Obtaining redress for abuse of office in Russia: The Soviet legacy and the long road to administrative justice

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ABSTRACT

This article examines the options for redressing abuse of office available to citizens in Soviet and post-Soviet Russia. I consider the courts, the procuracy, and the complaint mechanism as sites for citizens to lodge claims against abuse of office in late-Soviet and post-Soviet times. After the collapse of the Soviet system there was an attempt to overcome the Soviet legacy, to strengthen legal institutions and establish administrative justice. Analysis of Soviet and post-Soviet normative documents and statistical data allows us to argue that opportunities for Russian citizens to combat service crimes in the courts have improved substantially. However, the system for coping with abuse of office remains imperfect, and retains features of the Soviet legacy despite vague legislation about administrative justice and dual ways of coping with abuse through legal and quasi-legal mechanisms. The re-establishment of the complaint mechanism in the conditions of contemporary Russia exacerbates this imperfection. Overall, the complaint mechanism occupies a significant place in people’s options for making claims against officials, especially claims against high-ranking officials.

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1. Introduction

During a recent teleconference (2017) with President Vladimir Putin, several families from Izhevsk called in to complain about poor living conditions. The president promised to visit them later. After that, a house in Izhevsk, the capital city of the Udmurt Republic, became the subject of close attention by local officials, the procuracy, and the investigative committee. It had been lightly renovated, and the courtyard around the house had been paved. At the end of June 2017 the President visited the house, and spoke with the acting head of Udmurtia right in front of the house:

President Putin (P): How many families have to be resettled? How many families need new housing?
Mayor (M): Eleven.
P: They must be resettled within this neighborhood.
M: We have a new apartment building in this area. It is not ready yet, but we plan to complete it in a year.
P: Do you have enough available apartments there?
M: At the moment we have one or two apartments available in the building.
P: So, by the end of this year all eleven families must be resettled in the new building.

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The President gets thousands of complaints annually from citizens during his teleconferences. A special office of the President’s administration registers about a million complaints annually. Some problems articulated in the complaints, like the one mentioned above, have no clear legal solution. It is a challenging task to provide eleven apartments in a new building when only one or two are available and all the others are sold out. It is unclear at present if the local official’s promise has been executed or not, but it is obvious that this order of the president can hardly be executed without bending legal rules or procedures—a form of abuse of office.

The problem of abuse of office belongs to the sphere of law; specifically, administrative justice. Yet the mainstream literature on democratic regime survival has almost entirely ignored legal institutions (Reenock et al., 2013, p. 503). In the case of Russia, when studying problems of abuse of office it is not enough to consider anti-corruption measures only within the framework of the law enforcement system, because in Russia legal institutions have never been the only ones who dealt with problems in this sphere.

In spite of the long road towards administrative justice, and certain achievements in this field, the mechanism of complaints to the authorities remains an important path to obtaining redress for abuse of office in Russia. At the same time, the complaint mechanism remains even more marginal among researchers than legal institutions, which is quite a serious omission. Over the centuries this mechanism has influenced understandings of abuse of office by the state and society, the means of addressing the problem, and the role of the law and the legal system in processing claims against maleficence in office. For Russia, where the level of corruption is consistently one of the highest in the world, it is especially important to understand how abuse of office is comprehended and how these types of violations have been regulated not only today, but in previous eras. The purpose of this article is to consider the different methods for coping with abuse of office in the late-socialist and post-socialist periods, and to identify the role of the complaint mechanism among them.

The article is based on analysis of normative documents regulating the fight against abuse of office in the Soviet and post-Soviet periods; analysis of court statistics; and official data presenting the number and topic of complaints addressed to the Russian President. The first part of the article describes the Soviet definition of the notion “abuse of office.” The second part presents an analytical review of late-Soviet options for claims against abuse of office to the legal, supervisory, and administrative bodies. Then, in the third part the article addresses the contemporary period, analyzing particular features of coping with abuses in today’s Russia. The closing section debates post-socialist transformation to claims against officials.

2. “Abuse of office” versus “corruption”: The Soviet understanding of crimes by officials

The term “abuse of office” is connected directly with the category of “corruption.” Both notions may be similarly defined as the illegal, unethical, or immoral use of power for private gain. The concepts are very similar in meaning, and the differences between them are vague. No theory gives a universal explanation of the differences between these two terms. Positioning corruption as the key offense, Western scholars are concerned with the definition, and argue about the constituent elements of corruption. The most common characteristics which are usually used to classify an offense as corruption concern the abuse of public office. This definition of corruption is commonly used by the World Bank and Transparency International, and also in Western academic debates (Andersson and Heywood, 2009, pp. 746–767). Joseph S. Nye classifies as corruption acts such as bribery, nepotism, and misappropriation (Nye, 1967, p. 419), emphasizing material interest as the core of this type of offense.

The category “abuse of office” is of secondary importance in Western debates. As seen from the previous paragraph, it is considered a primary characteristic of corruption rather than a separate phenomenon. No precise definition is available: the dictionary says only that “to abuse” means “to misuse” or “to commit wrongful acts,” and the meanings of “misuse” and “wrongful” are as vague as that of abuse. Canadian political scientist Kenneth Gibbons suggests a number of actions which could be labeled “abuse of office”: nepotism, patronage (for instance, giving priority to political party supporters), legislative conflicts of interest, and bureaucratic conflicts of interest (Gibbons, 1989, p. 778). In comparison with corruption, in the Western debate abuse of office seems to be a more general definition, covering lesser violations which do not have an immediate connection to material profit, and may not include crimes such as bribery (Gibbons, 1989; Nye, 1967; Andersson and Heywood, 2009).

