the old chain of command fell apart but the deep contempt for law and transparent action remained a constant of daily life. This institutional culture is self-perpetuating, both in the professional civil service and the political class. The change of generations is not going to alter the rules of the game as long as the recruitment and socialization follow the same old pattern: graduates from universities with low standards are hired through "clientelistic" mechanisms; performance on the job is not measured; tenure and promotion are gained exclusively through internal power struggles. The governing is most often done, more or less routinely, by an uneasy combination of old-time Communist bureaucrats, the only ones who possess the group discipline and determination to accomplish anything, and foreign donors. The average minister today focuses less on getting things done and more on developing supportive networks, because having collaborators one can trust with absolute loyalty is the obsession of all Romanian politicians and the reason why they avoid formal institutional cooperation or independent expertise.

The Romanian Communist regime was much closer and repressive than its Central European counterparts, and thus did not allow the emergence of alternative elites, or a decent category of technocrats who can understand and manage policy reforms. What is more, post-Communist politics did not manage to discredit and exclude important political and economic actors linked with the previous regime by, for example, passing lustration laws. The researchers of transitions consider this factor a strong predictor for slow and muddled reforms.

Not only has Romania had too many ministries and agencies, but they appear, disappear or change their attributions and subordination very often. The immediate consequence is that the institutional memory of these agencies is lost and we see little continuity in terms of programs, staff and documents that might lead in the long term to an improvement in performance. The best example here is the central economic coordination. Until 2005, we have assisted a whole game of musical chairs: the ministries of Privatization, Reform, Economy, Development and Forecast were set up, dismantled and then revived at such a pace that their employees did not

³ for the only book treatment of events from 1989-2004, see Gallagher.

have the time to realize what they were actually supposed to do. The reasons for this generalized institutional muddle are manifold. At a very basic level, there is obviously a lack of vision about the role the state should play in the process of reform. Second, setting priorities has always been a problem. When everything is a top priority that needs to be addressed on the spot, this means there are no genuine priorities and strategies, only momentary reactions to events and constraints which are exogenous to the act of governing.

But there is also a more down-to-earth explanation for this instability. When the winners of the 2000 elections began to restructure all the ministries and agencies, some changes were made solely to get rid of civil servants who had become irremovable under the law passed in 1999. This law was part of the EU conditionality when Romania was invited to start the negotiation process at the Helsinki summit in late 1999. Its purpose was to insulate public officials from political pressure and institute a civil service with a European-style discipline, professionalism and *esprit de corps*. It is debatable whether this was a realistic or even desirable goal, given the current situation in the public administration. Maybe a better idea would have been to adopt a more liberal model where the politicization of the top civil service is openly recognized as inevitable, and thus legitimise and regulate by law a practice which is well-entrenched and tacitly accepted. But once a law was adopted, the governments were expected to be at least more careful in dealing with the civil service. Instead, the 2001 institutional reshuffle was done in defiance of the spirit of the law: by simply changing their names the new administration has "reorganized" many institutions and thus purged the public sector of those unwanted civil servants who were hired under the previous administration by passing an exam (SAR, 2001).

There is a certain taste for ambiguity in Romania which goes beyond the way laws are interpreted and enforced. The institutional structure is also relatively tolerant of uncertainties and overlaps, which reflects the incapacity of the political process to reach clear decisions. One can find arrangements in which second-tier institutions established in various political eras or shaped after the prescriptions of various donors come together in a complex and unworkable whole. The administration is made up of layers of organizations that emerge, gradually exfoliate and fall into irrelevance together with their political sponsors, but for some reason still hang around even when their functions have ended (Ionitsa 2005).

Since 2005, of course, there has been a President who does not apparently belong to the political class – but, like the only other reform President since 1989 in the country, the combination of the constitutional and political structures and his own personality do not seem to have allowed any real progress. I have used this extensive quotation to ensure that the realities of the context in which many of us work is properly established.

The scale of the countries of ex-Yugoslavia gives them both strengths (manageability) and weaknesses (personal ties) larger countries such as Poland and Romania perhaps don't have.

3. MODELS and MECHANISMS

3.1 First generation work

The early years of the new decade have seen some responses to the "government capacity" problems of the accession countries set out in 2.1. These are sketched out in paras 4-7 of this paper. But it should be noted that these are what one might call second generation problems – following the success in the 1990s in putting in place the basic systems of democratic society and market economy viz Constitutions; Courts; Electoral systems; Parliaments; parties; banks; stock exchanges; private companies; local authorities; taxation and customs systems

In most of these fields, clear models existed which could be copied. And, when accession negotiations got underway seriously, there were equally models of new regulatory institutions to be copied (eg audit systems; veterinary control structures). *It is only in the early part of the new century that attention could turn to the quality of what had been produced in the 1990s – laws and institutions – and the weaknesses of civil servants and the various services they were supposed to offer.*

3.2 The reward structures

There are strong incentives for those in power to pass laws (particularly those which benefit specific interests) but few incentives to have *workable laws ready for implementation which actually achieve public benefit*. A law is often another milestone en route to the EU; and can often be presented to a bemused public as sign of determined government. Any subsequent failures, through incoherence or

lack of preparation, is generally some years down the track when the Minister and officials associated with the law have moved elsewhere - or can be blamed on the usual culprits (acts of god; opposition; bureaucracy etc). A basic challenge for programmes of administrative reform and of technical assistance operating in transition countries is therefore -

- to understand the nature of the reward system which maintains behaviour inimical to good PA⁴
- to help counterparts set up new incentive systems.

This is the most important part of this paper and is addressed from para 6.3 onwards of the paper.

3.3 Mechanisms used by the EU

Good systems of public administration (PA) may not be part of the AC – but the EU has had a fairly clear and consistent line about what they expected – a professional civil service capable of

- drafting policy measures (not just laws) relevant to problems
- ensuring that the various financial, personnel and logistical preconditions for implementation of laws and policies were anticipated and planned for (including proper consultation)
- managing projects and services

Apart from the annual assessments, the EU seems to have pushed, at different times, the following **basic mechanisms to try to create in transition countries a system of public administration which is responsive to public need** –

- *Judicial reform*; to embed properly the principle of the rule of law
- *Budgetary reform*; to ensure the integrity and transparency of public resources
- *Civil service laws, structures and training institutions* – to encourage professionalism and less politicization of staff of state bodies
- *Impact assessment* – to try to move the transition systems away from a legalistic approach and force policy-makers to carry out consultations and assess the financial and other effects of draft legislation
- *Functional Review* – to try to remove those functions of state bodies which are no longer necessary or are best handled by another sector or body.
- *Institutional twinning* – to help build the capacity of those state bodies whose performance is crucial to the implementation of AC
- *Development of local government and NGOs* – to ensure that a redistribution of power took place

We need to put such mechanisms in the wider context of Public Administration – which consists of three systems - and their interaction –

- **The development of policies** (how governments craft responses to problems - and plan and carry out their implementation);
- **The management of institutions** (macro and micro) and
- **resource management** (creating, allocating and managing pools and flows of finance and personnel).

Policies (Line 1 of table 1) do not emerge by themselves. They need procedures or systems – and these are of various sorts (listed in box 1). They also need a structure – whether a task-force or unit (some choices in box 2) if they are to have any coherence. And, finally, they need (trained) staff and budgets.

The various **bodies of the state** also need systems, structures and staff to oversee their work (boxes 4-6). And systems, structures and people are also needed to ensure that the **resources of money and staff** are properly used (boxes 7-9)

⁴ See Ionita paper quoted in section 2.3

Table 3: Nine elements for good government capacity

	1. Systems for -	2. Institutions –	3. People for -
A. Policy-making and implementation	- Policy analysis - impact assessment - Legal drafting - Project management; and implementation - Monitoring and reporting Box 1	Eg - Cabinet units? Task forces? Parliamentary committees? Inter-ministerial structures? Box 2	Budget line to ensure trained • trainers • policy experts • legal drafting experts • project managers • evaluators box 3
B. Institutional Development – making structures work	- Judicial and electoral systems - Functional Review; Organizational analysis 4	- Parliament - Courts - Municipalities - Body for admin reform 5	Budget line to ensure-trained – judges MPs and councillors Auditors trainers 6
C. Resource Use – C1 Civil Service Reform C2 Budgetary reform	- recruitment; attestation; training (Civil Service legislation) - Budgetary and audit systems - local government finance 7	- Civil Service Agency - Training institutes - Treasury - Audit bodies 8	Budget line to ensure trained - HRM experts Trainers auditors 9

From Young (2004);

Such a matrix gives a useful map or checklist for assessing any PAR system.

Paras 4-6 of this paper discuss three of these mechanisms which have been intensively used in donor activity in transition countries –

- Civil service legislation
- Functional review
- Impact assessment

These, of course, are only 3 of 7 mechanisms mentioned at the beginning of this section. To cover the experience of judicial reform⁵ and the development of local government⁶ in transition countries would need a note much larger than this one. And I am unable to comment on Twinning for lack of personal experience – or indeed reading references.

