

Historical Legacies and Law Enforcement in Russia

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The Russian militia has been consigned to the dustbin of history, replaced (as of March 2011) by the Russian police. The change to the name “police” is supposed to indicate a new type of force, one with a more professional outlook as well as a new orientation to citizens. In the words of *RosBusinessConsulting*, a Russian news agency, a *milititioner* was an “inspector,” whereas a police officer is a “helper.” However, many experts contend that a change in labels, whether from militia to police or KGB to FSB (Committee for State Security to Federal Security Service), cannot eliminate the pathologies of the Soviet past in Russian law enforcement. This position dovetails with a widespread tendency to invoke “legacies” to explain a wide range of social and political phenomena in the post-communist world.

In this memo, I consider to what extent the notion of legacies is helpful in understanding contemporary Russian law enforcement. I argue that attributing existing structures and behavior to legacies is actually more difficult to prove than one might initially think, but that there are a few legacies that seem important. Specifically, the organizational mandate and power of the Russian Procuracy, the status and cultural reputation of “Chekists” (former KGB personnel), and the tendency of law enforcement personnel to act with minimal regard for treating average citizens fairly are definitely important aspects of Russian law enforcement and ones that seem to be, at least in part, legacies from the Soviet past.

What is a Legacy?

The notion of legacy suggests something retained from the past. Legacies in this sense should be present everywhere, yet we most often hear the word legacy in cases such as “post-colonial legacies” and “post-communist legacies.” Thus, it appears that the term applies primarily after major historical breaks. Unlike path dependencies, then, legacies seem to appear after a discontinuous shift, such as after a revolution. These legacies could exist both at the formal level, in terms of laws and organizations, and at the informal level, in terms of culture and everyday practice.

At the most general and ambitious level, the very notion of post-communist legacies implies that former communist societies from Budapest to Bishkek share important commonalities. Given the generally divergent trajectories across the post-communist region, legacy arguments would seem to be hard, although not impossible, to sustain. Turning to Russia, the fact that not just Soviet but also Tsarist legacies are sometimes evoked suggests we may not be talking about legacies at all as much as traditional Russian institutional forms or practices. Finally, one should be cautious about invoking a legacy argument if there is an obvious functional explanation – that is, institutions and practices may not be true post-communist legacies if they are generally common around the world, either in general or in authoritarian/post-authoritarian contexts. To put it differently, in the specific case under consideration here, the Russian police may not behave the way they behave because they are *Russian*, but because they are *police*. With these caveats in mind, let us proceed to examine some of the most obvious candidates for legacy influence in Russian law enforcement.

Organizational Legacies in Russian Law Enforcement

A good starting point in looking for legacies is the formal organizational structure of Russian law enforcement. In this area, clearly the biggest attempt to disrupt previous structures and create a new look for law enforcement was the dismantling of the KGB in 1991 and breaking it into five separate structures. Such a change was justified both on functional grounds, in order to rationalize the responsibilities of the KGB's diverse components, and on political grounds, to reduce its political weight. It clearly made functional sense to separate foreign and domestic intelligence, border security from internal security, and leadership security from law enforcement. The partial reversal of this fragmentation under President Vladimir Putin in 2003, however, is probably more readily explained on political grounds than functional ones – Putin clearly did not fear the secret police the way Yeltsin did, and restoring some of his old agencies' former functions and bureaucratic heft probably appealed to his Chekist identity. At the same time, he resisted the proposals sometimes heard to recreate the structure of the KGB *in toto*, leaving foreign intelligence (SVR, Foreign Intelligence Service) and leadership security (FSO, Federal Guards Service) as separate entities. Leaving the SVR and the FSO independent seems logical on functional grounds alone, and the independence of the FSO has an obvious political rationale also.