The definition of corruption used by Transparency International is vulnerable to criticism even in the context of Western-style liberal democracies. As the British Law Commission stated, corruption constitutes “a common law offense (with) no exhaustive definition. As a result the boundaries of the offense are uncertain” (Mendilow and Peleg, 2014, p. 4). The possibility of applying this understanding of corruption to other types of societies is equally doubtful. Some governments do not have formal rules about official conduct, and in some nations it may be taken for granted that elected officials and bureaucrats will

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mix their official duties and private business affairs. In other words, the “normal duties” of an official in one country may include accepting “gifts” or making a decision even if it involves a conflict of interest (Gardiner, 2017 [2002], p. 39). Kate Gillespie of the University of Texas at Austin, and Gwenn Okruhlik of the University of Arkansas argue that it is problematic to apply the Western conception of corruption, based on a Western model of authority constrained by the principles of transparency and accountability, in societies where patrimonial authority prevails (Gillespie and Okruhlik, 1991, p. 83). Sino-American political scientist Yan Sun, considering corruption in Russia and China, argues that multiple factors influence the ways, depth, and severity of the corruptness of officials. The structure of government institutions and political processes are important determinants of levels of corruption because weak governments that do not control their agencies experience high levels of corruption (Sun, 1999, p. 6). Obviously, the ways of defining, regulating, and coping with this type of offense also crucial.

The Soviet approach, features of which are reproduced in Russia today, gives us a very different comprehension of the connection between the notions of “corruption” and “abuse of office”. In Soviet legislation the abuse of office was understood as a broad “umbrella” term referring to a number of managerial and official practices—from insults or failure to deliver benefits to citizens, to serious matters such as taking or giving bribes. They include, other than those mentioned, a variety of phenomena: for example, deceiving the state about the results of an organization’s activities; appropriating state property; deceiving customers; dismissing people for reasons of personal hostility; giving unauthorized special rewards to favored employees; and engaging in illicit exchange with the managers of other organizations (Lampert, 1985, p. 2).

Moreover, the concept “official” is much wider in Soviet criminal law than in the Western legal system, since it includes not only state officials, but also the managerial staff of enterprises. It was used even more broadly in the 1930s, when rank-and-file workers (especially kolkhoz farmers) were held to be “officials” (Van den Berg, 1985, p. 60).

The Soviet leadership seemed to be faced with a major dilemma. In order to secure effective political control, the Soviet rulers needed law and legality—stable rules and clearly specified rights and duties for individuals and organizations. Yet the Soviet form of political management itself helped to create an environment in which illegal practices flourished:

The requirements of the ever-looming plan confront Soviet managers with a struggle for survival that cannot be fought without regular breaches of law. For example, sending gifts and bribes to suppliers and higher officials, the illicit use of enterprise funds for entertaining, setting aside scarce goods for ‘important’ people who will be useful to the organization, barter exchange between enterprises, private contracts for construction work — all these can be seen as measures that help to create the necessary conditions of success, that help to overcome a series of ever-present constraints (Lampert, 1985, p. 24).

Office holders were often forced to use their powers not for private gain but rather to secure the successful completion of production cycles, or to fulfill plans and orders—which in conditions of centralized economy and constant shortage of primary products and components, lack of means of transportation, and so on, would be impossible. This strategy could actually support production, although in the eyes of controlling agencies it was still a violation.

The very structure of the socialist system created multiple possibilities for abuse of office. Since managerial and official practices were surrounded by so many laws and regulations, abuse of office was supported by the law itself. Deeper causes included: 1. an ineffective planned economy and shortage of goods; 2. the centralized character of management; 3. denial of private property. Anybody with authority in any recognized organization in the Soviet Union was considered a “servant of the state,” even if the organization (say, a trade union) was not officially regarded as a “state organization.” Any holder of office was responsible to the political authority and his or her obligations to the state were defined by criminal law as well as administrative rules.

Abuse of office in the context of Soviet society had a specific meaning. It combined a wide variety of offenses by officials, from light misconduct to serious crimes. In the conditions of the Soviet system hardly any official could avoid violations, which turned the legislation on abuse of office into a strong arm of control and management and a tool of personnel policy. The unification of such diverse offenses under one umbrella concept contributed to an erosion of concern about the severity of the violations, and also facilitated the easy reclassification of particular violations as lighter—or vice versa, as more severe.

3. The Soviet choice to struggle against the abuse of office beyond the judiciary

In 1918 the State Control Committee (Goskontrol’) drafted a structure for a special Committee to examine complaints against the actions of officials. The draft was considered at a special meeting which, however, found the establishment of an administrative court untimely and too complicated, and made a decision to replace it with the Complaint Bureaus. They were the special bodies, established by the People’s Commissariat of the State Control, charged with the task of receiving applications for abuse and misconduct of officials. Great attention was paid to the formation of the complaint mechanism in the first years after the Revolution. The mechanism was transformed throughout the whole Soviet period, but the basic principles and rules of its operation were laid in the first decade of Soviet power. The Resolution “On the Strict Observance of Laws” of November 8, 1918 established the legal duty of all officials and institutions of the RSFSR to receive and process complaints from the citizens (S’ezdy, 1935, pp. 103–104). Thus, the protection of citizens’ interests was proclaimed as the duty of the authorities.
In 1919 a branch of the bureau of complaints was established in almost all provincial cities, uyezds and even a number of volosts\footnote{Before the administrative reform of 1923–1929 volost ‘was a small rural area, subordinated to the city. The union of several volosts (including the city or village as a center) formed an uyezd.} of the RSFSR. In 1934 the bureaus were abolished and the function of processing complaints was passed to the party-state apparatus (Postanovlenie VTsIK, 1934), which remained the most powerful addressee of citizens’ complaints until the end of the Soviet period.