One of the questions which time does not permit this paper to explore is what other mechanisms in the table may be relevant.

⁵ Best treatment is Carothers T

⁶ See the various volumes produced by LGI (Budapest)

PART II

4. CIVIL SERVICE REFORM in transition countries

This, as already indicated, is one of seven approaches which donors have strongly suggested to transition countries. In this section I look at what laws and structures have been enacted – why – and with what success.

4.1 Inaction – then a rush to legislation

As table 4 tends to suggest, there was little attention given to the reform of the civil service in the early years of 1990s – attention was on removing the state from economic activities in which it had no business to be. And – apart from those countries such as Czechia and Estonia which purged their civil service⁷ – state bodies were seen by donors as incapable of reform.

But the impossibility of constructing a state machine “fit for purpose” without a major reshaping of conventions was increasingly recognized as EU accession negotiations got underway in the late 1990s.

Table 4: Civil Service Laws in Central Europe and Balkans

CEE State	Laws on the Civil Service	Start of negotiations for EU membership
Bosnia	2002	
Bulgaria	1999 Civil Service Law (7 amendments by 2004)	2000
Czech Republic	2002 – most implemented by 2005	1998
Croatia	2001 – new draft passed in 2005	2005
Estonia	1995 public service act	1998
Hungary	1992 Civil Service Law – 47 amendments by 2004	1998
Latvia	2001	2000
Lithuania	1999 – amended 2002	2000
Macedonia	1999 – 7 amendments by 2003	
Poland	1996 – amended 1998 and ?	1998
Romania	1999	1998
Serbia and Montenegro	2005?	
Slovakia	2001 – 13 amendments by 2004	2000
Slovenia	1990	1998

table from Staranova article “Characteristics of PAR in transition countries” Implementation – the missing link in PAR in ECE (Proceedings of 13th NISPAcee Conference 2006)

4.2 Which model – Career or position?

Those who work in government bodies are normally considered to have different obligations and rights from those who work in other sectors. Labour Codes cannot deal with these issues. The list of such obligations and rights would include such factors as -

- Impartiality in behaviour
- Commitment to the public interest
- Protection from political sackings – eg since civil servants should be able to give objective, policy advice without fear.
- Non-involvement in political and commercial activities
- Non-monetary rewards to compensate for the lower salaries generally available in the public sector throughout the world

⁷ Czech Republic by the lustration laws; Estonia by a more voluntary replacement of the older generation with the new

It is important that the thinking behind this is properly – and widely – understood. Without such understanding, important practical questions such as “who exactly is a civil servant?” cannot be answered. At the moment teachers; doctors; municipal staff; and staff of certain State bodies are not classified as civil servants by Civil Service Laws – but drivers and lift operators in state bodies are. Why should this be so? In Germany, teachers are civil servants.

This is not an academic issue. It was the subject of lively political discussion in Britain⁸, for example, in 2002 and 2003 – as a result of *two developments* – the first⁹ the extent to which many civil service jobs in that country have in the past decade been transferred to new Agencies which are run on more commercial lines – and where commercial experience is valued in its staff.

The second development has been the increase in the scale of the opening up of recruitment of senior civil service position to outsiders in Britain in the past decade – and to the increase in the number of political advisers. This has been seen to threaten the traditional value of the neutral adviser with institutional memory¹⁰ and also the dilution of the idea of public service.

It is common to make the distinction between a **career model** and a **position model**

- **The career model** recognises that there is a core part of the civil service carrying out distinctive state functions which can be learned mainly from experience. Core staff are therefore recruited young – through a general competitive exam and interview system. And are encouraged to move in their career between Ministries. Considerable amounts of training are also given to such people. External recruitment for middle-level and senior jobs in this model is more restricted and exceptional. Support and specialist staff who can interchange between the private and public service are placed in a different classification which allows more flexibility for them.
- **The position model** holds that work is fairly similar in the private and public sectors at all levels – and that all vacancies can and should be advertised on the open market

The career model is one which keeps recruitment fairly centralised; the position model is fairly decentralised. Characteristics of the two models are:

Table 5: Two models for the civil service

CAREER SYSTEM	POSITION-BASED SYSTEM
Public Law contract for the official	Labour Law
Only appointed to first posts	Competitions for all levels
knowledge requirements for the career	Specific knowledge (and skills) for specific job
Limited recognition of work experience gained in private sector	Private sector experience rated highly
Pay system determine by statute	Market-based
advancement on seniority	On merit
Job for life	Limited term Contracts
Work based more on rules than on targets	Targets
Emphasis on accuracy; fairness; and rule of law	Emphasis on customer service and innovation
Subordination of the performance principles	Regular and intense review of individual performance
Special pension systems	No special schemes
France, Germany, Spain, Romania, Bulgaria	Netherlands, Scandinavia, UK

From European Civil Services between Tradition and Reform – C. Demmke (EIPA 2004)

Countries can - and do - change from one model to the other – depending on the circumstances. Countries such as UK have moved from a career model to a position model.

⁸ Which does not have a Civil Service Law – but Parliament suggests it now needs one - see Whither the Civil Service? (House of Commons Research paper 2003)

⁹ The second is dealt with in section 1.4

¹⁰ and certainly the naivety of many of the myriad initiatives which have flown from Whitehall would never have survived the critical (if not cynical) scrutiny of the classic British civil service!

Many transition countries have a position system – not just because no system of professional career management has yet been developed – but also because of the tradition that new Ministers will replace most of the Ministry staff. Civil Service Laws of course, makes this much more difficult – as it should, since such actions not only inspire fear in the system but also threaten the “institutional memory” which is an important part of any organisation, let alone a public one. A recent publication from EIPA (Demmke 2004) confirmed a movement away from the career system in European Countries.

A country may have elements of both systems within it – having a basic career system, for example, but recruiting technical specialists on market principles. This example should make us realise that there are different sorts of work activity to be found in most civil services and some are more “core” than others. Broadly four categories can be distinguished -

- Policy advice and implementing change
- Managing services
- Professional specialisms
- Operational support

It can be suggested that only those officials in the first category need to be bound by special employment conditions – by virtue either of the **sensitivity and confidentiality of the work they do**¹¹ or the need for a **minimum level of personnel continuity** at senior levels. This school of thinking suggests that the skills of other staff are interchangeable between the commercial and other sectors of the economy. It also would suggest that the emphasis should be on the creation of a senior class of civil servants driven by a strong ethic of public service.

Table 6 nicely “stereotypes” the three types of system we are dealing with. The first (military) is a reasonable description of the post-Soviet administrative system. The second reflects the thinking which developed in the West in the 1980s (New Public Management) – with its emphasis on contracting, measurement and decentralization (position model). The religious stereotype, finally, captures the essence of the classic career model which is what the transition countries are now asked, first, to move to before they go for NPM¹². Expressed in these terms, the sheer scale of the challenge facing civil service reform becomes clear – just think of what’s involved in moving from military to religious values!!

Table 6;

	Military Stereotype	Business Stereotype	Religious Stereotype
	CIS countries CS systems	NPM	Classic European CS systems
Slogan	Run it like the army	Run it like a business	Run it like a monastic order
Work force	Limited career	Hired and fired	Service for life
Motivation	Fear of punishment Hope of honours	Fear of dismissal Hope for money	Fear of damnation Hope for salvation
Control	Audit of war	Impersonal	Faith; social acceptance
Objective setting	Orders of day	Profit	Worked out at length in discussion and reflection
Belief	Obedience to leadership brings efficiency	Incentives to reduce waste and search for innovations	Lifetime internal commitment limits rash selfish ideas

Source; Administrative Argument; by Hood and Jackson (1991)

¹¹ drivers and lift operators can overhear conversations of top people – one argument perhaps to require them to swear an oath of secrecy!

¹² Schick

4.3 Some questions about Civil Service Laws

Before legal instruments are drafted, there is a fundamental question which should logically first be explored - about what you need the civil service (at different levels) to do, which it is not doing at the moment. Focussing on that question will produce an answer which fits the context. A country creating itself and its systems arguably needs a very different civil service system from those which have existed for centuries.

A Civil Service Law is not just a collection of technical procedures. It is a means to achieving an end - which is the creation of a more professional system. Most professional civil service systems are built on the assumption that Ministers are subject to the whims of political fate and last only several years before moving on to new responsibilities or to political extinction¹³. In this situation, one of the key functions of senior civil servants is to provide continuity and institutional memory about what works and what doesn't. They are the permanent feature of the system; the Ministers the temporary. In this situation, one of the crucial roles of the Minister has been to challenge the conventional wisdom and slowness of bureaucracy¹⁴. In transition countries with Presidential systems, however, it is often the Ministers are the permanent feature, not the civil service. This brings home to us that we need always to ask - What do we need civil servants for? When Britain had an empire, the function of the Civil Service was to run it. The structure and systems it needed for that were not the same as it needed to adjust to the challenge in the 1950s and 1960s of managing the very new post-war challenge of loss of empire and modernisation. That was the reason for the critique contained in the famous Fulton Commission report of 1968 –which led over the next 30 years to the radical changes it did. And writers such as Susan Strange have emphasised just how much the functions of the state have altered in the past 20 years as a result of globalization.