The Ministry of Internal Affairs (MVD), on the other hand, continued relatively unchanged after 1991. The biggest formal organizational change was the 1998 removal of control over prisons from MVD jurisdiction and their transfer to the Ministry of Justice, a move pushed by the Council of Europe. Several other major changes were rejected. Most importantly, both the MVD and the presidency – under Boris Yeltsin, Putin, and Dmitry Medvedev – have resisted efforts by law enforcement reformers to transfer control over public order policing to the regions. The high degree of centralization of the Russian police may in some respects be considered both a Tsarist and communist legacy, but, on the other hand, such centralization is hardly unique to Russia, even for federal political systems. Finally, the heavy militarization of the MVD

in terms of the 200,000 strong Internal Troops, although potentially a communist legacy, also can be defended at least in part on functionalist grounds, given the long-running internal war in the North Caucasus. The split between “high” (political) and “low” (criminal) police was also maintained, with the persistence of the FSB and the MVD as parallel policing agencies. Such a division has roots both in the Soviet and tsarist periods, but since this division of law enforcement responsibilities is fairly common around the world, it does not appear to be an actual legacy in the sense defined above. Thus, the continuity of the MVD organizational structure may be a partial legacy, with entrenched interests in the current bureaucracy resisting reform proposals, but there are also functional arguments for the current structure.

The other major law enforcement agency is the Procuracy. Continuity was also the order of the day with the Procuracy, which maintained its wide mandate and multiple functions from the Soviet period. These functions included criminal prosecution, criminal investigation for certain crimes (the MVD, the FSB, and several other law enforcement agencies also have criminal investigation responsibilities), general oversight (*nadzor*) over all government agencies to ensure their compliance with the law, and coordination of law enforcement organs. This broad mandate is one of the most extensive in the post-communist world. Russian legal reformers in the early 1990s fought to strip the Procuracy of its general oversight functions and limit its role to criminal investigation and prosecution, but they lost that battle. More recently, from 2007-2011, the criminal investigative functions have been separated from the Procuracy in several stages, with an independent Investigative Committee established. Medvedev has suggested that the possibility of bringing all criminal investigative units, including from the MVD and the FSB, into this new structure is still alive. Such a move would be an important departure from Soviet-era practices.

To summarize, although there are important organizational continuities from the Soviet period in Russian law enforcement, it is hard to identify continuities that are clearly “legacies.” Probably the most consequential organizational legacy was the persistence of a Procuracy with multiple and extensive powers, although the separation of the Investigative Committee in recent years has eroded the Procuracy’s power. Other important organizational continuities – a centralized and militarized MVD, the division between high and low policing – at first glance appear also to be legacies. Given that these organizational forms are not uncommon in many countries, including in liberal democracies, and may have functional explanations, it is hard to demonstrate that they are actually communist legacies.

Cultural and Informal Legacies

Legacies at the level of practice and culture are likely to be both more enduring and harder to observe. Still, there are some generally accepted attributes of law enforcement practice from the Soviet period that might qualify as legacies if they have persisted. These include:

- The primacy of serving the state and political demands in law enforcement activity, as opposed to service to the citizenry.
- Enforcement of Party-defined standards for personal activity among the population.
- An approach to law enforcement that prioritizes Party *diktat* and plan-like targets set from above, combined with weak legal consciousness and training.
- Institutional rivalry between the main law enforcement agencies.
- The elite status of the KGB and its agents, particularly as compared to the militia, with differential status also reflected in the quality of cadres, and in the compensation they receive.

The change in law enforcement practice that seems the most obvious is the end to police enforcement of ideological standards of behavior for the population. Russian citizens clearly have a great deal more freedom in where they go, how they dress, what they read, and so on, than they did in the past. That said, the passport and registration system from the Soviet era has not been dismantled, and the persistence of aspects of this system may be a true legacy.

Institutional rivalry among the different law enforcement agencies has clearly persisted. This in itself is not a legacy, since disputes between bureaucracies with overlapping jurisdiction is a near-universal feature of modern states. However, the specific form of this rivalry intersects with a more important broader and cultural legacy of Soviet rule, the elite “blue blood” status of the Chekists, allegedly loyal and incorruptible servants of the state. This self-conception clearly predominates among Chekists themselves, who refer to themselves as the “new nobility” (Nikolai Patrushev) and assert that only Chekists can save the Russian state from collapse (Viktor Cherkesov). But it also seems to have wider currency among the political elite, and at least partially explains Yeltsin’s choice of Putin as successor. The general spread of former KGB personnel throughout the bureaucracy actually began under Yeltsin, although it accelerated markedly under Putin. During Putin’s presidency, former KGB officials headed not only the FSB itself but also its most obvious institutional rivals, the MVD (Rashid Nurgaliyev) and the Ministry of Defense (Sergei Ivanov). The combination of political power and elite status afforded the secret police is, in comparative terms, relatively unique; in Latin America, Africa, Asia, and the Middle East, the military has been much more likely than the secret police to dominate politics. This feature of Russian politics may well be a post-Soviet legacy; if so, it is a very important one.