In 1922 a key Tsarist institution the procuracy was restored. In addition to its prosecutorial functions, the Bolsheviks revived its earlier power to supervise the activities of administrative officials, agencies, and citizens — including the order of consideration of complaints addressed to the authorities (Boim and Morgan, 1978). Since its restoration, the procuracy was involved in working with complaints at various levels, monitoring both the legality of the actions of those who had been accused by complainants and the legality of the actions of those who processed the complaints.

In the 1920s—the years of New Economic Policy—there were lawyers who “classified insurance councils, land, housing and other commissions, the complaint bureaus and the procuracy in the category of administrative justice bodies” (Pravilova, 2000, p. 145). Thus, an avenue was established for claims against abuse of office outside of the court system in accordance with the rules of the so-called administrative way of resolving issues. Renowned expert in socialist law and post-socialist transformations Inga Markovits argues that such a cleavage was typical of the Soviet system (Markovits, 1995). In Russian, the two different meanings of “administrative” raised confusion between two ways of resolving problems of abuse. The first one was an administrative way of resolving issues concerned with justice claims, managed by the forces of administrative bodies, by the rules of handling complaints. The second involved the prosecution of officials for administrative violations, and was realized by the courts. These two ways coexisted during the whole Soviet period, compensating for the lack of institutions of administrative justice. Both dealt with the problems of abuse of office, and the jurisdictional division of problems was nebulous, remaining unclear until the end of the Soviet period. Serious criminal cases were considerend by the courts or procuracy. An insignificant segment of crimes by officers was considered by the courts as part of civil justice. Relatively light misconduct could be managed through complaints. There were also offenses in the middle for which claims could be made simultaneously to the courts, the administrative bodies, or the procuracy.

3.1. Practice of combating abuse of office in late-Soviet period

Service crimes such as negligence or bribery seem to have been the typical offenses of the Stalinist period. In the 1920s, and especially in the 1930s, their prosecution was widespread, which however was partly due to the circumstance that embezzlement by officials was classified as crimes by officials (Van den Berg, 1985, p. 60). There was a sudden decrease in the prosecution of service crimes in the first years of Brezhnev’s leadership. In the late Soviet years statistics showed relatively stable figures of service crimes: in the beginning of the 1970s the most frequently prosecuted service crimes constituted about 5\% of all criminal cases (Van den Berg, 1985, pp. 60–61). The most frequently prosecuted was negligence (khalatnost, Article 172 RSFSR of Criminal Code of 1960), which made up more than 45\% of all service crimes. The second group of violations involved bribery, making up 13\% of all service crimes, or about 0.2\% of all crimes. The third group combined all the other types of abuse of official position, making up one third of all registered service crimes (Zdravomyslov, 1975, p. 124).

Criminological characterizations of typical service crimes in the Soviet Union were noteworthy. The vast majority (up to 95\%) of prosecuted officials were representatives of the medium and lower levels of the administrative apparatus. Among them, first place was taken by “low-ranking workers who have the direct financial liability of property entrusted to them — sellers, cashiers, store holders. Employees of the administrative apparatus seldom appear in the role of subjects of the considered service crimes” (Kriminologia, 1976).

Appropriation, embezzlement, and other abuses of official position fell within the scope of Article 92 of the RSFSR Criminal Code. From 1980 to 1986 the number of these crimes increased annually for the USSR as a whole, a result attributable to active law enforcement measures, and declined from 1987 to 1989, as well as bribery, represented in a separate statistical graph (Butler, 1992, p. 153). Soviet specialists, however, believed the real incidence of these crimes had increased, and that the statistical decrease merely meant that a greater number of incidents went unprosecuted.

In 1989 cases of abuse totalled 47,623, or 3\% of all crimes (Alekseeva et al., 1992, p. 110). Likewise, the cases of high officials are hidden in the statistical classification of offenders. According to statistics, offenders belonged to the social groups of workers (42.5\%), employees (52.4\%), collective farmers (4.1\%), and students (0.1\%) (Alekseeva et al., 1992, pp. 114–115). From 1987 to 1991, the adjudication of punishment by the courts in the form of deprivation of the right to occupy certain positions or engage in certain activities decreased from 50.2\% to 40\%. A significant reduction in convictions for crimes in the sphere of the economy—official embezzlement fell by a factor of 2.7, and bribery by a factor of 5.6—was also noteworthy in this period (Alekseeva et al., 1992, pp. 114–115). The statistics of the 1980s suggest that the possibility of claimants going to court to challenge the illegal actions of high- and even middle-ranking officials was for the most part absent.

The low number of service crimes among the total statistics is not only a result of the high number of unreported crimes, but also of the lenient approach of the procuracy to these matters and the availability of several other sanctions (exaction of...
the damage, public censure, disciplinary action, party sanctions). According to a poll within the procuracy, criminal sanctions were only applied in one third of all cases (Alekseeva et al., 1992, p. 122).

Researchers call the procuracy a substitute for administrative justice (Smith, 2007), or compare its functions with those of the Ombudsman (Gellhorn, 1967). From its very beginnings the procuracy occupied a central position in the administration of justice. This position was derived not only from its hierarchical and centralized organisational structure, but also from the wide range of functions it performed. The procurator was involved at every stage in the criminal process (Smith, 1997, p. 350).

Complaints against improper actions of officials could be submitted to the authorities and to the procuracy. However, complaints addressed to the procuracy should have been sustained through legal norms. The filing of complaints to the authorities did not require legal justification and more often appealed to the norms of socialist morality. Gradually, the procuracy took over the function of considering certain types of offense, mainly but not only criminal.