What is the Law trying to achieve? Who can answer this question? In an autocratic system, there may be one person behind a Law – whose intentions may or may not be clear and public. But there are generally several hands – and intentions - behind a Law and we are therefore left to interpolate and guess. And there are different levels of intention – we could say that the ultimate purpose of a Civil Service Law is to develop public confidence in government service. But there are various ways in which this might be done – and a particular law will emphasise one of these approaches more than others. Poorly-drafted laws will embody contradictory theories about how to achieve the ultimate goal. The various arguments are summarised in the table –

Table 7: Different Arguments for different aspects of Civil Service Reform

Injunction	Reasoning
Make recruitment open and competitive	A more representative system will not only bring in talent but have more legitimacy and be trusted more
Pay well	Will attract high calibre Minimise temptation
Give good training	Ensures middle level have the knowledge and senior people the common principles and outlook (“surgery of the mind”)
Check the performance – and promote the performers	Ensures attention to policy and commitment
Have a code of ethics – and enforce it	Moral persuasion Public standards which will shame officials into changing behaviour
Have strong leader cadre	Behaviour of senior executives services as an example – “walk the talk”

“Fairness” or equity in recruitment is not a simple matter. A marvellous book (Stone) demonstrates at least 8 meanings which can be given to this fundamental term of political life. And it is not just a question of appointing the person who scores highest in what is always an arbitrary test or interview. Sometimes – as in Balkans and in EU Commission – conditions may require that attention be paid to group membership. But it is always a question of balance – and transparency. That’s why, understandably at the moment, a strong emphasis is often given to making **initial** recruitment to the

¹³ The Italian system was notorious for this political instability – and the French too until the 1960s

¹⁴ Although political systems in the 1980s began to fight back – leading to major reforms in systems of PAR.

civil service more competitive and transparent. But there is a danger that this emphasis leads to neglect of other crucial issues – such as measuring performance; or creating leadership at senior level.

4.4 What progress?

Logic tells us that such questions need to be discussed first and a consensus developed before a law is drafted. But life is not like that – a mixture of external pressures and legalistic traditions mean that the laws come first and then the debate and learning from the difficulties encountered in implementation. Table 4 tells us when laws were passed – but can tell us nothing about their implementation.

Up-to-date comparative information is hard to come by. Of course the annual assessments carried out by SIGMA for the EU Accession process have offered very useful overviews - although based on all too short a period of assessment and, of course, now basically at an end. And no such common assessments have ever been done for CIS countries.

a. Formalistic implementation

A recent paper (Verheijen 2006) reviews the experience in Central Europe, Balkans and CIS countries – discusses the various motives for change (accession; drive for investor-friendly regimes; economic regional competition) but notes the slowness in implementing the laws. *Indeed the paper reveals a contradiction between the greater technical complexity of the legislation (particularly on grading systems) on the one hand and the continuation of the "politicized" or patronage nature of the appointments systems.*

The principle of open competitions is proving popular – if only for the lower levels – but the coalition nature of the political systems have meant a trend to the principle of parties carving up Ministries for themselves (as in Belgium, Austria and Germany until very recently).

b. New structures for driving reform

"Laws", as I never tired of saying in one assignment to help implement a Civil Service Law, "do not implement themselves". There need to be people dedicated to that task – with a clear responsibility for doing specified tasks – with a realistic budget – and held accountable for that work. Many countries have therefore set up special Civil Service agencies to spearhead the relevant changes. The strength of the vested interests they are up against, however, has made progress slow. In some cases (Azerbaijan and Romania) the bodies existed for 2 years on paper only and, in most cases, the bodies do little more than try to record appointments and issue draft thoughts. The Agencies held up as examples – Kazakhstan and Poland – have in fact not yet realised their original hopes and had to accept come initial defeats. Perhaps the most interesting to watch at the moment is Slovakia.

Table 8: Unit responsible for Civil Service Reform in transition countries¹⁵

	Special Body to lead reform	Other bodies	Comments	Strategy Document?
Albania	Department of PA develops personnel policy; Civil Service Commission supervises	Inter-Ministerial Board for PAR (1999)		
Azerbaijan	Civil Service Commission (2005)	Management Council	Commission will not be running until 2007	
Bulgaria	Directorate of PAR – with Minister for PAR		Started in 2002	
Croatia	Unit in PM Office	Task force on PAR set up in June 2003		PAR strategy June 2003
Czech Republic	None			
Estonia		Civil Service Council in 2004		

¹⁵ updated version of "The Search for a civil service model for Azerbaijan" R Shabanov and R Young (Baku 2004)

Hungary		PM Office controls appointment of senior executives only		
Kazakhstan	Civil Service Agency (1999)		Started strong – has had to retreat	PAR
Kyrgyzstan	Civil Service Agency (2005)	National Council on Good Governance	Agency very weak – as is entire State system	PAR
Latvia	Civil Service Agency (1995)		changes in 2002 have weakened it	
Lithuania	A Ministry for PAR was set up in 1994	Civil Service Department moved to Min of Interior	Ministries remain very strong in HRM	
Macedonia	Civil Service Agency (2002)		reports to parliament. Weak	
Poland	Civil Service Office (2000)	Council	Office merged with PM Office in 2006 – and weakened	HRM strategy
Romania	Civil Service Agency (2003)		Without budget or power for first 18 months. Still weak	
Federation of Russia	Unit within Pres Office		serious civil service reforms since 2004	?
Serbia	Civil Service Agency (2001)			Yes
Slovakia	Civil Service Office (2002)		Office abolished in 2006	Various
Slovenia	PA Directorate in Ministry of Interior	Council (12)		Yes

Updated version of table which first appeared in Young (2004)

c. Testing Regimes

I have seen little comment in the literature about the practical problems of setting up a **testing regime** for such open competitions – and yet this is a real technical, social and political challenge for the countries we are discussing.

In Western Europe, the recruitment process to the civil service is sophisticated because it has developed over many decades. It consists of a combination of testing and interviews – and increasingly the recruitment bodies have been looking for qualities rather than knowledge. Tests and interviews are therefore set up to probe and identify this.

But transition countries – certainly in the CIS area – are still hooked on the principles of “experts” and are therefore looking for an indication of knowledge – particularly legal. Creating tests for this is necessary (since they cannot trust the university diplomas), complex and requires computer testing which can be expensive. And the new Agencies are very reluctant to give much scope to interview bodies – which they see as very subjective and biased.

One of my colleagues experience in such matters produced the following diagram to help explain the different ways different desired features could be tested -

Table 9: Methods of testing different candidate features

	Written essay style questions	Written multiple-choice questions	Practical skill tests	Standardised Psychometric tests	Interview
General Knowledge	No	Yes	No	??	Yes
Specialist Knowledge	not effective	Theory – yes Practical – no	Possible for certain aspects	Possible for certain aspects	Yes, if panel includes a similar specialist
Personal Characteristics	No	Highly specialised task – not really feasible	n/a	Yes, for certain characteristics	Yes if panel includes skilled interviewer
Practical skills • computer skills • language(s)	No	No	Yes	In some cases	Yes for spoken communication and languages
“Fit” with Team (personal chemistry)	No	No	No	Partly	Yes

Source; Alan Gilmour (Gilmour and Young 2006)

I include this table simply to give a flavour of the complexity of this issue which seems to have gone unnoticed in the literature.

d. Attestation and rewarding for performance

Attestation is a typical Soviet model of staff assessment which has some unusual features for those used to the more regular and structured models of European Civil services –

- It is performed only once in a 5 year period
- It is conducted by a committee from outside the organisation

On the face of it, it does seem a very blunt instrument – more concerned with answering the question – “should this official remain in his job?” than “how can we help this person develop their skills”? Given the current arbitrary basis of appointments particularly in CIS countries, part of the reasoning behind the attestation process is clear. It acts as a check on questionable appointments. But, as the recruitment process becomes more objective, it may be possible to move toward a system which encourages a more frequent dialogue between managers and staff about objectives, tasks and competences. One of the criticisms which can be levelled against the attestation system is that outsiders are not in a good situation to make the assessments of performance, strengths and weaknesses – and certainly not in the absence of proper job specifications and agreed tasks. Of course relying only on internal assessment has its own problems – whether of favouritism or of clash of personalities.

I have been an observer at such procedures and what I saw lacked -

- **a clear statement of what exactly is being assessed.** We were told before the interviews began that three things would be evaluated – knowledge of specialist legislation; general legal understanding; and performance on the job. This was not consistent with the requirements of the legislation; and legal knowledge is not necessarily a good measure of professional conduct.
- **A standard proforma** used by the manager doing the written assessment of the employee to ensure, first, that the agreed qualities are in fact covered during the assessment; and , second, that an attempt is made to assess them in a transparent way..
- **A standard proforma** used by the panel –The questions which were put to the candidates did not seem properly to cover even the 3 areas mentioned to us – let alone what the legislation required. And, as various aspects of the employee are being explored, one would expect an attempt to judge each aspect separately – and then use a scoring systems to help make a more transparent and balanced judgement.