At the more mundane level of practice, the low legal consciousness of law enforcement officials and the tendency to be guided by directives from above also seem to persist. One of the most pernicious manifestations of this problem is the tendency of police officers to doctor statistics about key performance indicators such as “clearance rates.” Manipulating statistics can take many forms, from not registering crimes that are difficult to solve to torture and forced confessions to help meet one’s quotas, but the

ultimate result is an approach to policing that privileges false and meaningless statistics over service to the population and fighting actual crime. Russian police call this quota-based monitoring the “stick system” (*palochnaya sistema*).

This tendency to work toward “the plan” rather than toward citizen satisfaction also has elements of a communist legacy. At the same time, it is worth noting that police supervisors everywhere deal with the difficult problem of how to evaluate police performance. The incentive to doctor statistics is hardly a specifically Russian or post-Soviet problem—it is seen among the police in liberal democratic states also. Moreover, the Russian police seem to recognize the need to adopt a broader range of measures of police performance, including citizen surveys, though plans to adopt these broader measures have not been fully implemented to date.

It is also worth noting that the growth of the second economy under Soviet leader Leonid Brezhnev, combined with this quota-based approach to policing, had the perverse effect of making it easier for Soviet police officers to spend their time enriching themselves rather than solving crimes. As French scholar Gilles Favarel-Garrigues has demonstrated, the planned approach to police activity not only directed police away from hard economic cases to cases they could easily solve, or at least record as “solved,” it also gave them the flexibility to use work time to enrich themselves. This pattern of police activity not only continued after the Soviet collapse but expanded massively. As one police sergeant told Russian sociologist Boris Gladarev, “First we collect the required number of ‘sticks,’ then we can work for ourselves—anything above the norm—for a living.”

It would be a mistake, however, to see this form of police corruption as primarily a Soviet legacy. Although there are some continuities from the Soviet period, the introduction of private property radically changed the environment for law enforcement and stimulated the rise of what sociologist Vadim Volkov has termed “violent entrepreneurship” within these organs, far beyond the corruption of the late-Soviet period.

The tendency of Russian law enforcement officials (and not just police) to be guided by commercial motives is arguably the most fundamental aspect of their current practice. This behavior has both legacy and unique aspects. It also connects to a different legacy—the neglect of citizen service as a key orientation. In the Soviet period, the demands and interests of the “party-state” took precedence over societal concerns, so law enforcement was predominately a repressive organization. That repressive component of behavior has lessened but persisted, while the predatory (economically self-interested) element has grown but is not entirely new. What remains the case is that protection of citizens is often a secondary or even tertiary concern of law enforcement personnel. This is hardly a post-communist phenomenon alone, but the particular form in which it persists does seem to have legacy aspects.

Conclusion

Many of the deficiencies of the Russian state are often attributed to post-Soviet legacies. In this memo, I have cast a critical eye toward some legacy claims as they apply to

Russian law enforcement. Overall, the arguments for informal or cultural legacies seem somewhat stronger than the claims at the formal organizational level. Many of the organizational aspects of Russian law enforcement have both functional and political rationales independent of their Soviet past, although the unique role of the Procuracy is an important, albeit diminishing, legacy. In the realm of culture and practice, the two most important legacies seem to be *a)* the status and political weight of the FSB relative to other law enforcement agencies and *b)* the persistence of behavior that neglects fair and responsive service to average citizens as an important goal of law enforcement work. The latter behavior, however, is hardly unique to post-Soviet countries and is found to varying degrees in many authoritarian and semi-authoritarian states.

Legacy arguments, then, can only get us so far in understanding Russian law enforcement today. As the Russian militia passes into history, the new police may carry certain legacies, but they are also shaped by general pressures faced by police everywhere, as well as by a broader social and institutional environment that is a complicated mix of old and new.