Legislative initiatives of the final Soviet decade allow us to talk about yet another attempt to create the appearance of administrative justice outside the judicial system. Changes which affected the procuracy and the complaint mechanism addressed to the authorities should be considered precisely. In the 1977 Constitution, “complaint” was removed from the list of habitual forms of appeals to the authorities. Article 49 legitimated appeals to officials in the forms of petitions (zaiavleniia) and proposals (predlozheniia). Complaint as a form of appeal to the authorities was covered by Article 58 and made equal to the administrative legal instrument of coping with abuse of office: “Citizens of the USSR have the right to appeal against actions committed by officials as well as state and public bodies …. The actions committed by officials in breach of the law that relate to abuse of office and infringe upon citizens’ rights can be lodged with the courts in accordance with procedure established by law” (Article 58). Peter Solomon recalls that “in the 1970s Soviet legal scholars had already begun discussing the expansion of the scope of judicial review of administrative acts and in 1977 succeeded in securing an entry for this subject in the 1977 Constitution of the USSR” (Solomon, 2004, p. 555; Sharlet, 1978, pp. 94–95; Barry, 1978; Chechot, 1973; Salishcheva, 1970).

The connection of the complaint mechanism with the procuracy was strengthened by the amendments of 1980, which introduced certain changes into the main regulator of the complaint mechanism, the Decree of the Presidium of the Supreme Soviet of the USSR "Concerning the Procedure for Consideration of Proposals, Petitions and Complaints” of April 12, 1968. The procurator was designated the main supervising authority regarding public complaints. According to the amendment, the Prosecutor General of the USSR and his subordinate prosecutors were responsible for superintendence of accurate and uniform compliance with the Soviet legislation by all institutions that considered citizens’ proposals, petitions, and complaints. The procurator had the authority to conduct inspections and to provoke proceedings. However, it remained unclear which agency should, in turn, check the work of the procurator.

The next important event was the enactment of the Code of RSFSR for Administrative Offenses on June 20, 1984. This was the first attempt in Soviet—indeed, the whole of Russian—history to codify administrative offenses. The Code introduced the concept of administrative offenses, provided their classification, and determined various types of administrative penalties. The powers to apply the Code when considering administrative offenses, meting out punishments, or taking preventive measures were vested in the local Councils of People’s Deputies and their executive committees (Article 6). These structures became central in the design of the general complaint mechanism by the final decade of the Soviet Union. The Code stipulated the transfer of cases to comrades’ courts, public organizations, or labor collectives (Articles 21, 31, 32, 40). Thus, it determined the final structure of the instances responsible for addressing administrative offenses, which was virtually excluded from the judicial system.

According to the Code of Administrative Offenses, the Councils of People’s Deputies were responsible for considering administrative offenses and taking administrative proceedings. The Code granted the Councils an unprecedented right to “establish the rules which violation is administratively punishable” (Article 6) under several articles of the Code (Articles 85, 101, 144, 149). Thus, the Councils and their executive committees became more than regular enforcers of legal norms, empowered to determine, adjust, and interpret administrative norms. The 1987 law “On the procedure for appealing to the court illegal acts …” emphasized the importance of the complaint mechanisms internal to government agencies, requiring that the complainant must exhaust all such administrative remedies before turning to the courts (Barry, 1978).

The results of the work of the complaint mechanism have never been considered systematically alongside judicial statistics, though episodic studies conducted in the late Soviet years indicated that the number was huge. In the 1960s and 1970s, the mechanism attained its highest level of use. As Stephen White documents, Communist Party organizations received more than 500 000 appeals annually during the 1970s. The stream of letters to the central press reached sixty to seventy million per year (White, 1983, pp. 202–207). Another analysis estimates that in 1966–1967 the newspaper Komsomolskaia Pravda received 900–1000 letters daily, or 300 000 annually (Grushin, 2003, p. 178). Stephen White (1983) gives even more impressive figures, arguing that all the Soviet national newspapers together received sixty to seventy million letters a year. The biggest circulation national dailies — Pravda, Izvestiia, Trud — got about half a million letters annually (Table 1):

The Communist Party Central Committee was also a very popular and influential addressee of citizens’ complaints. According to the Central Committee statement, during the period between the 25th and 26th Party Congresses (1976–1981), the Central Committee received nearly three million letters and nearly one million visitors. Meanwhile local party organs received fifteen million written and oral submissions (Pravda, 1981) (Table 2):

Statistical information about the number of complaints addressed by citizens to the executive committees in the last Soviet decade is not available. According to Theodore Friedgut, “in the first four months of 1962 the Kirov district Soviet executive committee in Moscow received 11 803 applications and complaints” (Friedgut, 1978, p. 466). Simple calculations give the result about half million of applications only in Moscow annually.
Not all the letters addressed to the different power bodies were complaints, and not all informed about abuse of office. Many of the letters expressed concerns about the supply of consumer goods and services, housing problems, or conditions of work. No statistics are available about the number of the complaints devoted to problems of abuse. However, the accusation of officials of abuse of official powers became a familiar strategy of justification, attaching importance to the complaint, determining its legitimacy and loyalty, and became a marker of the genre (Fitzpatrick, 1996, p. 79; Orlova, 2004; Pecherskaya, 2012). At all stages of the Soviet period, complaints about salespersons, shopkeepers, shop directors, heads of public services, directors of sanatoriums and hospitals, and managers of restaurant and taxi parks, took the leading positions in the general statistics of complaints (Markovits, 1986; Bogdanova, 2014). Officials were accused of rudeness, cruelty, deliberate restriction of access to goods and services, refusal to provide a book of complaints, and other forms of abuse of office. This set of problems is very similar to the complaints processed by the courts and procury.

The work of the complaint mechanism was never perfect. The number of complaints always exceeded the capabilities of the complaint mechanism apparatus. It always experienced problems with resources, personnel, and norms. Researchers of the Soviet complaint mechanism unanimously note that the complaint mechanism could never cope with the flow of complaints in a procedurally correct way, and was distinguished by its ingenuity in evading full-developed consideration of violations (Fitzpatrick, 2001; Friedgut, 1978; White, 1983; Bogdanova, 2006).