Without such things, there is serious scope for arbitrary and unfair behaviour. Five of the 10 employees we saw assessed were sacked. In four of these cases, disturbing legal ignorance was certainly evident, but this would not normally be a ground for immediate dismissal – and certainly not on the basis of a 15 minute interview. We were told that a 50% dismissal rate is not typical – but the fact remains that arbitrary justice seemed to be meted out on that day; and the lack of clear criteria enshrined in a standard proforma will allow to happen. And performance bonuses are generally a joke – since no-one knows the basis of the measurement. And the NPM language simply gives a nice new rationalization for an age-long trick of promoting favourites.

e. pay reform and Fast-tracking

“To retain and develop its fair share of the best talent, public administration needs to adopt policies aimed at planning, recruitment, education, development and motivation of employees. Competitive pressures from other sectors have also increased the role of other non-monetary rewards – such as career opportunities and job satisfaction” (UNDP 2006).

Clearly pay levels are one (but not necessarily the most important – when there are additional, hidden benefits and revenue streams) of the most crucial issues. This is not, however, a field of my expertise and I would bow to others (Kleewers) on this. Suffice it to say that the best students are not generally attracted to civil service posts; and that lack of job satisfaction is a major issue here. Managers need to understand how staff can be more creative¹⁶ – and develop a sense of their own areas of responsibilities. Singapore is a good example of a developing country which took this approach¹⁷. Marketing campaigns appealing to idealism of young graduates are a good idea - but not much use if the jobs are boring because of a culture which assumes that the boss is all-knowing and all-powerful and where willingness to listen to others is taken this as a sign of weakness?

Fast-tracking – based on the UK system - gives preference to “talented” young people selected by special competition on a career track which gives faster advancement to senior positions. Apparently introduced in Slovakia (presumably as a result of the DFID twinning project there), it was seen as successful (at least measured by the scale of applications – 30 for each vacancy) but the results have not been monitored. And the Romanian “Young Professional Scheme” introduced, one feels as an act of desperation has had the results one would expect in such a politicized environment. Particularly when the scheme made the mistake of appointing those straight from university – some of whom then went to EU universities for an MSc and came back to middle management positions for which they had neither experience nor skills.

f. Developing training institutions for Civil service

This is a huge topic – and some (Verheijen) argue that much of the early investment in new institutions as abortive. Others (Gajduschek and Hajnal) have been rightly critical of the assumptions and behaviour of donors in this field. And, generally, Academies of Public Administration in CIS countries are the last bastion of soviet mentalities and traditional pedagogy!

The table below identifies the various activities which Institutes of Public Administration carry out. Its columns map out three categories of such Institutes one meets in actual practice – nominal, average and maximal.

¹⁶ this has been one of the key elements in the reform of the French system of public admin in the last 20 years.

¹⁷ For Singapore see [Ten Best practices in the Singapore Civil service](#)

Table 10; TYPOLOGY OF ACADEMIC ACTIVITIES for the promotion of public administration

Activity	Nominal - Minimal impact	AVERAGE	Maximum impact
1. Provision of undergraduate education	Few graduates join civil service	Significant number join civil service – but not given tasks to allow them to practice their distinctive skills	Significant number join – and are given posts which draw on their knowledge and skills.
2. Research	Undertaken – but not in subjects of interest to public admin system;	Undertaken – but not disseminated in form which will attract interest of policy makers	Undertaken in subjects of high interest to policy makers; are read; and applied
3. post-experience, part-time Degree	Curriculum not specially designed for civil servants	Special curriculum – but traditionally taught	Focussed on problems of trainees – eg action-learning
4. Short-courses	Provided in subjects of low priority	Provided – but not designed or run in way which makes impact	Designed in cooperation with p-makers – structured in inter-active way
5. publications	Ad-hoc No priority	academic	Series of incisive, practical and carefully marketed papers which are read by policy-makers
6. Consultancy	Not undertaken	Individual initiative	Core strategy – linked to research

Source; R Young

You pays your money – and you takes your choice!!

4.5 Why the slow progress?

It is a bit ironic that, precisely as transition countries have been taking the reform of the civil service more seriously, reports were coming in of the failure of such attempts in the rest of the developing world! The World Bank published a major review of its activities in this area in 1999 which concluded that it had been “ineffective in achieving sustainable results in downsizing, capacity building and institutional reform” (World Bank 1999).

And several seminal papers were written with such titles as “CSR – why the failure?” One of the most useful is Shepherd’s – which argues that -

- The patronage system was not the universal evil now supposed. It had its uses and worked under certain conditions (Goldsmith; Shepherd).
- Reforms were realised only when moved by powerful forces. Merit based reforms initiated in 19th Century as result of economic or popular demands overcame political class preference for patronage or gain
- Civil service reform evolved differently in different countries – although it has tended to convergence on the merit model
- There is no such thing as quick reform – laws quickly passed but observation took decades – in the case of the UK about 60 years (Shepherd)!
- The trend to professional civil service with protected status has created strong interest groups – which can and do resist drive for effectiveness
- There are still exceptions to merit principle – and we need to be aware of the hybrid models (eg German and US)

Unrealistic and a-historical expectations

There is in fact no uniform model for structuring and managing staff in the public sector - each country has its own traditions and subtleties. A lot of what the global community preaches as “good practice” in government structures is actually of very recent vintage in their own countries and is still often more rhetoric than actual practice.

Of course public appointments, for example, should be made on merit – and not on the basis of family, ethnic or religious networks. But civil service appointments and structures in Belgium and Netherlands, to name but two European examples, were – until very recently – influenced by religious and party considerations. *In those cases a system which is otherwise rule-based and transparent has had minor adjustments made to take account of strong social realities and ensure consensus*¹⁸.

But in the case of countries such as Northern Ireland (until very recently) the form and rhetoric of objective administration in the public good had been completely undermined by religious divisions. All public goods (eg housing and appointments) were, until the last decade, made in favour of Protestants.

The Italian system has for decades been notorious for the systemic abuse of the machinery of the state by various powerful groups – with eventually the Mafia itself clearly controlling some key parts of it. American influence played a powerful part in sustaining this in the post-war period – but the collapse of communism removed that influence and has allowed the Italians to have a serious attempt at reforming the system. At least for a few years – before Berlusconi scuppered it all (Lane)

These are well-known cases – but the more we look, the more we find that countries which have long boasted of their fair and objective public administration systems have in fact suffered serious intrusions by sectional interests. The British and French indeed have invented words to describe the informal systems which perverted the apparent neutrality and openness of their public administration – the “old boy network” which was still the basis of the senior civil service in Britain in the 1960s and 1970s a century after the first major reform. And the elitist and closed nature of the French system is now the subject of heated debate in that country.

In many countries, local government appointments systems were, until very recently, strongly politicised¹⁹ - and it is clear that national European systems are becoming more politicised. This trend was started by Margaret Thatcher who simply did not trust the senior civil service to do what she needed. She brought in individuals who had proved their worth in the private sector and came into government service for a limited period of time (sometimes part-time and unpaid) to do a specific task which the Minister or Prime Minister judged the civil servants to be incapable of doing. Her critique of the UK Civil Service was twofold – first that those at the top were so balanced and objective in their advice that they lacked the appetite to help lead and implement the changes she considered British society needed; and second that those further down the ladder lacked the management skills necessary to manage public services. The Labour Government since 1997 *inherited a civil service they considered somewhat contaminated by 18 years of such dominant political government* – and now has more than 200 such political appointees²⁰. Such trends are very worrying for the civil service – since they have lost the influence and constraining force they once had.

Conclusion

Too much of the commentary of international bodies on transition countries seems oblivious to this history and these realities – and imagines that a mixture of persuasive rhetoric and arm-twisting can lead to relevant, rapid and significant changes here. A bit more humility is needed – and more thought about the realistic trajectory of change. To recognize this is not, however, to condone a system of recruitment by connections – “people we know”. Celebration of cultural differences can sometimes be used to legitimize practices which undermine social coherence and organizational effectiveness. And the acid test of a State body is whether the public thinks they are getting good public services delivered in an acceptable way! This, however, is only part of the problem – the World Bank report already quoted put its finger on a wider issue – “*The Bank’s approach is too technocratic – it relies on a small group of interlocuteurs within core Ministries and promotes one-size fits all blueprints in diverse country settings*”. Seven years on, it is not clear if that comment has been taken to heart. A recent paper on institutional reform in Russia (WB 2006) uses the change management approach as the latest tool and also fails to cite the recent experience of accession countries in Central Europe

¹⁸ The Belgian civil service recruitment system has been the subject of major change recently

¹⁹ see, for example, *The Conduct of Local Authority Business* - Royal Commission Inquiry report HMSO 1986

²⁰ who have short-term labour contracts

drawing instead on Australia, Western Europe, Brazil and Canada as if Russia was a genuine Federal system!

5. FUNCTIONAL REVIEW

“A Functional review is a tool for evaluating the sectors of public administration and proposing the rationalization of the functions and improving the effectiveness of allocation of public resources to attaining strategic objectives of the sector”²¹.

5.1 Introduction

So now you know!! In “Functional Review” (FR) we meet a consultancy tool par excellence – as Peter Self²² borrowing from Jeremy Bentham might have said “Simplicity built on stilts”. The idea, as with the other tools, is so simple as to be breathtaking – for **someone** to look at the activities actually being carried out by state bodies and classify these in a way which allows **someone** to identify whether they are the most appropriate body to be carrying out the activity. Excuse me???? When a German colleague explained to a Deputy Minister in one Ministry what was involved in a FR, his response was eloquent in its brevity – “this is a suicide mission”! Patently an exercise such as this can be done only –

- When the individual Ministry is committed to it – and has the power and understanding to ensure it will be carried out as intended
- When an external body (such as the Prime Minister or Presidency) has so much power as to require the exercise to be done (in which case, there are risks of sabotage down the line!)

This brief note will look at

- What is involved in a FR
- The experience
- The conditions which will allow some positive results to emerge

5.2 What is involved?

Strictly, a FR is looking only at the allocation of functions to state bodies – to determine whether the function or activity –

- should actually be carried out at all (eg a lot of gathering of statistics by state bodies is superfluous)
- is best performed outside government
- is duplicating those performed in other state bodies

Some FRs, however, have gone beyond that to try to explore *strategic management* in state bodies – using the very simple device of mapping for each function given to the Ministry in its founding Decree the time and budget spent. Generally such exercises indicate the Ministries are not spending their time and resources on the strategically important functions – which leads naturally to questions and changes in management style and structures. Such exercises are more akin to basic management consultancy²³ and are not dealt with here. Five simple questions set the framework for FRs–

- where are we now?
- how do we compare?
- where do we want to be?
- how do we get there?
- What do we have to do now?

²¹ Proskurovska S

²² Peter Self was one of the early critics of the economic tools for policy-making which developed in the 1970s (eg cost-benefit analysis) and resurrected Bentham’s wonderful phrase “Nonsense on stilts” to apply to a Government Commission report which costed environmental and human factors.

²³ see, for example, Performance Improvement Planning used by BMB Arcadis

Where are we now?

- regulations, organisational and staffing structures are examined – and key questions for interviews developed
- interviews identify (i) the key objectives of the organisation; (ii) extent to which tasks, structures, budgets and staffing enable these to be achieved; (iii) lessons from previous change efforts

How do we compare?

Agree appropriate benchmarks – for functions and structures
Identify surplus or missing functions – and the case for transferring the former to other bodies sectors. Of course, such functions generally require an element of horizontal work (ie looking at the Regulations of other state bodies)

Where do we want to be?

An agreed statement of functions, structures and staffing. It can be anticipated that other issues of wider significance will also surface (as in the Slovak work) such as

- Whether every Ministry should have its own car pool, training institutes etc
- The subsidies which lie behind many functions
- Large number of small units – with specialists rather than managers

How do we get there?

This will require the development of a strategy – which, in turn, requires “constraining” and “driving” forces to be identified and a feasible plan of action drawn up which takes accounts of these. Some issues will be capable of resolution within the Ministry – others will go beyond the competence of the Ministry.

The action Plan

This involves a clear and detailed statement about who should want – when- and with what resources.

5.3 Some experiences

It is not easy to find objective assessments of these endeavours since they are all donor-driven –using consultants who tend not to share their experiences publicly or, on the rare occasions they do, want to present that in the best light possible! A UNDP manual in 2001 is about all one can find in the literature. I am therefore driven back largely to my own personal experiences – and knowledge – covering the following countries only.

Table 11; Some Functional Review experience

	Period	Focus	Driving force	Structure	Results
Kazakhstan	1997-?	Decentralisation	Donors		Reduction of number of ministries
Kyrgyzstan	Continuous from 1999	Ad-hoc. Ministry by Ministry	Donors		zero
Latvia	1997-2001	duplication of functions Min Ag; Min Labour	Locally-driven	Initially staff of Bureau of PAR Then Steering committee with external advisers	Zero positive
Serbia	2001	Shape of all Ministries	Joint		?
Slovakia	2001	efficiency (from a certain neo-liberal perspective) of state operations	Locally-driven	Large working group with united donor support	Supplied main momentum to reform

Uzbekistan	1999-2000	Transfer of functions Education and Health	Donors		zero
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Each FR is different – and will depend on the key concerns and the inclinations of those carrying out the work. Reviews seem to fall into one of two broad categories. The first (narrower) definition (used by Latvia, Kazakhstan, Serbia and the UNDP report) divides government functions into 5/6 basic types (described below) and explores whether they are appropriate for the organisation – or should be transferred elsewhere. International best practice is used as a benchmark.

The second (broader and more open-ended) type of Review (such as the Slovak and Bulgarian) focuses more on questions of efficiency and looks at more managerial functions (eg property management, procurement etc) and also at financing issues (such as pay). And the Slovak exercise was conducted against the urgency of making up for the time lost by Meciar governments and being seen as serious contenders for the first wave of CE accession entrants.

The Basic Classification is

- policy functions
- Service delivery functions
- Regulatory functions
- Co-ordination, supervision and performance monitoring functions
- Support functions;

Various sorts of issues have arisen from a functional review –

- How the function should be structured within the organisation (if it is retained)
- Establishing an alternative set of managers and accountabilities – if it is transferred elsewhere
- Altering the budgetary arrangements
- Developing the skill base to allow the more efficient or effective performance of a function.

It is fairly easy to compare mission and structure of particular Ministries with those in equivalent countries – and this, apparently, was an important part of the Serbian and Slovak work (when small, unitary states in West Europe such as Netherlands and Denmark were critical structural benchmarks). The Slovaks also did internal comparisons – and, where relevant (eg HRM), the private sector.

5.4 Preconditions

“Reviews that are largely consultancy- driven and focused on one Ministry become the most difficult when the implementation stage is reached; while those that have established an internal team of specialists seem to make the most progress in moving on from pilot exercises to systematising a regular review across the public sector as a whole” (UNDP 2001 p25)

It is, perhaps significant, that FRs as such do not seem to have been performed by most of the accession countries (Latvia was an exception in the late 1990s; Slovakia in 2001). In the other accession countries the political system seems to have found its own way – under the drive of strong reform to join the EU - of determining these questions. FRs have been developed, it seems, by technical advisers operating in environments which have a more minimal or formal interest in reform. As such, they run the risk of being paper exercises – as in Kyrgyzstan.

In Kazakhstan the results seem to have been limited to a rationalisation of Ministry functions – with all the work on decentralisation leading nowhere.

Latvia sold its work on the basis initially of duplication of functions – but then seemed to move to the rationale of “fit for European purpose”.

As with all such techniques, there needs to be a demand – not only from country’s political leadership – but from the relevant state body. How is that shaped? FR needs to offer state bodies something – even if it only a percentage share of the savings from any abolished changed functions.

And any such exercise needs to be structured in a way which maximizes local ownership (as in Slovakia)

6. IMPACT ASSESSMENT

Transition countries have a legalistic culture – by which I mean that people are used to focus only on the technicalities of legal text rather than ensuring that laws are given the various resources, structures and moral support to ensure their achievement of a wider purpose. Laws, in other words, were made if not for breaking certainly for ignoring! Donor emphasis on “rule of law” has too easily been interpreted to mean “rule by law!” It is so easy for those brought up in the culture approach to resort to legal text. Several transition countries are still wrestling with the problem about how to think differently about legal mechanisms – and to adopt more of a policy approach²⁴.

6.1 What is impact assessment?

This has become in the past 5 years a highly fashionable tool – now used by most core member countries of the EU to ensure that their Cabinets don't waste time considering badly-prepared legislation which runs into major problems of implementation and has then, embarrassingly, to be the subject of later amendments or reversal. There is nothing complicated about it - it is basic common-sense – and simply requires that **new proposals from Ministries demonstrate at least 4 things before proposals are submitted to Cabinet** viz

- **various options** of dealing with the problem/issue have been seriously examined
- the particular proposal is **feasible** ie its implementation has been explored, operational difficulties examined (including with social partners) and that it is therefore likely to achieve the desired objective
- parliamentarians have been consulted and seem likely to **support** it
- the detailed **consequences** are clear (eg financial, environmental, organizational,)

This is set out in a brief standard format for the Gen-Sec clearance - before submission to Cabinet.

Two of these questions are particularly important - "Will it work?" and "Will it get support?" The first is a **technical** question and should be dealt with essentially within the formal machinery of Government - although on the basis of a stricter appraisal system and of much broader external consultations with social partners. The second is the **political** question and is more properly the focus of informal political discussions.