Throughout the Soviet period, the court and quasi-judicial methods of resolving violations related to abuse of office operated in parallel. Statistics show that the number of cases of abuse of authority considered in the courts decreased, and the severity of punishments were weakened. The late Soviet approach to justice contributes to the fact that the consequent articles of the Criminal Code were applied mainly to the officials of middle and lower levels. High-ranking officials were largely protected from accusations of abuse of power.

In the last decade of the Soviet period, quasi-judicial ways of making claims against abuse of office were supported by the state. The newly adopted legislative documents gave to the administrative apparatus involved in the proceedings of such cases certain features of the administrative judiciary, supervised by the procury. The practice of addressing abuse of office was attended by all the disadvantages and peculiarities of the complaint mechanism functioning—lack of regularity, chronic overload, blurred rules, as well as the almost total elimination of legal premises and their substitution with socialist moral norms. State and party bodies, press editors, and public activists were entrusted with addressing (and sometimes classifying) the corresponding violations. The mass of complaints, including specific complaints concerning abuse of office, had a very low rate of decision enforcement. Although, for many citizens the complaints mechanisms represented the main path to satisfaction.

4. Abuse of office during the post-socialist period: a new duality

Since 1990, the People’s Control (Народный контроль), to which the mechanism of complaints was subordinated, lost its power almost entirely. On May 16, 1991, the fifth session of the Supreme Soviet of the USSR adopted the law “On the Control Chamber of the USSR,” which replaced the People’s Control. Examining citizens’ appeals and complaints was excluded from its

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**Table 1**

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<thead>
<tr>
<th>Year</th>
<th>Pravda</th>
<th>Izvestiia</th>
<th>Trud</th>
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<tr>
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<td>456000</td>
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<tr>
<td>1975</td>
<td></td>
<td>467858</td>
<td>548174</td>
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<tr>
<td>1977</td>
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<td>520000</td>
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<td>514000</td>
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</table>

Source: Various Soviet publications. (White, 1983, p. 52)

**Table 2**

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of complaints</th>
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</tr>
<tr>
<td>1977</td>
<td>657360</td>
</tr>
<tr>
<td>1978</td>
<td>558740</td>
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<tr>
<td>1979</td>
<td>570880</td>
</tr>
<tr>
<td>1980</td>
<td>671600</td>
</tr>
</tbody>
</table>

Source: Spravochnik partiinogo rabotnika, 1981.

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4 A much earlier study by Inkeles and Geiger (1968) threw some light on this point in a survey of letters to the press in the late Stalinist period, based on 270 critical letters to 8 Soviet newspapers in 1947. Some of 64 of the letter-writers were acting in an ‘occupational’ capacity, and 127 ‘organisational relationships between critics and targets of criticism’ were identified in the 64 letters. There were only 12 cases where critics focused criticism of the work of their own organizations.

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functions. For the first time in several centuries of Russian history, the mechanism of complaint was without state support (Kabashov, 2011). Shortly thereafter, on August 1, 1991, Yeltsin’s decree prohibited the activities of the CPSU. Difficult times came for the Party publications. The most important addressees of citizens’ complaints either ceased to exist, or entered a period of crisis. The media, in conditions of the competitive market and freedom of speech, ceased to be the mouthpiece of the governing structures. Executive authorities survived, and continued to work with complaints, but the officials were not obliged to consider complaints any more. There are no statistics on the number of complaints sent to the authorities in the early post-socialist period; however, there is a collection of complaints addressed to Boris Yeltsin during 1990–1991, numbering about 12 000 letters, in the State Archives of the Russian Federation (Kollektsiia piston B.N. Yeltsinu, 1991). The people’s habit of complaining faced institutional collapse, and was looking for some new legitimate addressees.

After that, the complaint mechanism began to gradually lose its importance, influence, and priority in dealing with cases involving abuse of office. Most of the Soviet laws regulating the operation of the complaint mechanism had not been abolished; however, the sociopolitical context had radically changed. Judicial reform and priority of the rule of law left to the mechanism of complaint the role of a marginal, weakly effective administrative way of solving problems.

A bit later, in 1999, the Constitutional Court of the Russian Federation determined the court’s priority over the complaint mechanism in resolving administrative issues and the order of supervision over the decisions taken by administrative bodies: “legislation on administrative offenses defines, that courts (judges) … control the legality and validity of decisions on imposition of administrative penalties imposed by other commissioners of the administrative bodies (officials)” (Postanovlenie Konstitutsionnogo, 1999).

Post-socialist judicial reforms were launched which aimed to restructure the entire Soviet judiciary on the model of European justice. In the opinion of Peter Solomon and Foglesong, 2000, in the first 10 years the reform achieved significant results. The initial plan of the post-socialist legal reform was supposed to strengthen judicial institutions. Particularly, some felt that the procuracy needed to be weakened in order to permit the court and the Ministry of Justice to assume dominance in the evolving legal system; that “as long as the procuracy retained the powers it enjoyed during the communist era, the courts will never gain supremacy” (Smith, 2007, p. 2).

A system of administrative courts was not established in post-socialist Russia. As in the late-socialist period, the bet was made on “judicial procedure for the settlement of administrative disputes in the jurisdictional bodies” (Zelenitsov, 2009, p. 82–83). The legislative instruments for judging the offenses of officials were improved. After a serious revision of Soviet legislation, two primary articles on the relevant crimes were included into the Criminal Code (1996): Article 285 “Abuse of official authority” (zluopotrenie dolzhnostnymi polnomochiami), and Article 286 “Excess of official authority” (prevyshenie dolzhnostnykh polnomochii). These articles prescribe punishments such as fines, forced labor, or imprisonment up to 10 years (Bannikov, 2016). Violation of the rights of citizens is mentioned in both articles only as an indirect consequence.