The format also is simple – requiring the Ministry to prepare a brief paper to be attached to the draft law and supporting papers which gives the Prime Minister and his colleagues answers to the following basic questions-

6.1 What will the new proposal/law **actually achieve**?

List the key expected results -

-

6.2 What are the **different ways** in which this could be achieved?

List the different options –

-

6.3 Which **approach is presently favoured** ?

Describe its **key features** –

-

6.4 What are its **distinctive advantages** (compared with the other options)?

-

6.5 What **consequences** can be anticipated -

- Financial
- political (reactions from parliament - from interest groups - public)
- likely effect on environment?

6.6 Which groups have been **consulted** – how and with what results and comments?

-

²⁴ Florin's paper

It's partly a checklist of things to do – partly an informal simulation – and partly an executive summary.

6.2 What has been attempted – with what results?

Clearly it's not too easy to check what goes on at the heart of government - in Cabinet. But transparency rules have allowed various academics associated with NISPAcee²⁵ have to track initial progress. Basically the picture they show (for 2004/05) is that new accession countries –

- Have introduced this mechanism
- are using it sparsely
- And in a rather legalistic way

Table 12: implementation of impact assessment in three Central European countries (2004)

	Social			Fiscal			Economic			Environment			Administrative		
	ET	SK	HU	ET	SK	HU	ET	SK	HU	ET	SK	HU	ET	SK	HU
Finance	13/2	20/0	6/2	/10	20/1	/3	/6	20/0	/2	/3	20/0	/0	/3	20/0	/0
Economy	13/4	12/0	2/1	/8	12/2	/1	/6	12/0	/0	/3	12/0		/9	12/0	/0
Social	11/10	5/0		/7	5/2		/2	5/0		/1	5/0		/5	5/0	
Labour			2/1			/0			/0						
Health		5/0	1/1		5/1	/1		5/0	/1		5/0	/0		5/0	/1
Education	5/2	2/0	2/0	/3	2/1	/0	/1	2/0	/0	/0	2/0			2/0	
Agriculture	2/0	6/0	2/0	/1	6/0	/0	/0	6/0	/0	/0	6/0			6/0	
Environment	5/2	6/0	2/2	/4	6/1	/2	/4	6/0	/2	/3	6/0	0/2		6/1	
Justice	8/5	17/0	7/1	/5	17/7	/2	/3	17/0	/1		17/0			17/0	
Interior	9/8	8/1	6/1	/5	8/4	/1		8/0	/0		8/0			8/0	
Culture	2/2	1/0	1/1	/2	1/0	/1		1/0			1/0			2/0	
Foreign	18/7	0	20/0	/11			/2		/0	/2					
Defence		2/0			2/0			2/0			2/0			2/1	
others			7/1			/1	86/24		/1						
total	86/42	93/1	58/37	85/56	93/20	58/12		93/0	58/7	86/10	93/0	58/2	86/47	93/2	58/4
%	49%	1	17%	65	21	21	28	0	12	12	0	3	55	2	7

ET – Estonia; SK – Slovakia; HU - Hungary

Source; Staranova (2006)

6.3 Incentives and Capacities?

Just as simple and obvious recruitment procedures – and asking questions about the necessity of Ministry functions - strike at the heart of a Minister's patronage power, so do these simple and obvious procedures for making the business of government more manageable and transparent. It is part of the toolkit of a politician not to reveal too much – and most politicians anyway are flying by the seats of their pants!

Too many of the tools of those involved in administrative reform are anti-political (and therefore anti-democratic) in their “rationalism”. What many technocrats attribute to politics or parties is simply human behaviour! Human behaviour needs to be factored into change efforts! The contrast between the two ways of thinking is nicely caught in the following diagram –

²⁵ “The use of socio-legal information in the draft acts’ explanatory memoranda; a precondition for good governance”; A Kasemats and M-Liiv in ²⁵ *Institutional Requirements and problem-solving in the PAs of the enlarged EU and its neighbours* ed G Jenei, A Barabashev and Frits van den Berg (NISPAcee 2004 Conference); “The Effects of Policy Impact Assessments in the decision-making process in the Government of Macedonia”; Magdalena Shaldeva in *Implementation – the missing link in PAR in CEE* (NISPAcee 2006); “The case of STRADEL – development of an organisational unit for enhancing strategic leadership at the Prime Minister’s Office in Hungary” by Laslo Vass in *Proceedings of 2004 NISPAcee Annual Conference*; “Comparing Experiences of introducing an impact assessment requirement to draft legislation in CEEs – the case of Slovakia, Hungary and Estonia” by K Staranova, Z Kovacsy and A Kasemats in *Implementation – the missing link in PAR in CEE* (NISPAcee 2006)

Diagram 1; rational and political approaches to change

	Functional- rational dimension	Political dimension
Main unit of analysis	The organisation as an entity with certain functional requirements; focus on task-and-work system	Subgroups with self-interest, in shifting coalitions; focus on power-and-loyalty systems
What driving forces are emphasised?	A sense of norms and coherence, intrinsic motivation	Sanctions & rewards, extrinsic incentives
Which image of man is assumed?	Employees concerned with the organisation's interests	Individuals concerned with self-interests
How does change happen?	Through participative reasoning and joint learning, finding the best technical solution	Through internal conflict and external pressure, coalition building, finding the powerful agents who can force positive and negative capacity change
What will change efforts focus on?	Internal systems, structures, skills, technology, communication	Change incentives, fire foes and hire friends, build client and performance pressure.
"Emotional tone" of the analysis	Naïve	Cynical

from Teskey (DFiD 2005)

Take the recommendation in impact assessment that the memo should contain a clear (if brief) assessment of the other options which were considered. What official can be expected to present this in a way which threatens a Minister's pet idea??!!

And what lawyer or social scientist can write clearly and critically about a policy and its options???!?! Or about the feasibility of a policy? Senior civil servants are lawyers – not managers. They don't think that way! Such work will be carried out seriously by civil servants only if careers depend on it! And that would have to mean that someone in higher authority

- was actually monitoring the quality of the impact assessment work (in the manner of the NISPACE academics)
- was able to attribute it to specific officials
- could ensure that inadequate assessments counted in the promotion prospects of civil servants.

But few systems have yet developed proper performance assessments of civil servants. *So the question has to remain – why should anyone bother about real impact assessments?*

PART III

In this paper I have looked – all too briefly – at three of the tools or mechanisms being used in transition countries to improve the quality of work in their systems of public administration - Civil service laws and agencies; Functional review; and Impact assessment.

At para 3.3, I mentioned four other elements (judicial and budgetary reform; twinning; and local government and NGOs) each of which would need a note as large as this to do it justice.

I have noted that each of the three mechanisms dealt with in this note focus on a very simple injunction –

- *Make recruitment open and competitive*
- *Check that the activities of state bodies are appropriate*
- *Check that the consequences of draft laws have been calculated – and are likely to achieve their purpose*

Simple it may be – but very threatening to important forces in society!! In other words classic examples of the apparent clash between rationality and politics illustrated in diagram. We need now therefore to turn our attention from the WHAT to the HOW. And, more basically, to ask the question whether these mechanisms are realistic. The next para looks therefore at the question of who has the interest in these societies in having effective systems of public administration – and how they might be more involved in such reform efforts. Para 8 then pulls back and asks the larger question of why policies fail – and what steps are needed to minimize failure.

7. WORKING WITH THE GRAIN

7.1 What makes politicians and civil servants tick - in transition countries?

I have already indicated that passing laws and regulations in the matters considered in this paper may take time – but is a relatively easy matter. Fairly reasonable laws, regulations and reports will duly emerge. But their implementation requires a commitment to change which cannot be taken for granted in societies whose populations are struggling to survive and whose new rulers – many uncertain of how long they will survive in office – are subject to temptations of short-term personal gains. In such contexts, is it realistic to expect policy-makers and civil servants to have an overriding concern for future public benefit?

To explore that question requires us to look at the wider issue of motivation. I have tried in the next table to set out seven different motivations which can be found in people – and some of the policy tools which would be relevant for such motivations.

My original purpose in developing this table was to bring home to my colleagues that we tend as consultants to produce suggestions for interventions without examining properly the assumption we are making about the behaviour of the target population.

Legalism, for example, assumes that people know about laws and will obey them – regardless of the pull of extended family ties (eg for recruitment).

Training and functional review assumes that people simply need to understand in order to take the relevant action.

Other tools assume that man is basically a calculating machine. And so on....

Table 13: motives and tools in the change process

Motivating Factor	Example of tool	Particular mechanism
1. Understanding	Training Campaigns Functional review	Rational persuasion Factual analysis
2. Commitment	Leadership Communications Training	Legitimisation; inspiration Pride
3. Personal Benefit	Pay increase and bonus Promotion (including political office) Good publicity Winning an award	Monetary calculation ambition Reputation; Psychological Status
4. Personal Cost	Named as poor performer Demotion Report cards	Psychological (Shame) Monetary pride
5. Obligation	Law Action plan Family ties	Courts Managerial authority Social pressure
6. Peer influence	Bribery Quality circles	Pressure Support
7. Social influence	Opinion surveys	Feedback from public about service quality

Source; an earlier version of this originally appeared in Young (EU Tacis 2005)

Donors employ technical advisers – who have rarely been politicians or near the political or indeed change process and therefore tend to be innocents abroad, castigating their clients for failure to follow their eminently reasonable (technical) advice. Rationalistic perhaps – but not reasonable!! Knowledge and experience of the working of public administration systems (and not just of their home country!) are, of course, essential prerequisites for consultants – but equally necessary are two other features which are sadly not so often in evidence -

- ability to listen to, and understand, the local context
- ability to construct networks of change

I deal with the second of these issues in the next section. For the moment, let me simply refer to one of the basic writers in the motivation field – Abraham Maslow – and his hierarchy of personal needs. This makes the eminently sensible point that different societies are at different levels of need –

- *Survival needs*; immediate needs for air, water, food, bodily safety, shelter
- *Security needs*; regularity and dependability of survival needs
- *Social needs*; belonging, affection, connection, intimacy
- *Ego needs*; recognition, status, competitive achievements
- *Self-actualisation needs*; integrity, altruism, creativity

Such a typology has, of course been both criticised (social needs are also basic!) and further developed (Harrison 1995) but its basic logic remains intact – that different groups of people and different societies have different dominant needs. The village municipalities I work with in Kyrgyzstan, for example, are struggling to survive – as their citizens. The assumptions I make therefore in my work with them (and the policy-makers in Bishkek) are very different from the assumptions I make when I work in Latvia. And the very useful organizational typology developed by Charles Handy makes the same point – that organizations move through various phases (reflecting wider social and economic forces) and trying to work creatively in a “boss” or “bureaucratic” system will bring disaster - whether for the individual or the system!

But I was still hearing the language of “best global practice” from consultants working in 2000 in Central Asia!! One would have expected that, by now, the phrase “appropriate practice” might have become a rallying slogan. But no!

7.2 How does change take place?

I spent a few days in my house in Romania as I was drafting this paper and, by serendipity, picked up a book there one of whose pages shouted at me - “*Crises*” it said “*are often crucial in stimulating change, champions and ownership of reform have to be won. Successful change needs to be embedded in institutional reforms and the reconstruction of incentives*”²⁶ So crisply, that gives the basic theory of change –

- Windows of opportunity present themselves²⁷ - from outside the organization, in pressure from below
- Reformers have to be prepared and available – and able to seize and direct the opportunity
- Others have to have a reason to follow
- the new ways of behaving have to be formalized in new structures

Arguably Poland is a good example of this – Solidarity had been preparing for a decade for the change – which was brilliantly seized. It has been institutionalization which has been more difficult for Poland..

The trouble is that donors have to work with the state bodies whose occupants, by virtue of the nominal power they seem to have, are resistant to anything which seems to threaten that power – particularly the powers of patronage and spoils. And have neither the time nor inclination to listen to arguments (from outsiders) that there are more effective ways of operating. More than once I have found myself in assignments saying that there is no point wasting one’s time with those in present positions of power – the need is to work with those in the wings who are not currently part of the political game. That, of course, is a long game – and not one overtly permitted by donor policy²⁸.

A lot of advisers have read some of the literature on managing change and imagine they can introduce new systems into an individual Ministry – oblivious to the wider context which rejects such transplants. One of the shortcomings of western consultants is that they are generally specialists and practitioners in one field (Young 2006b) – and are not familiar with the literature or practice of

²⁶ Introduction to Perri 6 et al (page 3)

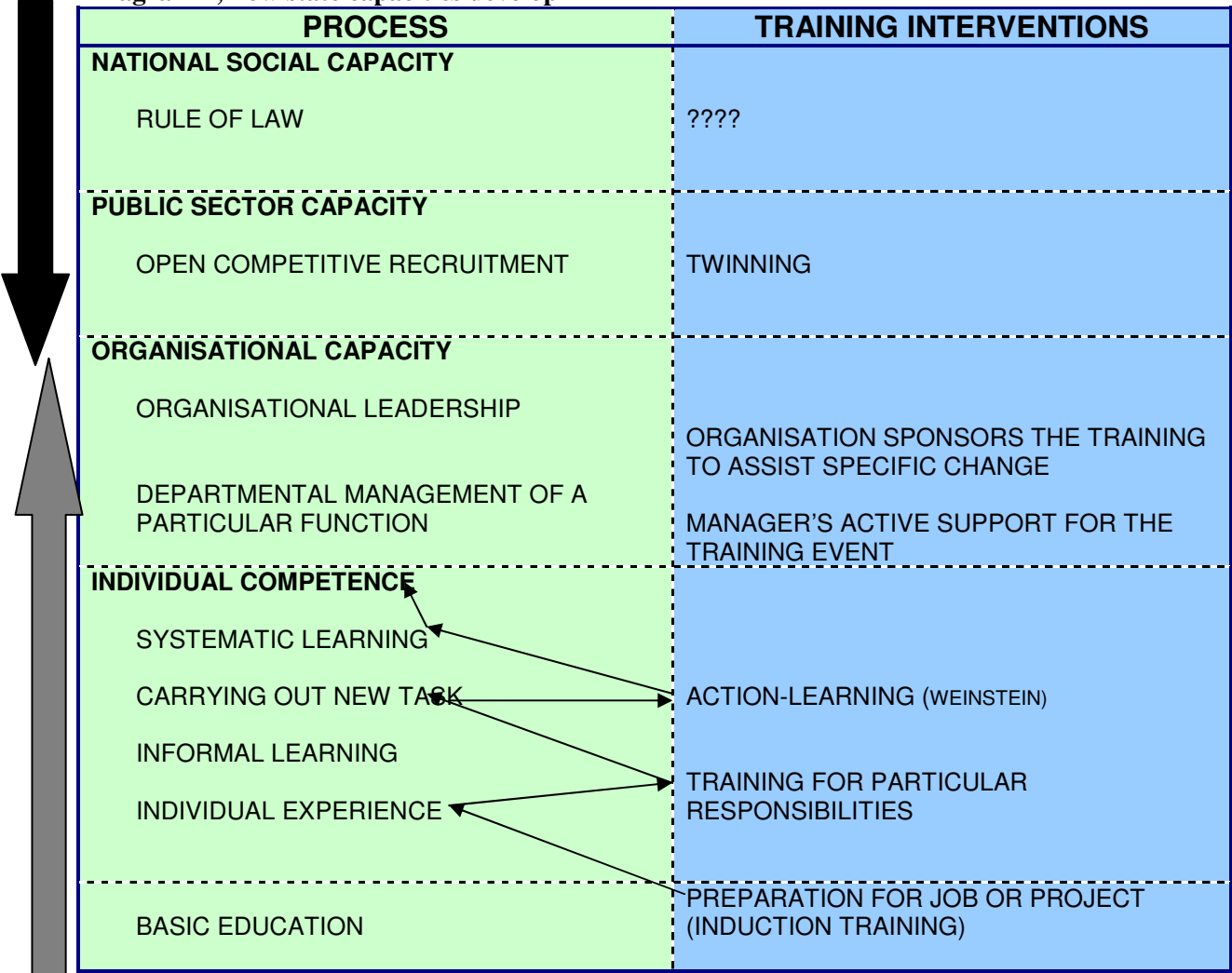
²⁷ Manning’s 2002 report for World Bank s at last put this basic fact on their agenda

²⁸ although quite clearly US policy for Ukraine!!

capacity development. I have only very recently come across such texts myself – after I had struggled in one assignment to identify how the training we were required by our ToR to carry out could actually assist municipalities who still had not been given the functions or finances set out in the legislation.

I had to reinvent the wheel – identifying three levels of capacity development – individual, organisational and societal²⁹ – and some of the preconditions which needed to exist before training was worthwhile. Table 3 was the result-

Diagram 2; how state capacities develop



From Young - Building Municipal Capacities (EU Tacis 2006)

What the diagram (and paper) tries to say is that –

- Training of individual (level 1) is effective only as part of a organizational change initiative driven by senior managers (level 2)
- That will happen only if the wider environment (level 3) is sympathetic

²⁹ Useful recent summary papers are - The Challenge of Capacity Development; working toward good practice (OECD – Network on Governance Feb 2006); Capacity Development for Policy Advocacy; M Blagescu and J Young (ODI January 2006); Capacity Development Practice Note (UNDP December 2005 draft); The Idea and practice of systems thinking and their relevance for capacity development; Peter Morgan (European Centre for Development Policy Management – March 2005); Capacity Enhancement Indicators (WBI 2004);

7.3 A pragmatic approach to reform

So what does one do? Limit oneself in countries with a context hostile to reform – as the World Bank does – to funding NGOs and giving the odd scholarship? Keep one's powder dry and put one's hope in the future generation?