In April 1993 the Law of the Russian Federation “On Appealing to the Court Actions and Decisions Violating the Rights and Freedoms of Citizens” was adopted, replacing two earlier laws on administrative justice from 1987 to 1989. The new law dramatically extended the right of citizens to bring claims to courts about the illegal actions of officials, even when taken in the name of a collective body, covering virtually any action by any official, whether normative or non-normative, that violated the rights and freedoms of citizens. Then, in 1995, the target of potential complaints was expanded from “officials”, or persons in responsible positions, to any and all government employees (sluzhashchie) (Khamaneva, 1997, pp. 100–115; Federal Law “On amending the law ‘On appealing to the court of wrongful acts … ‘” 1995). These laws established a full fledged administrative justice and gave the courts a significant role in handling citizen’s claims against officials.

The number of lawsuits against officials began to grow rapidly from the very beginning of the 1990s. Russians found much to complain about, and the number of suits against officials rose steadily—from 4 944 in 1990, to 20 326 in 1994, to 56 659 in 1997, to approximately 160 000 in 2000 (Solomon and Foglesong, 2000, pp. 68–71; Verkhovniy Sud, 2000, pp. 54–57).

The success rate of citizens’ suits was high. The overall rate of satisfaction for these lawsuits, according to official statistics from 1999, was 82,8%. The figures for 1996 and for 1997 were similar: 74,4% and 83,4% respectively (Khamaneva and Salishcheva, 2001, p. 36; Verkhovniy Sud, 1998, pp. 55–58, 1999, pp. 51–53).

In the field of administrative proceedings, one major event occurred, namely: the adoption of the “Code of the Russian Federation on Administrative Offenses” (CRFAO). Work on the Code began in 2001, and on July 1, 2002, it was put into effect, abolishing the then-existing Code of RSFSR for Administrative Offenses. The legislative base of the administrative judiciary is still in the process of formation. The Code of the Russian Federation on Administrative Offenses went through a long period of revisions. The Code of Administrative Court Proceedings was enacted on 15 September 2015. Among other things, it defines the jurisdiction of administrative cases to courts and administrative bodies (Articles 17–27). Recent amendments were introduced to the CRFAO in 2018. It covers a great variety of offenses made by officials which have no criminal component but are serious enough to be considered in the courts (at the level of Justices of the Peace, and ordinary courts of the lower level), or by bodies of executive power. Among them are Article 14.24 “Violation of the legislation on organized tenders.” Article 7.32 “Violation of the procedure for concluding, changing the contract,” Article 14.7 “Deception of consumers,” or Article 14.51 “On violation of the legislation of the Russian Federation on tourist activities.” In general, the Code contains about 50 articles regulating crimes by officials, assuming lesser forms of punishment such as warnings, fines, or forced labor. The Code of Administrative Court Proceedings (2015) also includes procedures for administrative justice cases (Chapters 21 and 22).

At the moment, there are particular practices associated with claims against abuse of office. Consideration of the different forms of abuse is allowed by criminal, civil, administrative, and arbitration judiciaries. It remains possible to make complaints
against the abuse of office to the procuracy. In the last 10–12 years the opportunity to address complaints to the authorities, including the President of the Russian Federation, has also become available.

In the sector of criminal justice claims against the abuse of office are usually considered on the grounds of Articles 285 and 286 (abuse of office), 287 (refusal to provide information), 291 (bribery), 292 (forgery), and 293 (negligence). In 2015, 10 664 cases were launched using these charges, which is 1.1% of the total number of criminal cases. As is traditional for the Russian criminal justice system, there is a high rate of conviction (91.5%) and a low rate of acquittal (1.3%). In 2016 the number of cases was similar—10 023 (1% of all criminal cases), and the rate of convictions was a bit lower (86.2%), presumably because of reconciliation (Otchet, 2015a, 2015b).

Under Putin the procuracy became more involved in the investigation of high profile cases and accidents, and contributed to the criminal prosecution of oligarchs Mikhail Khodorkovsky, Vladimir Gusinskii, and Boris Berezovsky. The involvement of the procuracy in these cases reinforced its image as a heavily politicized institution—“the eye of the tsar” (oko tsaria)—that has been utilized by Putin to further his own agenda (Smith, 2007, p. 6–7). Officially the procuracy does not belong to any of the three branches of power. In most legal settings, the procuracy functions in all three: executive, legislative, and judicial (Smith, 2007, p. 6–7). In these ways, Putin has created the prerequisites for a new strengthening of the procuracy and its supervisory function, to involve it in criminal proceedings, and to improve his own ability to influence the work of the procuracy.

An essential part of the work of the procuracy is also connected with the consideration of statements, complaints and other applications from citizens. The order of response of the procuracy is regulated by the federal law No. 59 FZ “On the Procedure for Consideration of Citizens’ Applications in the Russian Federation,” which also regulates the order of processing of complaints by administrative bodies and officials. The statistical data show that in 2017 the procuracy satisfied 1 251 762 requests “On issues of supervision over the implementation of laws and the legality of legal acts.” This figure had increased by 8% since 2012 (Statisticheskie dannye, 2017).

In the sector of civil justice, the elements of the abuse of office are covered by a large number of legal acts related to labor law, electoral rights, environmental pollution, as well as the laws related to administrative justice. In the statistics, this category of offenses are shown in a graph titled “Complaints against illegal actions (inaction) of officials, state and municipal employees, public authorities, bodies of local self-government” (Otchet, 2015a, 2015b).