Or perhaps rulers can be shocked by warning examples? Romania could be used as a negative case-study of lost opportunity or, as one book's title bluntly puts it, of a "Theft of a nation" (Gallagher). The elements in that story are hinted at in the long quotation with which this paper began and are basically –

- A dictator disposed of but the same personnel and system persisting for 7? years
- A constitutional and electoral system which split power between a Presidency and 2 parliamentary bodies and made coherent action extraordinarily difficult for the coalition government which followed the eventual break with the past in 1997.
- A culture of every man for himself – compounding the problems of working consensually and in the public good.

The international community has had it lucky so far – EU accession was a powerful incentive to governments and societies to make changes in their ways of doing things. In places where that incentive does not realistically exist, the incentive structure of donors seems to be **competition** of two sorts –

- To be investment-friendly regimes
- To have the image of making most progress within the particular Region (particularly to attract TA and develop the new Neighbourhood mechanism in eg Caucasus)

But such competition is rather a blunt tool compared with that of accession. Attention needs to be paid to the details of each local context. Laws, regulations and other policy tools will work if there are enough people who want them to succeed. And such people do exist. They can be found in -

- **Parliaments** – even in tame and fixed parliaments, there are individual respected MPs impatient for reform
- **Street-level bureaucrats** and their **national Associations**; many officials are frustrated with the legal overload, lack of funding and preparation for laws. Professional associations – which presumably the Acquis Commaunitaire has helped develop – are an important force for testing the feasibility of draft policy measures if the consultations required by impact assessments are carried out seriously.
- **Ministries of Finance**; have an interest in policy coherence.
- **NGOs**; those which actually do represent specific social interests also have a high motivation to solve problems
- **Local Government Associations**; municipalities have great potential for change. They have legitimacy – although generally they are starved of resources. But if the councillors can develop strong links with local people and establish good national links – eg with an effective Association of municipalities – this can have a very positive effect.
- **Audit Bodies**; as government audit extends beyond the question of whether the spending of state bodies has been legally sanctioned, it moves into the critical area of "value for money". This, however, takes considerable time...
- **Younger generation** – particularly in academia, policy shops and the media

The question is how they can become a catalytic force for change – and what is the legitimate role in this of donors? To begin to answer such an enormous question takes us into a wider literature than is normally read by consultants in the PAR field – those of history, development and policy development Space and expertise limit what I can say on all this - although the lack of an historical dimension in the donor work on civil service reform has already been mentioned briefly. Chang develops this theme very thoroughly – particularly in relation to the development of regulatory economic institutions and the policy of free trade. The final section of this paper will try to sketch out some thoughts about the other 2 areas.

8. “WHY DO OUR POLICIES FAIL?”

Let’s start with the last – policy development. How often have I been asked this question on my recent assignments! The relevant laws have been passed – but nothing seems to be happening....When I’ve been given the chance to answer the question systematically, I’ve used the following schema -

NOT APPROPRIATE

- Preconditions don’t exist
- Wrong policy

NOT AGREED

- Opposition
- misunderstanding

NOT RESOURCED

- No advance costing
- No money budgeted

NOT IMPLEMENTED

- Overload
- sabotage

NOT PREPARED FOR

- No phasing
- No training

NOT MANAGED WELL

- Wrong structures
- Inadequate skills

PRIORITIES CHANGE

- Force majeure
- Political change

In a recent assignment about strengthening local government, we suggested the following preconditions for effective laws -

- The law needs to be **drafted in intensive consultations with those who will be required to implement and enforce it**. All too often those drafting it do not have experience of the practicalities of implementation and therefore fail to anticipate operational problems. Consultation helps avoid this – and will also help avoid going into detail which is better dealt with in regulations
- Consideration needs to be given to the **mechanisms, resources and time needed to give the objectives of the draft law a chance of becoming operational**. In other words, a realistic action plan is needed – which recognises that laws need money – and will often have to be applied in stages to allow the necessary preparation of staff and facilities.
- There needs to be a **management system** to make sure that the action plan can in fact be properly implemented – and will not simply be forgotten about because of informal power structures. Often a **new unit** will be needed with some full-time staff and a Head with some political influence for this.

- **People affected by the law have to know a law exists and understand what it says.** This means enough copies have to be available in places where people need to access them – and reader-friendly summaries need to be available in sufficient quantities.
- **Laws need to be enforced** – there needs therefore to be provision in the law for dealing with disregard for the law; and these need to be used. One successful court action can be worth a hundred regulations in making people realise that the law is there to be applied.

Everyone will now agree that an understanding of such things (basic policy analysis) needs to be developed amongst Ministers and senior civil servants. However two elements of the donor work in this area makes much of that work abortive –

- A lot of the teaching is based on rationalistic assumptions (defined in diagram one) which make little sense in Western Europe let alone in Central Europe and Asia
- A lot of it is didactic ie “taught” in courses rather than learned through the sort of action learning implied in diagram 2

A new way of learning needs to be developed.

9. INCONCLUSION –

As I was thinking about how to draw an end to this paper, two things caught my attention. First was the table below – taken from the latest book of one of the most interesting writers in the development field one of whose early books was titled, memorably, “Putting the Last First”. As you would expect from such a title, his approach is highly critical of external technical experts and of the way even participatory efforts are dominated by them. Sadly, few younger consultants³⁰ in the field of admin reform (particularly NPM ones!) are familiar with the development literature (Tribe and Summer). The table maps out four different philosophies of development.

Table 14; Four approaches to development

Approach	1. Benevolent	2. Participatory	3. Rights-based	4. Obligation-based
Core concept	Doing good	effectiveness	Rights of “have-nots”	Obligations of “haves”
Dominant mode	Technical	Social	political	Ethical
Relationships of donors to recipients	Blueprinted	Consultative	transformative	Reflective
Stakeholders seen as	Beneficiaries	implementers	Citizens	Guides, teachers
accountability	Upward to aid agency	Upward with some downward	multiple	Personal
Procedures	Bureaucratic conformity	More acceptance of diversity	Negotiated, evolutionary	Learning
Organizational drivers	Pressure to disburse	Balance between disbursement and results	Pressure for results	Expectations of responsible use of discretion

Source; Ideas for Development: R. Chambers (2005) p 208)

The unease some of us (Coombes) have been increasingly feeling about PAR in transition countries is well explained in that table. The practice of technical assistance in reshaping state structures in transition countries is stuck at the first stage – although the rhetoric of “local ownership” of the past 5

³⁰ The older ones, of course, have considerable experience of Africa – which has a dual problem. They come with jaundiced eyes; and beneficiaries in transition countries do not take kindly to being compared with Africa.

years or so has moved the thinking to the second column. The challenge is now two-fold, to make that rhetoric more of a reality and then to move to try to ensure that citizens actually benefit from all the activity! I have a dreadful feeling, for example, that the whole process of Accession mean that too much time has been spent on incestuous activities in and between state bodies – and that the citizen is forgotten except when the dangerous language of subsidiarity and transparency are used. George Orwell would have had a field day in the way such words are used as a substitute for thought!³¹

And certainly the project basis of the Technical Assistance of the European Commission (EC) dooms much of the work described in this paper to failure (Coombes; Morgan; Young). Some parts of the EC do understand these issues – but the compartmentalisation which followed the restructuring of the recent Commission has meant that the thinking of the Development side of the EC stops at the door of RELEX which handles the short-term contracts which govern this work in transition countries³².

This is a topic which figures strongly in the second paper which fortuitously came to my attention - the 2004 SIGMA overview of PA in the Balkans – written ironically precisely at the time the procurement (rather than development) philosophy won the day in Brussels³³.

The conclusions of that 2004 paper offer an excellent way of ending this one. “Too often”, it says “PAR strategies in the region are designed by (external) technocrats with a limited mandate. Public Administration reforms are not sufficiently considered as political interventions which need to be sustained by a coalition of interests which includes business, civil society and public sector workers”.

The paper then goes on to make the following very useful injunctions -

- Get the administrative basics right – before getting into the complexity of NPM-type measures
- Focus on establishing regularity
- Tackle systems - not agencies
- Develop the young; constrain the old³⁴
- Be serious about local ownership
- Avoid having a project focus force governments into unrealistic expectations
- Address the governance system as a whole – eg parliament and admin justice

At the end of para 7, I posed the question of how the various voices for genuine reform in these countries can become a catalytic force for change – and what is the legitimate role in this of donors? These are huge questions which this paper cannot deal with. But they are critical questions which are at last beginning to be raised. I would ask that those of you who have read this far and are interested in pursuing such questions – and the others raised in this paper – to contact me – at bakuron2003@yahoo.co.uk.

³¹ I'm thinking of his classic essay – “Politics and the English Language!

³² Typical is the document “Reforming Technical Cooperation and Project Implementation Units for external aid provided by the EC – a backbone strategy” (July 2008) which does not even discuss the contracting process. See my critical 2006 paper on EC TC – available on my website - www.freewebs.com/publicadminreform/

³³ see also Santiso (2004)

³⁴ although I have reservations about the “ageism” of this. The well educated young in some parts of the region have a shocking arrogance which is counter-productive

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