In 2015 judges handled 105 966 complaints on illegal actions by officials, or about 0.9% of all civil cases. The percentage was exactly the same in 2016. In the statistics for 2015, this category of cases is divided into violations committed by the state and municipal officials, and those committed by the state and local self-government bodies. Of these 28 067 (26.4%) were satisfied, and 46 509 (43.9%) refused. The number of complaints about unlawful actions by state and local self-government bodies was 42 762. Among them 18 825 (44%) were satisfied, and 14 023 (32.7%) were refused. In total, only 31.5% of civil complaints on abuse were satisfied. In 2017 the proportion of satisfied complaints was higher (50.9%), but in comparison with the criminal statistics, the win rate is relatively low, and officials are more protected from accusations of abuse of office in comparison with power bodies (Otchet, 2015a, 2015b).

In the realm of administrative offenses, the bulk of offenses by officials are considered on the basis of Chapter 22 of the Code of Administrative Court Proceedings, “Proceedings in administrative cases disputing the decisions, actions, or omissions of a state authority, local authority, other body, organization vested with specific state or other public powers, official, or state or municipal public servant.”

In 2016 157 297 claims were considered based on Chapter 22, which is 3.8% of all administrative cases received by the courts of general jurisdiction in that year. Statistics for 2016 also give the number of administrative claims provoked by an individual plaintiff, and namely, a citizen of the Russian Federation, as 211 571 (5.1% of all administrative appeals). The overall rate of satisfaction for the complainants, according to official statistics in 2016, was 62%, and 23.8% were not satisfied. In total, 98.7% of administrative cases were completed (Otchet, 2016). It is interesting that the statistics also provide data on cases in which the administrative plaintiffs were the state authorities or other state bodies. The aggregate number of such appeals amounted to 3 121 833 in 2016, or 75.6% of the total number of administrative cases. Of these, 97.2% were satisfied, while only 1.2% were not satisfied. More than 100% of cases provoked by the power bodies were completed when we take into account cases carried over from the previous year (ibid).

In sum, the courts consider cases related to misconduct of officials on the basis of criminal, civil, and administrative legislation. All in all, in 2015–2017 the criminal, civil, and administrative segments of the judiciary considered about 1.3–1.5% of cases involving abuse of authority each year. The average success rate for claims against abuse of office in all three segments is about 63%. At the same time, the level of satisfaction of claims against abuse is higher in the criminal sphere than in the civil and administrative sectors. The percentage of individual complaints against officials in the administrative sector is higher than in criminal and civil practice. It gives us reason to note the process of improvement of the practice of administrative justice, although the rate of individual claims against the state remains very low.

4.1. Complaining to Putin about abuse of office

The adoption of the 2006 Law No. 59–FZ “On the Procedure for Consideration of Citizens’ Applications in the Russian Federation” provided new impetus for improving the work with citizens’ appeals at all levels of executive authority. According to this law, each citizen of the Russian Federation has a right to submit suggestions, appeals, and complaints to a state authority or local government representative, and the range of issues that may be raised in the appeals is without restriction.
Having entered into force, the Law superceded all the normative documents regulating the work with complaints, and those in force since Soviet times. Article 17 of the Law abolished the Decree of the Presidium of the Supreme Council of 1968, the amendment of 1980, as well as all other laws and decrees that were not abolished after the collapse of the Soviet system and formally remained in force until 2006. In fact, Law No. 59 displayed considerable continuity with its Soviet precursor, while creating new mechanisms.

While Law No. 59 made complaints a formal element of the modern national legal system, the bureaucracy that processes these complaints remains outside of the judiciary. Complaints may be submitted to specially designated administrative offices, including those of the president. In the law a complaint is defined as “a citizen’s request for the restoration or protection of her violated rights, freedoms, or legitimate interests, or rights, freedoms, or legitimate interests of others” (Article 4.4), and it has much in common with the definition of a lawsuit. The difference between them is that the grounds for initiating a complaint are limited to violations of the law, while the grounds for complaint may be found in a large variety of circumstances which are subjectively felt by the addressee to be unjust. So, in fact, the Soviet configuration of the recipients of claims against abuse of power has been recreated.

The opportunity to send direct applications to the president is available, legitimized, and widely used. The personal involvement of the president in the processing of complaints is built into the contemporary mechanism of complaint. All agencies of the executive and governing party branches receiving and processing complaints are structured hierarchically and supervised directly or indirectly by the president. Bureaucratic structures providing complaints to the president are constructed in a similar way. They are interchangeable, which demonstrates the significance of the president as the addressee of citizens’ complaints. The Administrative Office of the President registers all the complaints addressed to the President. According to figures kept by the Office, the number of complaints in recent years has been about a million annually (Table 3):

Complaints addressed to the authorities begin to duplicate the function of administrative justice insofar as they discipline the actions or inactions of officials and local governments. Detailed statistics available on the website of the Administrative Office of the President indicate that a significant proportion of complaints addressed to the President are devoted to the problems of abuse of office. An overview of the data gives the following figures (Table 4):

Complaints about abuse of office authorized by a wide variety of officials are included in the standard classification of general statistics on complaints. Out of the total number of complaints addressed to the president, the number of complaints related to abuse of office is not so high; however the proportion of such complaints—absolute and relative—has been steadily growing over the past three years.

### Table 3
Number of complaints registered by the Administrative Office of the President of the RF on work with applications of citizens and organizations, 2009–2017.\(^\text{1,4}\)

<table>
<thead>
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</tr>
</thead>
<tbody>
<tr>
<td>Number of complaints about of</td>
<td>683,841</td>
<td>832,734</td>
<td>960,326</td>
<td>835,941</td>
<td>987,775</td>
<td>1,103,605</td>
<td>930,683</td>
<td>889,714</td>
</tr>
</tbody>
</table>

Source: Website of the Administrative Office of the President of the RF on Work with Applications of Citizens and Organizations (http://www.letters.kremlin.ru)

### Table 4
Number of complaints about officials, addressed to the President, 2015–2017.

<table>
<thead>
<tr>
<th>Year</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
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<tbody>
<tr>
<td>The work of the procury</td>
<td>19,764</td>
<td>21,491</td>
<td>34,189</td>
</tr>
<tr>
<td>Activities of bailiffs</td>
<td>5,172</td>
<td>4,808</td>
<td>9,909</td>
</tr>
<tr>
<td>Activities of internal affairs bodies</td>
<td>4,903</td>
<td>4,206</td>
<td>7,149</td>
</tr>
<tr>
<td>Activities of local governmental bodies and its leaders</td>
<td>3,245</td>
<td>3,376</td>
<td>5,584</td>
</tr>
<tr>
<td>The work of the executive bodies of the Russian Federation</td>
<td>2,235</td>
<td>2,125</td>
<td>3,958</td>
</tr>
<tr>
<td>The work of ministries and other federal executive bodies</td>
<td>1,647</td>
<td>2,189</td>
<td>3,711</td>
</tr>
<tr>
<td>Activities of state bodies and local self-government bodies in the field of land relations</td>
<td>1,698</td>
<td>2,354</td>
<td>3,753</td>
</tr>
<tr>
<td>Execution of official duties by state civil servants of a subject of the Russian Federation</td>
<td>200</td>
<td>129</td>
<td>1,134</td>
</tr>
<tr>
<td>Total number of complaints against of</td>
<td>41,142 (3.7%)</td>
<td>42,893 (4.6%)</td>
<td>74,202 (8.3%)</td>
</tr>
<tr>
<td>Total number of complaints addressed to the president</td>
<td>11,03,605</td>
<td>9,30,683</td>
<td>8,89,714</td>
</tr>
</tbody>
</table>

Source: Website of the Administrative Office of the President of the RF on Work with Applications of Citizens and Organizations (http://www.letters.kremlin.ru)

\(^1\) See the Decree of the President of the Russian Federation No. 201 On Administrative Office of the President of the RF on Work with Applications of Citizens and Organizations of February 17, 2010.
According to the review of complaints and the results of discussions published by the president, complaints are usually resolved by the executive authorities. The statistics show that in 2017 measures were taken at the federal level in 86.9% of all cases, at the regional level in 56% of cases, and at the local level in 53.4%. The highest rate of measures taken at the federal level were taken by the federal ministries, at 93.3%.

Legislation contains particular tools for each group of offenders identified in the complaints. However, the statistics show that the complaint mechanism and, in particular, the opportunity for direct application to the president, is considered by Russian citizens to be a significant alternative. The contemporary mechanism of complaint co-exists with legal institutions, and creates a new situation of a substantial duality of tools and sources of justice. It is important to note that the top lines in the ranking of complaints are occupied by complaints against the activities of the procuracy, the Ministry of Internal Affairs, judicial and security bodies, and high-ranking officials. This may, first of all, speak to the excessive involvement of the presidential office into the problems of abuse of office committed by representatives of these bodies. Another interpretation, which does not exclude the first one, is that the formation of an exclusive oversight function for the figure of the president corrects the functioning of all the institutions in the country.

5. Conclusion

Seeking redress for wrongful actions of officials was a challenging task in Soviet society. There was no single system of administrative justice, single addressee, or single legislative framework regulating the issues of abuse. Soviet courts considered mainly criminal cases. The offenses which did not have any criminal component were almost completely covered by quasi-judicial structures: the procuracy and complaint mechanism, and administrative justice was narrow and limited. In the judicial practice of the late-Soviet years, cases of abuse were marginalized and their number was small. This says something, however, not about the small number of violations, but about the specifics of the context, which provoked concealment and the granting of priority to quasi-judicial tools. Complaints submitted to the authorities were also marginalized due to the weakness and imperfection of the complaint mechanism itself. This whole situation has formed a certain attitude towards this type of violation, when the punishment is not inevitable, and level of punishment may be not equivalent to the legal norm.

Post-Soviet efforts for introduction of administrative justice tools in the courts of general jurisdiction brought certain results. The segment of malfeasance in criminal practice is shrinking, but the overall number of administrative cases considered by the courts especially suits by citizens against officilas is growing. At the same time, a situation wherein the courts cease to be the only (and primary) addressee of claims against abuse of authority has been fully restored under Putin. In particular, the mechanism of complaint, which is hierarchically arranged under the President, has been recreated. The process of politicization of the procuracy and the control over it is intensifying. This does not contribute to a strengthening of the judicial system, but rather the contrary.

Statistics on the complaints addressed to the president and their processing reproduce the supremacy of the executive bodies. The figure of the president appears as the main supervisory authority that oversees, among other things, the work of the procuracy and high officials. According to Gelman appeal to the legacy is “for the most part, a social construct created and supported by ruling groups in order to maximize their own power” (Gelman, 2016, p. 18).

This study has argued that, together with the complaint mechanism, particular attitudes towards abuse of office have been revived. Analogous to the Soviet experience, they divide more serious cases—those that hurt the interests of the state and require criminal prosecution—from less serious ones that affect the interests of citizens and can be considered both in the courts and through administrative means. This means that the interests of citizens suffering due to abuse of office are marginalized again. It can be assumed that, by analogy with the Soviet experience, the duality of ways of coping affects the perception of problems of abuse of office as minor or insoluble, and that in Putin’s Russia informal as opposed to formal legal approaches to correcting official misconduct still dominate.

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6 Only complaints are taken into account here. The general number of correspondence, registered by the administrative office is more extended. In different years the complaints consisted from 25% to 75% of all the messgages, involving also requests for information, suggestions, or thanks.


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